

NOTE: SUPPORTING DOCUMENTS FOLLOW AGENDA

CITY OF BILLINGS

CITY OF BILLINGS' VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

May 11, 2009

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Mayor Tussing

ROLL CALL

MINUTES – April 27, 2009

COURTESIES

PROCLAMATIONS:

- **Peace Officers' Memorial Day, Friday, May 15, 2009**
- **Emergency Medical Services Week, May 17-23, 2009**

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 6, AND 7 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

CONSENT AGENDA:

1. A. Bid Awards:

(1) Airfield Concrete Ramp Joint Repair. (Opened 4/28/09).

Recommend A-Core of Idaho, Inc., \$109,730.

B. W.O. 08-01, 2008-2009 Water & Sewer Replacement Projects, Schedule 2, License Agreement with Robert and Jennifer Bradshaw to transfer two sewer services from old sewer main at 601 Grand Avenue to new sewer main; at no cost to the City.

C. Compensation Agreement for Private Contract No. 608 for extension of storm drain and sanitary sewer main in King Avenue West; St. Vincent Healthcare Foundation, Inc. and Montana Sapphire, LLC, Developers; \$100,806 sanitary sewer equal share compensation; \$255,507 storm sewer equal share compensation.

D. Maintenance Agreement with State of Montana to provide regular street maintenance of state-owned highway system within the city limits; and **Special Projects Contract Maintenance Agreement** to provide maintenance on state highway system within the city limits. Two-year agreements from July 1, 2009, through June 30, 2011; regular street maintenance revenue: \$592,035 in FY2010 and \$603,997 in FY2011; \$300,000 annual revenue for special projects maintenance.

E. Development Agreement and Deed Restriction Agreement providing a \$465,000 zero interest deferred payment loan to the Interfaith Hospitality Network for its Housing First project located at 1427 Avenue C.

F. Acknowledge receipt of petition to vacate a portion of Zimmerman Trail abutting Lot 5, Scott Subdivision; James and Jenica Beker, petitioners; and set a public hearing for June 8, 2009.

G. Street Closures:

(1) **AI Bedoo Shrine Parade**, 6/6/09, 10 a.m. to 12 p.m., commencing at 3rd Avenue N. and N. 23rd Street, west on 3rd Avenue N., south on N. 32nd Street, east on 2nd Avenue North, ending at N. 27th Street.

(2) **St. Vincent's Health Care Heart and Sole Race**, 6/13/09, 6 a.m. to 1 p.m., commencing on N. 30th Street across from St. Vincent Healthcare, south to 7th Avenue N., west on Avenue B, through Pioneer Park, north on Virginia Lane, west on Parkhill Drive, north on 17th Street W., west on Colton Boulevard, north to Poly Drive, east on Poly Drive, ending on Poly Drive north of Grandview Park.

(3) **Yellowstone Health Partnership Fun Run/Walk**, 6/20/09, 7 a.m. to 11 a.m., commencing at 2nd Avenue S and S. 26th, east to S. 25th Street, south to 6th Avenue S., west to S. 37th Street, north to 2nd Avenue S., east to S. 28th Street, south to 9th Avenue S., west to S. 31st Street, north to South Park on 6th Avenue S.

(4) **Alberta Bair Theater Annual Fundraiser**, 6/27/09, 10 a.m. to midnight, 2nd Avenue N. from the alley west of 27th Avenue N. to 29th Avenue N., N. Broadway between 1st Avenue N. and 3rd Avenue N., and N. Broadway between 3rd Avenue N. and 4th Avenue N.

(5) **Big Sky State Games 5K Run**, 7/17/09, 5:30 p.m. to 7 p.m., commencing at 3rd Street W. at Grand Avenue, north on 3rd Street W., west on Parkhill Drive to 12th Street W., east on Parkhill Drive, south on 3rd Street W., ending at Wendy's Field at Daylis Stadium.

(6) Big Sky State Games Triathlon, 7/19/09, 6 a.m. to 11 a.m., Adult course -- starting at Lake Elmo State Park, right on Rolling Hills Road to Pemberton and the entrance to All American Pharmaceuticals, left on Main Street, left on Highway 87 to Shepherd Action Road, south on Highway 87, right on Main Street, right on Pemberton to Rolling Hills and back to Lake Elmo State Park. Kids' course – starting at Lake Elmo State Park, left to Riveroaks Drive, left on Annandale Road, left on Riveroaks Drive, back to Lake Elmo State Park.

(7) Downtown Billings Association Events:

- (a) Alive After 5, 6/4/09, 3 p.m. to 9 p.m., 2nd Avenue N. from N. Broadway to N. 29th Street;
- (b) Alive After 5, 6/11/09, 3 p.m. to 9 p.m., N. 26th Street from Montana Avenue to 1st Avenue N.;
- (c) Alive After 5, 6/18/09, 3 p.m. to 9 p.m., N. Broadway between 1st Avenue N. and 2nd Avenue N.;
- (d) Alive After 5, 6/25/09, 3 p.m. to 9 p.m., N. 25th Street between Montana Avenue and 1st Avenue N.;
- (e) Alive After 5, 7/2/09, 3 p.m. to 9 p.m., N. 31st Street between 4th Avenue N. and 6th Avenue N.;
- (f) Alive After 5, 7/9/09, 3 p.m. to 9 p.m., N. 24th Street between 4th Avenue N. and 3rd Avenue N.;
- (g) Alive After 5, 7/30/09, 3 p.m. to 9 p.m., N. 30th Street between 1st Avenue N. and 2nd Avenue N.;
- (h) Alive After 5, 8/6/09, 3 p.m. to 9 p.m., N. Broadway from 1st Avenue N. to 2nd Avenue N.;
- (i) Alive After 5, 8/13/09, 3 p.m. to 9 p.m., N. 29th Street between 1st Avenue N. and Montana Avenue;
- (j) Strawberry Festival, 6/9/09, 3 a.m. to 7 p.m., N. 28th Street from 1st Avenue N. to 3rd Avenue N., 2nd Avenue N. from the alley west of N. 27th Street to N. 30th Street, N. 29th Street from 1st Avenue N. to 3rd Avenue N.;
- (k) Harvestfest, 10/10/09, 6 a.m. to 5 p.m., N. 28th from 1st Avenue N. to 3rd Avenue N., 2nd Avenue N. from the alley west of N. 27th Street to N. 29th Street;
- (l) Holiday Parade, 11/27/09, 7 p.m., standard downtown parade route;
- (m) Christmas Stroll, 12/4/09, 4 p.m. to 9:30 p.m., N. 28th Street from 1st Avenue N. to 3rd Avenue N., 2nd Avenue N. from the alley east of N. 27th Street to N. 29th Street.

H. Resolution for temporary suspension of the camping ordinance for BLM's annual seasonal fire mobilization operation at Billings Logan International Airport, 7/1/09-10/31/09, at no cost to the City.

I. Resolution creating an ad hoc committee to promote annexation east of the East End TIF District.

J. Resolution of Intent to create SID 1387, Zimmerman Trail Subdivision Sanitary Sewer Improvements, and set a public hearing for June 8, 2009.

K. Resolution of Intent to create SILMD 307, Shiloh Road from Rimrock Road to Pierce Parkway, and set a public hearing for June 8, 2009.

L. Preliminary Minor Plat of Goodwin Acres Subdivision, Amended Lot 2A; a .79-acre tract located at Gentry Lane north of the 2500 block of Poly Drive; Bruce and Lynette Jensen, applicants; Eggart Engineering Company, engineer; conditional approval of preliminary minor plat, approval of two variance requests from the street development standards, and adoption of the Findings of Fact.

M. Bills and Payroll

- (1) April 10, 2009
- (2) April 17, 2009

(Action: approval or disapproval of Consent Agenda)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION AMENDING THE FY2009 BUDGET.** An amendment establishing budget authority in the Airport Capital Grant Fund for the Taxiway "A" East rehabilitation project to be funded by the American Recovery and Reinvestment Act. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
3. **CONTINUANCE OF PUBLIC HEARING AND RESOLUTION** approving and adopting third quarter budget amendments for Fiscal Year 2008/2009. (Continued from 4/27/09). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward IV to include recently annexed property in Annexation #09-02, a .74-acre property described as Lot 26, Block 19, Lillis Heights Subdivision, and located at 4739 Rimrock Road; MCS Properties, LLC, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND RESOLUTION** creating SID 1386, East MacDonald Drive and West MacDonald Drive, for construction of curb and gutter, drive

approaches, and street improvements. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

6. **COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP PROGRAMS AND THE FY2009-2010 ANNUAL ACTION PLAN.** Public hearing held April 27, 2009. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
7. **FY 2010 DOWNTOWN BILLINGS PARTNERSHIP PROJECT PROPOSAL** for \$20,000 of N. 27th Street Tax Increment District funds for four downtown improvement projects. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
8. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.** (Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

Council Initiatives

ADJOURN

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

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

A1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 11, 2009

TITLE: Award of the Airfield Concrete Ramp Joint Repair Project for Billings Logan International Airport

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: In the past 16 years, the Airport has constructed or replaced approximately 12.5 acres of concrete ramp that contains 11 miles of expansion joints. This project is included in the City's Capital Improvement Program and is the second phase of a multiyear maintenance program to clean and reseal these expansion joints. The first phase took place in 2006, and completed 23,000 lineal feet. The remaining expansion joints have deteriorated due to age and wear from our annual snow removal operations. If these expansion joints are not maintained, moisture is able to reach the base material and cause the concrete to crack and heave when it freezes during the Winter months. The damaged concrete is very expensive to replace and makes the area unsafe for aircraft operations. This project will remove, clean, and repair approximately 30,000 lineal feet of concrete expansion joints. The project has been advertised in the *Billings Times*, at the Billings Building Exchange, and on the City's Web site. On April 28, 2009, we received the following bids for this project:

<u>SUPPLIER</u>	<u>BID AMOUNT</u>
A-Core of Idaho, Inc.	\$109,730.00
Harddrives Construction, Inc.	\$148,438.72
General Contractors Construction	\$255,426.00
ESTIMATE	\$250,000.00

FINANCIAL IMPACT: The total cost of this project is \$109,730. The source of the funds for this project is in the Department's Capital fund.

RECOMMENDATION

Staff recommends the City Council award the Airfield Concrete Ramp Joint Repair Contract to the lowest bidder, A-Core Inc, for the amount of \$109,730.

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

B

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: WO 08-01; 2008-2009 Water & Sewer Replacement Projects, Schedule 2
Bradshaw License Agreement Approval

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: On April 27, City Council awarded Schedule 2 of the 2008-2009 Water and Sewer Replacement Projects to Western Municipal Construction, Inc. One of the replacements in Schedule 2 calls for an existing sewer main located just a few feet inside the back yard at 601 Grand Avenue to be reconstructed into the graveled alley right-of-way. Constructing the new sewer main requires transferring existing individual sewer services from the old main to the new main. Private lawn and a few shrubs will likely need to be disturbed in order to transfer the services; so a License Agreement with the property owners, Robert and Jennifer Bradshaw, should be executed in order to legally perform the work.

