

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

September 10, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Gaghen

ROLL CALL

MINUTES – August 27, 2007

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 4, 5, and 6

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

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

CONSENT AGENDA:

A. Bid Awards

(1) **2008 Sewer Jet Cleaner and Manhole Vacuum System.** (Opened 8/28/07) Recommend Maric Sales, \$219,853.25.
[\(Corresponding Staff Memo A1\)](#)

(2) **Private Contract No. 392 - Phase III, Kings Green Subdivision; Water, Sanitary Sewer, Storm Drain, and Street Improvements.** (Opened 8/28/07) **Schedule I** - Recommend Gray Construction, \$112,609.75; **Schedule II** – Recommend JTL Group, \$171,712.00.
[\(Corresponding Staff Memo A2\)](#)

B. Professional Services Contract for W.O. 07-09 – City of Billings Storm Water Master Plan, HDR Engineering, Inc., \$250,000.00 maximum.
[\(Corresponding Staff Memo B\)](#)

C. Interlocal Agreement with Yellowstone County and the City of Laurel in the event of a pandemic or other natural disaster (5-year renewable term).

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

D. Interlocal Agreement for Montana Law Enforcement Testing Consortium.

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

E. Reimbursement Agreement with the Transportation Security Administration, \$169,900.00 for first year.

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

F. Mutual Aid Agreement with the Lockwood Fire District.

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

G. Agreement Revisions to the Big Ditch Trail II CTEP Project Agreement incorporating \$25,000.00 of Safe Routes to School Grant funding for the Arrowhead/Chandelier Connector..

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

H. Agreement Revisions to the Highland School Sidewalk CTEP Project Agreement incorporating \$25,000.00 Safe Routes to School Grant funding.

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

I. Acknowledging receipt of petition to annex #07-10: 400.94 acres of Tract 1, Certificate of Survey 2017, generally located north of Matador Avenue and the Lake Hills Golf Course in Billings Heights, Frank Sindelar, petitioner, and setting a public hearing date for 9/24/07.

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

J. Acknowledging receipt of petition to annex #07-21: 8.868 acres of Tract 1C, Certificate of Survey 2991, generally located west of the intersection of Central Avenue and 29th Street West, Raymond and Douglas Kramer for the Lydia Kramer Real Estate Management Trust, petitioners, and setting a public hearing date for 9/24/07.

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

K. Acknowledging receipt of petition to annex #07-22: 8.868 acres of Tract 1B, Certificate of Survey 2991, generally located the southwest corner of the intersection of Central Avenue and 29th Street West, Todd Icopini, owner and petitioner, and setting a public hearing date for 9/24/07.

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

L. Acknowledging receipt of petition to vacate a portion of an alley between North 29th and North 30th Streets, north of 10th Avenue North, Billings Clinic, petitioner, and setting a public hearing date for 10/9/07.

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

M. Acknowledging receipt of petition to vacate a portion of South 12th Street West near Southgate Drive, Montana Dakota Utilities, petitioner, and setting a public hearing date for 10/9/07.

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

N. Confirmation of Police Officers Riley Finnegan, Shane Shelden, Nathan Krause, Shaun Guardanapo, and Bret Becker.

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

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

(1) **Parcel 20:** Portion of Lot 3A-1, Siewert Acres Subdivision, D & M Family Limited Partnership, \$300.00.

(Corresponding Staff Memo O1)

(2) **Parcel 47:** Portion of Lot 19, Block 1, Broadmoor Subdivision, Rosemary Moses, \$5,305.50.

(Corresponding Staff Memo O2)

(3) **Parcel 66:** Portion of Lot 17, Block 3, Arrowhead Subdivision, Wade & Michelle L. Pickering, \$5,550.00.

(Corresponding Staff Memo O3)

P. Acceptance of donation to the Billings Police Department Bike Patrol Program from the Downtown Billings Association and the Business Improvement District, \$2,500.00 maximum donation.

(Corresponding Staff Memo P)

Q. Acceptance of donations to the Ballpark Construction Fund for \$10,000.00 and the Ballpark Maintenance Fund from various donors for \$38,709.00.

(Corresponding Staff Memo Q)

R. Approval of Semi-Annual Investment Report.

(Corresponding Staff Memo R)

S. Approval of Securities Pledged by Sterling Savings Bank and US Bank as collateral for their respective certificates of deposit, MIA, and repurchase accounts.

(Corresponding Staff Memo S)

T. Resolution amending Resolution #07-18567 approved by City Council on June 11, 2007, for the vacation of a portion of Moose Hollow Lane, correcting error in the legal description.

(Corresponding Staff Memo T)

U. Resolution creating a Downtown Transit Center Ad Hoc Committee.

(Corresponding Staff Memo U)

V. Resolution relating to Pooled Special Improvement District Bonds, Series 2007; determining the form and details and authorizing the execution and delivery of the bonds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

(Corresponding Staff Memo V)

W. Resolution of Intent creating SILMD 303 and setting a public hearing date for October 9, 2007.

(Corresponding Staff Memo W)

X. Second/final reading ordinance for Zone Change #813: A zone change from Residential 9600 to Planned Development generally located on the southeast corner of the intersection of Rimrock Road and Avalon Road, including the Yellowstone Racquet Club, TenFish Company, owner; Engineering, Inc., representative.

(Corresponding Staff Memo X)

Y. Second/final reading ordinance for Zone Change #816: A zone change from Residential 7000 to Neighborhood Commercial on a 1.14-acre lot addressed as 848 Wicks Lane and generally located on the south side of Wicks Lane, east of Bench Boulevard, Colleen Baker, owner.

(Corresponding Staff Memo Y)

Z. Second/final reading ordinance for Zone Change #817: A zone change from Public to Residential 8000 on 48,799 square feet of property north and south of the Lake Hills Golf Course Clubhouse on the east side of Clubhouse Way; north of Lake Hills Drive, Lake Hills Golf Club, owner.

(Corresponding Staff Memo Z)

AA. Second/final reading ordinance for Zone Change #818: A text amendment to Section 27-623, Zoning Compliance Permits Required.

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

BB. Second/final reading ordinance for Zone Change #819: A text amendment to Section 27-1429 and Map Amendment to Section 27-1430, Extension of Shiloh Corridor Overlay extending the South Shiloh Corridor Overlay District along the south side of King Avenue West between Shiloh Road and 32nd Street West.

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

CC. Preliminary Subsequent Minor Plat of Shiloh Crossing Subdivision.

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

DD. Final Plat Approval of Reflections at Copper Ridge Subdivision.

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

EE. Bills and Payroll

(1) August 10, 2007

[\(Corresponding Staff Memo EE1\)](#)

(2) August 17, 2007

[\(Corresponding Staff Memo EE2\)](#)

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

[\(Corresponding Staff Memo EE3\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. PUBLIC HEARING for the FY2006-2007 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG) and HOME Programs.

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

3. PUBLIC HEARING and approval of resolution approving and adopting a budget amendment for Fiscal Year 2007 for Municipal Court Drug Court grant match, \$40,156.00. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

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

4. APPROVAL OF PURCHASE of Lot 2, Sandra Subdivision, located at 19 Charlene Street, for future water treatment facility and distribution system expansion, \$140,000.00. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

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

5. RESOLUTION setting FY 2008 mill levy rates for the Public Safety Fund, General Obligation Debt Service Parks, General Obligation Debt Service Streets,

and General Obligation Debt Service Baseball Stadium. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
[\(Corresponding Staff Memo 5\)](#)

6. **DEVELOPMENT AGREEMENT** between the City of Billings and Foursquare Properties for amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, Miller Crossing Subdivision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

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

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

Council Initiatives

ADJOURN

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

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

A1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Vehicle Bid Award – 2008 Sewer Jet Cleaner and Manhole Vacuum System
DEPARTMENT: Public Works Department
PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Public Works Department received bids for replacement of an existing vehicle in accordance with the approved equipment replacement plan and is recommending award.

FINANCIAL IMPACT: The bid was advertised on August 16 and 23, 2007. There is sufficient money in the FY 08 budget for the Wastewater Replacement/Depreciation Fund to cover the award. Three bids were received on August 28, 2007 as follows:

Western Plains Machinery Co.	\$248,815.00
Western Plains Machinery Co.	\$248,491.00
Maric Sales.....	\$219,853.25

RECOMMENDATION

Staff recommends that Council award the bid for a 2008 Sewer Jet Cleaner and Manhole Vacuum System to Maric Sales in the amount of \$219,853.25.

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

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

A2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Infrastructure Construction Bid Award – Bid 392 Kings Green Phase III Infrastructure

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Brenda Beckett, Community Development Manager

PROBLEM/ISSUE STATEMENT: The Community Development Division received bids for the construction of infrastructure for Kings Green Phase III Subdivision. The City Council approved a staff recommendation for a re-allocation of \$350,000 in the Affordable Housing Fund from the Lincoln Springs project to Kings Green Phase III on May 29, 2007.

FINANCIAL IMPACT: The bid was advertised on August 16 and 23, 2007. There is sufficient money in the FY07-08 budget in the Affordable Housing Fund to finance the award. The following bids were received on August 28, 2007:

Gray Construction.....	Schedule I: \$112,609.75
JTL Group.....	Schedule I: \$121,217.00
Chief Construction.....	Schedule I: \$157,333.00
COP Construction	Schedule I: \$191,817.00
Engineer's Estimate.....	Schedule I: \$125,032.00
JTL Group.....	Schedule II: \$171,712.00
Riverside Sand & Gravel	Schedule II: \$175,999.00
Engineer's Estimate.....	Schedule II: \$169,492.00

RECOMMENDATION

Staff recommends that Council award the bid for the construction of Kings Green Phase III Infrastructure to Gray Construction for Schedule I in the amount of \$112,609.75 and JTL Group

for Schedule II in the amount of \$171,712.00. The total combined bid for the project is \$284,313.75.

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

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

B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Professional Services Contract for W.O. 07-09 City of Billings Storm Water Master Plan

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: On March 15th, 2007, the City of Billings requested proposals from qualified engineering firms to provide services for the creation of a comprehensive City-wide storm water master plan. On April 13th seven firms submitted proposals for the project. The seven firms were Brown & Caldwell (teamed with Interstate Engineering); Camp Dresser & McKee Inc; HDR Engineering Inc; HKM Engineering (teamed with Herrera Environmental Consultants); Kadrmas Lee & Jackson; Morrison Maierle, Inc; and Robert Peccia & Associates. On May 2nd the selection committee consisting of Tyler Westrope, Staff Engineer I, Chris Hertz, Staff Engineer II, Debi Meling, Engineering Division Manager, Wyeth Friday, Planning Division Manager, and Boris Krizek, Environmental Engineer II, met to select the top firm submitting a proposal. Through the selection process, the committee unanimously chose HDR Engineering, Inc. City Council action is required to obtain a signed contract between HDR Engineering, Inc. and the City of Billings allowing work to start on the City-wide storm water master plan.

FINANCIAL IMPACT: This contract is for an amount not to exceed \$250,000.00 (two-hundred fifty thousand dollars) and is to be paid for from Storm Drain funds approved in the FY08 CIP.

RECOMMENDATION

Staff recommends that Council approve the professional services contract for W.O. 07-09 with HDR Engineering, Inc, in an amount not to exceed \$250,000.00

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

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

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Interlocal Agreement In the Event of a Pandemic or Other Natural Disaster

DEPARTMENT: Billings Police Department

PRESENTED BY: Chief Rich St. John

PROBLEM/ISSUE STATEMENT: In the event of a pandemic or other natural disaster, upon notification from Yellowstone County Disaster and Emergency Services (DES), it will be necessary to provide security for Strategic National Supply assets from their arrival in Yellowstone County, Montana, until they are deployed to their Points of Distribution, consumed or withdrawn. These assets could be vaccines or other medications that need to be transported from Point A to Point B during a pandemic. This agreement is for a term of 5 years, and shall be automatically renewed for additional 5 year terms. It may be terminated by any party giving 30 days written notice through its governing body to all other parties and their respective governing bodies who are still parties to the agreement. City Council is being asked to approve this Interlocal Agreement between the County of Yellowstone, City of Billings, and the City of Laurel.

FINANCIAL IMPACT: There is no financial impact to the City. This Agreement is required by Yellowstone County DES and is a formality.

RECOMMENDATION

Staff recommends that Council approve the Interlocal Agreement in the event of a pandemic or other natural disaster between the County of Yellowstone, City of Billings, and the City of Laurel.

Approved By: City Administrator _____ City Attorney _____

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

D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Interlocal Agreement for Montana Law Enforcement Testing Consortium

DEPARTMENT: Billings Police Department

PRESENTED BY: Chief Rich St. John

PROBLEM/ISSUE STATEMENT: At the present time, Great Falls, Bozeman, Lewis & Clark County, Kalispell, Glasgow, Miles City, Lewistown, Helena, Billings, Laurel, Belgrade and Fairview are each responsible for the testing and hiring of their own officers. This is very expensive and time consuming. Over the past 6 months, meetings have been held in Helena to determine if a combined effort of all parties involved would be an affordable solution. As a result of these meetings, the cities and counties agreed to jointly coordinate the application process, share the costs of administering and testing, provide consistency in the selection process, evaluation and revise the process as necessary to reflect the duties of a peace officer, evaluate candidates, and provide the most qualified candidates for the position of peace officer for the cities and counties involved. Staff is requesting City Council approval of this Interlocal Agreement and authorize the Mayor to sign for the City of Billings.

FINANCIAL IMPACT:

- The estimated cost will be \$10 per sworn officer @ \$1,340 for acceptance to the consortium this year.
- Each member will pay an annual maintenance fee of \$1.00 per sworn officer (\$134.00).
- Each member will pay \$50 per new hire taken from the from the Consortium process.
- Each member will administer department specific testing at their expense.
- The Cities and Counties will share equally in the cost of administering and coordinating the recruitment test.
- These costs are budgeted in the recruiting budget.

RECOMMENDATION

Staff recommends that Council approve the attached Interlocal Agreement for Montana Law Enforcement Testing Consortium.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Approval of Law Enforcement Officer Reimbursement Agreement with the Transportation Security Administration

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: During September 2002, the City entered into a Personnel Agreement with the Transportation Security Administration (TSA) to reimburse the Aviation and Transit Department for the labor costs associated with providing Law Enforcement Officer (LEO) coverage at the TSA's security screening area. This Agreement expired on May 31, 2003. The TSA then requested that the City enter into a new agreement with them. The new agreement reimbursed the City for the security screening law enforcement costs incurred from June 1, 2003 to September 30, 2003, and permitted the City and the TSA to extend the agreement each September for an additional year for a maximum of five years. This Agreement expires on September 30, 2007. The Department of Homeland Security has renewed the reimbursement opportunity for a new five-year program period that begins October 1, 2007 through September 30, 2012. To participate in this new program, airports were required to apply via a Federal grant process. Billings Logan International Airport submitted an application for participation in the LEO reimbursement program and recently received notification of the Assistance Award.

ALTERNATIVES ANALYZED: The City Council has two (2) options to consider:

- Enter into this new Law Enforcement Officer Reimbursement Agreement with the TSA and receive a reimbursement for the City's "fully-burdened" labor costs to provide law enforcement support of TSA's passenger screening area. The fully-burdened labor costs include base salary, social security, 457 plans, health, life and disability insurance costs, as well as the City's portion of the retirement costs.
- Do not enter into this Reimbursement Agreement. If this option is chosen, the City will still incur the costs to provide law enforcement support of the security screening area to prevent a disruption of commercial air service in Billings; however, the City would not be reimbursed for these costs.

FINANCIAL IMPACT: Under the terms of this Agreement, the City will be authorized to receive reimbursement of the Airport's law enforcement officers' actual wage and benefit costs for the time the officers spend at screening and checkpoint areas, and on other TSA mandated activities. Approximately 35% of the total Airport Police Officers' time is spent on these functions. The first year's fully burdened costs have been estimated at \$169,900.

RECOMMENDATION

Staff recommends that Council approve the Law Enforcement Officer Reimbursement Agreement with the Transportation Security Administration.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday September 10, 2007

TITLE: Mutual Aid Agreement Lockwood Fire District

DEPARTMENT: Fire Department

PRESENTED BY: Marvin L. Jochems, Fire Chief

PROBLEM/ISSUE STATEMENT: The long-standing Mutual Aid Agreement with Lockwood Fire District, in effect since December 11, 1989, has expired. The Mutual Aid Agreement secures additional resources should the City of Billings experience an emergency that overwhelms the resources of the Billings Fire Department. Other than dates there were no material changes to the agreement. The new document and the current insurance certificates have been reviewed and approved by the Legal Department.

ALTERNATIVES ANALYZED: None

FINANCIAL IMPACT: None

RECOMMENDATION

Staff recommends that Council renew the Mutual Aid Agreement with Lockwood Fire District.

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

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

G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

TITLE: Big Ditch Trail II – Agreement Revisions

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, Planning Director and CTEP Administrator

PROBLEM/ISSUE STATEMENT: In 2006, the City was awarded a Community Transportation Enhancement Program (CTEP) grant to construct phase two of the Big Ditch Trail. In 2007, the City was awarded a Safe Routes to School (SRTS) grant to construct a connector between the main trail and Chandelier Circle. The Montana Department of Transportation (MDT) is authorizing the City of Billings to incorporate the Safe Routes to School (SRTS) funding of \$25,000 for the Arrowhead/Chandelier Connector, into phase two of the Big Ditch Trail CTEP project, STPE 1099(54). MDT has given verbal and electronic permission for the City to combine the funding, proceed to bid and construct the trail project this year. The project agreement revision formalizes this arrangement and requires the Mayor's signature.

ALTERNATIVES ANALYZED: This is the formal agreement with MDT to combine the SRTS funding with the CTEP and local match funding for the second phase of the Big Ditch Trail project. If the agreement is not signed, the City would be financially responsible for the Arrowhead/Chandelier Connector. The 1999 GO Bond could be used as alternative funding source for the connector.

FINANCIAL IMPACT: There is no financial impact to the City of Billings since the SRTS funding does not require a local match.

RECOMMENDATION

Staff recommends that Council approve revisions to the Big Ditch Trail II CTEP Project Agreement to incorporate the funding and scope of the Arrowhead/Chandelier Connector, Safe Routes to School grant.

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

ATTACHMENTS

- A. Letter of Request from MDT
- B. CTEP Project Agreement Revisions

ATTACHMENT A



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director

Brian Schweitzer, Governor

RECEIVED

AUG 03 2007

PLANNING & COMMUNITY
SERVICES DEPARTMENT

August 2, 2007

Darlene Tussing
Alternate Modes Coordinator
Parmly Library, 4TH Floor
510 North Broadway
Billings, Montana 59101

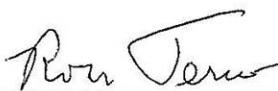
Subject: CTEP Project Agreement Revisions To Include SRTS Funding

Project No.: 6128
Project Name: Big Ditch Trail II - Billings

The Montana Department of Transportation has received your request to incorporate the Arrowhead/Chandelier Connector, as a Safe Routes to School (SRTS) project, into the currently active Big Ditch Trail II-Billings CTEP project. Two copies of the needed revisions to the CTEP Project Agreement are enclosed with this letter.

Please have the Mayor sign and date the last page of both copies and return them to the CTEP office so they can be finalized. Changes to the Project Agreement are shown in **bold** type.

Please contact Terry Voeller at 444-9457 if you need additional information.


f/c Michael Wherley, P.E.
CTEP Engineer

Enc.

cc: Bruce Barrett - Billings District Administrator
Project file

CTEP Project Agreement Revisions

Under WITNESSETH THAT, the first and fourth paragraphs are deleted and replaced with:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP)/**Safe Routes to School (SRTS)** project, STPE 1099(54), titled BIG DITCH TRAIL II-BILLINGS (hereinafter the “project”); and,

WHEREAS, the total estimated cost of the project development and construction totals **\$195,500**; and,

After NOW, THEREFORE, ...

Sections 2, 4 and 12, will be deleted and replaced with:

2. The project is off of the state-maintained system and the location is described as follows: the path will be located between Larchwood Lane and 46th Street West generally following the north side of the Big Ditch. The path includes two spurs to the north **and one spur to the south providing connections to Ridgewood Lane South, the parking lot of Rimrock West Park, and the Chandelier Circle cul-de-sac.**
4. The federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

Federal-Aid Program Account Totals

ACCOUNT	CTEP FUNDS & LOCAL MATCH	SRTS FUNDS
[9102] Preliminary Engineering	\$ 15,345	
[9202] Right-of-Way/Easement Acquisition	\$ -0-	
[9302] Incidental Construction	\$ -0-	
[9402] Construction Engineering	\$ 15,345	
[9502] Construction	\$ 139,810	25,000
Total	\$ 170,500	25,000

	Project	CTEP Funds	Local Match	SRTS Funds
City of Billings	\$ 195,500	\$ 147,620	\$ 22,880	\$ 25,000
TOTAL	\$ 195,500	\$ 147,620	\$ 22,880	\$ 25,000

12. The City will be responsible for \$22,880 and Federal participation will be **\$172,620** of the estimated total project cost of **\$195,500**. The City will be responsible for 100% of any costs, exceeding the proposed **\$ 195,500**, required to complete the project.

All other terms of the original agreement will remain in full force.

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

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

Jim Lynch, Director of Transportation

BY _____, 2007
Chief Engineer, Engineering Division

APPROVED FOR LEGAL CONTENT

APPROVED FOR RELEASE UNDER E.O. 14176

Joseph F. G.
MDT Legal Counsel

CITY OF BILLINGS

ATTEST-Clerk

Mayor

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2007, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk

(Back to Consent Agenda)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Highland School Sidewalks – Agreement Revisions
DEPARTMENT: Planning and Community Services
PRESENTED BY: Candi Beaudry, Planning Director and CTEP Administrator

PROBLEM/ISSUE STATEMENT: In 2005, the City was awarded a Community Transportation Enhancement Program (CTEP) grant to construct sidewalks from Delphinium Drive to Poly Drive. In 2007, the City was awarded a Safe Routes to School (SRTS) grant to complete sidewalk construction along Beverly Hills Boulevard between 7th Street and the Highland Elementary School. The Montana Department of Transportation (MDT) is authorizing the City of Billings to incorporate the Safe Routes to School (SRTS) funding of \$25,000 for the sidewalk extension, into the Highland School Sidewalk CTEP project, STPE 1099(48). MDT has given verbal and electronic permission for the City to combine the funding, proceed to bid and construct the sidewalk project this year. The project agreement revision formalizes this arrangement and requires the Mayor's signature.

ALTERNATIVES ANALYZED: This is the formal agreement with MDT to combine the SRTS funding with the CTEP and local match funding for the Highland School Sidewalk project. If the agreement is not signed, the project will be reduced to the original scope proposed in the CTEP project: sidewalks along Delphinium Drive to Poly Drive only.

FINANCIAL IMPACT: There is no financial impact to the City of Billings since the SRTS funding does not require a local match.

RECOMMENDATION

Staff recommends that Council approve revisions to the Highland School Sidewalk CTEP Project Agreement to incorporate the funding of the Safe Routes to School grant.

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

ATTACHMENTS

- C. Letter of Request from MDT
- D. CTEP Project Agreement Revisions

ATTACHMENT A



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

RECEIVED

AUG 17 2007

PLANNING & COMMUNITY
SERVICES DEPARTMENT

August 14, 2007

Candi Beaudry
Planning Director
Parmly Library, 4TH Floor
510 North Broadway
Billings, Montana 59101

Subject: CTEP Project Agreement Revisions To Include SRTS Funding

Project No.: 5909
Project Name: Highland School Sidewalks

The Montana Department of Transportation has received your request to incorporate the Safe Route Completion Project for Highland School, as a Safe Routes to School (SRTS) project, into the currently active Highland School Sidewalks CTEP project. Two copies of the needed revisions to the CTEP Project Agreement are enclosed with this letter.

Have the Mayor sign and date the last page of both copies and return them to the CTEP office. Changes to the Project Agreement are shown in **bold type**.

Please contact Terry Voeller at 444-9457 if you need additional information.

for Brian T.
f/b Michael Wherley, P.E.
CTEP Engineer

Enc.

cc: Project file

Community Transportation Enhancement Program
Phone: (406) 444-4221
Fax: (406) 444-9451

An Equal Opportunity Employer

Engineering Division
TTY: (800) 335-7592
Web Page: www.mdt.mt.gov

CTEP Project Agreement Revisions

Under WITNESSETH THAT, first and fourth paragraphs:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP)/ **Safe Routes to School (SRTS)** project, STPE 1099(48), titled HIGHLAND SCHOOL SIDEWALKS-BLGS (hereinafter the “project”); and,

WHEREAS, the total estimated cost of the project development and construction totals **\$195,500**; and,

After NOW, THEREFORE, ...

Sections 2, 4 and 12, will be modified to read:

2. The project is off of the state-maintained system and the location is described as follows: along 11th Street West, O’Malley Drive, and Azalea Lane, between Poly Drive and Delphinium Drive, **and along Beverly Hills Boulevard between 7th Street and the Highland Elementary School.**
4. The federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

Federal-Aid Program Account Totals

ACCOUNT		CTEP FUNDS & LOCAL MATCH	SRTS FUNDS
[9102] Preliminary Engineering	\$	-0-	1,250
[9202] Right-of-Way/Easement Acquisition	\$	-0-	
[9302] Incidental Construction	\$	-0-	
[9402] Construction Engineering	\$	-0-	1,250
[9502] Construction	\$	46,200	22,500
Total	\$	46,200	25,000

	Project	CTEP Funds	Local Match	SRTS Funds	Additional Contibution
City of Billings	\$ 170,000	\$ 40,000	\$ 6,200	\$ 25,000	\$ 98,800
TOTAL	\$ 170,000	\$ 40,000	\$ 6,200	\$ 25,000	\$ 98,800

12. The City will be responsible for \$105,000 and Federal participation will be **\$65,000** of the estimated total project cost of **\$170,000**. The City will be responsible for 100% of the costs, exceeding the proposed **\$ 170,000**, required to complete the project.

-- 1 --

All other terms of the original agreement will remain in full force.

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

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION
Jim Lynch
Director of Transportation

BY _____, 2007
Chief Engineer, Engineering Division

APPROVED FOR LEGAL CONTENT

CITY OF BILLINGS

ATTEST-Clerk

Mayor

By _____

[OFFICIAL SEAL]

City Clerk

- - 2 - -

(Back to Consent Agenda)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Annexation Petition #07-10 Acknowledge Receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: Frank Sindelar, property owner, submitted a petition to annex land to the City of Billings under 7-2-4600 MCA. The 400.94-acre property is located north of Matador Avenue and the Lake Hills Golf Course in the Billings Heights. The property has been sued for agricultural purposes for many years. The property owners are requesting annexation in order to obtain all city services to develop the property at urban residential densities. The property was included in the City's Limits of Annexation Map for immediate annexation potential when the Limits of Annexation Map was amended in February. An Urban Planning Area study has been submitted for review and will come forward to the Council with a recommendation from the Planning Board on September 24th. The City Council's policy is to consider annexations at two separate meetings. At the first meeting, the Council acknowledges receipt of a petition and sets a public hearing date. At the second meeting the Council conducts the hearing and decides if it will annex the property.

ALTERNATIVES ANALYZED: MCA, Section 7-2-4600 allows owners of more than 50% of the property to petition the city for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date.

FINANCIAL IMPACT: There is no immediate fiscal impact to the City by accepting this annexation petition and setting a public hearing date. A fiscal impact statement will be included with the public service report to be presented at the public hearing.

RECOMMENDATION

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for September 24, 2007, to consider annexing this property.

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

ATTACHMENTS

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

ATTACHMENT A
Annexation #07-10 Property Data

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

Petitioner: Frank Sindelar

Purpose of annexation: Obtain all City services

Property included: Tract 1, Certificate of Survey2017; S1/2 SE1/4, Section 8, T1N, R26E; S1/2 SW1/4, Section 9, T1N, R26E

Location: North of the Lake Hills Gold Course and Matador Avenue in the Billings Heights

Total area: 400.94 acres

Current zoning: Agricultural Open Space

Zoning after annexation: Residential-9600
(Proposed Zone Change to R-7000R)

Current land use: Agricultural

Future land use: Single-family residential

ATTACHMENT B
Annexation Petition #07-10

**PETITION
FOR ANNEXATION
TO THE CITY OF BILLINGS**

NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

INSTRUCTIONS

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting annexation and all other property within one-quarter (1/4) mile.
The map must show:
 - a. The present and proposed boundaries of the municipality;
 - b. The present streets, major trunk water mains and sewer mains;
 - c. The zoning of the property requesting annexation and the property immediately adjacent to it.
3. The Petition may be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parmly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, and Finance Department. If no problems with the Petition have been noted by the departments, the City Clerk will schedule the Petition for City Council action.
4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.
5. A description of the territory to be annexed to the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
06/06/2007	DOVER RANCH		633 SINDELAR ROAD
			Billings, MT 59105

(continued on separate page)

DESCRIPTION OF THE TERRITORY TO BE ANNEXED TO THE CITY

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

ALL ITEMS BEING SHAI BE COMPLETED BY STAFF

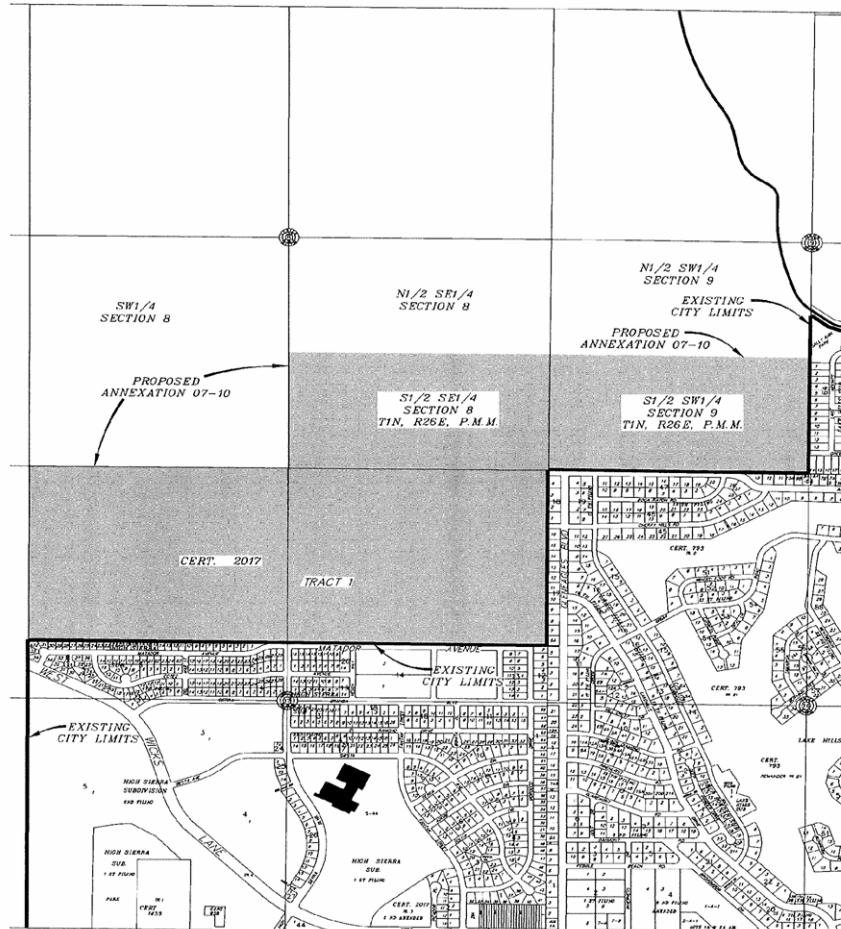
ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF	
Date Submitted: <u>5/29/07</u>	Received By: <u>Tammy Denes</u>
Fee Paid: <u>\$800.00</u>	Petition Number: <u>07-10</u>

P:82061_54_Annex_Pet

(06/06/07) iss

ATTACHMENT C
Annexation Map – Annexation #07-10

EXHIBIT A



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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Annexation Petition #07-21: Acknowledge Receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: Owners and petitioners, Raymond and Douglas Kramer (Power of Attorney for the Lydia Kramer Real Estate Management Trust), are requesting annexation of a property legally described as Tract 1C, Certificate of Survey 2991 located in the NW 1/4, Section 12, Township 1S, Range 25E, into the City of Billings pursuant to Section 7-2-4600 of the Montana Code Annotated (MCA). The subject property is located west of the intersection of Central Avenue and 29th Street West. The petitioners are requesting annexation in order to obtain city water and sewer services for commercial and residential development. The subject property is currently vacant land and is zoned Residential 9600 (R-96). A concurrent zone change has been submitted for the property from R-96 to Neighborhood Commercial (NC), Residential Professional (RP), and Residential Multi-Family Restricted (RMF-R). At this meeting, the Council acknowledges receipt of the petition and sets a public hearing date for September 24, 2007; the Council will vote on the petition at that public hearing.

ALTERNATIVES ANALYZED: Section 7-2-4600, MCA, permits owners of more than 50% of a property to petition the City for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date. The subject property is wholly surrounded by properties within the City limits and is depicted on the adopted Limits of Annexations Map in an area proposed to be annexed within the next six (6) years.

FINANCIAL IMPACT: A fiscal impact analysis and staff recommendation will be prepared and presented at the public hearing.

RECOMMENDATION

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for September 24, 2007, to consider annexing this property.

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

ATTACHMENTS

- D. Property Data
- E. Annexation Petition
- F. Annexation Map

ATTACHMENT A

Property Data

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

Petitioner: Raymond and Douglas Kramer (Power of Attorney for the Lydia Kramer Real Estate Management Trust)

Purpose of annexation: To obtain City Services for Development

Property included: Tract 1C, Certificate of Survey 2991

Location: West of the intersection of Central Avenue and 29th Street West

Total area: 8.868 acres

Current zoning: R-96

Current land use: Vacant

Future zoning: NC, RP, RMF-R

Future land use: Commercial and Residential Development

ATTACHMENT B
Annexation Petition

01-471

Tract 1C
1/6 2991

**PETITION
FOR ANNEXATION
TO THE CITY OF BILLINGS**

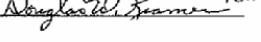
NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

INSTRUCTIONS

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting annexation and all other property within one-quarter (1/4) mile.
The map must show:
 - a. The present and proposed boundaries of the municipality;
 - b. The present streets, major trunk water mains and sewer mains;
 - c. The zoning of the property requesting annexation and the property immediately adjacent to it.
3. The Petition may be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parmly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, and Finance Department. If no problems with the Petition have been noted by the departments, the City Clerk will schedule the Petition for City Council action.
4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.
5. A description of the territory to be annexed to the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
8/01/07	Raymond J. Kramer, POA		5126 King Avenue W.
8-6-07	Douglas W. Kramer, POA		Billings, MT 59106
	POA for Lydia Kramer		
	Real Estate Management		
	Trust		

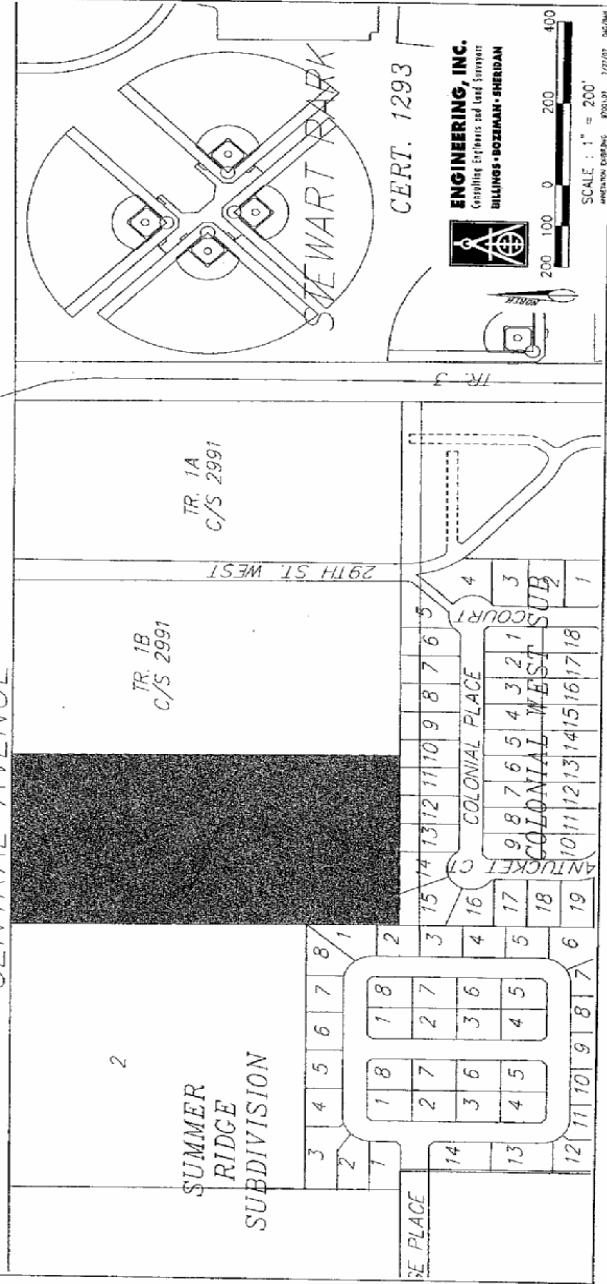
(continued on separate page)

TRACT 1C, CERTIFICATE OF SURVEY No. 2991

SITUATED IN THE NW 1/4 OF SECTION 12, T. 1 S., R. 25 E., P.M.M.
YEAR
LOWSTONE COUNTY MONTANA

CERT.		FILING		31ST ST.		2ND		1ST ST.		WEST	
1232	3	2	2	1	1	1	2	1	1	1	1
2	1	5	5	5	5	5	5	5	5	5	5
1	1	1	1	1	1	1	1	1	1	1	1
1232	3	2	2	1	1	1	2	1	1	1	1

ATTACHMENT C
Annexation Map



(Back to Consent Agenda)

K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Annexation Petition #07-22: Acknowledge receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: Owners and petitioner, Todd Icopini, Legacy Homes, is requesting annexation of a property legally described as Tract 1B, Certificate of Survey 2991 located in the NW 1/4, Section 12, Township 1S, Range 25E, into the City of Billings pursuant to Section 7-2-4600 of the Montana Code Annotated (MCA). The subject property is located on the southwest corner of the intersection of Central Avenue and 29th Street West. The petitioner is requesting annexation in order to obtain city water and sewer services for commercial and residential development. The subject property is currently vacant land and is zoned Residential 9600 (R-96). A concurrent zone change has been submitted for the property from R-96 to Neighborhood Commercial (NC), Residential Professional (RP), and Residential Multi-Family Restricted (RMF-R). At this meeting, the Council acknowledges receipt of the petition and sets a public hearing date for September 24, 2007; the Council will vote on the petition at that public hearing.

ALTERNATIVES ANALYZED: Section 7-2-4600, MCA, permits owners of more than 50% of a property to petition the City for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date. The subject property is wholly surrounded by properties within the City limits and is depicted on the adopted Limits of Annexations Map in an area proposed to be annexed within the next six (6) years.

FINANCIAL IMPACT: A fiscal impact analysis and staff recommendation will be prepared and presented at the public hearing.

RECOMMENDATION

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for September 24, 2007, to consider annexing this property.