ALTERNATIVES ANALYZED: If the City does not execute a License Agreement with the Bradshaws, work beneath their property to reconnect their sewer services to the new sewer main in the alley cannot be performed legally. Rehabilitating the sewer main in-place using trenchless technology (does not require digging on-property) is an alternative; however, this alternative would likely come at an additional cost under a future change order and does not have as favorable design attributes. Since this alternative does not correct the problem of the sewer main alignment beneath private property, a sewer easement from the property owner would be needed.

FINANCIAL IMPACT: The Bradshaws have signed a License Agreement giving the City permission to work on their property to reconnect their sewer services at no cost to the City.

RECOMMENDATION

Staff recommends that Council approve the attached License Agreement and authorize the Mayor to execute the document.

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

ATTACHMENT

A. License Agreement (4 pages)

LICENSE AGREEMENT
601 Grand Avenue; Billings, Montana

This Agreement made and entered into this _____ day of _____, 2009, by and between **ROBERT A. BRADSHAW** and **JENNIFER R. BRADSHAW** of 1150 Colony Way, Suite 3, PMB 328, Palmer, Alaska and the City of Billings, a Montana Municipal Corporation, of P.O. Box 1178, Billings, Montana 59103 (hereinafter referred to as 'Licensee').

In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

SECTION ONE
GRANT OF LICENSE AND DESCRIPTION OF PREMISES

Licensor grants to Licensee a license to excavate into Licensor's real property for the purpose of reconnecting Licensor's private sanitary sewer service to a forthcoming new public sanitary sewer main located in public right-of-way and owned and maintained by the Licensee. The subject property is located at 601 Grand Avenue in Billings, Montana, and is more particularly described as follows:

Lots 1-3, Block 2, Streeter Addition, First Filing, in the City of Billings, Yellowstone County, Montana, according to the official plat now on file and of record in the office of the Yellowstone County Clerk and Recorder and as shown on the attached Exhibit "A"

SECTION TWO
LIMITATION TO DESCRIBED PURPOSE

The above-described property may be occupied and impacted by Licensee solely for the purpose of and only to the extent necessary for reconnecting Licensor's privately owned sanitary sewer service to a forthcoming new public sewer main during the period beginning the date this Agreement is signed and continuing for a period of two (2) years.

SECTION THREE
AUTOMATIC RENEWAL

This license shall automatically be renewed at the conclusion of the initial two (2) year period for additional one (1) year periods until it is terminated by one party giving the other notice of said termination, in writing, at the address set forth in the first paragraph of this Agreement not more than one hundred and twenty (120) or less than ninety (90) days in advance of the date on which the Agreement would otherwise be automatically renewed.

SECTION THREE CONSIDERATION

The parties agree that the consideration given by Licensee to Licensor shall be the reconnection of Licensee's private sanitary sewer service to a forthcoming new public sewer main. The parties further agree that Licensor will receive a benefit from this activity since Licensor is unable to continue receiving municipal wastewater service from Licensee without reconnecting the service to the forthcoming new public main in the alley as shown in attached Exhibit "B".

SECTION FOUR GOVERNING LAW

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

SECTION FIVE ENTIRE AGREEMENT

This Agreement constitutes the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this agreement, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

SECTION SIX NOTICES

Any notice provided for or concerning this agreement shall be in writing and shall be deemed sufficiently given when sent by United States Mail, First Class postage prepaid, if sent to the respective address of each party as set forth at the beginning of this agreement.

SECTION SEVEN ASSIGNMENTS

The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior written consent of the other party, which consent shall not be unreasonably denied.

SECTION EIGHT
LICENSE RUNS WITH THE LAND

This license shall run with the land and shall be binding on, and shall inure to the benefit of the parties to this Agreement, their respective heirs, successors, or assigns.

IN WITNESS WHEREOF the parties have hereunto affixed their hands and seals the date first hereinabove written.

LICENSOR:


ROBERT A. BRADSHAW


JENNIFER R. BRADSHAW

ALASKA
STATE OF MONTANA)
:ss
County of Yellowstone)
MAT-54

On this 27 day of March, 2009, before me the undersigned Notary Public for the State of Montana, personally appeared **ROBERT A. BRADSHAW** and **JENNIFER R. BRADSHAW** known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same.

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

Notarial Seal


Notary Public for the State of Montana Alaska
Printed Name: Linda M. Anderton
Residing at Billings, Montana
My Commission Expires: 1/29/2013

LICENSEE:

**CITY OF BILLINGS, a Montana
Municipal Corporation**

By: _____
RON TUSSING, Mayor

ATTEST:

By: _____
CARI MARTIN, City Clerk

STATE OF MONTANA)
: ss.
County of Yellowstone)

On this _____ day of _____, 2009 before me, a Notary Public for the State of Montana, personally appeared **RON TUSSING** and **CARI MARTIN**, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, and acknowledged to me that they executed the foregoing instrument.

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

_____ (Signature)

(NOTARIAL SEAL)

(Printed Name)

Notary Public for the State of Montana
Residing in Billings, Montana
My Commission Expires: _____

C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 11, 2009

TITLE: Compensation Agreement for Private Contract No. 608--
St. Vincent Healthcare Foundation, Inc. and Montana Sapphire, LLC

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: In order to obtain city sanitary and storm sewer service for their properties, the Developers, St. Vincent Healthcare Foundation, Inc. and Montana Sapphire, LLC, are extending 60 and 66-inch storm drain and 27-inch sanitary sewer main in King Avenue West across the property frontage. These sewer extensions are not scheduled City Capital Improvements Projects, so the Developer is paying the entire cost of the project.

Since it is currently City policy to pay for the entire cost of constructing water and sewer mains over 12 inches in size (local mains), the Developer desires to be compensated for the construction costs; and, the Public Works Department (PWD) proposes that such compensation be accomplished through the attached Agreement.

Through the subdivision process, it was agreed that the City would compensate the Developers to oversize the storm drain. The City will pay the difference between installing a 36-inch and a 60 and 66-inch storm drain.

FINANCIAL IMPACT: Based on review of the bid tabulation received for this private contract, the PWD has determined that \$100,806.00 of the sanitary sewer portion and \$255,507.00 of the storm sewer portion of the construction contract is eligible to be recovered in equal shares by the Developers. The extent and timing of the City's participation in the project costs is determined in conformance with the CIP approved by City Council.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the attached Agreement. Compensation shall be based on final water and sewer utility construction costs.

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

ATTACHMENT

Attachment A--Compensation Agreement (6 pp.)

COMPENSATION AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 20_____ between **THE CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as the "City", **ST. VINCENT HEALTHCARE FOUNDATION, INC.**, PO Box 35200, Billings, Montana 59108, and **MONTANA SAPPHIRE, LLC**, PO Box 80101, Billings, Montana 59108, collectively hereinafter referred to as the "Developers."

WITNESSETH:

WHEREAS, the City's Water/Wastewater Extension Policy outlines the procedure and criteria the City uses in approving extensions of the public water and wastewater systems; and

WHEREAS, Subdivision Improvements Agreements for Montana Sapphire Subdivision and the Village Subdivision have been recorded with the Office of the Clerk and Recorder of Yellowstone County, Montana under document numbers 3173822 and 3324331, respectively. Said documents include compensation provisions for sanitary sewer and storm drain installation; and

WHEREAS, Montana Sapphire, LLC has completed the required sanitary sewer and water improvements along the King Avenue West frontage of Montana Sapphire and the Village Subdivisions; and

WHEREAS, Existing sanitary sewer and storm drain must be extended prior to construction of the King Avenue West street improvements; and

WHEREAS, Developers agree to extend the existing sanitary sewer necessary to construct the surface improvements provided the City compensates the Developers for said extension in accordance with the terms of this agreement; and

WHEREAS, Developers agree to install the new storm drainage improvements necessary to construct the surface improvements provided the City compensates the Developers for a portion of said installation in accordance with the terms of this agreement; and

WHEREAS, Developers agree to extend the existing sanitary sewer and install the new storm drain improvements in accordance with plans and specifications approved by the City on the _____ day of _____, 20____; and

NOW, THEREFORE, City and Developer, in consideration of their mutual promises to each other hereinafter stated, agree as follows:

1. The wastewater and storm water facilities which are eligible for compensation to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.
2. With respect to Developers' entitlement to compensation, the City and Developer agree that the conditions set forth hereinafter must be met before Developers are entitled to or will receive any compensation. Said conditions are:
 - A. The extent, timing, and manner of the City's participation in a wastewater facilities extension is determined in conformance with the City's Water/Wastewater Extension Policy and the City's Utilities Fees Practice. Extensions or replacements not eligible for compensation according to these City policies and practices must be constructed by the Developer at his expense.
 - B. The extent, timing, and manner of the City's participation in a storm drainage facilities extension is determined by the terms set forth in this agreement. It is understood that the Developers choose to proceed with the storm drainage improvements even though the compensation funding may or may not be included in the City's Capital Improvements Plan. It is further understood that inclusion into the City's Capital Improvements Plan and subsequent payment of compensation to the Developers will be delayed several years after installation of the improvements. Extensions or replacements not eligible for compensation in accordance with this agreement must be constructed by the Developers at their expense.
 - C. Developer shall provide to the City sufficient verifiable cost data to

determine the appropriate amount of compensation within 30 days of final inspection of the water and/or wastewater facilities and approval and acceptance by the City that all construction was completed according to the approved plans and specifications.

- D. Upon completion of the extension of the storm water and/or wastewater facilities, the Developer must convey all right, title and interest in the facilities to the City.
- E. Developer shall, at all times, provide to the City a current address for purposes of mailing compensation to Developer.
- F. Extension of storm water and wastewater facilities eligible for compensation must comply with all city, state and federal laws, rules and regulations including, but not limited to, standards for design and construction, competitive bidding and contract requirements for cities, prevailing wage rates, and non-discrimination requirements.

Developer agrees that it will not be entitled to any compensation whatsoever until the above conditions have been completely satisfied. Developer's violation of any of the conditions set forth herein may, at the option of the City, result in denial of any and all compensation to the Developer.

- 3. In addition, it is expressly agreed that any compensation is conditioned upon the following:
 - A. Compensation is limited to costs attributable to storm water and/or wastewater facilities described in Exhibit 1, less all administrative costs incurred by the City. In no event will compensation exceed the actual cost to the Developer of extending the storm water and/or wastewater facilities.
 - B. Compensation shall not include any interest charges.

Acceptance of the storm water and/or wastewater facilities for purposes of compensation as set forth in this agreement shall be evidenced by written notice of a letter from the Public Works Department of the City and directed to the Developers at the addresses set forth in the first paragraph of this agreement.

- 4. Compensation shall be based upon the final total project costs.
- 5. The addresses for mailing compensation to the Developers shall be the addresses specified in the first paragraph of this agreement. Any change in

address of the Developers shall be sent to the Public Works Director of the City of Billings at PO Box 1178, Billings, Montana 59103. The designation of a new address shall be accompanied by a copy of this Agreement.

6. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

DATED this _____ day of _____, 20 ____.

CITY:

CITY OF BILLINGS

By: _____

Its: _____

ATTEST:

City Clerk

DEVELOPER:

ST. VINCENT FOUNDATION, INC.

By: _____

Its: _____

DEVELOPER:

MONTANA SAPPHIRE, LLC.

By: _____

Its: _____

EXHIBIT 1
King Avenue West Improvements
From Shiloh Road to 44th Street West

Storm Drain Oversizing

ITEM NO.	EST. QTY	DESCRIPTION	UNIT PRICE	CITY COMPENSATION	AMOUNT DUE MONTANA SAPPHIRE	AMOUNT DUE ST. VINCENT
203	1,204 LF	66-inch Storm Drain Pipe 36-inch Storm Drain Pipe Storm Drain Oversizing Delta	\$250.00 / LF \$100.00 / LF \$150.00 / LF =	\$180,600.00	\$90,300.00	\$90,300.00
204	861 LF	60-inch Storm Drain Pipe 36-inch Storm Drain Pipe Storm Drain Oversizing Delta	\$187.00 / LF \$100.00 / LF \$87.00 / LF =	\$74,907.00	\$37,453.50	\$37,453.50
		Sub Total Storm Drain Oversizing		\$255,507.00	\$127,753.50	\$127,753.50

Unit prices shown are based on bid prices. Actual compensation values will be based on installed quantities times the Contractor's unit bid price.

Sanitary Sewer Extension

ITEM	EST. QTY	DESCRIPTION	UNIT	CITY COMPENSATION	AMOUNT DUE MONTANA SAPPHIRE	AMOUNT DUE ST. VINCENT
222	1 EA	Connect to Ex. 27-inch Sanitary Sewer	\$9,000.00 / EA =	\$9,000.00	\$4,500.00	\$4,500.00
223	1 EA	Sanitary Sewer Manhole	\$6,600.00 / EA =	\$6,600.00	\$3,300.00	\$3,300.00
224	24 VF	Extra Depth Sanitary Sewer Manhole	\$180.00 / VF =	\$4,266.00	\$2,133.00	\$2,133.00
225	535 EA	27-inch Sanitary Sewer Pipe	\$130.00 / EA =	\$69,550.00	\$34,775.00	\$34,775.00
222	1 EA	27-inch Sanitary Sewer Cap	\$500.00 / EA =	\$500.00	\$250.00	\$250.00
247	0.33 LS	Dewatering	\$33,000.00 / LS =	\$10,890.00	\$5,445.00	\$5,445.00
		Sub Total Sanitary Sewer Comp		\$100,806.00	\$50,493.00	\$50,493.00

TOTALS		\$356,313.00	\$178,156.50	\$178,156.50

Unit prices shown are based on bid prices. Actual compensation values will be based on installed quantities times the Contractor's unit bid price.
Dewatering for the sanitary sewer is estimated to be one third of total Dewatering price.

D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Maintenance Agreement and Special Projects Contract Maintenance Agreement between the City of Billings and the State of Montana

DEPARTMENT: Public Works Department

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

PROBLEM / ISSUE STATEMENT: The City of Billings currently maintains the State-owned highway system within the Billings city limits. This is accomplished through a two-year agreement with the State of Montana. The City also completes special projects contract maintenance on state routes within the city limits.

ALTERNATIVES ANALYZED:

1. Approve the Maintenance Agreement and Special Projects Contract Maintenance Agreement (term is from July 1, 2009, through June 30, 2011)
2. Allow the State to maintain its highway system within the Billings city limits

FINANCIAL IMPACT: The State of Montana will pay the City of Billings \$592,035 in FY 2010 and \$603,997 in FY 2011 for regular street maintenance, including a contribution to the City's Equipment Replacement Program and \$300,000 for special projects on the State highway system within the city limits. These revenues provide reimbursement for the costs of all actual street maintenance labor and materials, as well as for estimated overhead costs. Revenues, as well as the corresponding expenditures for street maintenance projects for FY 2010, are included in the proposed FY 2010 budget and the FY 2011 revenues and expenditures will be included in the proposed FY 2011 budget. The existing maintenance contract which expires June 30, 2009 is for \$500,000 per year.

RECOMMENDATION

Staff recommends that the City Council approve the Maintenance Agreement and Special Projects Contract Maintenance Agreement between the City of Billings and the State of Montana.

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

ATTACHMENTS:

- A. Maintenance Agreement between the City of Billings and the State of Montana
- B. Special Projects – Contract Maintenance Agreement between the City and the State of MT

**MAINTENANCE AGREEMENT BETWEEN THE
CITY OF BILLINGS AND THE STATE OF MONTANA**

THIS AGREEMENT is entered into this ____ day of _____, 2009 by and between the STATE OF MONTANA DEPARTMENT OF TRANSPORTATION, hereinafter designated "MDT" and the CITY OF BILLINGS, hereinafter designated "City".

WITNESSETH THAT:

WHEREAS, the purpose of this agreement is to define the Street and Traffic Control maintenance responsibilities of the City and MDT.

WHEREAS, State law allows the State to enter into an agreement with local government to provide maintenance on state routes with provision for full reimbursement.

NOW THEREFORE, in consideration of the foregoing, and in consideration of the mutual promises and covenants herein specified, it is mutually agreed as follows:

1. **LIMITS OF AGREEMENT.** The following listing of streets and intersections is a full and complete listing of areas covered by this agreement. Unless otherwise defined, the list shall include all intersections along the route and intersecting streets for a distance of 15' or to the end of the curb radius return, whichever is greater, and shall include all of the street right-of-way. During the term of this agreement, additional areas may be added by written agreement of the parties.
 - A. Laurel Road from the east side of Parkway Lane to the west abutment of the 6th Street West Overpass.
 - B. Montana Avenue from the west abutment of the 6th Street West Overpass to Division Street, specifically excluding any structural repair, deck repair, or railing repair.
 - C. Division Street from Montana Avenue to 1st Avenue North.
 - D. 1st Avenue North from Main Street to Division Street.
 - E. All of the streets constructed in conjunction with the 6th Street West Overpass excluding specifically the structural portion of this project.
 - F. 1st Avenue South - Minnesota connection from 6th Street West Overpass through the North 13th Street Overpass to 1st Avenue North.
 - G. North 13th from 1st Avenue North to 4th Avenue North.
 - H. 4th Avenue North from North 13th Street to Main Street.

- I. Intersection of 1st Avenue North, Main Street, and Highway 87 East to 500' east on 87 East to the overhead sign.
- J. Main Street from 1st Avenue North to the southwest side of the Roundup Road turnoff.
- K. North and South 27th Street from the north ROW of Belknap Avenue to 100' west of the last merge lane on the Airport intersection, excluding the bridge over the BBWA Canal.
- L. King Avenue from 24th Street West to Daniel Street.
- M. On the 13th and 6th Street West Underpass, the maintenance by the City will include the roadway surface and the storm drainage system.
- N. The traffic signals located at the intersection of the North Frontage Road and U.S. 87E near the Lockwood Interchange and the two signals at the ramps of the Lockwood Interchange.
- O. The flasher at Main, Roundup Road and Bench Boulevard.
- P. The traffic signals located on South Billings Boulevard at King Avenue and on the ramp to the Interchange.
- Q. The traffic signals located on the King Avenue Interchange.
- R. MDT's designated portion of State Secondary 318.
- S. Sweeping sections:
 - (1) King Avenue West from Daniels to Mullowney Lane-Southbound
 - (2) King Avenue West from Mullowney Lane to Daniels-Northbound
 - (3) City Center loop from King Avenue West to Parkway Lane on Laurel Road-Eastbound
 - (4) Laurel Road from Parkway Lane up ramp to King Avenue West-Westbound
 - (5) Ramp from King Avenue West to Laurel Road-Eastbound
- 2. **SCOPE OF AGREEMENT.** This agreement covers all of the activities ordinarily associated with street maintenance activities including street patching, sweeping, storm sewer repair, snow plowing, snow removal, ice control, signal maintenance, street striping, sign replacement, vegetation control. The agreement specifically excludes any activity commonly known as bridge repair including concrete barrier repair, deck repair, and structural repair.
- 3. **ITEMS COVERED.** Payment to the City for this agreement shall be for the following:

A. TRAFFIC CONTROL MAINTENANCE ACTIVITIES:

- (1) State shall continue to provide power for those signals that are presently being billed to the State by Northwestern Energy.
- (2) City will provide all maintenance necessary to operate the Traffic Control System, and the State will reimburse the City in accordance with Appendix B for costs of labor and equipment required for the proper maintenance of the Traffic Control System,
- (3) For the purposes of this Agreement, the Traffic Control System includes all items covered in Part II (excluding 2B-31 Urban Parking and Stopping signs, 2D-39 Street name signs, 2D-4 Parking area signs and 2D-41 Park and Ride Signs) Part III, Part IV, Part V and Part VII of the Manual on Uniform Traffic Control devices dated 1988 and revisions thereto.
- (4) Maintenance at the Lockwood Interchange (location #13) will include signal maintenance only; no signs, etc. will be covered by this agreement.
- (5) Street lighting facilities on these routes are not covered by this agreement and will remain the responsibility of the State, with the exception of those which are City or State owned and created as Special Improvement Lighting Maintenance Districts.

B. STREET CLEANING ACTIVITIES:

The City will clean and sweep the streets on the same sweeping and cleaning schedule that they are providing for all City arterial streets. The State shall reimburse the City for cost of all labor, equipment and material used in this operation in accordance with Appendix B.

C. STORM SEWER MAINTENANCE:

The City will provide periodic maintenance of the drainage systems to keep the system in working order. When failure of any part of the system occurs, the City will notify the State for special project type work. Special project work, which may include the installation of extra sumps, replacement of pumps and/or motor controls will be at extra cost to the State, as both the State and City may agree upon.

D. SNOW REMOVAL AND ICE CONTROL:

The City will provide snow removal and ice control on the streets detailed herein and the sidewalk under the North 13th Street Underpass on the same snow removal and ice control schedule that they are providing for all City arterial streets. The State shall reimburse the City for cost of all labor, equipment and material used in this operation in accordance with Appendix B. In the event of an emergency snow operation, the State will be requested to furnish additional equipment and/or materials with adequate notification. Costs for additional equipment and/or materials must be pre-approved by the State. These costs are in addition to the payment detailed in Appendix B.