ATTACHMENTS

- G. Property Data
- H. Annexation Petition
- I. Annexation Map

ATTACHMENT A

Property Data

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

Petitioner: Todd Icopini, Legacy Homes

Purpose of annexation: To obtain City Services for Development

Property included: Tract 1B, Certificate of Survey 2991

Location: Southwest corner of the intersection of Central Avenue and 29th Street West

Total area: 8.868 acres

Current zoning: R-96

Current land use: Vacant

Future zoning: NC, RP, RMF-R

Future land use: Commercial and Residential Development

ATTACHMENT B
Annexation Petition

**PETITION
FOR ANNEXATION
TO THE CITY OF BILLINGS**

Tract 1B,
C/S 2991

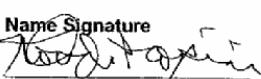
NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

INSTRUCTIONS

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting annexation and all other property within one-quarter (1/4) mile.
The map must show:
 - a. The present and proposed boundaries of the municipality;
 - b. The present streets, major trunk water mains and sewer mains;
 - c. The zoning of the property requesting annexation and the property immediately adjacent to it.
3. The Petition may be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parmly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, and Finance Department. If no problems with the Petition have been noted by the departments, the City Clerk will schedule the Petition for City Council action.
4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.
5. A description of the territory to be annexed to the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
8/01/07	Todd Icopini		3313 Stonewall Lane
	Legacy Homes		Billings, MT 59102

(continued on separate page)

TRACT 1B, CERTIFICATE OF SURVEY No. 2991

SITUATED IN THE NW 1/4 OF SECTION 12, T. 1 S., R. 25 E., P.M.M.

YELLOWSTONE COUNTY, MONTANA

CENTRAL AVENUE

111

SUMMER RIDGE SUBDIVISION

29TH ST. WEST

TR 1A C/S 2991

TR 1C C/S 2991

TR 1A C/S 2991

STEWART PARK

ENGINEERING, INC.
Engineering, Planning and Land Surveyors
BILLINGS • BOZEMAN • SHREBURN

SCALE: 1" = 200'

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
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20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	
22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	

(Back to Consent Agenda)



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

TITLE: Acknowledge Receipt of Petition to Vacate a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North and Set a Public Hearing Date

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Billings Clinic has petitioned to vacate a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North. Billings Clinic owns all of the property abutting the proposed right-of-way and is proposing to develop the property in the future. There is currently a sanitary sewer main within the alley in which Billings Clinic is proposing to relocate.

ALTERNATIVES ANALYZED:

1. Acknowledge receipt of petition to vacate the above-mentioned right-of-way and set a public hearing for October 9, 2007.
2. Do not acknowledge receipt of petition to vacate the above-mentioned right-of-way.

FINANCIAL IMPACT: Billings Clinic is willing to accept the same value established by an appraisal completed for North 28th Street between 11th Avenue North and 12th Avenue North. The appraisal established the value of the right-of-way at \$20.50 per square foot for unencumbered right of way and \$10.25 per square foot for right of way encumbered with public utilities. The total value of the proposed vacated property (7,000 square feet) to be paid to the city from Billings Clinic is \$71,750.00 at the \$10.25 per square foot price for encumbered right of way.

RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to vacate a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North and set a public hearing date for October 9, 2007.

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

ATTACHMENT

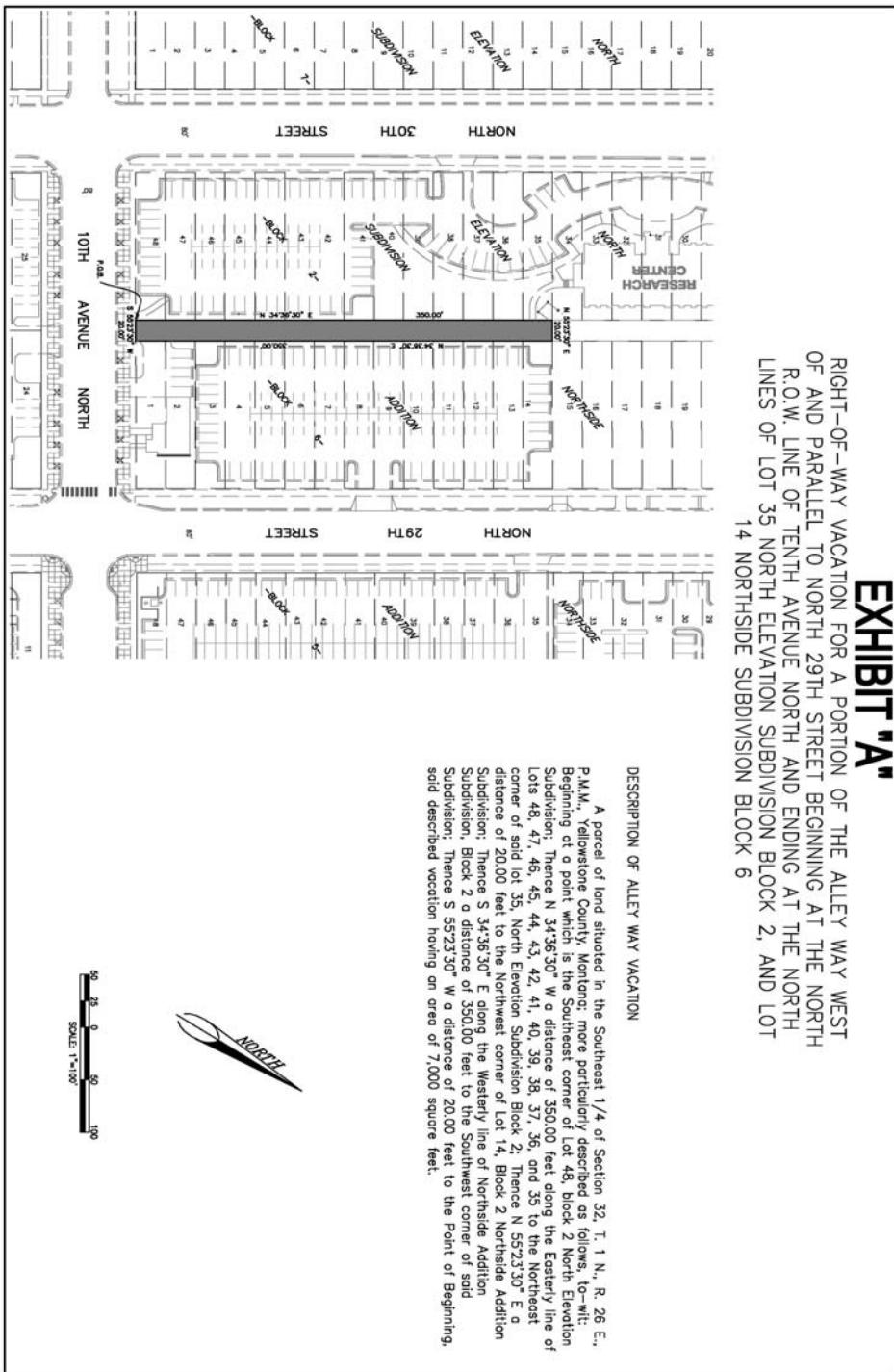
A. Map Depicting Area to be Vacated

EXHIBIT "A"

RIGHT-OF-WAY VACATION FOR A PORTION OF THE ALLEY WAY WEST OF AND PARALLEL TO NORTH 29TH STREET BEGINNING AT THE NORTH R.O.W. LINE OF TENTH AVENUE NORTH AND ENDING AT THE NORTH LINES OF LOT 35 NORTH ELEVATION SUBDIVISION BLOCK 2, AND LOT 14 NORTHSIDE SUBDIVISION BLOCK 6

DESCRIPTION OF ALLEY WAY VACATION

A parcel of land situated in the Southeast 1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana; more particularly described as follows, to-wit: Beginning at a point which is the Southeast corner of Lot 48, block 2 North Elevation Subdivision; Thence N 34°35'30" W a distance of 350.00 feet along the Easterly line of Lots 48, 47, 46, 45, 44, 43, 42, 41, 40, 39, 38, 37, 36, and 35 to the Northeast corner of said lot 35, North Elevation Subdivision Block 2; Thence N 55°23'30" E a distance of 20.00 feet to the Northwest corner of Lot 14, Block 2 Northside Addition Subdivision; Thence S 34°35'30" E along the Westerly line of Northside Addition Subdivision; Thence S 55°23'30" W a distance of 350.00 feet to the Southwest corner of said Subdivision; Thence S 55°23'30" W a distance of 20.00 feet to the Point of Beginning, said described vacation having an area of 7,000 square feet.



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

M

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Acknowledge Receipt of Petition to Vacate a Portion of South 12th Street West and Set a Public Hearing Date

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: MDU (Montana Dakota Utilities) is constructing a new building at the corner of South 12th Street West and Southgate Drive. In the rear of their property, a pedestrian walkway was constructed along the City-County Drain. This walkway is located on their property; however it is a good location away from the drain. Along the west side of their property is right of way that is just a boulevard. MDU is requesting that the city swap a portion of the South 12th Street West boulevard for a sufficient amount of right of way on the north side to have the walkway in right of way instead of private property. Moving the walkway would only install it closer to the drain. The amount of property to be vacated is the same size as the property to be dedicated. After the South 12th Street West right of way is vacated, a subdivision plat will be completed aggregating the right of way with their parcel and dedicating the necessary right of way for the walkway.

ALTERNATIVES ANALYZED:

3. Acknowledge receipt of petition to vacate the above-mentioned right-of-way and set a public hearing for October 9, 2007.
4. Do not acknowledge receipt of petition to vacate the above-mentioned right-of-way.

FINANCIAL IMPACT: The right of way being vacated is the exact size as the right of way that will be dedicated. It would be an even swap at no cost to the City or MDU.

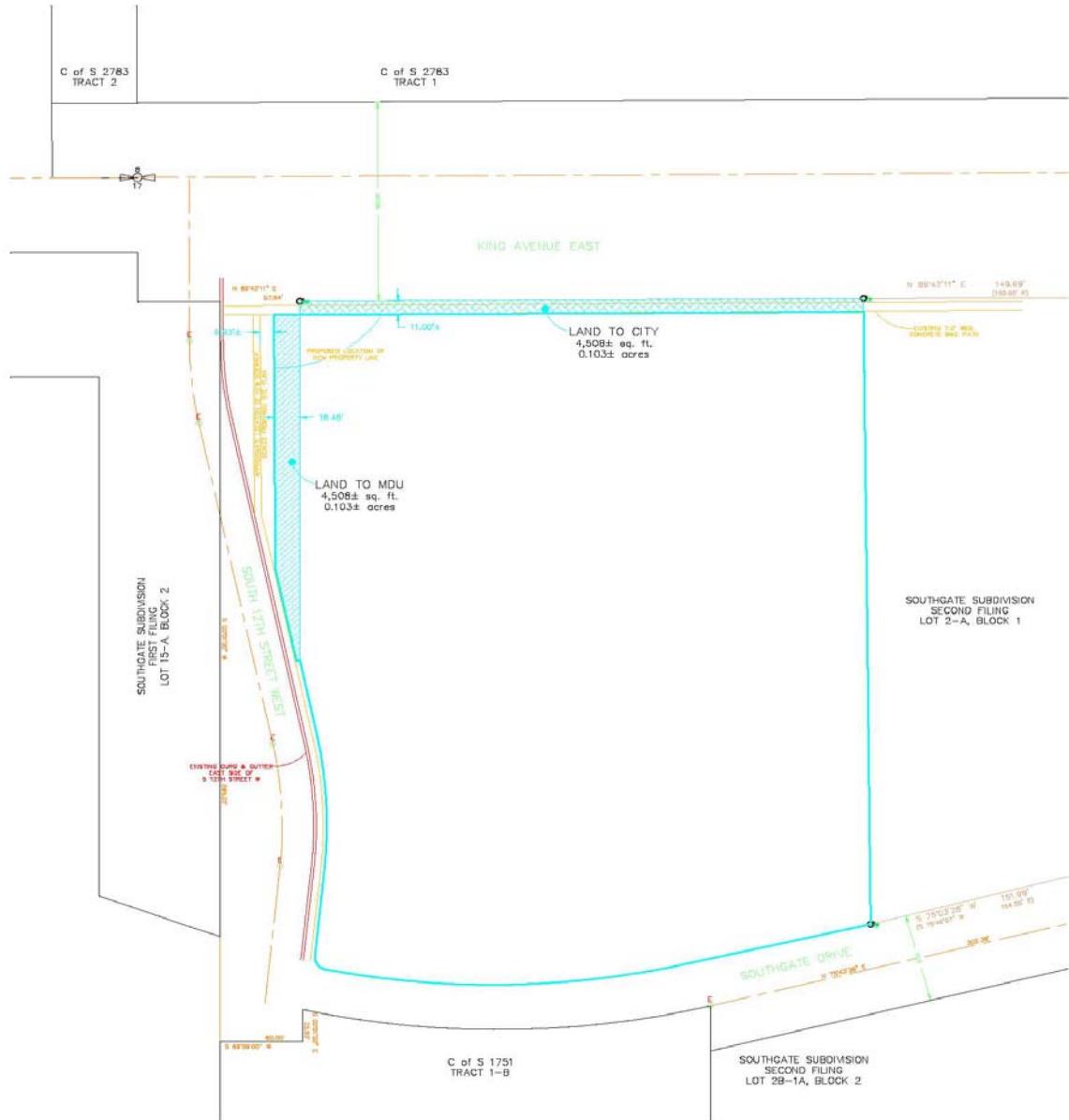
RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to vacate a portion of South 12th Street West and set a public hearing date for October 9, 2007.

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

ATTACHMENT

A. Map Depicting Area to be Vacated



(Back to Consent Agenda)

N

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

TITLE: Confirmation of Probationary Police Officers

DEPARTMENT: Police Department

PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: On September 5, 2006, Officers Riley Finnegan, Shane Shelden, Nathan Krause, Shaun Guardanapo and Bret Becker were hired by the Billings Police Department as probationary Police Officers. According to MCA 7-32-4113, their probationary period is for one year from date of hire. At this time Officers Finnegan, Shelden, Krause, Guardanapo and Becker have completed their one year probation, and according to state statute, their names are to be submitted to City Council within 30 days for confirmation. All of the supervisor comments concerning the Officers performance are positive and indicate that they are doing a good job, and recommend confirmation.

RECOMMENDATION

City staff recommends Officers Riley Finnegan, Shane Shelden, Nathan Krause, Shaun Guardanapo and Bret Becker be confirmed as Billings Police Officers.

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

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

O1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement for a Construction Permit for Parcel #20, a Portion of Lot 3A-1 of Siewert Acres Subdivision with D & M Family Limited Partnership

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #20 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). It is not necessary to acquire any right-of-way in fee from this property owner; the only "right-of-way" necessary is a temporary construction permit. The appraisal for this construction permit made a conclusion of value of \$300.00. A copy of the right-of-way agreement; appraisal; tax documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this temporary construction permit is \$300.00, which is the appraised value of the permit. Funding is available for this permit from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement for Parcel #20, a Portion of Lot 3A-1 of Siewert Acres Subdivision with D & M Family Limited Partnership in the amount of \$300.00, and authorize the Mayor to execute this document.

ATTACHMENT

A. Right-of-Way Agreement (3 pages)

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

INTRODUCTION

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

PROCEDURAL HISTORY

Completed Items

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

Future Items

- October 2007 – Estimated completion of right-of-way acquisition
- 2008-2009 – Design and construction of street improvements (in approved CIP)

BACKGROUND

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

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

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

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

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement for Parcel #20, a Portion of Lot 3A-1 of Siewert Acres Subdivision with D & M Family Limited Partnership in the amount of \$300.00, and authorize the Mayor to execute this document.

ATTACHMENT

- A. Right-of-Way Agreement (3 pages)

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

Lake Elmo Road Hilltop Road to Wicks Lane	Work Order: 04-33 Project No. 05153	Yellowstone COUNTY
DESIGNATION	Parcel No. 20	Parcel Description Lot 3A-1 of Siewert Acres Subdivision
		Section 22
		Township 1N
		Range 26E

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

D & M Family Limited Partnership
 1808 Old Sorrel Tail
 Billings, MT. 59105
 672-5733

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. This agreement is effective upon execution by the City or a designated representative, and possession of the property is granted to the City when it sends the payment(s) agreed to below. Grantors contract that they will, on City's request, execute a deed and other documents required by the City for all real property agreed to be conveyed by this agreement.
2. COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)
 N/A
3. OTHER COMPENSATION:
 771 square feet Temporary Construction Permit \$ 251.00
4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$300.00.
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:
 A warrant in the amount of \$300.00, to be made payable to D & M Family Limited Partnership and mailed to 1808 Old Sorrel Tail, Billings, MT. 59105.
6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on the attached Exhibit A, and made for the period of the street improvements construction project plus the one-year warranty period. City agrees to restore the line and grade and re-seed disturbed areas, if any, within the construction permit area. The permit area will be left in a workmanlike condition.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:
 Reconfigure and repair sprinkler system, if any, affected by project. Relocate mail box if applicable.

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

(Continued from Previous Page)

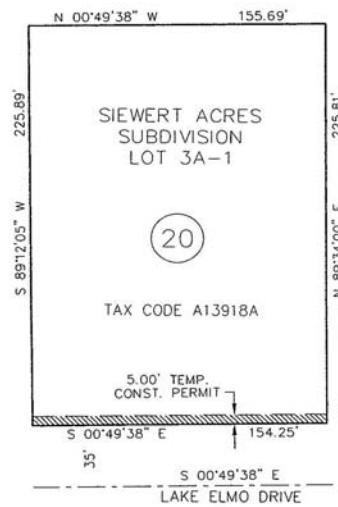
THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN

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

<u>Bob L. Olson</u> Signature:	<u>August 7, 2007</u> (Date)	<u>SS</u> (Signature)
_____ Signature:	_____ (Date)	_____ Tax ID No.
_____ Signature:	_____ (Date)	_____ Tax ID No.
RECOMMENDED FOR APPROVAL: <u>Ronald E. Olson</u> Ronald E. Olson, Olson Land Services City of Billings, Public Works Department		APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS: <u>8-8-07</u> (Date) Mayor, City of Billings (Date)
ATTEST: <u>Nicholas P. Badley</u> 8/21/07 City of Billings, Public Works Department (Date)		_____ City Clerk (Date)

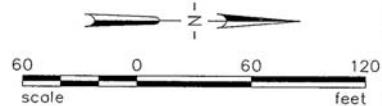
LER-020.200 D & M Family

EXHIBIT A
TEMPORARY CONSTRUCTION PERMIT
LOT 3A-1
SIEWERT ACRES SUBDIVISION
YELLOWSTONE COUNTY, MONTANA



LAKE ELMO DRIVE
 RIGHT-OF-WAY ACQUISITION DESCRIPTION
 PARCEL No. 20

Lot 3A-1 SIEWERT ACRES SUBDIVISION.
 No permanent Right-of-Way is required.
 Temporary construction permit only.



AREA OF TEMPORARY CONSTRUCTION
 PERMIT: 771 S.F.



ENGINEERING, INC.
 Consulting Engineers and Land Surveyors
 1300 Keith Ranch Way
 Billings, Montana 59105
 Phone (406) 656-5255
 www.Enginc.com

LEGEND

	RIGHT-OF-WAY ACQUISITION
	CONSTRUCTION PERMIT

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

CITY W.O. 04-33 PARCEL 20
 THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA
 RIGHT-OF-WAY PLAN.

PARCEL 20 SWING

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

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, September 10, 2007**

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #47, a Portion of Lot 19, Block 1 of Broadmoor Subdivision With Rosemary Moses

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #47 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$5,050.00. The negotiation history for this parcel notes that Ms. Moses felt her property was worth more than the appraised value. The City's Land Acquisition Policy allows staff or consultants the latitude to offer up to five percent (5%) above the appraisal amount for property acquisitions. This higher amount, \$5,305.50, was acceptable to the property owner. A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$5,305.50. The cost of this acquisition is equal to five percent (5%) above the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for

right-of-way acquisition for Parcel #47, a Portion of Lot 19, Block 1 of Broadmoor Subdivision with Rosemary Moses in the amount of \$5,305.50, and authorize the Mayor to execute these documents.

ATTACHMENT

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

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

INTRODUCTION

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

PROCEDURAL HISTORY

Completed Items

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

Future Items

- October 2007 – Estimated completion of right-of-way acquisition
- 2008-2009 – Design and construction of street improvements (in approved CIP)

BACKGROUND

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

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

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

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

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #47, a Portion of Lot 19, Block 1 of Broadmoor Subdivision with Rosemary Moses in the amount of \$5,305.50, and authorize the Mayor to execute these documents.