E. SURFACE PATCHING:

The City will patch the streets detailed herein on the same patching schedule that they are providing for all City arterial streets. The State shall reimburse the City for cost of all labor, equipment and material used in this operation in accordance with Appendix B. Major patching repairs and any special equipment rental such as a milling machine will be negotiated as a Special Project Activity as defined in item 6.

F. SPECIAL PROJECT ACTIVITIES:

Special Project activities include any activity which is not part of the basic maintenance service. This would include costs associated with railroad crossings, seal coats, overlays, major repairs, etc. Special project activities will be negotiated and paid for separate from this agreement.

4. COSTS. The costs associated with this agreement shall be as shown in Appendix A.

A. This shall be a lump sum cost for the maintenance portion of the agreement, and shall be paid to the City on a monthly basis according to the schedule in Appendix C.

5. RECORDS. The City presently has a State approved budget system for these affected activities. The labor equipment and materials used on the streets covered in this agreement shall be assigned a special budget category. No record keeping shall be attempted to break contractual costs against individual streets that are covered in this agreement. All City records concerning this project are open for audit by the State at any reasonable time.

6. PAYMENT. The City shall submit billing and a narrative summary of the work done in the preceding month on or before the 10th of the current month. MDT agrees to make payment within 20 calendar days of receipt of the billings.

7. TERM. The term of this agreement shall be for the two year period of July 1, 2009 through June 30, 2011. This agreement may be terminated upon thirty days written notice by either party except as specifically detailed herein otherwise.

8. QUARTERLY MEETING: There shall, as a minimum, be one meeting per calendar quarter to assess the effectiveness of this program and to assure that budgeting restraints are met. Either party to this agreement may have any staff present.

9. COMPENSATED DAMAGES. It is understood that any damages that are caused by third parties that can be collected from third parties will be repaired by the City, and a billing for these repairs shall be sent to the State along with any documentation which the City has available to help the State in making the collection. The State shall pay the City for these repairs on an actual documented cost plus 10% administration and overhead. Payment under this provision shall be in addition to the payment detailed in Appendix B.

10. CONTROL OF ACCESS AND UTILITIES. The control of access and utilities within these streets shall remain with the State.

11. **INDEMNIFICATION.** The State agrees to hold harmless and/or indemnify the City for damages resulting from the construction or design done by the State of the streets and areas covered by this agreement. This hold harmless/indemnification clause shall not cover damages which are caused either directly or indirectly by the work done by the City pursuant to this agreement. City agrees to defend, protect, indemnify and save harmless the State against and from all claims, liabilities, demands, causes of action, judgments, and losses claimed to be due to the City's performance of the activities of this agreement, specifically including any claims that any work was not done in a proper or timely manner.

12. **CIVIL RIGHTS COMPLIANCE.** City must comply with all applicable Federal and State Laws including those laws referred to in the two-page NOTICE attached hereto, which is made a part of this agreement by its reference.

It is further agreed that each party will comply with the provisions of the attached "Agreement" to exchange winter maintenance activities for the Urban Route 1020 (U-1020), Montana Avenue – North 18th Street which is part of the State Maintenance System and Urban Route 1001 (U-1001), Zimmerman Trail, owned by the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be executed on the date set forth herein.

**STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION**

BY _____, 2009
Stefan Streeter
Billings District Administrator

Approved For Legal Content:

BY _____, 2009
MDT Legal Counsel

CITY OF BILLINGS

BY _____, 2009
Ron Tussing
Mayor

ATTEST:

BY _____, 2009
Cari Martin
City Clerk

Approved As To Form:

BY _____, 2009
Brent Brooks
Billings City Attorney

NOTICE

During the performance of this Agreement, the City, for itself, its assignees and successors in interest, agrees as follows:

- A) **COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS**
 - (1) **Compliance with Regulations:** The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even though only State funding is here involved.
 - (2) **Nondiscrimination:** The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
 - (3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.
 - (4) **Information and Reports:** The City will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
 - (5) **Sanctions for Noncompliance:** In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, Department may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the City under the Agreement until the City complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
 - (6) **Incorporation of Provisions:** City will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. City will take such action with respect to any subcontract or procurement as the Department or the FHWA may direct to enforce such provisions including sanctions for noncompliance. Provided, however, that in the event City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, City agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

- (1) The City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City."
- (3) All video recordings produced and created under contract and/or agreement will be closed captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR PART 26

Each Agreement the Department signs with the City (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The City, Subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

APPENDIX A

BUDGET July 1, 2009 - June 30, 2011
CITY OF BILLINGS - STATE ROUTE MAINTENANCE

LABOR COSTS:

	FY 2010	FY 2011
Salaries & Wages	\$274,322	\$281,180
Overtime/ Callout, etc.	<u>\$9,912</u>	<u>\$10,160</u>
TOTAL LABOR	\$284,234	\$291,340

MATERIALS:

	FY 2010	FY 2011
Operating Supplies	\$500	\$500
Paint	\$35,000	\$35,000
Heat Tape Markings	\$9,000	\$9,000
Storm Parts	\$1,500	\$1,500
Sign Parts	\$600	\$600
Signal Supplies	\$24,000	\$24,000
Water, Phone & Underpass pump electricity	\$2,000	\$2,040
Gravel & Sand	\$10,000	\$10,200
Road Oil	\$6,500	\$6,630
Asphalt	\$6,500	\$6,630
Salt & Ice Melt	<u>\$26,000</u>	<u>\$26,520</u>
TOTAL MATERIALS	\$121,600	\$122,620

EQUIPMENT & INSURANCE:

Administration & Rent	\$57,493	\$58,643
Gas, Oil & Grease	\$21,000	\$21,420
Motor Veh. Parts	\$15,304	\$15,304
Labor Mot. Veh.	\$22,950	\$23,409
Liability Insurance	\$3,083	\$3,145
Equip. Replacement	<u>\$66,371</u>	<u>\$68,116</u>
TOTAL EQUIPMENT	\$186,201	\$190,037

Total Street/Traffic Maintenance of State Routes	\$592,035	\$603,997
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APPENDIX B

**City of Billings - Montana Department of Transportation, Street and Traffic
Maintenance Budget July 1, 2009 to June 30, 2011.**

	FY 2010	FY 2011
Traffic Control Maintenance:		
Labor, Administration & Overhead	79,244	81,226
Materials & Services	68,600	68,600
Equipment	51,913	52,982
Subtotal	<u>199,757</u>	<u>202,808</u>
Street Surface Maintenance:		
Labor, Administration & Overhead	46,046	47,197
Materials	23,500	23,960
Equipment	30,165	30,786
Subtotal	<u>99,711</u>	<u>101,943</u>
Storm Sewer Repair & Maintenance:		
Labor, Administration & Overhead	11,824	12,120
Materials	1,500	1,500
Equipment	7,746	7,906
Subtotal	<u>21,070</u>	<u>21,526</u>
Street Cleaning & Sweeping:		
Labor, Administration & Overhead	84,759	86,877
Materials	2,000	2,040
Equipment	55,525	56,669
Subtotal	<u>142,284</u>	<u>145,586</u>
Snow Removal & Ice Control:		
Labor, Administration & Overhead	62,361	63,920
Materials	26,000	26,520
Equipment	40,852	41,694
Subtotal	<u>129,213</u>	<u>132,134</u>
TOTAL MAINTENANCE	592,035	603,997

APPENDIX C
City of Billings - Montana Department of Transportation, Street and Traffic
Maintenance Budget July 1, 2009 to June 30, 2011.

MONTH	TRAFFIC	STREET	TOTAL	STREET	TOTAL
	MAINT	MAINT	FY 2008	MAINT	FY 2009
July	19,980	19,610	39,590	20,280	20,060
August	17,980	35,310	53,290	18,250	36,110
September	15,980	43,150	59,130	16,220	44,130
October	11,990	19,610	31,600	12,170	20,060
November	7,990	27,460	35,450	8,110	28,080
December	13,980	31,380	45,360	14,200	32,100
January	9,990	35,310	45,300	10,140	36,110
February	9,990	23,540	33,530	10,140	24,070
March	15,980	51,000	66,980	16,220	52,150
April	19,980	27,460	47,440	20,280	28,080
May	29,960	31,380	61,340	30,420	32,100
June	25,957	47,068	73,025	26,378	48,139
TOTAL	199,757	392,277	592,035	202,808	401,188
					603,957

Agreement for Fiscal 2010 & 2011

APPENDIX D

**MDT Agreement
Street-Traffic Operating & Maintenance Hours**

	2008 Hours	% of Total
Street Repair	16,730	21.13%
Storm	7,901	9.98%
St. Maint.	24,216	30.59%
Traffic Control	14,848	18.76%
Street Light	682	0.86%
Forestry	5,684	7.18%
MDT	9,103	11.50%
Total	79,162	100.0%

11.50% -- MDT % of total yearly reserve of Street/Traffic Fleet based on FY 2008 actual hours.

REQUESTED BUDGET:	Equipment			Labor & Benefits			Maintenance		
	Reserve Amt.	MDT Share	MDT %	Reserve Amt.	MDT Share	MDT %	Reserve Amt.	MDT Share	MDT %
FY 2010	ERP	\$577,138	\$66,371	11.50%	\$284,234	\$241,430	\$592,035		

REQUESTED BUDGET:	Equipment			Labor & Benefits			Maintenance		
	Reserve Amt.	MDT Share	MDT %	Reserve Amt.	MDT Share	MDT %	Reserve Amt.	MDT Share	MDT %
FY 2011	ERP	\$592,317	\$68,116	11.50%	\$291,340	\$244,541	\$603,997		

AGREEMENT

This agreement is entered into this 4th day of November, 2005, by and between the STATE OF MONTANA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as MDT) and the CITY OF BILLINGS (hereinafter referred to as City).

WITNESSETH:

The purpose of this agreement is for the parties to more effectively, safely and efficiently preserve and maintain two Urban System Routes, as defined in Title 60, Chapter 2, Part 1 Montana Code Annotated in Yellowstone County, Montana.

Urban Route 1001 (U-1001) a/k/a Zimmerman Trail is currently owned by Yellowstone County and is maintained by the County. The surrounding property is annexed to the City. Urban Route 1020 (U-1020) is officially a part of the State Maintenance System as provided in Title 60, Chapter 2, Part 1, MCA and is maintained by the City by agreement with the MDT.

The City would like to take ownership of Urban Route 1001 (U-1001), Zimmerman Trail, from Yellowstone County.

Winter maintenance of said Urban Route (U-1001) Zimmerman Trail, is a problem for the City due to its location, cost and distance from other City maintained routes.

MDT is presently reimbursing the City to maintain Urban Route 1020 (U-1020), Montana Avenue – North 18th Street; under a formal maintenance agreement between MDT and the City as U-1020 is an official State Maintained Urban Route.

The City and MDT believe it would be mutually beneficial to exchange winter maintenance responsibilities of these routes.

NOW THEREFORE, in consideration of the foregoing, and in consideration of the mutual promises and covenants herein specified:

IT IS AGREED by and between MDT and the City as follows:

1. That MDT and the City will exchange maintenance responsibilities for the two above described routes for winter maintenance activities only, such as plowing, sanding, ice control, emergency closures, etc. and that the exchange of winter maintenance activities are the only activities covered by this agreement.

2. That this exchange of maintenance responsibility is pursuant to 60-2-204 MCA. The City agrees to waive sub-paragraph (1) of section 60-2-204 as requiring the department to pay the maintenance cost for U-1020 and further agrees to waive sub-paragraph (2) of 60-2-204 (placement and maintenance of traffic control devices) as it pertains to U-1001. MDT will retain the responsibility as described in sub-paragraph (2) for U-1020.
3. MDT and the City agree that the formal City Maintenance Agreement that includes U-1020 remains unchanged for all activities, responsibilities, and other provisions except winter maintenance of Urban Route 1020 and that the City agrees to provide winter maintenance on U-1020, as described in paragraph 1 of this agreement, at no cost to MDT and that MDT will provide winter maintenance on U1001 at no cost to the City.
4. The City agrees to construct a plow truck turn around on U-1001 in proximity to the lower gate presently used by Yellowstone County for road closures and that this turn around location will be the demarcation point between MDT and City responsibility.
5. This agreement is contingent upon the City obtaining ownership of Urban Route 1001 from Yellowstone County. The agreement will take effect when MDT is officially notified by the City that they are in sole possession of the route and that the plow truck turn around denoted in 4 above has been satisfactorily constructed.
6. Either party may cancel this agreement with 30 days written notice with exception of the period November through March during which time neither party may cancel the agreement.

The parties hereto have carefully read the foregoing Agreement and know the contents thereof and enter this agreement as their own free act.

It is further agreed that each party will comply with the provisions of the attached "A" to comply with any civil rights laws and regulations in the event any of the work performed under this agreement is contracted outside of the respective government agencies.

FOR THE MONTANA DEPARTMENT OF TRANSPORTATION:



Bruce H. Barrett
District Administrator – Billings

FOR THE CITY OF BILLINGS:

Christine F. "Tina" Volek
Tina Volek
Acting City Administrator

Connie J. Beach
Approved for Legal Content

A

NON-DISCRIMINATION NOTICE

During the performance of this Agreement, CITY (hereafter in this Section "the Party"), for itself, its assignees and successors in interest, agrees as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

- (1) **Compliance with Regulations:** The Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) **Nondiscrimination:** The Party, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
- (3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, whether by competitive bidding or negotiation by the Party for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) **Information and Reports:** The Party will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the Party under the Agreement until the Party complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) **Incorporation of Provisions:** The Party will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Party will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the Party is sued or is threatened with litigation by a subcontractor or supplier as a

result of such direction, the Party may request the State to enter into the litigation to protect the interests of the State, and, in addition, the Party or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, §49-3-207, MCA

In accordance with Section 49-3-207, MCA, the Party agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

- (1) The Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The Party will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."
- (3) All video recordings produced and created under contract and/or agreement will be closed captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR §26

Each Agreement the Department signs with a Party (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The Party, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Party shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Party to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

SPECIAL PROJECTS - CONTRACT MAINTENANCE AGREEMENT BETWEEN THE CITY OF BILLINGS AND THE STATE OF MONTANA

THIS AGREEMENT is entered into this ____ day of _____, 2009 by and between the STATE OF MONTANA DEPARTMENT OF TRANSPORTATION, hereinafter designated "MDT" and the CITY OF BILLINGS, hereinafter designated "City".

WITNESSETH THAT:

WHEREAS, MDT and the City agree that certain preventive maintenance activities are necessary to be able to avoid future major reconstruction costs.

WHEREAS, In order to accomplish this maintenance, the parties agree to the following schedule of maintenance activities for the term July 1, 2009 through June 30, 2011:

Fiscal Year July 1, 2010 – June 30, 2011	1st Ave. North: North 18th to North 33rd St.	\$300,000
o		
SPECIAL PROJECT AGREEMENT FY 2008 & 2009		\$300,000

NOW THEREFORE, in consideration of the foregoing, and in consideration of the mutual promises and covenants herein specified, it is mutually agreed as follows:

1. The work contemplated in this agreement shall be let to private contractor by the City and included in its preventive maintenance program and the State shall reimburse the City for actual construction costs of the agreed upon work to be performed plus a 10% administration and testing charge. All contracts for preventive maintenance work must be approved by the Montana Highway Commission prior to award. The City shall bill the State periodically based on payments to the Contractor throughout the construction period. The contracted work to be paid by the State shall be separated in the contract so actual costs can be determined. The City agrees that any contract awarded pursuant to this agreement will require compliance with all state and federal laws and regulations, including but not limited to workers' compensation and civil rights requirements per the NOTICE attached hereto.
2. Paver laid overlay shall be a minimum of one tenth foot of asphalt concrete, preceded by a proper cleaning and leveling course. All shall be applied in compliance with accepted engineering practices and shall include all necessary utility adjustments, and other items related to and affected by the street improvement as agreed upon.
3. Chip seal shall be the application of an asphalt material and cover course in accordance with accepted engineering practices and shall include all necessary preparation, clean-up and traffic control.

4. Other surface preventive maintenance shall be applied according to the manufacturer's recommendations and shall receive approval of the Highway Division prior to application.
5. There will be no variance to any of the bid document specifications without the explicit approval of the Montana Department of Transportation, Billings Division.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be executed on the date set forth herein.

**STATE OF MONTANA
DEPARTMENT OF TRANSPORTATION**

BY _____, 2007
Stefan Streeter
Billings District Administrator

Approved For Legal Content:

BY _____, 2007
MDT Legal Counsel

CITY OF BILLINGS

BY _____, 2007
Ron Tussing
Mayor

ATTEST:

BY _____, 2007
Cari Martin
City Clerk

Approved As To Form:

BY _____, 2007
Brent Brooks
Billings City Attorney

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Housing First Project Legal Documents Approval

DEPARTMENT: Planning & Community Services

PRESENTED BY: Brenda Beckett, Community Development Manager

PROBLEM/ISSUE STATEMENT: In November 2008, the City Council approved a \$465,000 zero interest, deferred payment loan to Interfaith Hospitality Network for a “Housing First” project to provide housing for the homeless. Funding for this project has been garnered through the State Department of Public Health and Human Services and a federal appropriation through the U.S. Department of Housing and Urban Development. Legal documents including a Development Agreement, Deed Restriction Agreement, Montana Trust Indenture and Promissory Note are now completed and are ready for review and signature.

The project is located at 1427 Avenue C and it contains two duplex housing units. Interfaith Hospitality Network has successfully completed a zoning lot size variance which is contingent on specific rehabilitation requirements to meet building codes for duplexes. Interfaith Hospitality Network has taken ownership of the units and has successfully completed a tenant relocation plan and is in full compliance with relocation requirements. Currently, a comprehensive rehabilitation plan is being created in preparation for a public bidding process to remodel the units. Lead based paint testing is completed and the units are being reviewed for historic properties designation. Community Development staff will continue to assist in project management and oversight for the rehabilitation of the units to ensure compliance.

ALTERNATIVES ANALYZED: 1) Approve the legal documents; 2) not approve the legal documents.

FINANCIAL IMPACT:

There is no match funding required for the funding sources. Grant administration costs have been allocated to cover project management.

RECOMMENDATION

Staff recommends City Council approve the legal documents to provide a \$465,000 zero interest, deferred payment loan to the Interfaith Hospitality Network. Funding will be utilized to pay acquisition costs and to rehabilitate four units of affordable rental housing to serve homeless families.

Approved By: City Administrator City Attorney

ATTACHMENTS

- A: Housing First Project Development Agreement (10 pages)
- B: Deed Restriction Agreement (7 pages)
- C: Montana Trust Indenture (4 pages)
- D: Promissory Note (1 page)

INTRODUCTION

The Mayor's Committee on Homelessness supports the following funding and action priorities: expanding available housing for the homeless; decreasing barriers to obtaining housing; and expanding supportive services including mental health and substance abuse services. Funding has been provided by the State Department of Health and Human Services and a federal appropriation through the U.S. Department of Housing and Urban Development for the project.

PROCEDURAL HISTORY

- *January 29, 2008:* The City of Billings – Community Development Division received a contract for a Housing First project funded through the State Department of Public Health and Human Services.
- *February 25, 2008:* City Council approved the Housing First contract from the Department of Public Health and Human Services.
- *April 25, 2008:* The City of Billings – Community Development Division received official application materials for a Housing First project through the U.S. Department of Housing and Urban Development.
- *July 31, 2008:* Public notifications are published through the Billings Times for the Request for Proposals for the Housing First project. Deadline for the proposals are established on September 5th, 2008.
- *August 15, 2008* - Technical assistance meeting is provided to applicants to review proposal and project requirements as advertised. No proposals are received by the deadline.
- *September 11, 2008:* Public notifications are published through the Billings Times for the Request for Proposals project with an extended deadline. New proposal deadline was set for October 10, 2008.
- *October 10, 2008:* Two proposals are received for the Housing First project. A request to the Mayor's Committee on Homelessness is made for proposal reviewers. Proposals are distributed with ranking sheets and certification of non-conflict of interest.
- *October 29, 2008:* Project review team meets to discuss proposals, rankings and additional information provided by the proposal authors. A recommendation is made to fund Interfaith Hospitality Network.
- *October 30, 2008* – Recommendation is forwarded to the Mayor's Committee on Homelessness for City Council consideration. The Committee approves the Interfaith Hospitality Network's proposal for loan funding.
- *November 24, 2008* - City Council approved the Interfaith Hospitality Network's proposal for loan funding and negotiations on the legal documents commenced.

BACKGROUND

The City of Billings was chosen as a pilot project by the Montana Council on Homelessness to begin a ten-year planning process with the ultimate goal of creating a replicable plan to end chronic homelessness in Billings. A resolution was drafted to support the initiative and the City Council appointed twenty committee members in April 2006 to spearhead efforts to develop a ten-year plan to impact homelessness in Billings. Over 300 cities in the United States have joined in a collective effort to develop plans to end homelessness. The Mayor's Committee on Homelessness accomplishments to date include:

- Creation of the *Billings Area Resource Network* – a group of homeless service providers working together to increase service collaboration and grant coordination;
- *Billings Addendum* to the Continuum of Care point-in-time survey in January 2007;
- *Understanding Homelessness in the American Indian Population*: Roundtable Discussion in February 2007, the first of its kind in the nation;
- *Project Homeless Connect* events – March 31, 2007 and March 28, 2008;
- *Cultural Competency Training*: Understanding the American Indian Perspective – June 2007;
- Creation of the Mayor's Committee ten-year planning priorities;
- *Social Enterprise Conference* featuring Pioneer Human Services, February 13 & 14, 2008; and
- Writing on the ten-year plan has begun and a draft is expected to be available for further development and review in early 2009.