ATTACHMENT

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

CITY OF BILLINGS
 (hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

<u>Lake Elmo Road Hilltop Road to Wicks Lane</u>	Work Order: 04-33 Project No. 05153	<u>Yellowstone</u> <u>COUNTY</u>
DESIGNATION	Parcel No. 47	Parcel Description Lot 19, Block 1 of Broadmoor Subdivision
		Section 22
		Township 1N
		Range 26E

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

ROSEMARY MOSES
 1303 LAKE ELMO DRIVE
 BILLINGS, MT. 59105
 254-1443 (H), 656-3603 (C)

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

900 square feet by deed	\$3,870.00
Improvements (Shrubs, tree, sod)	\$1,037.00
3. OTHER COMPENSATION:

300 square feet Temporary Construction Permit	\$ 129.00
Administrative settlement	\$ 252.50
4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$5,305.50
 LUMP SUM SETTLEMENT
5. IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$5,305.50, to be made payable to ROSEMARY MOSES and mailed to 1303 LAKE ELMO DRIVE, BILLINGS, MT. 59105
6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period.
8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:
 Reconfigure and repair sprinkler system, if any, affected by project.

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

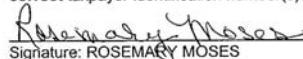
R.M.

(Continued from Previous Page)

10. City Agrees to build 20' (Twenty foot) curb cut at the south end of the property to replace the existing driveway. Curb cut to be built in accordance with City specifications

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

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

	8-1-07	5
Signature: ROSEMARY MOSES	(Date)	
_____	_____	
Signature: _____	(Date) _____	
Signature: _____	(Date) _____	Tax ID No. _____
RECOMMENDED FOR APPROVAL		APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:
	8-1-07	_____
Ronald E. Olson, Olson Land Services	(Date)	Mayor, City of Billings
ATTEST:		
City of Billings, Public Works Department	(Date)	City Clerk
LER-047.200 Moses		

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

Project No. W.O. 04-33 Parcel No. 47 County of YELLOWSTONE
Designation LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 1st day of August, 2007.

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

ROSEMARY MOSES
1303 LAKE ELMO DRIVE
BILLINGS, MT. 59105

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

Parcel No. 47 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project. Said parcel is also described as a tract of land within Lot 19, Block 1 of Broadmoor Subdivision, in the City of Billings, on file under Document No. 411808, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 900 sq. ft..

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 300 sq. ft..

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

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

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

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

Project No. : W.O. 04-33

Parcel No. 47

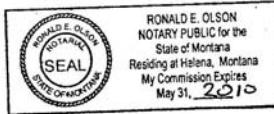
Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

Rosemary Moses

State of Montana)
County of Yellowstone)

This instrument was acknowledged before me on August 1, 2007
(date)

by Rosemary Moses
(names)



Reed C

Notary Signature Line

Ronald E Olson

Notary Printed Name

Notary Public for State of Montana
Residing at: Helena
My Commission Expires: May 31, 2010

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

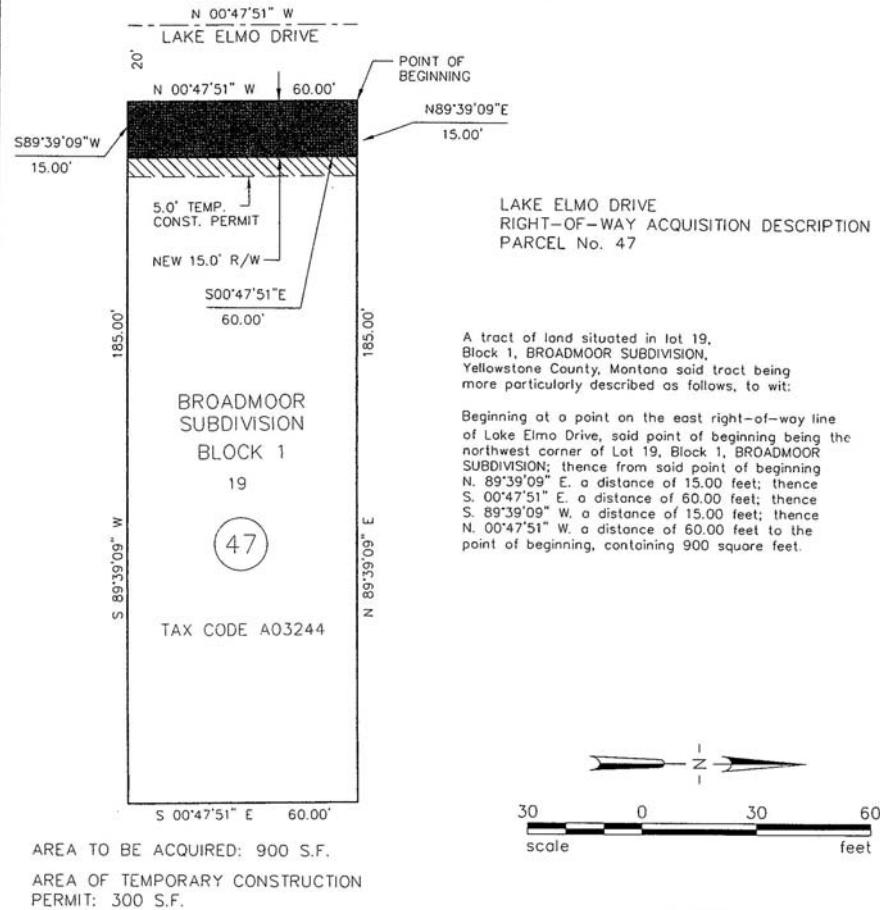
STATE OF MONTANA)
:ss
County of Yellowstone)

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

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

Print Name

EXHIBIT A
RIGHT-OF-WAY ACQUISITION
AND TEMPORARY CONSTRUCTION PERMIT
SITUATED IN LOT 19,
BLOCK 1,
BROADMOOR SUBDIVISION,
YELLOWSTONE COUNTY, MONTANA



<u>LEGEND</u>	
	RIGHT-OF-WAY ACQUISITION
	CONSTRUCTION PERMIT
CITY OF BILLINGS, MONTANA	
RIGHT-OF-WAY EXHIBIT	
CITY W.O. 04-33 PARCEL 47	
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA RIGHT-OF-WAY PLAN.	
PARCEL 47 DHD	

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

03

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Right-of-Way Easement for Parcel #66, a Portion of Lot 17, Block 3 of Arrowhead Subdivision With Wade & Michelle L. Pickering

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #66 of the parcels to be acquired (there are some numbered parcels within the project limits from which right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the easement, any appurtenant features, and the construction permit at a value of \$5,500.00. A copy of the right-of-way agreement; easement; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this easement acquisition is \$5,550.00. The cost of this easement is equal to the sum of the appraised value of the easement, any appurtenant features, and the construction permit. Funding is available for this easement from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Right-of-Way Easement for right-of-way acquisition for Parcel #66, a Portion of Lot 17, Block 3 of Arrowhead Subdivision with Wade & Michelle L. Pickering in the amount of \$5,550.00, and authorize the Mayor to execute these documents.

ATTACHMENT

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

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

INTRODUCTION

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

PROCEDURAL HISTORY

Completed Items

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

Future Items

- October 2007 – Estimated completion of right-of-way acquisition
- 2008-2009 – Design and construction of street improvements (in approved CIP)

BACKGROUND

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

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

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

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

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Right-of-Way Easement for right-of-way acquisition for Parcel #66, a Portion of Lot 17, Block 3 of Arrowhead Subdivision with Wade & Michelle L. Pickering in the amount of \$5,550.00, and authorize the Mayor to execute these documents.

ATTACHMENT

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

CITY OF BILLINGS

(hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

<u>Lake Elmo Road</u>	<u>Hilltop Road to Wicks Lane</u>	Work Order: 04-33	<u>Yellowstone</u>
DESIGNATION		Project No. 05153	<u>COUNTY</u>
Parcel No.	Parcel Description	Section	Township
66	Lot 17, Block 3 of Arrowhead Subdivision	22	1N
			Range
			26E

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

WADE PICKERING AND MICHELLE L. PICKERING
1421 LAKE ELMO DRIVE
BILLINGS, MT. 59105
697-5611(c)

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

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

501 square feet by easement	\$1,503.00
Improvements (Trees, concrete, gates, fence, sod)	\$2,154.00

3. OTHER COMPENSATION:

379 square feet Temporary Construction Permit	\$ 114.00
Remove and replace sidewalk	\$1,695.00

4. TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$5,500.00

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

A warrant in the amount of \$5,500.00, to be made payable to WADE PICKERING AND MICHELLE L. PICKERING and mailed to 1421 LAKE ELMO DRIVE, BILLINGS, MT. 59105

6. IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.

7. The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Right-of-Way Easement, and made for the period of the street improvements construction project plus the one-year warranty period.

8. This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors

9. At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:

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

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

(Continued from Previous Page)

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

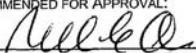
We understand that we are required by law to provide our correct taxpayer identification number(s). Failing to do so may subject us to civil and criminal penalties. We certify that the correct taxpayer identification number(s) is:

ngs
ur

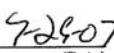
 7-28-07
Signature: WADE PICKERING 7-28-07
 7-28-07
Signature: MICHELLE L. PICKERING

Signature: _____ (Date) _____ Tax ID No. _____

RECOMMENDED FOR APPROVAL:

 7-28-07
Ronald E. Olson, Olson Land Services

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

 7-28-07
Mayor, City of Billings 7-28-07
(Date) 7-28-07 (Date)

ATTEST:

 8/1/07
City of Billings, Public Works Department 8/1/07
(Date) 8/1/07 (Date)

City Clerk 8/1/07 (Date)

LER-066.200 Pickering

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

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this 29th day of July,
2007, by and between the following:

WADE PICKERING AND MICHELLE L. PICKERING
1421 LAKE ELMO DRIVE
BILLINGS, MT. 59105

hereinafter referred to as **GRANTOR** and

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

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

WITNESSETH THAT GRANTOR does hereby grant, sell, and convey unto the **GRANTEE**, for the benefit of the public, a perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve streets, storm drainage, street lights, sidewalks, accessibility ramps, multi-use path, traffic signals, necessary fixtures and appurtenances, and public and private utilities that normally occupying public rights-of-way over, across, under, and through the real property within the boundaries of the easement area as described herein and shown on the attached Exhibit "A":

Parcel No. 66 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project. Said parcel is also described as a tract of land within Lot 17, Block 3 of Arrowhead Subdivision, in the City of Billings, on file under Document No. 452936, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 501 sq. ft.

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 379 sq. ft.

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

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

Project No. : W.O. 04-33

Parcel No. 66

Designation : LAKE ELMO ROAD – HILLTOP ROAD TO WICKS LANE

TO HAVE AND TO HOLD all of the above-described property unto the Grantee(s), and its successors and assigns forever.

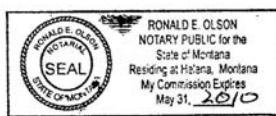
IN WITNESS WHEREOF


WADE PICKERING


MICHELLE L. PICKERING

State of Montana)
County of Yellowstone)

This instrument was acknowledged before me on July 29, 2007
(date)
by WADE PICKERING AND MICHELLE L. PICKERING
(names)




RONALD E. OLSON
Notary Signature Line
Ronald E. Olson
Notary Printed Name
Notary Public for State of Montana
Residing at: Helena
My Commission Expires: MAY 31, 2010

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

THIS PERPETUAL EASEMENT is hereby accepted pursuant to Billings City Council approval on _____, 2007. The Mayor and City Council of the City of Billings acknowledges receipt of this perpetual easement and hereby accepts the property interest conveyed through this instrument.

CITY OF BILLINGS,
a Montana Municipal Corporation

By: _____
MAYOR

ATTEST:

City Clerk

STATE OF MONTANA _____)

COUNTY OF _____)

On this _____ day of _____, 2007, before me, _____
a Notary Public in and for the State of Montana, personally appeared known to me to be _____
and acknowledged to me that they executed the
foregoing instrument.

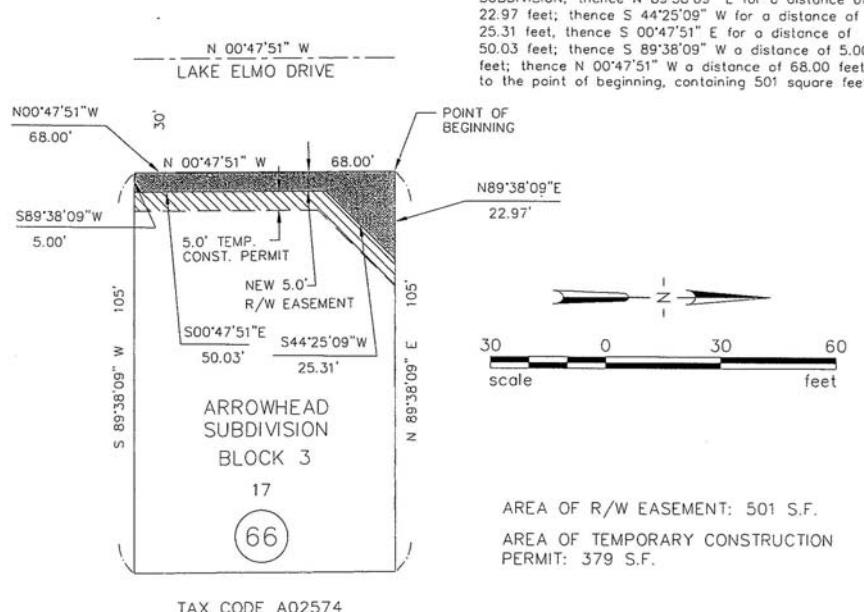
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and
year first above written.

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

EXHIBIT A
RIGHT-OF-WAY EASEMENT
AND TEMPORARY CONSTRUCTION PERMIT
SITUATED IN THE WEST 105 FEET OF LOT 17,
BLOCK 3,
ARROWHEAD SUBDIVISION,
YELLOWSTONE COUNTY, MONTANA

LAKE ELMO DRIVE
 RIGHT-OF-WAY EASEMENT DESCRIPTION
 PARCEL No. 66

A tract of land situated in the west 105 feet of
 Lot 17, Block 3, ARROWHEAD SUBDIVISION,
 Yellowstone County, Montana, said tract being
 more particularly described as follows, to wit:



LEGEND	
	RIGHT-OF-WAY EASEMENT
	CONSTRUCTION PERMIT
CITY OF BILLINGS, MONTANA	
RIGHT-OF-WAY EXHIBIT	
CITY W.O. 04-33 PARCEL 66	
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA RIGHT-OF-WAY PLAN.	
PARCEL 66.DWG	

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P

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Acceptance of Donation up to a maximum of \$2,500 to the Bike Patrol from Downtown Billings Association and Business Improvement District

DEPARTMENT: Billings Police Department

PRESENTED BY: Chief Rich St. John

PROBLEM/ISSUE STATEMENT: The Downtown Billings Association (DBA) and the Business Improvement District (BID) will donate up to a maximum of \$2,500 to the Bike Patrol Program for the Billings Police Department. Lisa Harmon, Executive Director of the Downtown Billings Association and Business Improvement District stated this donation is one way that the downtown businesses can show their support of the Bike Patrol Program. This donation is for the purchase of such equipment as cold weather gear, bike bags and flashlights for the Bike Patrol. Staff recommends that City Council accept the donation from the Downtown Billings Association and the Business Improvement District up to a maximum of \$2,500 for the purchase of cold weather gear and equipment for the Bike Patrol.

FINANCIAL IMPACT: There is no financial impact as the DBA and BID will make the purchases for the Bike Patrol.

RECOMMENDATION

Staff recommends that City Council accept the donation from the Downtown Billings Association and the Business Improvement District up to a maximum of \$2,500 for the purchase of cold weather gear and equipment for the Bike Patrol.

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

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Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

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 of \$10,000 will be used to offset the construction costs of the Ballpark that exceeded anticipated costs. The donations to the maintenance fund of \$38,709 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**

ATTACHMENT:

Attachment A – Donor List

Ballpark Construction Fund

	<u>Donor</u>	<u>Amount</u>
CTA		\$ 10,000

Ballpark Maintenance Fund

	<u>Donor</u>	<u>Amount</u>
LE Courts Inc		\$ 500
Francie & Mickey Mulholland		1,300
Ray & Rita Boe		1,000
L. Randall & Julie Bishop		1,000
Moulton, Bellingham, Long & Mather		1,000
Doug & Kathy James		1,400
Ultra Imaging, Inc		1,000
George & Loretta Day		1,000
Robert Bergeson DDS		600
Todd Berg		500
Gene Jarussi		1,000
Jeanne & Ron Bender		1,000
Nelson Law Firm PC		1,000
Donald J. Peretti DDS		1,000
Mike & Nancy Downing		1,000
Kenneth & Lena Heikes		1,000
Pius Ehlie Estate		1,000
Frontier Real Estate Group		1,000
LE Courts Inc		1,000
Don Stanaway		1,000
Billings Ball Park Fever		1,209
Senia Hart		1,000
Jim Sites		1,000
Billings Association of Realtors Inc		1,000
Ben & Mary Lou Marchello		2,000
Denny Menholt Auto Group		1,000
Wayne L. Hansen		1,900
L. Brooke & Susan Henderson		1,200
Denny Hocking		1,000
Jane & John Addy		1,000
Eric, Linda & Calvin Bjorgum		1,000
Barry Henderson		1,000
Grant Agnew		1,000
Ed & Carol Riesinger		1,000
R. Day - Payne Financial Group		1,000
D A Davidson & Co		1,000
Ken Mueller		1,100
		\$38,709

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R

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Semi Annual Investment Report
DEPARTMENT: Administration-Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City of Billings Investment Policy states the Finance Division shall submit semi-annually, an investment report describing the portfolio in terms of type, interest rate, and maturity date. In addition, the investment policy requires the funds average maturity may not exceed 397 days.

On June 30, 2007 the City had the following amounts invested:

US Bank Municipal Investor	\$ 5,408,092.01
Montana State Short Term Investment Pool	\$ 21,466,186.78
U.S. government and U.S. agency obligations	\$ 66,172,000.00
Certificates of deposit	\$ 2,500,000.00
Compensating certificates of deposit	\$ 1,100,000.00
Repurchase Agreements	\$ 22,450,224.74
Total Investments	\$ 119,096,503.50

Funds Average Days to Maturity	307 Days
--------------------------------	----------

Effective Rate of Return	5.26%
--------------------------	-------

The portfolio summary does not include the US Bank repurchase account and the US Bank compensating certificate of deposit. The repurchase account earns 5.20% on deposits swept in daily. The certificate of deposit earns 6% and the interest earnings are applied to our bank charges.

RECOMMENDATION

Staff recommends that Council approve the Semi-Annual Investment Report.

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

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S

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

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

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

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

On June 30, 2007, the City had \$1,000,0000 in a certificate of deposit at Sterling Savings Bank, Billings; \$5,408,092.01 invested in the U.S. Bank Municipal Investor Account; and \$22,450,224.74 in the US Bank Repurchase Account. The City has \$1,500,000 in a certificate of deposit at US Bank, Billings. Also at US Bank the City has a \$1,100,000 in a compensating certificate of deposit. The earning credits from this CD are applied to our bank charges.

Because Sterling Savings Bank's net worth ratio to total assets ratio is over 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. Sterling Savings Bank has collateralized the City's deposits with 104% in pledged securities.

Because US Bank's net worth ratio to total assets ratio is in excess of 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. US Bank has collateralized the City's Municipal Investor Account and two certificate of deposits with 125% in pledged securities and collateralized the Repurchase Account with 102 % in pledged securities.

RECOMMENDATION

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Corrected Resolution to Vacate a Portion of Moose Hollow Lane

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Lloyd Detienne, property owner in Aspen Gateway Subdivision 2nd Filing, petitioned to vacate a portion of Moose Hollow Lane. The vacation of a portion of Moose Hollow Lane was approved at the June 11, 2007, City Council Meeting after holding a public hearing. The legal description within the resolution to vacate Moose Hollow Lane was incorrect and it is necessary to approve a corrected resolution so Mr. Detienne can go forward with the resubdividing of Aspen Gateway Subdivision 2nd Filing. The amount of right of way being vacated does not change. Moose Hollow Lane has not been constructed, and Mr. Detienne is the original subdivider that dedicated the right of way for Moose Hollow Lane.