Housing First Project Objectives

The Community Development Division's objective for this initiative is to provide funding to encourage the development of a Housing First project for occupancy by individuals and / or families currently experiencing homelessness. The project is expected to assist in determining the cost-benefit of housing homeless individuals and / or families who frequently utilize high-cost services such as emergency room care, hospitalization, incarceration in jail / prison, substance abuse detoxification and ambulance services. The cost of serving these individuals and / or families is expected to decrease if housing is provided first, followed by comprehensive services including (but not limited to) case management, addiction treatment, workforce development, mental health treatment, medication management, etc.

Data requirements for the Housing First project include basic demographic information as well as the cost / type of services utilized for a twelve-month period prior to and post placement in housing. Other performance measurements are required and all data is subject to federal privacy regulations. Initial occupancy of the rental units must be facilitated using one-year leases. All of

the units must be occupied by individuals / families considered “homeless” as defined by the Mayor’s Committee on Homelessness.

Homeless Families in Billings

The overall assessment of the potential housing situation in Billings for homeless families substantiates a tremendous need for projects like Housing First. The population to be served with this project must present with *high-cost needs* which are expected to be reduced over time with housing placement and subsequent service delivery. Homeless families and the chronically homeless are estimated to consume more than 50% of available public resources.

The Montana Continuum of Care Coalition conducts a statewide survey of the homeless consistent with the HUD’s homeless survey protocol as part of a nationwide survey. The purpose of this ***point-in-time*** survey is to annually determine the number of unduplicated homeless individuals on one given day. According to this survey, there are at least ***80 families*** in Billings at any one point in time.

Mental health issues, substance abuse and lifestyle choice make up the top causes of homelessness for families in Billings. Domestic abuse is listed as the fourth cause of homelessness, affecting 12% of the family cohort. In the overall homeless population, domestic abuse is the sixth leading cause of homelessness in Billings.

Families are more likely to stay with others than to live in a shelter, although 28 family members, on average over the past four years, were staying outside during the point-in-time survey. Many families stay in motels with or without assistance vouchers. The number of families staying in a motel dropped from a three-year average of nine to only one in 2008. Families are also more likely in immediate jeopardy of losing their current living situation, as 16% are being asked to leave their current living situation within one week compared to 12% overall. Homeless families are slightly more likely to be lifetime residents of Billings at 24% compared to 21% of the overall homeless population.

There are more American Indian homeless families in Billings than any other race / ethnicity, totaling over 42%. This is statistically significant, as American Indians comprise 30% of the overall homeless population in Billings. Members of families self-identifying as Caucasian make up 40% of the homeless family population. Eight percent, or 13 people, were pregnant on the date of the survey and ***24% are employed either full or part time.***

The number of homeless children being served in the Billings school system through the homeless education liaison is rising dramatically. Sue Runkle served 70 homeless children last year in this position and has a current caseload of ***145 students.***

DISCUSSION

A proposals review team was formed including four members of the Mayor's Committee on Homelessness, three Community Development staff members and a City Planner. All members of the Mayor's Committee on Homelessness were invited to participate in the proposal review process and the City's Purchasing Agent participated in the proposal process. Ranking team members were required to sign a non-conflict of interest certification prior to review. The members of the review team ranked the proposals on criteria established in the original Request for Proposals.

Project Review

The project's proposed location, 1427 Avenue C, contains two duplex housing units and each unit has two bedrooms. Two of the units have one bathroom and two have one and a half bathrooms. One of the units would be made handicap accessible, meeting 504 accessibility standards. Energy efficiencies, green building components and universal design elements will be implemented for the rehabilitation. The property will be maintained and project management will be provided by Interfaith Hospitality Network.

The property is located within the City limits. Parking and landscaping are required and are being included in the site plan and utilities are available at the site. Environmental Review issues are not anticipated at the site as the lot is located in a fully developed residential area, is not located adjacent to the airport, PCE contamination site, or a four-lane street. Historic review is taking place for one of the units. The rehabilitation plan will contain lead-based paint management strategies as both units were built prior to 1978 and one unit tested positive for lead.

Organizational Strengths

Interfaith Hospitality Network has been providing temporary housing and services for the homeless since 2004 and served 15 families (50 people) in 2007. Staff members include a director, case manager, driver and accountant. Key Board members, with the assistance of a consultant, will prepare the management plan and implement acquisition and rehabilitation. Nineteen local faith congregations make up the basic support and structure of the network and include 1,800 registered and active volunteers. Financial support for Interfaith Hospitality Network is continual and generated through donations. The most recent event, Cardboard Box City held at ZooMontana, generated \$66,000 in donations.

Board of Adjustment Review

The City Board of Adjustment reviewed and conditionally approved the project on January 7, 2009. General neighborhood concerns shared during the meeting related to adequate parking, density, property value, and a lack of neighboring schools.

Parking - Additional off-street parking is included in the design of the project as per city duplex requirements.

Density - The number of units on the site will not change. Four families lived in the units previously (some with children), and four families will occupy the units when completed.

Property Value - Neighboring property values are expected to be enhanced by the project as significant improvements to the units will be made as a part of the project.

Children / Schools - The project is centrally located near Rose Park (0.75 miles), Lewis and Clark (0.44 miles) and Senior High Schools (1.38 miles).

Financial Plan

Bridge financing has been secured for the acquisition / rehabilitation project through Little Horn Bank. Interfaith Hospitality Network has secured 15% in financing for project acquisition and construction as leveraging, and has committed approximately \$19,125 per year for ongoing support costs to maintain residents through supportive services. Prospective tenants are currently homeless, moving to a new church each week while receiving supportive services to prepare for housing placement. Insurance requirements have been met through certification provided in the application and the project has been proposed as a loan product rather than a grant.

Sources of funds to complete the project financing are as follows:

City of Billings Housing First Funding	\$465,000
Collaborative Design Architects	\$ 10,000
Interfaith Hospitality Network	\$ 62,900
<u>Little Horn State Bank</u>	<u>\$ 6,975</u>
Total Sources:	\$544,875

City Council has approved the \$465,000 in financing as a zero interest, deferred payment loan with no expiration and 20 years of monitored affordability.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

This project meets the following strategies in the City's Consolidated Plan for HUD funding:

- Promote new affordable housing opportunities;
- Promote the preservation of the existing supply of affordable housing in the community;
- Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located,
- Work as an active partner with non-profits, neighborhood groups and others to address housing, community and neighborhood needs; and
- Improve the economic conditions of lower income households in the community.

The project also meets the following priorities adopted by the Mayor's Committee on Homelessness:

- Expand available housing for the homeless;
- Decrease barriers to obtaining housing;

- Expand supportive services; and
- Expand mental health and substance abuse services.

SUMMARY

Total project review substantiates providing a loan to the Interfaith Hospitality Network for the proposed Housing First project.

RECOMMENDATION

Staff recommends City Council approve the legal documents to provide a \$465,000 zero interest, deferred payment loan to the Interfaith Hospitality Network. Funding will be utilized to pay acquisition costs and to rehabilitate four units of affordable rental housing to serve homeless families.

Approved By: City Administrator City Attorney

ATTACHMENTS

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After recording return to:
City of Billings
Community Development Division
P.O. Box 1178
Billings, MT 59103

HOUSING FIRST PROJECT
DEVELOPMENT AGREEMENT

between

City of Billings
A Montana Municipal Corporation
whose address is
P.O. Box 1178 Billings, Montana 59103
the "City"

and

Interfaith Hospitality Network Yellowstone County, a Montana Public Benefit Corporation
whose address is
40 Tenth Street West, Billings, Montana 59102,
the "Owner / Developer", hereafter referred to as the "Developer"

DATE: 3/24/2009

WHEREAS, the Developer desires to work with the City of Billings to develop new affordable rental housing on developer-owned property in the City of Billings, Yellowstone County, Montana commonly known as: **1427 and 1429 Avenue C**, and legally described as:

Lots 11 – 13, Block 6 of the Evergreen Subdivision, according to the official plat thereof on file and on record in the office of the Clerk and Recorder of said County.

WHEREAS, the City has concurrently entered into a Contract with the State of Montana's Department of Public Health and Human Services (Attachment A), funded through the Federal Department of Health and Human Services as provided in Section 503 of HR 3424 as enacted through Division B of HR 3194;

WHEREAS the City has concurrently received notification of Economic Development Initiative funding via the Consolidated Appropriations Act, 2008 (PL 110-161) as provided through the U.S. Department of Housing and Urban Development (Attachment B);

WHEREBY the City will receive and administer these state and federal moneys to provide financing, in part, for an acquisition / rehabilitation project to be undertaken by the Developer;

WHEREAS, the Developer is desirous of obtaining such financing to produce a Housing First Project in Billings and is willing to assume obligations to the City under the above stated contracts on the terms and conditions, as provided herein; AND

WHEREAS, the Developer desires to acquire and rehabilitate affordable rental housing to house the homeless, and the Developer desires to use \$465,000 in state and federal funds from sources noted above for acquisition and rehabilitation.

WITNESSETH THAT the City and the Developer mutually agree as follows:

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A. PURPOSE

The purpose of this written Agreement is to ensure compliance with the State of Montana's Department of Public Health and Human Services contract 08-028-36001-0 and the Economic Development Initiative funding via the Consolidated Appropriations Act, 2008 (PL 110-161) provided through the U.S. Department of Housing and Urban Development (HUD). Both sources provide funding for this project which has been approved by the City.

B. DOCUMENTS INCORPORATED INTO THIS AGREEMENT BY REFERENCE BUT NOT ATTACHED HERETO AND ACCEPTANCE OF STATE AND FEDERAL REQUIREMENTS

The Developer, a sub-recipient of state and federal funds, agrees to comply with all appropriate federal, state, and local laws applicable to the funding awarded to complete approved activities undertaken through this Agreement, including:

1. All program requirements which regulate and restrict the use of state and federal funds under the Montana State Department of Public Health and Human Services and the U.S. Department of Housing and Urban Development. This includes the regulations issued there under, now or hereafter, including but not limited to 24 CFR, and the regulations, policies, guidelines, and requirements as they relate to the application, acceptance, and use of state and federal funds for this program;
2. Developer's project application statements included in a response to the City's Request for Proposals on October 10, 2008. The response included: certifications of compliance; organization identification and mission; capacity and experience; project design and soundness of approach; financial structure and project implementation;
3. Developer's submission of documents on October 28, 2008 including: itemized response to questions; Mary Lou Affleck resume and identification as project manager; service provider listing; indicating continuum of care for the homeless; and revised sources and uses documents;
4. Federal Office of Management and Budget (OMB) Circular A-87, "Cost principles for Local and Indian Tribal Governments" and the provisions of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" concerning the use of state and federal funds provided under this Agreement;
5. Montana Human Rights Act (MCA § 49-2-101 (2002) et seq.);
6. Governmental Code of Fair Practices (MCA § 49-3-101 (2002) et seq.);
7. Federal Civil Rights Act of 1964 (42 USC 2000d, et seq.);
8. Federal Age Discrimination Act of 1975 (42 USC 6101 et seq.);
9. Uniform Relocation Act of 1973;
10. Section 504 of the Federal Rehabilitation Act of 1973 (29 USC 794);
11. Federal Americans with Disabilities Act of 1990 (42 USC 12101, et seq.);
12. Federal Labor Standards set forth in 24 CFR 570-605;
13. Health Insurance Portability and Accountability Act (HIPAA) of 1996 including 45 CFR Part 160 and Subparts A, C and E of Part 164;
14. Environmental Review Procedures as outlined in 24 CFR Part 58 including historic review, flood insurance, historic properties, architectural barriers and environmental impacts;
15. Federal Energy Policy and Conservation Act;
16. Property purchased with federal funding must be purchased, managed and disposed of in accordance with pertinent provisions at 45 CFR § 74 and § 92; AND
17. Programmatic Agreement between the City, the Yellowstone Historic Preservation Board, the State Historic Preservation Office and the Advisory Council on Historic Preservation.

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C. ADDITIONAL PROGRAM REQUIREMENTS

1. The Developer will comply with all applicable parts and requirements in state and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.
2. The Developer agrees to the following:
 - a. **Project Schedule:** The project's planning began in 2008. Acquisition is expected to occur by February 2009 and rehabilitation is anticipated to begin shortly thereafter on a unit-by-unit basis. Construction will be completed including weather dependent items by December 2010; unless an extension is granted by the City.
 - b. **Project Budget:** The total project budget is \$465,000. Current and complete Sources and Uses are on file with the City and the Developer. The Developer may not modify this budget without having requested and received the City's written approval of the adjustment. Modifications to the budget will be considered a violation of the contract and are grounds for termination at any point without consideration for performance or compensation.
 - c. **Project Scope:** The major components of the project include: the Developer's desire for acquisition and rehabilitation of four (4) units of affordable, rental housing for low-income households to be located at **1427 and 1429 Avenue C, Billings, Montana 59102**.
The project includes four (4) apartments for homeless individuals and families below 80% of the current Area Median Income: a duplex, two-bedrooms each; and one duplex with one two-bedroom unit and a three-bedroom unit that meets the housing need of larger families.
One unit will conform to Section 504 of the Rehabilitation Act of 1973 the needs of those with disabilities. Housing constructed will meet local building codes and will meet housing property standards as required in 24 CFR 92.251 for the duration of the affordability period.
 - d. **Project Participants:** Individuals / households placed in residency for this project must be qualified as "homeless" according to the following definition in addition to residency requirements as established by the Developer for program participation:
 - 1) An individual / household lacking a fixed, regular, and adequate nighttime residence; and
 - 2) An individual / household whose primary nighttime residence is:
 - a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - b) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
 - e. **Initial Rents and Procedures for Rent Increases:** The Developer agrees that all units acquired and rehabilitated under this Agreement will initially be rented to low income tenants (total household income is less than 80% of the current Area Median Income for Billings, Montana) qualified as "homeless" under the terms of this Agreement and will continue to be rented to low income tenants for the duration of the period of affordability. Initial rents will not exceed the current Fair Market Rents according to HUD guidelines. The Developer agrees to review and update rents according to the current Fair Market Rent on an annual basis. Rents will not exceed the Fair Market Rents during the entire period of affordability and rent charged to renters will not exceed 30% of household gross income as determined at the start of the lease between tenant and the Developer.
 - f. **Median Income Level:** The City & Developer agree that 100% of the units to be acquired / rehabilitated will be occupied by households at 80% or less of current Area Median Income. In the event that less than 100% of the units are rented to households at or below 80% of the area median income at any given time, this imbalance shall be corrected by assuring future units rented in the project will be

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rented to a household at or below 80% of area median income until the imbalance is corrected and the 100% benefit level is achieved.

g. **Affirmative Marketing:** The Developer will comply with HUD guidelines for affirmative marketing, as outlined in 24 CFR 92.351, Subpart H.

h. **Fixed or Floating Units:** All of the units in this Agreement are state and federally-assisted and are fixed.

i. **Project Monitoring during the Period of Affordability:** The period of affordability for the project begins the date the project is completed as per the date the Certificate of Occupancy is issued and continues throughout the twenty (20) year affordability period.

Information necessary for completing activity reporting include: finalized project budget; occupant demographic and income data; information on unit configuration; rents; and rental assistance. Other mandatory monitoring requirements include (but are not limited to):

- 1) Demographic and rental unit information on initial occupants;
- 2) Annual reports on current occupants including demographic and rental unit information; and
- 3) Information pertaining to the level and cost of services the occupant / household for one year prior to placement and one year post placement.

The Developer will provide initial rent-up information on occupants and units to the City within thirty (30) days of initial occupancy and annually thereafter. The City's monitoring responsibilities include (but are not limited to):

- 1) On-site monitoring reviews of the project at least every three (3) years as required for a project of one to four (1-4) total units; and
- 2) Source documentation monitoring for occupant income and eligibility verification at least every six (6) years.

3. **Environmental Review and Historic Preservation:** The Developer will carry out each activity in compliance with all federal laws and regulations described in 24 CFR, Part 92. The Developer does not assume the City's responsibility for the environmental review which has been completed by the City prior to acquisition. The Developer will comply with historic preservation guidelines in accordance with the approved Programmatic Agreement between the City, the Yellowstone Historic Preservation Board, and State Historic Preservation Office.

4. **Uniform Relocation Act:** The Developer will be subject to compliance with the federal Uniform Relocation Act and all related laws and regulations, be solely responsible for the cost to comply with those requirements, and be subject to termination of this Agreement without cause other than failure to comply with federal regulation. Further, the Developer will maintain the obligation to bear all costs associated with relocation resulting from activities undertaken with state and federal funds including displacement and relocation.

5. **Insurance Coverage:** The Developer shall secure and maintain such insurance policies, including those set forth below, as will protect itself, its subcontractors and, unless otherwise specified, the City from all claims for bodily injuries, death or property damage which may arise under this Agreement; whether the acts were made by the City or Developer or by any subcontractor or anyone employed by the Developer directly or indirectly. The following insurance policies are required:

- a. Commercial General Liability in an amount not less than \$1.5 million per occurrence for injuries, including accidental death to any one person;
- b. Builder's Risk Insurance in an amount not less than the completed value of the whole property, or \$1,500,000, whichever is greater;
- c. The City shall be listed as an additional insured on the policy during the entire period of affordability (20 years).

Insurance certificates shall be filed with the City giving satisfactory evidence of insurance as stipulated above **at the time** the Agreement is signed. The Public Liability Insurance certificate shall be maintained during the life of the Agreement. The Builders Risk Insurance shall be secured prior to initiating rehabilitation on the first unit.

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All insurance certificates shall name the City as an insured party and contain the following language, "The Company agrees that it will give the City of Billings, Montana ten (10) days prior written notice of its intent to cancel or materially change the described policy." This language, however, if accompanied by a disclaimer or any other language, which negates company responsibility for failing to provide said notice, will not be acceptable.

The insurer and insurance documents must be satisfactory to the City Attorney for the City of Billings. Further, the Developer will assure all subcontractors performing work on the project maintain public liability, property, and casualty insurance and stationary workers compensation insurance coverage in compliance with State Law.

6. Construction Contracts: The Developer agrees to deny participation in construction contracts by ineligible, debarred or suspended persons or entities. The Developer will provide the City with the names of contractors and subcontractors prior to entering into contracts. The Developer will utilize lead-safe contractors as required.

7. Non-Discrimination: The Developer will not discriminate against any contractor, subcontractor, or rental applicant due to race, color, creed, religion, ancestry, national origin, sex, disability, or other handicap, age, marital / familial status, or status with regard to public assistance. The Developer will take affirmative action to ensure all employment practices are free from such discrimination. The Developer agrees to comply with the non-discrimination in employment and Contracting opportunities laws, regulations, and executive orders referenced in: 24 CFR 570.607 and as revised by Executive Order 13279, 11246 and 11375; 24 CFR 92.350; 41 CFR Part 60; and MCA § 49-3-207 (2002) et seq.

8. Lead-Based Paint: The Developer agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR Part 35 in addition to 24 CFR 92.355 and 570.608, which results in the prohibition of the use of lead-based paint for this project. The per-unit subsidy for acquisition and rehabilitation is **\$166,250**. The Developer agrees to use lead safe work practices and certified contractors in accordance with HUD requirements, and will not utilize lead-based paint in new construction projects.

9. Labor Standards: This project must conform to the Davis-Bacon Act (40 USC 276a-7), the Copeland Act (40 USC § 276c and 18 USC § 874) and the Contract Work Hours and Safety Standards Act (40 USC §§ 327-333), to all laborers and mechanics employed in the development of any such housing and must also be subject to overtime provisions. The Developer must submit certified payrolls on a weekly basis to the City to comply with this requirement.

10. Religious Organization: The Developer will follow the provisions governing the restriction on the use of federal funds by religious organizations, as contained in 24 CFR 92.257.

11. Political Activities: None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activities or to further the election or defeat of any candidate for public office.

12. Drug-Free Work Place: The Developer certifies that it will provide a drug-free work place.

13. Subcontract Compliance: The Developer agrees that all subcontracts entered into by the Developer for the completion of the Project described herein will contain provisions requiring compliance with all applicable local, state and federal requirements. These contract provisions are to be included in all subcontracts.

14. Repayment to the City: The Developer expressly agrees to repay to the City any funds paid on behalf of the Developer or its subcontractors that are expended in violation of the terms of this Agreement or local, state and federal statutes and regulations governing the use of state and federal funding, or if for some reason the project is unable to move forward in within the time frame set forth in this Agreement.

Affordability requirements for the project will be met, including regulations outlined for the affordability of rental housing units as per 24 CFR 92.252. The Developer expressly agrees to repay the City all funds paid on behalf of the Developer or its subcontractors if the housing constructed does not meet the affordability requirements for the specified period of affordability (24 CFR 92.504(c)(3)(ii)).

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D. SURVIVAL OF CERTAIN CONTRACT TERMS

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this Agreement and attachments hereto which may require continued performance or compliance beyond the termination date of this Agreement shall survive such termination date and shall be enforceable by City as provided herein in the event of such failure to perform or comply by the Developer or its subcontractors.

E. COMPENSATION

The City of Billings shall **reimburse** the Developer for all eligible project costs in the total amount of \$465,000 for acquisition and rehabilitation costs. The City's obligation to make periodic or final payment to the Developer shall be conditioned upon the City's receipt of grant funds sufficient to make such payment. Final compensation will be made only when the Developer is in full compliance with this Agreement.