FINANCIAL IMPACT: Mr. Detienne is the original developer of Aspen Gateway 2nd Filing, which dedicated the right of way for Moose Hollow Lane. Moose Hollow Lane is undeveloped. It has been approved that this right of way can be vacated at no cost due to the fact that Mr. Detienne is the original subdivider.

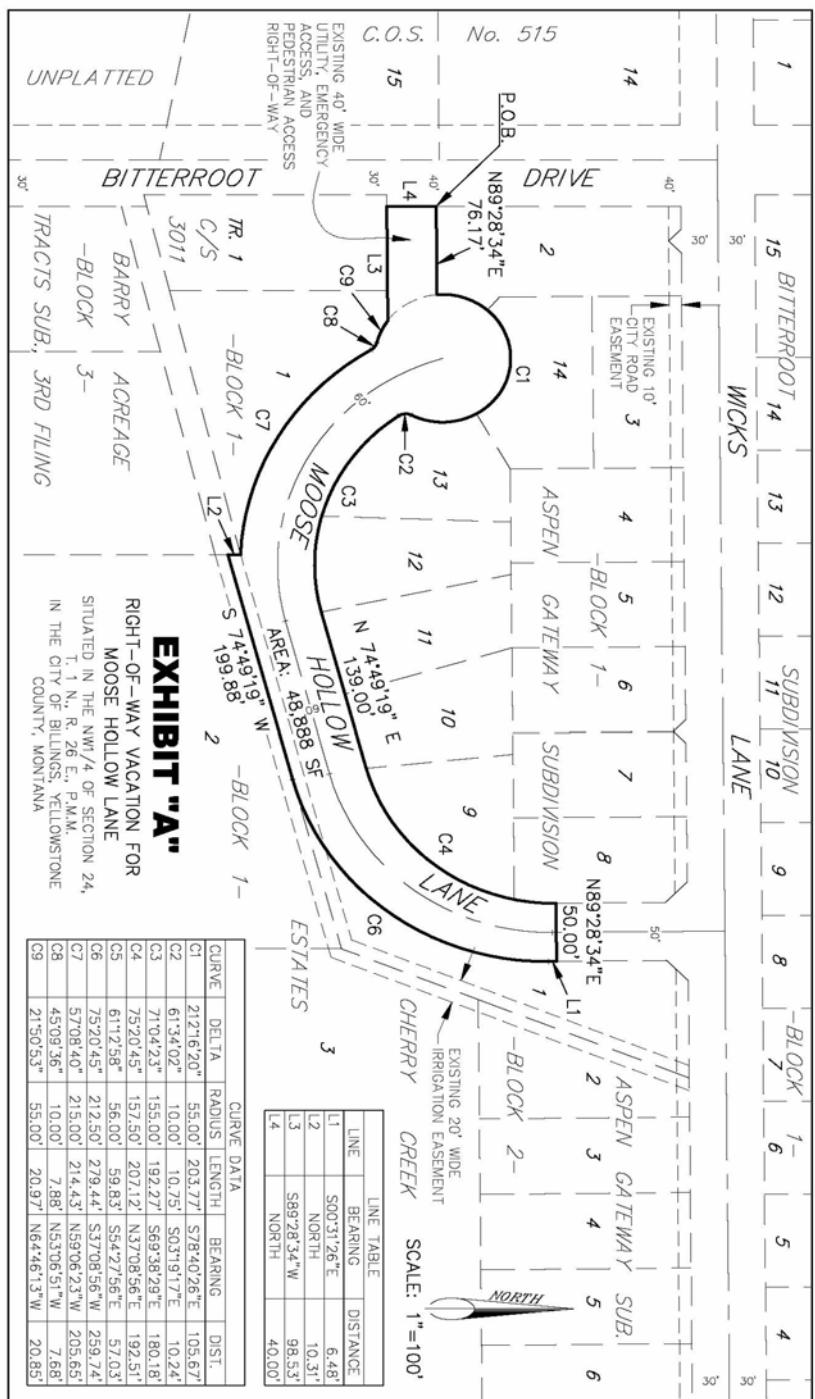
RECOMMENDATION

Staff recommends that Council approve the corrected resolution vacating a portion of Moose Hollow Lane.

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

ATTACHMENTS:

- A. Map Depicting Area to be Vacated
- B. Resolution Vacating a Portion of Moose Hollow Lane



RESOLUTION NO. 07-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,
DISCONTINUING AND VACATING a portion of Moose Hollow Lane.

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of a portion of Moose Hollow Lane as described hereinafter; and
WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. DISCONTINUANCE AND VACATION. Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., a portion of Moose Hollow Lane more particularly described as follows:

Beginning at a point which is the southwest corner of Lot 2, Block 1 of Aspen Gateway Subdivision; thence, from said Point of Beginning, N 89°28'34" E a distance of 76.17 feet; thence along a non-tangential curve to the right having a Radius of 55.00 feet; a Delta of 212°16'20" and a length of 203.77 feet (said curve subtended by a Chord bearing S 78°40'26" E a distance of 105.67 feet); thence along a curve to the left having a Radius of 10.00 feet, a Delta of 61°34'02" and a Length of 10.75 (said curve subtended by a Chord bearing S 3°19'17" E a distance of 10.24 feet); thence along a curve to the left having a Radius of 155.00 feet, a Delta of 71°04'23" and a Length of 192.27 feet (said curve subtended by a chord bearing S 69°38'29" E a distance of 180.18 feet); thence N 74°49'19" E a distance of 139.00 feet; thence along a curve to the left having a Radius of 157.50 feet, a Delta of 75°20'45" and a Length of 207.12 feet (said curve subtended by a Chord bearing N 37°08'56" E a distance of 192.51 feet); thence N 89°28'34" E a distance of 50.00 feet; thence S 0°31'26" E a distance of 6.48 feet; thence along a curve to the right having a Radius of 212.50 feet, a Delta of 75°20'45" and a Length of 279.44 feet (said curve subtended by an Chord bearing S 37°08'56" W a distance of 259.74 feet); thence S 74°49'19" W a distance of 199.88 feet; thence NORTH a distance of 10.31 feet; thence along a curve to the right having a Radius of 215.00 feet, A Delta of 57°08'40" and a Length of 214.43 feet (said curve subtended by a Chord bearing N 59°06'23" a distance of 205.65 feet); thence along a curve to the left having a Radius of

10.00 feet, a Delta of 45°09'36", and a Length of 7.88 feet (said curve subtended by a Chord bearing N 53°06'51" W a distance of 7.68 feet); thence along a curve to the right having a Radius of 55.00 feet, a Delta of 21°50'53" and a length of 20.97 feet (said curve subtended by a Chord bearing N 64°46'13" W a distance of 20.85 feet); thence S 89°28'34" W a distance of 98.53 feet; thence NORTH a distance of 40.00 feet to the Point of Beginning; said described tract having an area of 48,888 feet and also as described in attached "EXHIBIT A".

Is hereby discontinued, abandoned and vacated.

2. **PUBLIC INTEREST.** The discontinuance, vacation and abandonment of the above described **a portion of Moose Hollow Lane** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 10th day of September 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing
MAYOR

ATTEST:

BY: _____
CITY CLERK

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U

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

TITLE: Resolution Creating a Downtown Transit Center Ad Hoc Committee

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The City Council will consider adopting a Resolution that creates a Downtown Transit Center Ad Hoc Committee. The City has purchased a site for the new MET Downtown Transit Center, and staff, with the approval of the City Council, has hired a group of planners, engineers and architects (design team) to design and construct this new Transit Center. The Committee's purpose is to review the various design concepts and operational characteristics developed by the design team and recommend a preferred design to the City Council. City Code Section 2-224 dictates how advisory committees are to be formed and this staff recommendation complies with the Code.

FINANCIAL IMPACT: There will be no financial impact to establish this Committee.

RECOMMENDATION

Staff recommends the City Council approve the Resolution that creates a Downtown Transit Center Ad Hoc Committee.

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

ATTACHMENT

A. Resolution

INTRODUCTION

The City Council will consider adopting a Resolution that creates a Downtown Transit Center Ad Hoc Committee. The City has purchased a site for the new MET Downtown Transit Center, and staff, with the approval of the City Council, has hired a group of planners, engineers and architects (design team) to design and construct this new Transit Center. The Committee's purpose is to review the various design concepts and operational characteristics developed by the design team and recommend a preferred alternative to the City Council. City Code Section 2-224 dictates how advisory committees are to be formed and this staff recommendation complies with the Code.

BACKGROUND

Now that the decision has been made on the final location for the new Downtown Transit Center, staff has once again initiated the design of this facility. While the overall goal of this project is to provide a safe and efficient transfer location for those that use the Transit system, it is important that the new Center is compatible with surrounding businesses and residents. There are several exciting projects currently being considered in the downtown area, and staff feels that the City's Transit Center needs to enhance and support these efforts. By involving a diverse group of individuals and interests in a design review capacity, we are confident that we can construct a facility that meets the needs of our users while adding to the utility and beauty of our downtown area.

STAKEHOLDERS

There are a number of stakeholders with interest in this project. The citizen members will apply through the established board and commission application process. The Committee will be assisted by City staff and the planners, and engineers and architects who have been retained to design and construct this facility. Suggested citizen groups and areas of interest for your consideration are:

- City Council Representative
- Aviation and Transit Commission Member
- Downtown Billings Partnership Representative
- Downtown Billings Business Representative
- Yellowstone County Representative
- General Service Administration Representative
- Neighbor/Business Owner in Close Proximity to the Site
- MET Passenger
- MET Mobility Impaired or Senior Passenger

RECOMMENDATION

Staff recommends the City Council approve the Resolution that creates a Downtown Transit Center Ad Hoc Committee.

ATTACHMENT

A. Resolution

RESOLUTION NO. 07-

A RESOLUTION OF THE BILLINGS MONTANA CITY COUNCIL
CREATING A DOWNTOWN TRANSIT CENTER AD HOC COMMITTEE,
ESTABLISHING THE COMMITTEE PURPOSE, THE SCOPE OF ITS
RESPONSIBILITIES, ITS COMPOSITION AND ITS DURATION

Be It Resolved by the City Council of the City of Billings (the "City"), Montana, as follows:

Section 1. Creation: There is hereby created the Downtown Transit Center Ad Hoc Committee (the Committee).

Section 2. Purpose: The Committee's purpose is to review the design concepts and operational characteristics developed by the City's design team and recommend a preferred alternative to the City Council.

Section 3. Scope of Responsibilities: The Committee will advise the City Council. It may not commit the City or expend funds.

Section 4. Composition: The Committee is composed of nine (9) members; one (1) City Council Member, one (1) Aviation and Transit Commission Member, and seven (7) citizens that may have interest in this project. The City's design team and staff will provide information and support to the Committee. The City Council and Aviation and Transit Commission members are _____ and _____ respectively. The citizen members will be solicited through the City's established board and commission membership application process and the applicant names will be submitted to the City Council for appointment.

Section 5. Duration: The Committee shall serve at the pleasure of the Mayor and City Council until excused from duty. The Committee will strive to complete its work and report to the Council by November 1, 2007.

APPROVED AND PASSED by the City Council of the City of Billings, Montana this _____ day of _____ 2007.

THE CITY OF BILLINGS:

BY: _____
RON TUSSING, MAYOR

ATTEST:

CARI MARTIN, CITY CLERK

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V



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

SUBJECT: Resolution Relating to Pooled Special Improvement District Bonds Series 2007; Determining the form and details and authorizing the execution and delivery.

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: On August 13, 2007, City Council approved a resolution authorizing the issuance and pooled bond sale for the following two Special Improvement Districts; 1375 and 1377. US Bank was awarded the bond sale with a net effective interest rate of 5.05%. The following resolution outlines the form and detail of the bonds.

RECOMMENDATION

It is recommended that the City Council approve the attached resolution.

Approved By: City Administrator City Attorney

ATTACHMENT

A - Resolution prepared by Dorsey & Whitney (available for viewing in City Clerk's Office)

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: SILMD 303 – King Avenue West, S. 31st Street West to Shiloh Road

DEPARTMENT: Public Works Department

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

PROBLEM/ISSUE STATEMENT: With the expansion of King Avenue West from S. 31st Street West to Shiloh Road, street lighting is proposed to provide for driver and pedestrian safety. In order to pay the costs of energy & maintenance for this street lighting it is necessary to create Special Improvement Lighting Maintenance Districts (SILMDs) to assess the operations costs to abutting property owners. Passage of the Resolutions of Intent is the first step in the legal process of creating an SILMD. Passage of the Resolutions of Intent will trigger the mailing of legal notices to the affected property owners and set Council public hearings for the October 9, 2007, City Council meeting.

PROCEDURAL HISTORY:

1. September 10th (this meeting), approve Resolution of Intent to create SILMD 303
2. September 13th, legal notices mailed to all affected property owners, 15-day protest period begins
3. September 13th and September 20th, legal notices published in the *Billings Times*
4. September 28th, 15-day protest period ends
5. October 9th Council meeting, Public hearing and creation of SILMD 303
6. November 2008, initial assessments appear on tax statements

ALTERNATIVES ANALYZED:

1. Create the SILMD to provide a source of funding for operation & maintenance of the streetlights and set a public hearing for October 9, 2007.
2. Do not create an SILMD nor set a public hearing.

FINANCIAL IMPACT: All maintenance and energy costs for this proposed light districts would be paid for by assessments against properties within the district. Included in the district

are 5 parks. Assessments to the Parks Department is estimated to be \$1,201.85 or about 6.51% of the overall SILMD assessment.

RECOMMENDATION

Staff recommends that Council pass Resolutions of Intent to create SILMD 303 and set a public hearing date for October 9, 2007, where action will be taken for the creation of this SILMD.

Approved By: _____ City Administrator _____ City Attorney _____

ATTACHMENTS

- A. District Boundary Map SILMD 303
- B. Resolution of Intent to Create SILMD 303

INTRODUCTION

With the expansion of King Avenue West from S. 31st Street West to Shiloh Road, street lighting is proposed to provide for driver and pedestrian safety. In order to pay the costs of energy & maintenance for this street lighting it is necessary to create Special Improvement Lighting Maintenance Districts (SILMD's) to assess the operations costs to abutting property owners. Passage of the Resolutions of Intent is the first step in the legal process of creating an SILMD. Passage of the Resolutions of Intent will trigger the mailing of legal notices to the affected property owners and set Council public hearings for the October 9, 2007 City Council meeting.

The City has traditionally paid the cost of street lighting by assessment against the abutting properties. Staff previously presented a proposal to the Council for creation of a City-wide arterial lighting district that would assess the costs of all lighting along arterial streets, such as King Avenue West, against all property owners in the City. When last presented in 2002, the Council directed staff not to pursue a single City-wide arterial lighting district.

PROCEDURAL HISTORY BACKGROUND

1. September 10th (this meeting), approve Resolution of Intent to create SILMD 303
2. September 13th, legal notices mailed to all affected property owners, 15-day protest period begins
3. September 13th and September 20th, legal notices published in the *Billings Times*
4. September 28th, 15-day protest period ends
5. October 9th Council meeting, Public hearing and creation of SILMD 303
6. November 2008, initial assessments appear on tax statements

BACKGROUND

All of the street lights in these proposed district are City owned lights and will be installed with the King Avenue widening project (SID 1379). Therefore the SILMD assessments pay only the cost of energy and maintenance. The monthly energy fees paid for street lighting are established by the Montana Public Service Commission and are subject to change in the future. The first year assessment for each of these districts will be higher than the annual estimates given below because the assessments collected on the first year's taxes have to cover a period of time longer than 12 months. The first year assessment has to cover energy & maintenance for the period from November 2007 to November 2008.

The estimated annual assessments in this district will range from \$50.95 assessed to residential properties to \$4,706.60 assessed to commercial properties.

ALTERNATIVES ANALYSIS

1. Create the SILMD's to provide a source of funding for operation & maintenance of the streetlights. This is the standard method of paying the cost of energy & maintenance for all street lighting in Billings.
2. Do not create an SILMD. In the case of King Avenue West, a potential safety hazard would be created if the lights were not installed because of the raised median.

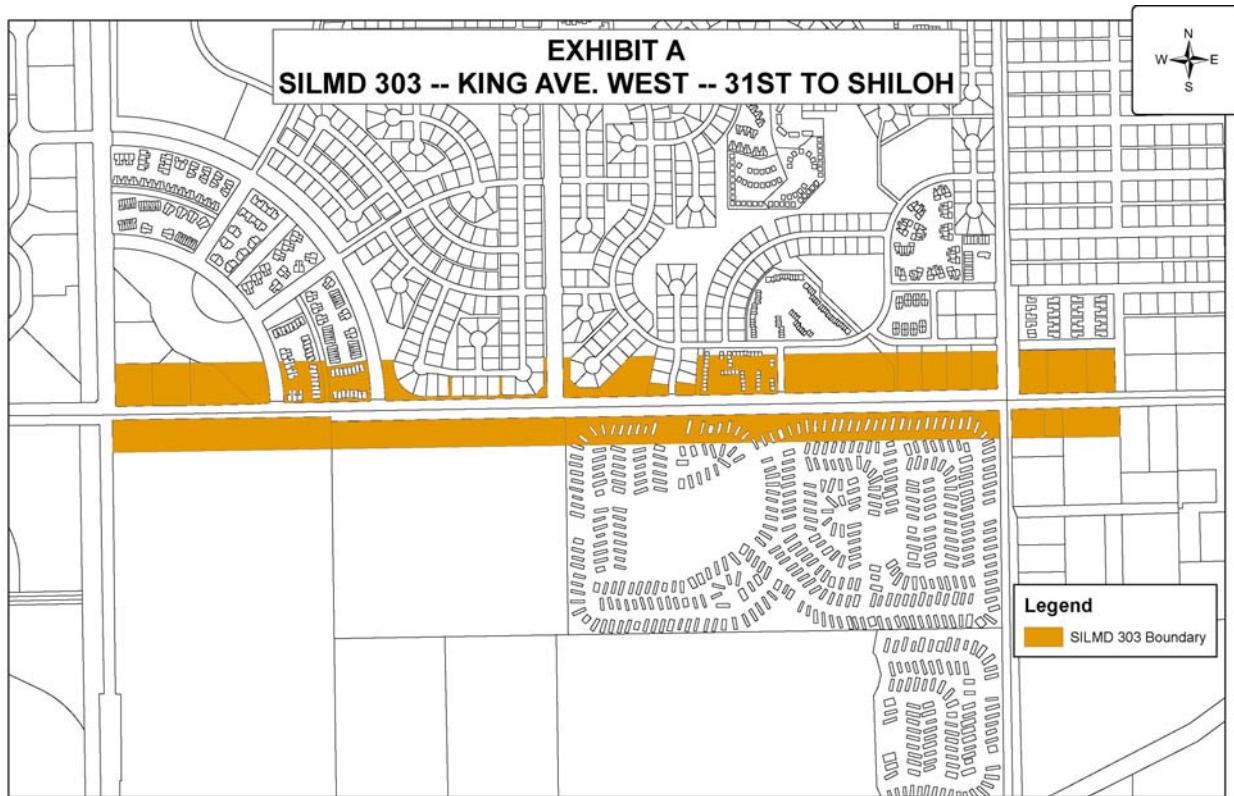
3. Development of some other source of funding to pay for street light energy & maintenance. As noted above, the Council has entertained discussions of creating a City-wide arterial lighting district several times, most recently in 2002. At that time, Council directed staff not to pursue the option of a single City-wide district. Other than payment for the City owned properties in these districts no general fund monies have been budgeted in the current budget for operation of this lighting. To do so at this time would probably require elimination of other general fund services that have already been planned for.

RECOMMENDATION

Staff recommends that Council pass Resolutions of Intent to create SILMD 303 and set a public hearing date for October 9, 2007.

ATTACHMENTS

- A. District Boundary Map SILMD 303
- B. Resolution of Intent to Create SILMD 303



SILMD 303

RESOLUTION NO. 07-_____

A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 303 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF PROVIDING ENERGY AND MAINTENANCE FOR STREET LIGHTS, DESIGNATING THE NUMBER OF SAID DISTRICT, DESCRIBING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFOR FOR THE FIRST YEAR, THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COST.

WHEREAS, the City Council of Billings, Montana, has determined that the public interest and convenience require the creation of a Special Improvement Lighting Maintenance District as hereinafter provided;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

BILLINGS, MONTANA:

SECTION 1:

That the public interest and convenience require, and it is deemed necessary, to create a Special Improvement Lighting Maintenance District for the purpose providing energy and maintenance for new street lights for lighting in said district; and the intention of said City Council to create such a district, hereinafter more particularly described, is hereby declared.

SECTION 2:

That said district shall be known and designated as "Special Improvement Lighting Maintenance District No. 303" hereinafter called the District, and the boundaries of the District are hereby declared to include: All lots, parcels and pieces of land abutting King Avenue West from South 31st Street West to Shiloh road, as shown on the map designated as Exhibit "A" attached hereto, and as listed in Exhibit "B" which is attached hereto. The district boundary shall be as described in Exhibit "C" attached hereto.

SECTION 3:

That the City of Billings, Montana, hereby finds, determines and declares that each of the lots, blocks, pieces and parcels of land situated within the boundaries of the District, will be

especially benefited and affected by said improvements, and that all of the property included within the District is hereby declared to be the property to be assessed for the cost and expense of obtaining the electrical energy for and maintenance of said street lights.

SECTION 4:

That the general character of the improvements to be made for the District is hereby declared to be as follows: The provision of energy and maintenance for street lighting facilities consisting of sixty-nine (69) 250-watt high-pressure sodium fixtures mounted on steel, mast arm style poles and served by underground wiring. The City of Billings shall own and install the streetlights and all associated appurtenant structures and materials.

SECTION 5:

The City of Billings intends to establish the contract rate for supplying electrical energy in accordance with the rate schedule ELDS-1 approved by the Montana Public Service Commission. Said rate is currently estimated at \$10.61 per unit, per month, That NorthWestern Energy Company shall provide energy to the lighting fixtures. That the City of Billings shall provide normal maintenance to lighting fixtures, poles, cables and other incidental equipment, and shall at all times own said lighting fixtures, poles, cables and other incidental equipment.

SECTION 6:

The estimate of the cost of the District per year, including City administrative costs, is the sum of \$18,457.99; that the entire cost of said District shall be paid by the owners of the property within said District, with each lot, parcel or piece of land within the District to be assessed for that portion of the whole cost which it's assessable area bears to the assessable area of the entire District, exclusive of streets, avenues, alleys and public places. The estimated cost of the District per year for property owners is on the basis of approximately \$0.00712987 per square foot of assessable area. Due to the difference in the time the lighting service started and the time assessments can be levied, the first assessment will cover a period of operation of the District greater than one year and is estimated to total \$21,064.47 or approximately \$0.00813669 per square foot.

SECTION 7:

That the entire cost of the District shall be paid by an annual assessment against the property in the District; that annually, pursuant to MCA 7-12-4332, the City Council shall adopt a resolution estimating the cost of maintaining said lights including a reserve, and furnishing electrical current and assessing all of said property within said District for the annual costs; that all monies derived from the collection of such assessments shall be paid into a fund to be known as "Special Lighting Maintenance District No. 303 Maintenance Fund," and warrants shall be drawn on said fund for the payment of such costs of maintaining such lights and supplying electrical current therefore.

SECTION 8:

That on the 9th day of October, 2007, at 6:30 o'clock p.m., at the Council Chambers of the City Hall in said City, the City Council intends to create such Special Improvement Lighting Maintenance District No. 303 and will hear objections and protests against the proposed improvements and the extent and creation of such District to be assessed, or any matter pertaining

thereto, at said time and place, by any person, firm, or corporation who has filed a written protest with the City Clerk of the City of Billings within fifteen (15) days after the date on which the Notice of the passage of this Resolution of Intention is mailed to the property owners affected and published in "The Billings Times".

SECTION 9:

That the City Clerk is hereby authorized and directed to publish a copy of the Notice of the passage of this Resolution in "The Billings Times", a weekly newspaper published and circulated in the City of Billings, Montana, and to send a copy of said Notice to the owners of all the lots, blocks, pieces or parcels of land included within the boundaries of said Special Improvement Lighting Maintenance District No. 303. Said notice is to be published and mailed on the same date.

PASSED by the City Council and APPROVED this 10th day of September 2007.

CITY OF BILLINGS

By _____
Ron Tussing _____ Mayor

ATTEST:

By _____
Cari Martin _____
City Clerk

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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Zone Change #813, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from Residential 9600 (R-96) to Planned Development (PD). The property is located on the southeast corner of the intersection of Rimrock Road and Avalon Road and contains the Yellowstone Racquet Club. The PD would be for single-family residential, duplexes, and 4-plexes to be developed as condominiums for individual ownership. A minor preliminary plat to aggregate Lots 1-9, Block 1, Swartz McGeorge Subdivision and Certificate of Survey 46, was approved by the City Council on July 23, 2007. The owner is TenFish Company and the representative is Engineering, Inc. The Zoning Commission conducted a public hearing on August 7, 2007, and forwarded a recommendation of approval on 5-0 vote. The City Council held a public hearing and approved the first reading of the zone change on a vote of 11-0 on August 27, 2007.

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

FINANCIAL IMPACT: If the zone change is approved, future development of the property could increase the City's tax base.

RECOMMENDATION

The Zoning Commission, on a 5-0 vote, recommends that the City Council approve Zone Change #813 on 2nd reading and adopt the determinations of the 12 criteria.

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

ATTACHMENT:

A: Ordinance

ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lots 1-9, Block 1, Swartz McGeorge Subdivision and Certificate of Survey 46, Containing approximately 4.01 acres

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

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. A tract of land known as Lots 1-9, Block 1, Swartz McGeorge Subdivision and Certificate of Survey 46 Containing approximately 4.01 acres and is presently zoned Residential 9600 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9600** to **Planned Unit Development** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Planned Unit Development** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading August 27, 2007.

PASSED, ADOPTED AND APPROVED on second reading September 10, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

City Clerk

ZC #813

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Zone Change #816, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from Residential-7000 (R-70) to Neighborhood Commercial (NC) on a lot at 848 Wicks Lane. The property is located on the south side of Wicks Lane, east of Bench Blvd. and contains a single-family home on 1.14 acres. The owner is Colleen Baker. The Zoning Commission conducted a public hearing on August 7, 2007, and forwarded a recommendation of approval on a 5-0 vote. The City Council held a public hearing on August 27, 2007, and approved the first reading of this zone change.

ALTERNATIVES ANALYZED: State law, MCA 76-2-304, requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

FINANCIAL IMPACT: The proposed zone change would facilitate the redevelopment of the property which would increase the City's tax revenue on the parcel.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #816 and adoption of the 12 Zoning Commission Determinations on a 5-0 vote.

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

ATTACHMENT:

A: Ordinance

Attachment A
Zone Change #816

ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Tract A, Certificate of Survey 1056, containing
approximately 1.14 acres.

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

1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. **DESCRIPTION.** A tract of land known as Tract A, Certificate of Survey 1056, containing approximately 1.14 acres and is presently zoned Residential 7000 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 7000** to **Neighborhood Commercial** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Neighborhood Commercial** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading August 27, 2007.

PASSED, ADOPTED AND APPROVED on second reading September 10, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

City Clerk

ZC #816

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

Z

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Zone Change #817, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from Public (P) to Residential 8,000 (R-80) on 48,799 square feet of property north and south of the Lake Hills Golf Club's clubhouse. The property is located on the east side of Clubhouse Way, north of Lake Hills Drive. The owner is the Lake Hills Golf Club, and the representing agent is Patrick Ludden with KW Commercial Builders. The Zoning Commission conducted a public hearing on August 7, 2007, and forwarded a recommendation of approval on a 4-1 vote. The City Council held a public hearing on August 27, 2007, and approved the first reading of this zone change.

ALTERNATIVES ANALYZED: State law, MCA 76-2-304, requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

FINANCIAL IMPACT: The proposed zone change would facilitate the development of the property which would increase the City's tax revenue on the parcel.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #817 and adoption of the 12 Zoning Commission Determinations on a 4-1 vote.

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

ATTACHMENT:

A: Ordinance

Attachment A
Zone Change #817

ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR a portion of Tract B1, Certificate of Survey 793,
containing approximately 48,799 square feet.

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

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. A tract of land known as a portion of Tract B1, Certificate of Survey 793, containing approximately 48,799 square feet and is presently zoned Public and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Public** to **Residential 8000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 8000** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading August 27, 2007.

PASSED, ADOPTED AND APPROVED on second reading September 10, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

City Clerk

ZC #817

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

AA

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, September 10, 2007

TITLE: Zone Change #818 2nd Reading of Ordinance –Text Amendment to Section 27-623 Zoning Compliance Permits Required

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Director

PROBLEM/ISSUE STATEMENT: The Planning Division has received a transfer of funds from the Building Division from 1998 until the new budget year began July 1, 2008. This transfer was in part, to pay for the plan review services provided by the Planning Division and recently to contribute to the Director's salary. State statutes require building permit fees to be used for the enforcement of building code only (50-60-106 (g) and (i), MCA). Because the transferred funds are used to provide zoning compliance review services and administration, the transfer of funds violates state statutes. The proposed zoning compliance fees will pay for the review services that were provided at no cost, but for which it is now necessary to charge to help maintain the Planning Division's funding in light of the loss of Building Division transfers. Assessing a zoning compliance fee when a Building Permit is granted will require amending City Code Section 27-623 Zoning Compliance Permits Required.

The revenue generated by the zoning compliance fee is estimated at \$33,000 for fiscal year 2008. This amount was approved as a Supplemental Budget Request by the City Administrator and City Council approved it as part of the FY2008 budget.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on August 7, 2007, and is forwarding a recommendation of approval on a 4-1 vote. The City Council held a public hearing on August 27, 2007, and approved the zone change as recommended on first reading. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendment.

FINANCIAL IMPACT: The proposed fees are \$41.00 for residential permits and \$16.00 for commercial permits. The new revenue source will not increase the Planning Divisions' overall

revenue. The new fee will help offset the loss of revenue resulting from a reduction of Building Division transfers.

RECOMMENDATION

The Zoning Commission on a 4-1 vote recommends that the City Council approve Zone Change #818 amending Section 27-623 Zoning Compliance Permits Required.

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

ATTACHMENT:

Ordinance

ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-623; COUNTY ZONING COMPLIANCE PERMITS, ADOPT THE REVISIONS AS AN AMENDMENT TO THE CITY CODE AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

Section 3. That the Billings, Montana City Code be amended by revising Section 27-623 to authorize the assessment of a fee for zoning compliance review of building permits:

Sec 27-623. County Zoning Compliance Permits Required

(a) Permits Required. A Zoning Compliance Permit is only required for properties that are located outside the limits of the City of Billings but within the Unincorporated Jurisdictional Area. A Building Permit is required for properties located inside the limits of the City of Billings.

(b) County Zoning Compliance Permit

(1) No change of land use may be made; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a Zoning Compliance Permit issued by the Zoning Coordinator or his/her designee, who shall determine that the permit is issued in compliance with the regulations set forth in this Resolution/Ordinance. The review of a Zoning Compliance Permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any

applicable building codes. A separate sign permit is required prior to the erection of any sign.

(2) Each application for a Zoning Compliance Permit shall be accompanied by a site plan, building elevations and any other information requested by the Zoning Coordinator to adequately review the proposed project. Additionally, commercial projects require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc. The Board of County Commissioners may set an application fee by Resolution for review of a Zoning Compliance Permit. The Zoning Coordinator or his/her designee may waive the submittal requirements for some of the above-mentioned plans. Zoning Compliance Permits are valid for a period of six-(6) months from the date of approval and may be extended for an additional six-(6) months with written approval from the Zoning Coordinator."

(c) City Building Permit

- (1) Any building permit application submitted to the City Building Division for the purpose of erecting, moving, enlarging, rebuilding, adding to, or structurally altering a structure must be reviewed and approved by the Zoning Coordinator or his/her designee for compliance with the applicable zoning regulations.
- (2) Each building permit application shall be accompanied by a zoning compliance review fee established by Council Resolution. This fee shall be in addition to the building permit fee required under Sec. 6-202, BMCC. The fee shall be established by Council Resolution.

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

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 6. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading August 27, 2007.

PASSED, ADOPTED AND APPROVED on second reading September 10, 2007.

CITY OF BILLINGS:

BY:

Ron Tussing, Mayor

ATTEST:

BY:

Cari Martin, City Clerk

ZC#818 – Amending Section 27-623, Zoning Compliance Permits Required

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BB

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

SUBJECT: Zone Change #819, 2nd Reading of Ordinance –Text Amendment to Section 27-1429 and map Amendment to Section 27-1430, Extension of Shiloh Corridor Overlay District

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On June 11, 2007 the City Council approved an initiative directing staff to extend the Shiloh Corridor Overlay District (SCOD) along the centerline of King Avenue West and 500 feet to the south from the intersection of Shiloh Road and King Avenue West to the intersection of King Avenue West and 32nd Street West. The City Council conducted a public hearing on August 27, 2007, and approved the first reading of this zone change.

ALTERNATIVES ANALYZED: State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

FINANCIAL IMPACT: If the zone change is approved, it will have minimal impact of the City's tax base.

RECOMMENDATION

The Zoning Commission recommends by a 5-0 vote that the City Council approve Zone Change #819 and adopt the determinations of the 12 criteria.

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

ATTACHMENT

A: Ordinance

ATTACHMENT A

ORDINANCE NO. 07-

AN ORDINANCE OF THE CITY OF BILLINGS, EXTENDING THE SOUTH SHILOH CORRIDOR OVERLAY DISTRICT FROM THE CENTERLINE OF KING AVENUNE WEST, EXTENDING 500 FEET TO THE SOUTH, BETWEEN THE INTERSECTION OF SHILOH ROAD AND KING AVENUE WEST AND THE INTERSECTION OF KING AVENUE WEST AND 32ND STREET WEST. AMENDING SECTION 27-1429 AND THE MAP IN SECTION 27-1430 OF THE BILLINGS, MONTANA CITY CODE.

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

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. The zoning regulation shall apply to all property from the centerline of King Avenue West for 500 feet to the south from the intersection of Shiloh Road and King Avenue West to the intersection of King Avenue West and 32nd Street West in the City of Billings.

Section 3. That the Billings, Montana City Code be amended by revising Section 27-1429 to add new language to read as follows and modify the map in Section 27-1430:

SEC. 27-1429. DISTRICT BOUNDARIES.

The boundaries of the South Shiloh corridor overlay district shall be that displayed on the map at the end of section 27-1430. In no case shall the boundaries of the district exceed a depth of five hundred (500) feet from the centerline of the right-of-way of Shiloh Road from King Avenue south to Interstate 90 and Zoo Drive from Interstate 90 to the intersection of Shiloh Road; and from the centerline of King Avenue West, extending five hundred (500) feet to the south, between the intersection of Shiloh Road and King Avenue West and the intersection of King Avenue West and 32nd Street West. If only a portion of the property falls within the boundaries of the district, the entire property will be subject to the regulations in section 27-1500.

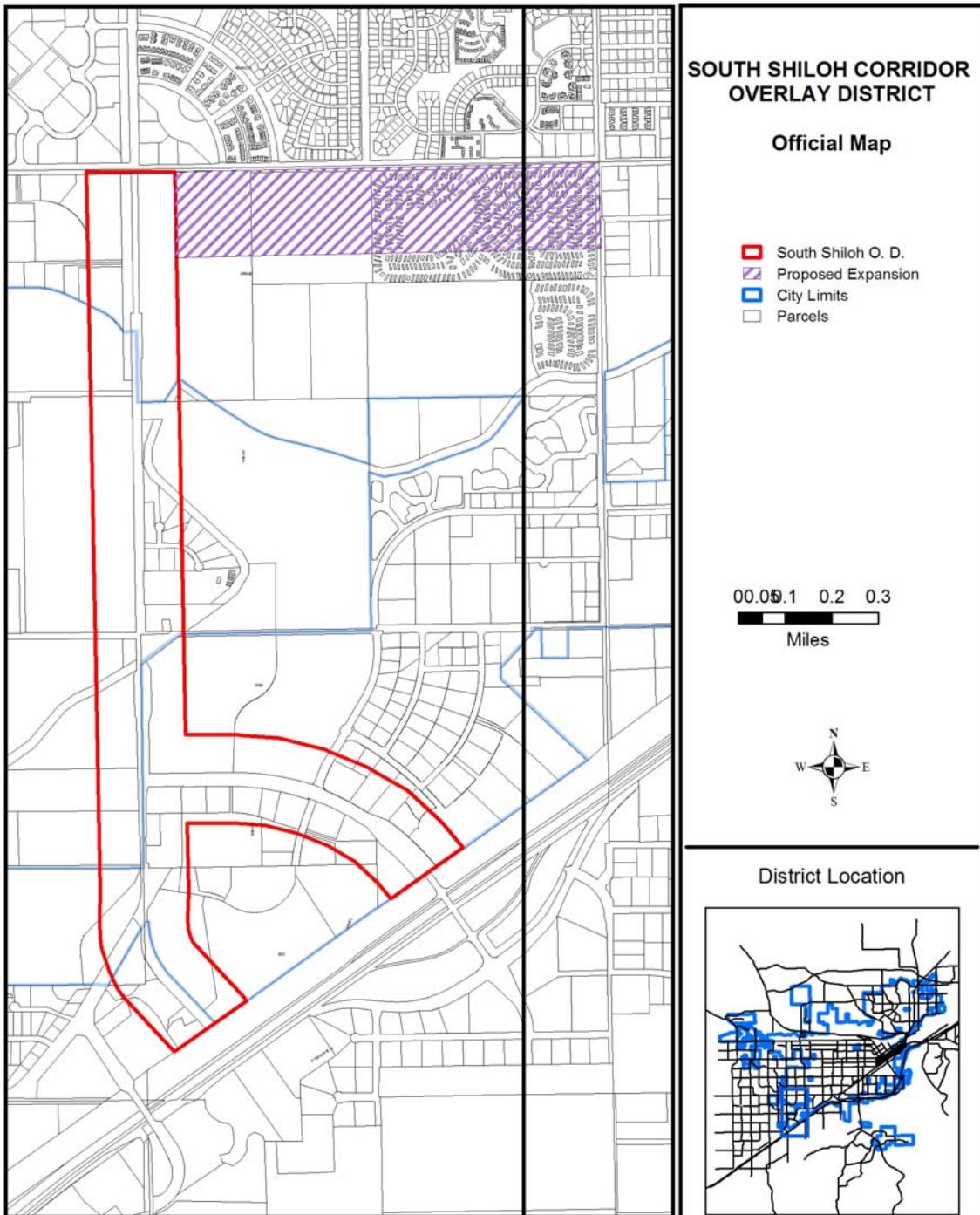
SEC. 27-1430. REVIEW CRITERIA.

(a) *Generally.* The South Shiloh corridor overlay district review process is a review of development proposals against a set of absolute and relative criteria. Site and development plans are evaluated to determine whether the proposed development meets the identified criteria. If the criteria are met, the development may proceed.

New developments and existing development in which the gross floor area (GFA) or the number of parking stalls is increased by twenty-five (25) percent must comply with these regulations.

(b) *Absolute criteria.* A developer must meet all absolute criteria to obtain planning and community services department approval. The absolute criteria are defined in sections 27-1506 through 27-1508. Absolute criteria also include all other applicable codes, ordinances, and statutes, including, but not necessarily limited to, minimum engineering and building standards, public service and utility requirements, and environmental regulations.

(c) *Relative criteria.* Relative criteria are the "points" of the review process. Each development must obtain a specified minimum number of points based on the relative criteria identified in section 27-1509. The development plans are evaluated against the relative criteria and scored on a point chart.



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

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 6. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading August 27, 2007.

PASSED, ADOPTED AND APPROVED on second reading September 10, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:
Cari Martin, City Clerk

ZC#819 – Extending the South Shiloh Corridor Overlay District along the south side of King Avenue West from the centerline of the road between Shiloh Road and 32nd Street West and amending Section 27-1429 and the map in Section 27-1430 of Billings, Montana City Code

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

CC

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, September 10, 2007

TITLE: Preliminary Subsequent Minor Plat of Shiloh Crossing Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On August 1, 2007, the subdivider applied for preliminary minor plat approval of Shiloh Crossing Subdivision, which contains five lots on approximately 74 acres for commercial development. The subject property is located on the southeast corner of the intersection of Shiloh Road and King Avenue West. The owner is the Long Family Limited Partnership, the subdivider is Shiloh Crossing Partners, LLC, and Engineering, Inc. is the agent. The subject property is vacant and is zoned Entryway Light Industrial (ELI).

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 September 19, 2007. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

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

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

RECOMMENDATION

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

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

ATTACHMENTS

- A. Preliminary Plat
- B. Proposed Commercial Site Layout
- C. Site Photographs (Available for viewing in the City Clerk's Office)
- D. Findings of Fact
- E. Variance Justification
- F. Mayor's Approval Letter

INTRODUCTION

On August 1, 2007, the subdivider applied for preliminary minor plat approval of Shiloh Crossing Subdivision, which contains five lots on approximately 74 acres for commercial development. The subject property is located on the southeast corner of the intersection of Shiloh Road and King Avenue West. The subject property is bordered on the north across King Avenue West by multi-family residential apartment units; on the south by agricultural land in the county; and on the east by a manufactured home park; and on the west by vacant and developing properties within Montana Sapphire Subdivision.

PROCEDURAL HISTORY

- On March 8, 2007, a preliminary development meeting regarding the commercial development on this site was conducted.
- On July 12, 2007, a pre-application meeting was conducted regarding the proposed 5-lot minor subdivision.
- On August 1, 2007, an application for a preliminary minor subdivision was submitted to the Planning Department.
- On September 10, 2007, the City Council will vote to approve, conditionally approve, or deny the preliminary plat for the proposed minor subdivision.

BACKGROUND

General location:	Southeast corner of the intersection of Shiloh Road and King Avenue West
Legal Description:	Tract 1, Certificate of Survey 2560
Subdivider:	Shiloh Crossing Partners, LLC
Owner:	Long Family Limited Partnership
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	ELI
Existing land use:	Vacant
Proposed land use:	Commercial Shopping Center
Gross area:	74.34 acres
Net area:	71.42 acres
Proposed number of lots:	5

Lot size:	Max: 22.85 acres
	Min.: 10.09 acres
Parkland requirements:	A parkland dedication is not required, as this is a commercial minor subdivision.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
2. To minimize effects on local services, the subdivider shall provide centralized delivery boxes with sufficient pullouts to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the post office. (*Recommended by the United States Postal Service*)
3. To minimize effects on local services, Sections VI.A and B of the Subdivision Improvements Agreement (SIA) and the Perpetual Right-of-Way Agreement shall be revised as follows (*Recommended by the Public Utilities Department*):
 - The second sentence of Section VI.A shall be revised to state “*along Shiloh Road from Montana Sapphire Drive to the south property line.*”
 - The last paragraph under Section VI.A shall specify “*separate domestic water service.*”
 - Section VI.B shall be revised to include the correct location of the proposed lift station on Lot 5.
 - Section VI.B shall specify “*separate services to each...*”
 - The Perpetual Right-of-Way Easement Document location shall be revised to “*Approximately 500 feet east of Shiloh Road.*”
 - The second bullet point of Section 6, of the Easement shall include:

Grantors agree that the owner or owners of the above described property shall at all times fully relieve and save harmless the City of Billings and its authorized representatives for any and all damages of property that may be caused within Shiloh Crossing Subdivision due to possible failure of and or maintenance of the public water and sanitary sewer mains within said easement.

4. To minimize effects on local services, the 65-foot wide access on King Avenue West shall be narrowed to the width of the right-of-way. This shall be depicted on the plat and specified within the SIA. (Recommended by the City Engineering Division)
5. To minimize effects on local services, the first 40-foot wide right-in/right-out access from King Avenue shall be restricted to exit only to facilitate truck and delivery traffic. (Recommended by the City Engineering Division)
6. To minimize effects on local services, language shall be added to the SIA, regarding the minimum amount of required improvements required for each phase of the subdivision if the Shiloh Road and King Avenue West widening project fails to commence either in whole or in part. The language would also need to include the projected traffic loads identified within the traffic study. (Recommended by the City Engineering Division)
7. 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.
8. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

A variance to permit a multi-use trail in lieu of sidewalks, where Section 23-406.B.13, BMCC, requires boulevard style sidewalks on both sides of internal subdivision streets. The subdivider is proposing to provide a multi-use trail within the subdivision instead of standard sidewalks. This will provide for easy access through the site, as it will be constructed to interconnect all commercial buildings and parking lots on the site. An exhibit map detailing the proposed trail will be submitted with the SIA. Planning staff finds that this request is acceptable, as the multi-use trail creates a more pedestrian friendly site. Further justification for this variance is provided in Attachment E.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

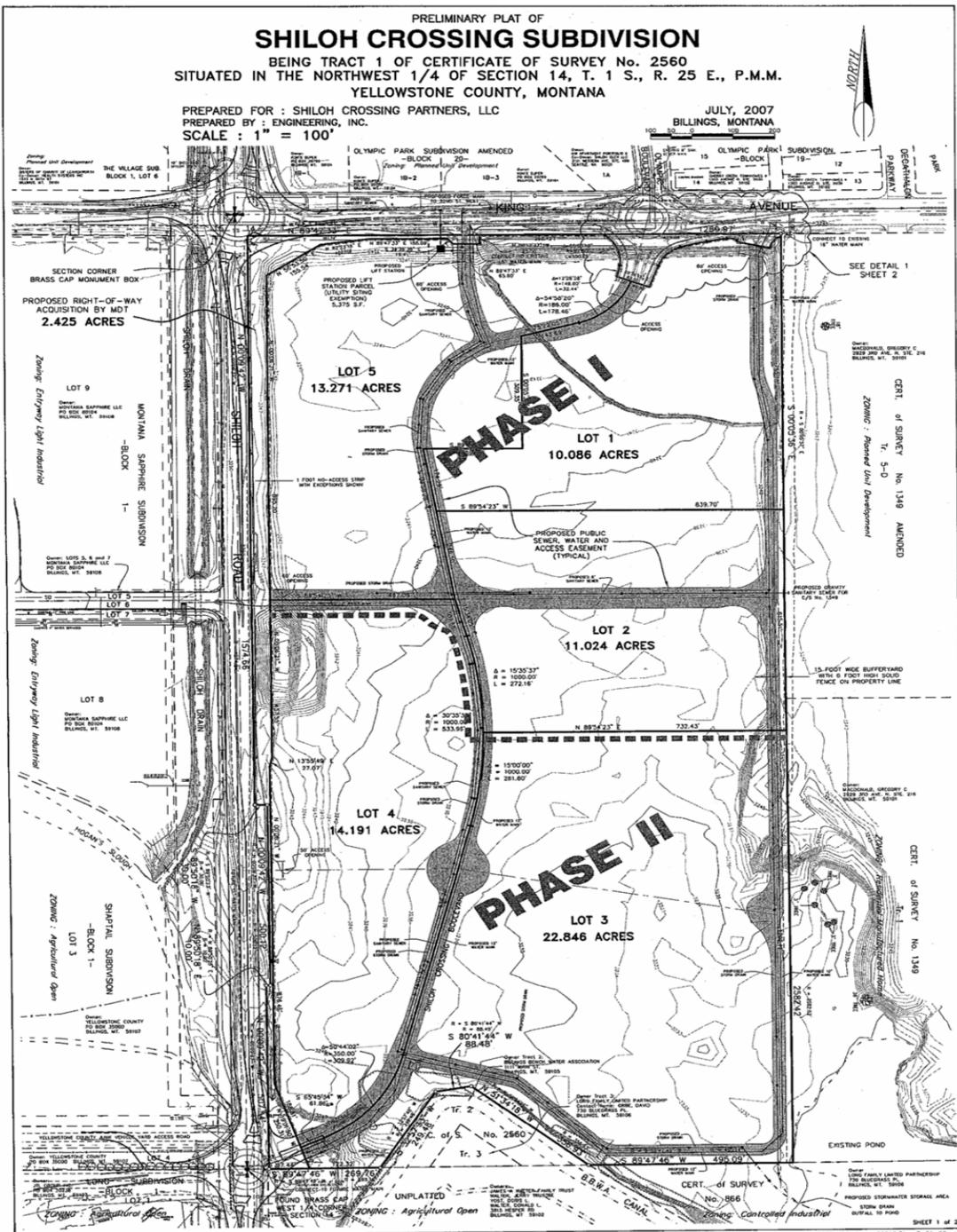
RECOMMENDATION

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

ATTACHMENTS

- A. Preliminary Plat
- B. Proposed Commercial Site Layout
- C. Site Photographs (Available for viewing in the City Clerk's Office)
- D. Findings of Fact
- E. Variance Justification
- F. Mayor's Approval Letter

ATTACHMENT A
Preliminary Plat of Shiloh Crossing Subdivision



ATTACHMENT D

Findings of Fact

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

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

1. Effect on agriculture and agricultural water user facilities

The proposed subdivision should have no effect on agriculture or agricultural water user facilities. The subject property is not currently used for agriculture and no irrigation facilities are located on the subject property. The BBWA canal is located along the southern boundary of the subdivision and is located within its own deeded parcel.

2. Effect on local services

- a. **Utilities** –Water to the subject property will be extended from the 12-inch main line in the Shiloh Road and the 16-inch main line in King Avenue West. The SIA does specify that the 12-inch main will be extended along Shiloh Road to the south property line of Shiloh Crossing at the time of the Shiloh Road reconstruction. The Public Utilities Department has requested that the sewer and water extension language be revised to include wording, as specified in Condition #3.

A 27-inch sanitary sewer main exists in King Avenue at the northwest corner of the subdivision. The subdivision will be served by the 2008 extension of the 27-inch main east along King Avenue to a lift station located on the northeast corner of Lot 1. The lift station is actually depicted on the plat in the northeast corner of Lot 5; therefore, Condition #3 requires this location be amended. Furthermore, the Public Utilities Department is requiring specific changes to the submitted Perpetual Right-of-Way Easement document, as specified within Condition #3.

- b. **Stormwater** – There is no storm drain system available to this area at this time, therefore, stormwater will be handled through a combination of onsite surface flow on streets and parking lots with collection through a network of basins, inlets, and piping. Discharge of the stormwater will be in the existing gravel pit pond on the site. Storm drainage for King Avenue West adjacent to the proposed subdivision will be accomplished in the future once the drain is extended from 31st Street West as part of a 2008 reconstruction process. Storm drainage for Shiloh Road adjacent to the proposed subdivision is currently handled by borrow ditches to Hogan's Slough and the Shiloh Drain. An upgrade of this drainage system will occur in 2009, as part of a Montana Department of Transportation reconstruction. As specified in the submitted SIA, onsite storm drainage shall comply with

the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.

- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Access to the proposed lots will be via internal private subdivision streets from King Avenue West and Shiloh Road. As specified in the SIA, the subdivider is proposing a 65-foot wide shared access on King Avenue West to allow for the roundabout on the common lot line between Lots 1 and 5. There are also two additional 40-foot wide right-in/right-out approaches along King Avenue West. The Engineering Division has reviewed these accesses and is requiring that the 65-foot wide access be narrowed to the width of the road, as the expanded width is not necessary to accommodate traffic from this approach, as required by Condition #4. In addition, the Engineering Department is recommending that since the first 40-foot wide access from King Avenue is being proposed as a truck exit only onto King Avenue that the auxiliary right turn lane issue identified in the Traffic Accessibility study could be eliminated to restricting this access to exit only, as required by Condition #5.

There are two main accesses proposed on Shiloh Road, as specified within the SIA. The Shiloh Road accesses have been included in the Shiloh Road reconstruction project. Shiloh Crossing Boulevard is the major internal street and will be constructed to city standards. A reciprocal access easement document was submitted for the shared driveways and parking lots for the commercial development.

The subdivider is requesting a variance to permit a multi-use trail in lieu of sidewalks, where Section 23-406.B.13, BMCC, requires boulevard style sidewalks on both sides of internal subdivision streets. The subdivider is proposing to provide a multi-use trail within the subdivision instead of standard sidewalks. This will provide for easy access through the site, as it will be constructed to interconnect all commercial buildings and parking lots on the site. An exhibit map detailing the proposed trail will be submitted with the SIA.

A Traffic Accessibility Study was submitted with this application and all necessary traffic control devices will be as outlined within the study and approved by the City of Billings during construction. The Engineering Division did express concerns regarding the proposed Special Improvement District (SID) for the King Avenue West and Shiloh Road widening project and is requiring that language be included in the SIA regarding the minimum amount of required improvements required for each phase if either or both projects fail to commence (required by Condition #6).

- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West (Station #5).

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

3. Effect on the natural environment

A geotechnical study was submitted with this application and has been determined sufficient by the Building Official. Once the building locations and sizes are finalized, further geotechnical studies will be required to determine specific design level geotechnical recommendations.

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

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

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

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

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

1. Yellowstone County-City of Billings 2003 Growth Policy

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

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

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

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

The subject property is compatible with the commercial development within Montana Sapphire Subdivision to the west and the proposed commercial development to the northwest.

The subdivision is inconsistent with the following goal of the 2003 Growth Policy:

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

While the subject property is surrounded by annexed portions of the City and developing parcels, the property is not located within an area surrounded by an existing population center and could be considered sprawl.

2. Urban Area 2005 Transportation Plan Update

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

3. Heritage Trail Plan

A Heritage Trail corridor is identified on the west side of Shiloh Road, Hogan's Slough, and along the BBWA canal. An easement for a segment of trail has been depicted on the north side of the BBWA canal. No improvements are proposed at this time. The subdivider is proposing an internal multi-purpose trail for connectivity to the proposed parking lots and commercial buildings.

4. West Billings Plan

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

- Condition approval of new development in the West Billings Plan area on the ability to provide infrastructure and public services, including streets, sidewalks, curb, gutter or alternative standards, police, fire, public water and sewer services.
- The West Billings Plan identifies the intersection of King Avenue West and Shiloh Road as a community commercial center.

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

- Medium and high-density residential development should be located nearby and within walking distance to commercial centers, medical facilities, and parks. This subdivision will be close to these amenities once Shiloh further develops.
- Development of non-irrigated farmland (generally lands located north of the Big Ditch) within the appropriate zoning designation is considered a priority.

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

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

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

The property will be served by public water and sewer services from King Avenue West and Shiloh Road.

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

The subject property shall comply with the standards set forth in Section 27-308, BMCC for the ELI zoning district. The subject property is also required to comply with the South Shiloh Road Overlay District.

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

The City Engineering Department will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and have requested that they be located on the rear and sides of lots for public health and safety. Condition #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Access to the lots will be via private internal streets from King Avenue West and Shiloh Road.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Shiloh Crossing Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the 2005 Transportation Plan Update or the Heritage Trail Plan.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, September 10, 2007

Ron Tussing, Mayor

ATTACHMENT E
Variance Justification



ENGINEERING, INC.
Consulting Engineers and Land Surveyors

July 16, 2007

Ms. Candi Beaudry, Director
Planning and Community Services Department
City of Billings
510 North Broadway, Fourth Floor
Billings, MT 59101

Reference: Shiloh Crossing Subdivision - Variance Request
E.I. No. 99010.01

Dear Candi:

We are requesting a variance from the provisions of Section 23-406B(B.13) of the City of Billings Subdivision Regulations that requires boulevard sidewalks on both sides of all streets.

The Shiloh Crossing Town Center development is intended to be created as a "lifestyle" shopping center. As such, much attention is being made to provide for easy pedestrian access throughout the site. Instead of standard sidewalks on both sides of all streets, a multi-use walkway or trail system will be constructed which will interconnect all commercial buildings and parking lots within the shopping center. As part of the plat documents, an exhibit map entitled "multi-use bicycle/pedestrian access plan" will be included with the Subdivision Development Agreement.

1. The variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties in any way.
2. The variance will not result in an increase to taxpayers.
3. The variance will not place the subdivision in nonconformance with any zoning regulations or growth policies.

Please review the above information, and feel free to contact me if you have any questions.

Sincerely,

Robert L. Sanderson

RLS/dml
P99010_01_Beaudry_Ltr_060607

1300 North TransTech Way • Billings, MT 59102 • Phone (406) 656-5255 • Fax (406) 656-0967 • www.enginc.com

ATTACHMENT F
Mayor's Approval Letter

September 10, 2007

Shiloh Crossing Partners, LLC
Attn: Steve Corning, Managing Member
Corning Companies
2280 Grant Road
Billings, MT 59102

Dear Mr. Corning:

On September 10, 2007, the Billings City Council conditionally approved the preliminary plat of Central West Subdivision, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the plat. (*Recommended by the Engineering Division*)
2. To minimize effects on local services, the subdivider shall provide centralized delivery boxes with sufficient pullouts to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the post office. (*Recommended by the United States Postal Service*)
3. To minimize effects on local services, Sections VI.A and B of the Subdivision Improvements Agreement (SIA) and the Perpetual Right-of-Way Agreement shall be revised as follows (*Recommended by the Public Utilities Department*):
 - The second sentence of Section VI.A shall be revised to state “*along Shiloh Road from Montana Sapphire Drive to the south property line.*”
 - The last paragraph under Section VI.A shall specify “*separate domestic water service.*”
 - Section VI.B shall be revised to include the correct location of the proposed lift station on Lot 5.
 - Section VI.B shall specify “*separate services to each...*”
 - The Perpetual Right-of-Way Easement Document location shall be revised to “*Approximately 500 feet east of Shiloh Road.*”
 - The second bullet point of Section 6, of the Easement shall include:
Grantors agree that the owner or owners of the above described property shall at all times fully relieve and save harmless the City of Billings and its authorized representatives for any and all damages of property that may be caused within Shiloh

Crossing Subdivision due to possible failure of and or maintenance of the public water and sanitary sewer mains within said easement.

4. To minimize effects on local services, the 65-foot wide access on King Avenue West shall be narrowed to the width of the right-of-way. This shall be depicted on the plat and specified within the SIA. *(Recommended by the City Engineering Division)*
5. To minimize effects on local services, the first 40-foot wide right-in/right-out access from King Avenue shall be restricted to exit only to facilitate truck and delivery traffic. *(Recommended by the City Engineering Division)*
6. To minimize effects on local services, language shall be added to the SIA, regarding the minimum amount of required improvements required for each phase of the subdivision if the Shiloh Road and King Avenue West widening project fails to commence either in whole or in part. The language would also need to include the projected traffic loads identified within the traffic study. *(Recommended by the City Engineering Division)*
7. 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.
8. 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.

The City Council also approved the following variance with the approval of this subdivision:

- A variance to permit a multi-use trail in lieu of sidewalks, where Section 23-406.B.13, BMCC, requires boulevard style sidewalks on both sides of internal subdivision streets.

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

Sincerely,

Ron Tussing, Mayor

pc: Long Family Limited Partnership
Robert Sanderson, Engineering, Inc.

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DD

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Final Plat of Reflections at Copper Ridge Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat for Reflections at Copper Ridge Subdivision is being presented to Council for approval. On March 27, 2006, the City Council conditionally approved the 79-lot major subdivision on approximately 31.87 acres. The subject property is located approximately a quarter of a mile northwest of the intersection of Molt Road and Rimrock Road, is zoned Residential 7000 (R-7000), and is proposed for twin homes. Golden Acres Partners is the owner and Engineering, Inc. is 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 Clerk and Recorder.

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

RECOMMENDATION

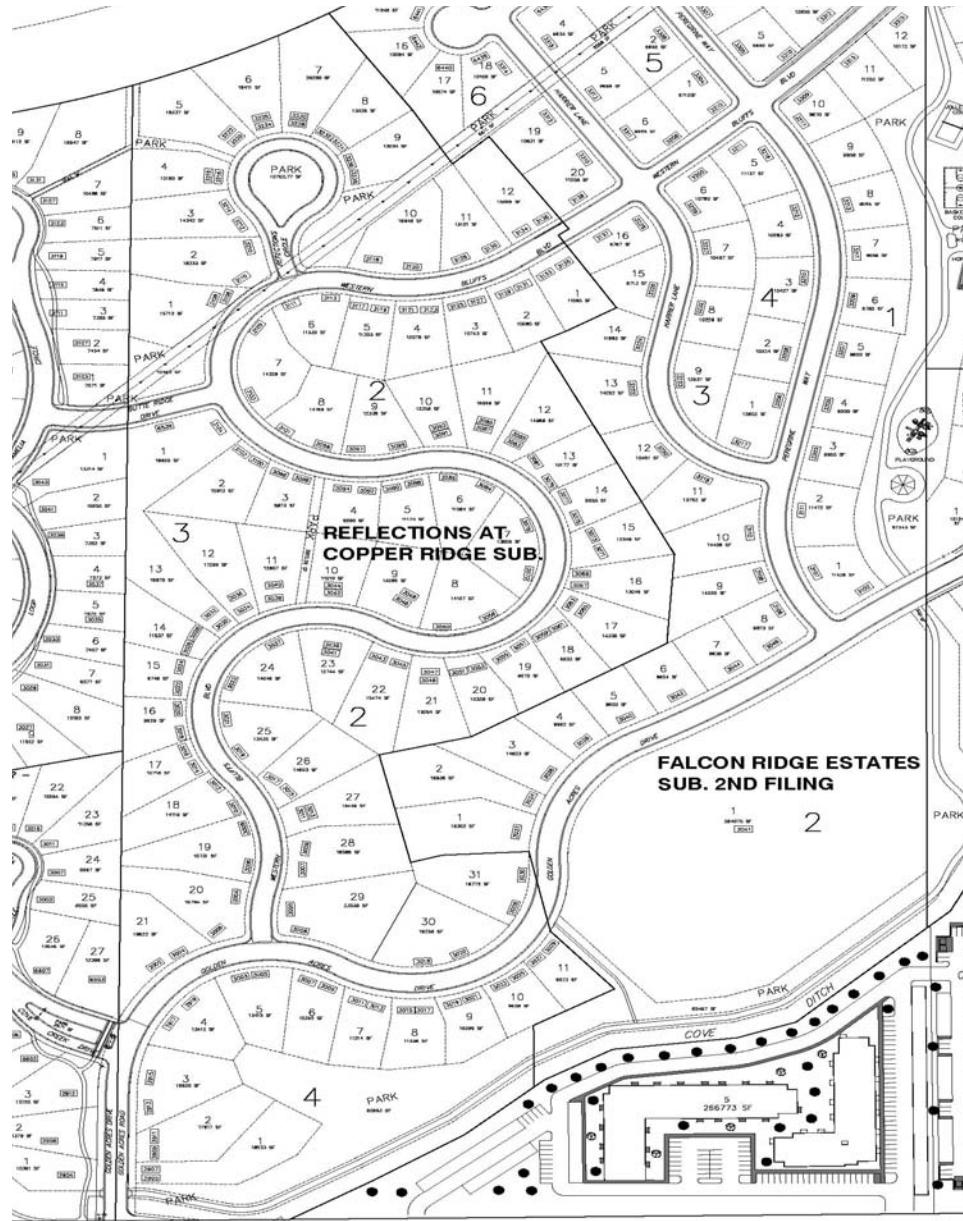
Staff recommends that the City Council approve the final plat of Reflections at Copper Ridge Subdivision.

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

ATTACHMENT

A: Plat

ATTACHMENT A



(Back to Consent Agenda)

EE1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,764,984.19 have been audited and are presented for your approval for payment. A complete listing of the claims dated August 10, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

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EE2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$2,443,530.36 have been audited and are presented for your approval for payment. A complete listing of the claims dated August 17, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

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CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

SUBJECT: Payment of Claims

DEPARTMENT: Municipal Court

PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$216,417.47 have been audited and are presented for your approval for payment. A complete listing of the claims dated July 1, 2007 to July 31, 2007 is on file in the Municipal Court. Claims include payments to individual victims and businesses for restitution, disbursement of surcharges and revenues and return of bonds posted to ensure court appearance.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Public Hearing for the FY2006-2007 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG) and HOME Programs

DEPARTMENT: Planning and Community Services

PRESENTED BY: Brenda Beckett, Community Development Manager

PROBLEM/ISSUE STATEMENT: Each year the City of Billings is required to report on the results of its federally funded CDBG and HOME programs and submit a report to HUD within 90 days of the end of the program year, June 30, 2007. As part of this report process, the City of Billings must make the report available for public comment for a 15-day period and hold a public hearing on this performance during this period. The public hearing will be undertaken in conjunction with the 15-day public review and comment period extending from August 24th through September 10, 2007. A notice of the availability of the draft report has been published and provided to community partners. No further action is required.

ALTERNATIVES ANALYZED: Alternatives to the public hearing, which is required for receipt of federal CDBG and HOME funds, have not been considered.

FINANCIAL IMPACT: The Annual Performance Report reports on the City's progress in achieving the goals of its Five Year Consolidated Plan. The period covered by the FY 2005-2006 report represents progress under the City's first year of the Five Year Consolidated Plan 2005-2009. The City received \$726,020 in new federal CDBG funding and \$504,467 in new HOME funding for FY 2006-2007 activities.

RECOMMENDATION

Staff recommends that Council hold a public hearing on September 10, 2007 to receive input on the City's Draft Comprehensive Annual Performance Evaluation Report available for public comment beginning August 24th through September 10, 2007. No further action is required.

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

ATTACHMENT

A. Sections I & II of the FY 2006-2007 Comprehensive Annual Performance Evaluation Report are attached. The full drafted report is on file at the City Clerk's office.

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AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, SEPTEMBER 10, 2007

SUBJECT: Public Hearing and Approval of Resolution Approving and Adopting a Budget Amendment for Fiscal Year 2007

DEPARTMENT: Municipal Court

PRESENTED BY: Mary Jane Knisely, Municipal Court Judge

PROBLEM/ISSUE STATEMENT: The budget amendment is requested for Fiscal Year 2007 Municipal Court Drug Court grant match. This adjustment is requested to correct the match for the grant received in the first and third year of the drug court grant. The adjustment is requested in the amount of \$40,156.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the budget amendment for Municipal Court Drug Court grant match in the amount of \$40,156.

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

ATTACHMENT

A-Resolution to Make Fiscal Year 2007 Adjustment Appropriation (with Exhibit A)

Attachment A

RESOLUTION 07-

A RESOLUTION TO MAKE **FISCAL YEAR 2007** ADJUSTMENTS APPROPRIATIONS PURSUANT TO M.C.A. 7-6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND REVISIONS WITHIN THE GENERAL CLASS OF SALARIES AND WAGES, MAINTENANCE AND SUPPORT AND CAPITAL OUTLAY.

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

WHEREAS, based upon construction needs, it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT)

PASSED AND APPROVED by the City Council, this 10th day of September, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

EXHIBIT A

4TH QUARTER BUDGET ADJUSTMENTS

	<i>Revenue</i>	<i>Expenditure</i>	
010-1220-412	8225	\$ 40,156	transfer to other funds
246-1250-383	7515	\$ 40,156	transfer from general fund

To increase the grant match from the General Fund to the Drug Court Grant for instant urine and saliva tests.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Property Purchase – 19 Charlene Street

DEPARTMENT: Public Works

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: Existing boundaries for the water treatment facility limit options for future plant and distribution system expansion. To have ample room for future modifications Public Works has been purchasing land along the west boundary of the treatment facility as it becomes available for several years. The department has reached a tentative purchase agreement with the owner of a lot located at 19 Charlene Street (Lot 2, Sandra Subdivision). A fair market value of \$140,000 has been established for the property. This value was determined by an appraisal completed by an independent certified appraiser followed by a review of that appraisal by a second independent certified appraiser in accordance with city policy. Accordingly, we are seeking the Council's approval to complete this purchase of this property for \$140,000.

FINANCIAL IMPACT: Property purchases are listed in the Capital Improvement Plan for FY2008. Sufficient funding is available for the purchase of this parcel in the Water Production Land Purchases Account.

RECOMMENDATION

Staff recommends that Council approve purchase of Lot 2 Sandra Subdivision for \$140,000.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, September 10, 2007

TITLE: Approval of Resolution Setting Mill Levy Rates

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: This resolution establishes the city property tax mill levy rates for the Public Safety Fund (37.25 mills), General Obligation Debt Service Parks (1.17 mills), General Obligation Debt Service Streets (3.04 mills) for the fiscal year 2008, and General Obligation Debt Service Baseball Stadium (7.07 mills) approved in November of 2006. These mills are based on predetermined dollar amounts and could not be calculated until the City received a copy of the certified taxable valuation from the Montana Department of Revenue.

The total mill levy rate for fiscal year 2008 will be 157.53, which is 15.95 more than fiscal year 2007. This increase in the total mill levy rate is due to the increase in the public safety levy and the new Baseball Stadium.

RECOMMENDATION

Staff recommends that the City Council approve the resolution setting the mill levy rates for fiscal year 2008.

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

ATTACHMENT

A - Resolution Making the Annual Public Safety Funds, General Obligation Debt Service Parks, General Obligation Debt Service Streets, and General Obligation Debt Service Baseball Stadium for the Fiscal Year 2008.

RESOLUTION 07-_____

A RESOLUTION MAKING THE ANNUAL MILL LEVY AND MILL LEVIES
FOR PUBLIC SAFETY, AND GENERAL OBLIGATION DEBT FOR
PARKS, STREET, AND BASEBALL STADIUM (NOVEMBER 2006
VOTER APPROVED) DEBT SERVICE FOR FISCAL YEAR 2008.

WHEREAS, pursuant to law, the City of Billings is required to make annual mill levies.

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

1. That a Public Safety Mill Levy, which voters approved in November of 2004 in the amount of \$5.4 million (37.25 mills), is hereby imposed on all taxable property within the City of Billings, Montana, for the Fiscal Year **July 1, 2007 through June 30, 2008**.

2. **That additional Mill Levies in the amounts stated are hereby imposed on all taxable property within the City of Billings, Montana, to provide payment for the following:**

- A. 1.17 mills-General Obligation Debt Service Parks
- B. 3.04 mills-General Obligation Debt Service Streets
- C. 7.07 mills-General Obligation Debt Service Baseball Stadium

3. That when said taxes are collected, the same shall be placed in respective funds for the City and expended pursuant to the annual budget.

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

5. This Resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the **10th** day of **September, 2007**

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, September 10, 2007

TITLE: Development Agreement with Foursquare Properties for amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, Miller Crossing Subdivision

DEPARTMENT: Public Works / Engineering

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

PROBLEM/ISSUE STATEMENT: City Council approved the annexation and rezoning of the amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, of Miller Crossing Subdivision at the July 29, 2007, City Council meeting. As a condition of approval of the annexation, the property was to enter into a development agreement with the City of Billings outlining necessary public improvements. Foursquare Properties has submitted the attached Development Agreement.

ALTERNATIVES ANALYZED:

5. Approve development agreement with Foursquare Properties for amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, of Miller Crossing Subdivision.
6. Do not approve development agreement with Foursquare Properties for amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, of Miller Crossing Subdivision.

FINANCIAL IMPACT: The City of Billings will obligate up to \$1.7 million toward off-site improvements on King Avenue East. If the City Council approves the proposed Tax Increment Finance District (TIFD) for this area, the City funding will not be utilized. If the TIFD is not approved, the City of Billings and Foursquare Properties will initiate an SID for the King Avenue East improvements. A portion of the funds will be used to pay the City's obligations in an approved SID.

RECOMMENDATION

Staff recommends that the City Council approve the development agreement with Foursquare

Properties for amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, of Miller Crossing Subdivision

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT:

A – Development Agreement

Draft

Return to:
Engineering, Inc.
1300 North Transtech Way
Billings, MT 59102

DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2007, by and between **FOURSQUARE PROPERTIES, INC**, a California Corporation, hereinafter collectively called the "Developer," whose address is 5850 Avenida Encinas, Suite A, Carlsbad, CA 92008; and the **CITY OF BILLINGS, MONTANA**, a municipal corporation, hereinafter called the "City," whose address is 210 North 27th Street Billings, MT 59101

WITNESSETH:

WHEREAS, the Developer has executed a buy-sale agreement with Miller Trois, LLC for the purchase of the amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1 of Miller Crossing Subdivision situated in the NW ¼ of Section 16, T1S, R26E, P.M.M., In the City of Billings, Yellowstone County, Montana consisting of 44.2575 acres (1,927,857 square feet) (the "Property"); and

WHEREAS, the City annexed all portions of the Property; and

WHEREAS, the City zoned all portions of the Property to Entryway General Commercial; and

WHEREAS, the Developer desires to pursue development of the Property for locating a Cabela's Sporting Goods store and other retail, hospitality, restaurant and entertainment uses, (the "Shopping Center"); and

Draft

WHEREAS, the City recognizes that there is substantial financial benefit to the City and surrounding area to have the Shopping Center located in the City of Billings; and

WHEREAS, the City intends to offer specific concessions (financial and other) to induce the Developer to locate the Shopping Center in the City of Billings; and

WHEREAS, the Developer, under agreement with Cabela's, must provide a gravel pad ready for building construction by October 15, 2007; and

WHEREAS, the process for creation of a Tax Increment Financing District (the "TIFD") has been undertaken to provide financing for public improvements and is expected to be created by the City Council in November, 2007; and

WHEREAS, proceeds from the TIFD are intended to finance the costs associated with the construction of public improvements serving the Shopping Center (the "Public Improvements") as shown on **Exhibit A**; and

WHEREAS, in the event the TIFD is not created, the City shall create a Special Improvements District (the "SID") to facilitate the financing of the costs of constructing the Public Improvements;

WHEREAS, in the event the SID is formed to finance the Public Improvements, a portion of the costs of the Public Improvement shall be borne by the City (the "City Borne Costs"), as outlined on **Exhibit B** attached hereto, and a portion of the costs of the Public Improvements shall be borne by the Developer (the "Developer Borne Costs") as outlined on **Exhibit C** attached hereto;

NOW THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do stipulate and agree as follows:

1. *Shopping Center Construction:* Pursuant to local, state, and federal regulations, the Developer shall obtain the approval of the City for all construction on or adjacent to the Property. The Developer shall construct all on-site improvements in accordance with City of Billings development ordinances and other local, state and federal regulations as might apply. The proposed development plan is generally as outlined in the attached **Exhibit D** which is in conformance with the current zoning of the Property.

Draft

2. *The Public Improvements:* The Developer shall construct or cause to be constructed the Public Improvements which consist of street improvements on King Avenue East, South Billings Boulevard, Newman Lane, Calhoun Lane and Orchard Lane as identified in the Traffic Accessibility Study, as well as water, storm drain and sanitary sewer facilities and City/County Drain Crossings as required by the City and depicted on Exhibit E attached hereto.
3. *Water, Sanitary Sewer, and Storm Drain:* The Developer shall extend water, sanitary sewer, and storm drain services from main lines located in King Avenue East and the municipal easements within the Property. These services shall be extended on site to the various buildings under the terms of a Reciprocal Access and Utility Agreement.
4. *TIFD Financing Considerations:* In order to facilitate the development of the Property for the location of a Cabela's, Developer seeks reimbursement of the costs of the construction of the Public Improvements under the TIFD. Developer understands that TIFD shall be created in November of 2007 and reimbursement funds would be available in early 2008.
5. *TIFD Funding Considerations:* In the event the TIFD is created, an amended Development Agreement shall be entered into between the Developer and the City which shall address the financing of the Public Improvements and the reimbursement of the City and the Developer for funds already expended on the Public Improvements.
6. *SID Financing Considerations:* Should the TIFD not be created Developer understands that the City will take immediate steps to create the SID to offset all eligible costs of improvements. In this event, it is agreed that Developer shall be responsible for the costs of the Developer Borne Costs, provided such costs cannot be recovered under the terms of the SID. It is further agreed that the City shall be responsible for the City Borne Costs, provided such costs cannot be recovered under the terms of the SID.
7. *SID Funding Considerations:* The Developer shall fund the Developer Borne Costs and the City shall advance the funds needed for the City Borne Costs in the form of a loan to the Developer. Repayment of such loan shall be from proceeds of the SID assessment payments or issuance of SID bonds.
8. *Development Timing:* It is the Developers intent to begin construction of the Shopping Center immediately upon execution of this agreement. Construction is anticipated to be phased based on final agreements

Draft

between Developer and its retail clients. Phase I development would consist of those improvements necessary for Lots 2A-1, 2A-2 and 2A-3 of the Property and Phase II would complete the remaining improvements to facilitate development of Lot 2A-4 of the Property.

9. *City of Billings Utility Fees:* Developer acknowledges that the Property is subject to applicable utility fees in place at the time a building permit is secured for building and/or the extension of service to the Property or portions thereof is applied for. Exception is made and fees shall be waived for Lot 2A-3 of the Property as an inducement to locate Cabela's. Said fees shall be due and payable by Developer, pursuant to local, state, and federal regulation at the time of request for service extension.
7. *Development Requirements:* All improvements and construction on and adjacent to the Property, including, but not limited to site development, building construction, landscaping, and lighting shall be performed in accordance with all local, state, and federal regulations, and as approved by the City of Billings.
8. *Preparation and Filing of Plat:* The Developer agrees to cause to have prepared and bear the expense of preparation and recordation of the amended plat as noted above to relocate common lot lines including those of Certificate of Survey 2655 as held by the City in order to create the parcels as contemplated within this agreement. Said amended plat shall include specific easements as noted on the face of the plat for the location of municipal water and sewer lines which shall provide service to lots within the Property. Said plat shall be essentially as depicted in **Exhibit F**.
9. *Termination:* Should Cabela's not locate on the Property, this agreement and all stipulations within it shall become null and void.
10. *Governing Law:* This agreement shall be governed by and construed in accordance with the applicable laws of the State of Montana.
11. *Construction:* If any provision of this agreement is found invalid to any extent, the remainder of this agreement shall not be affected thereby, and any provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.
12. *Successors and Assigns:* The stipulations and agreements of this document shall be binding on the successors and assigns of the respective parties.
13. *Notices:* Any notice, demand or request under this agreement shall be delivered in person or sent via US Certified Mail, postage prepaid, to the addresses first listed above.

Draft

14. *Attorney's Fees:* If it becomes necessary for either party to this agreement to retain an attorney to enforce any of the terms or conditions of this agreement, or to give any notice required herein, then the prevailing party shall be entitled to reasonable attorney fees and costs.
15. *Amendments:* Any amendments or modifications of this agreement or any provisions herein shall be made in writing by the party to be charged and upon execution by both parties becomes a part of this agreement.
16. *Parties to this Agreement:* The only parties to this agreement are Developer and the City, and nothing herein should be held to give rise to claims of third parties.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
County of Yellowstone)

On this _____ day of _____, 200_____, 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, respectively, of the CITY OF BILLINGS, MONTANA, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

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

Notary Public for the State of Montana

Draft

Printed name: _____

Residing at: _____

My commission expires: _____

“DEVELOPER”

Draft
FOURSQUARE PROPERTIES

By: _____

Its: _____

STATE OF _____)
: ss
County of _____)

On this _____ day of _____, 200_____, before me, a Notary Public
for the State of _____, personally appeared _____,
known to me to be the _____ of FOURSQUARE
PROPERTIES, the person whose name is subscribed to the foregoing instrument and
acknowledged to me that he/she executed the same.

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

Notary Public for the State of _____
Printed name: _____
Residing at: _____
My commission expires: _____

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