F. PAYMENT METHOD

Payment is made on a **reimbursement basis** of actual and proper expenditures and shall be made in accordance with this Agreement between City and Developer. Payment requests submitted by the Developer to the City must include a project narrative, receipts and documentation of expenditure. Payments for The City may withhold any payment if the Developer has failed to comply with program objectives, contractual terms, or reporting requirements. The City may withhold payment of the final five percent (5%) of the total award amount until the Developer has submitted and the City has accepted all required financial and performance report information required pursuant to either the Grant or City requirements.

G. INDEPENDENT DEVELOPER

The Developer shall be considered independent from the City, and may not be the agent or employee of City, shall have no authorization, express, implied, or apparent, to bind the City to any Agreements, settlements, liability, or understanding except as expressly set forth herein.

The Developer must maintain appropriate workers compensation and unemployment insurance coverage. The Developer is solely responsible for and must meet all labor and tax law requirements pertaining to employment and contracting services, inclusive of insurance premiums, tax deductions, tax withholding, overtime wages and other employment obligations that may be legally required with respect to the Developer's organization.

H. PERSONNEL

The Developer represents that it has, or shall secure, at its own expense, all personnel required in performing the services under this Development Agreement. All of the services required hereunder shall be performed by the Developer, or under his/her supervision, and all personnel engaged in the work shall be fully qualified and shall be eligible under the law to perform such services. Where the State or local public jurisdictions require licensure for the provision of services provided hereunder, the Developer and any subcontractors shall be properly licensed. The Developer will provide at the time of this Agreement; proof of performance and payment bonds; Commercial General Liability Insurance in the amount of \$1.5 Million per occurrence and workers compensation insurance carried by any subcontractor who contracts directly with the Developer for the construction services related to this Agreement as outlined herein. Other professional services subcontracted for by the Developer will provide proof of insurance as required by Montana Law.

I. TIME OF PERFORMANCE

This Agreement shall become effective upon its execution. The Project shall commence as soon as practicable after the execution of this Agreement and shall be undertaken and performed in accordance with the schedule set forth in the Development Agreement between the City and the Developer. The Developer agrees that time is of the essence in the performance of its obligations under this Agreement, and that completion of the project shall occur no later than the termination date or the date set for the in this Agreement.

J. TERMINATION DATE

This Agreement shall terminate twenty (20) years for the entire period of affordability as per 24 CFR 92.504(c)(2)(ix), after the date upon which it was executed, in addition to authorized extensions as set forth in the Agreement between the City and the Developer.

K. LIAISON AND NOTICE

BRENDA BECKETT, COMMUNITY DEVELOPMENT MANAGER is the City's liaison with the Developer.

MARY LOU AFFLECK, CONSULTANT is the Developer's liaison with the City.

Notice will be sufficient if given in writing and mailed to the parties' liaison at the addresses described above.

L. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials related to the project and prepared by any subcontractor pursuant to this Agreement are to be the property of the Developer, and the City, which each have the nonexclusive and unrestricted authority to release, publish or otherwise use in whole or in part, information relating to it. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written permission of the City and the Developer.

M. ACCESS TO RECORDS

The Developer will supply to the City copies of all current records, including, but not limited to: contracts; approved invoices and lien releases; project budgets; cash flow statements; annual audits; and any and all financial records which impact the performance of the Developer under the terms of this Agreement.

The Developer may, at the City's discretion, be considered in breach of this Agreement by failing to provide any and all requested documentation in a timely manner. Failure to provide timely access to records is grounds for termination of this Agreement and non-reimbursement for expenditures. The City will retain records of the Developer's performance under this Agreement and will allow access to these records at any time during normal business hours by the Developer, HUD, the State of Montana and the Comptroller General. These records will be kept at the Community Development Office, 510 N. Broadway, Billings, Montana.

Project Records Required:

1. Documentation that the project meets applicable property standards for acquisition / rehabilitation activities;
2. Documentation that the rents charged in each unit conforms to affordability requirements;
3. For each household renting a unit - a copy of the rental application, income verification, and lease agreement and subsequent annual income verifications;
4. Immediate written notification of any pending legal action which names the Developer and the real property assets covered under this Agreement.

The records demonstrating compliance with project requirements that apply for the period of affordability must be retained for at least five (5) years after the required period of affordability. If any litigation, claim negotiation, audit or other action has been commenced before the expiration of the regular five-year (5) period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period, whichever is later.

Access to the records described above and all other documentation relating to the program is governed by all applicable state and federal laws as they pertain to disclosure of information to the public and to the individual's right of privacy.

N. PROGRESS REPORTING

The Developer will promptly submit status reports on project progress at the request of, and in the format prescribed by, the City of Billings.

* 7 *

O. AVOIDANCE OF CONFLICT OF INTEREST

The Developer will comply with the provisions of 24 CFR § 92.356; 24 CFR Part 84; and with § 2-2-125, 2-2-201, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, as applicable, regarding the avoidance of conflict of interest.

No officer, employee, or agent of the Developer or immediate relative (spouse, parent, sibling, and child) shall be an investor, officer, employee or agent of the City, nor shall any officer, employee or agent of the Developer receive any compensation from the Developer during the term of this Agreement outside the specified and approved project costs for development.

P. MODIFICATION AND ASSIGNABILITY OF AGREEMENT

This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party who are not contained in or authorized by this written Agreement, are valid or binding. This Agreement may not be enlarged, modified, or altered except upon written agreement. This Agreement does not imply any continuing commitment by the City of Billings beyond the termination date noted herein.

The City and Developer accept responsibility for adherence to the terms of this Agreement by contractor, subcontractor or sub-recipient entities and by its agents, if any, to which it delegates authority to carry out portions hereof. For the purposes of this Agreement, legal actions pending (or in process) are considered a pending modification of the written agreement and require a written notice to the City as soon as the written agreement becomes part or party to a legal civil or criminal action.

Modification or assignment of this Agreement without prior written notice to the City will be grounds for termination and loss of unexpended funds at the City's discretion. The City reserves the right to seek damages if the termination of this written Agreement results in the loss or recapture of funds from the City by state or federal sources.

Q. CONSTRUCTION AND VENUE

This Agreement will be construed under and governed by the laws of the State of Montana. In the event of litigation concerning it, venue is in the District Court of the Thirteenth Judicial District in and for the County of Yellowstone, State of Montana.

R. INDEMNIFICATION

The Developer waives any all claims and recourse against the City, including the right of contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Developer's or any contractor, subcontractor or sub-recipient's performance of this Agreement.

Further, Developer will indemnify, hold harmless, and defend the City against any and all claims, demands, damages, costs, expenses, or liability arising out of the Developer or any contractor, subcontractor or sub-recipient's performance of this Agreement. In the event the City of Billings is named as a co-defendant in any action relating to activities to be performed by the Developer or sub-recipient under this Agreement, the Developer will immediately notify the City of such fact in writing.

In addition, the City will indemnify, hold harmless, and defend the Developer, its officers, agents and employees against any and all losses, claims, demands, damages, costs, expenses, or liability arising out of the City's performance of this Agreement or in any way arising or resulting from any intentional or negligent act on the part of the City or its agents or employees or which result in personal injury or real or personal property damage to any person or entity including the Developer. In the event that the Developer is named as a co-defendant in any action relating to activities to be performed by the City or Developer under this Agreement, the City will immediately notify the Developer of such fact in writing.

- 8 -

S. TERMINATION OF AGREEMENT

This Agreement may be terminated as follows and is subject to the following provisions in accordance with 24 CFR 85.43, suspension or termination may occur if the Developer materially fails to comply with any term of this Agreement (24 CFR 92.504(C)(2)(ix)).

Termination Due to Loss of Funding: The parties hereto expressly recognize that Developer is to be paid, reimbursed, or otherwise compensated with state and federal funds provided to City under contracts outlined in this Agreement for the purpose of contracting for the services provided for herein; and therefore, Developer expressly understands and agrees that all its rights, demands, and claims to compensation arising under this contract are contingent upon receipt of such funds by City. In the event that such funds or any part thereof are not received by City, the City may immediately terminate or amend this Agreement.

Termination for Cause: If, through any cause, the Developer shall fail to fulfill in a timely and proper manner their obligations under this Agreement, or if the Developer shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement for cause by giving written notice to the Developer of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. It is understood that the Developer and City representatives shall enter into negotiations in an attempt to reach a solution mutually acceptable to both parties within ten (10) days of notification of termination, if the City shall so request in writing. If no agreement is reached by the City and Developer then the matter will be referred to HUD for resolution. In any event, the City may terminate the Agreement to fund an activity without cause or recourse from the Developer, its agents or subcontractors.

Notwithstanding the above, the Developer shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of contract by the Developer, and the City may withhold any payment to the Developer for the purpose of setoff until such time as the exact amount of damages due to the City from the Developer is determined.

Return of Material: In event of termination, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Developer under this Agreement, shall, at the option of the City, become the City's property, and City shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Remedies: Where either party violates or breaches contract terms, the other party, in its discretion, may, in addition to terminating this Agreement, institute such administrative, contractual, legal or equitable remedies available as may be appropriate. In such event, the party found in violation of the Agreement shall pay the other party's costs and reasonable attorney's fees incurred thereby.

T. CONTRACT SUSPENSION

If the Developer fails to comply with any contractual provision, the City may, after notice to the Developer, suspend the Agreement and withhold further payments to prohibit the Developer from incurring additional obligations of contractual funds or demand repayment of funds expended, pending corrective action by the City or a decision to terminate in accordance with provisions herein. The City may determine to allow such necessary and proper costs which the Developer could not reasonably avoid during the period of suspension, provided such costs were necessary and reasonable for the conduct of the project.

U. GRANT CONTROLS

Notwithstanding any provision herein to the contrary, the performance and administration of this Agreement shall be subject to the applicable provisions of the City's contracts with the State of Montana and the U.S. Department of Housing and Urban Development. Accordingly, the Developer hereby assumes all obligations under the Contract as a condition to Developer's obligation to perform under this Agreement.

- 9 -

V. SIGNATURES

Judy G. Johnson, President Interfaith Hospitality Network Yellowstone County	Adela Awner, Executive Director Interfaith Hospitality Network Yellowstone County
Signature: 	Signature: 
STATE OF MONTANA) County of Yellowstone) On the 24 th day of March, 2009, before me, <u>Dawn Marie Schmidt</u> , a Notary Public for the State of Montana, personally appeared JUDY G. JOHNSON and ADELA AWNER, known to me to be the President and Executive Director respectively of the Interfaith Hospitality Network Yellowstone County, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written. Seal: 	
Printed Name: <u>Dawn Marie Schmidt</u> Notary Public for the State of Montana Residing At: <u>Billings, MT</u> My Commission Expires: <u>09/2012</u>	

Cari Martin, City Clerk City of Billings	Ron Tussing, Mayor City of Billings
Signature: 	Signature: 
STATE OF MONTANA) County of Yellowstone) On this _____ day of _____, 2009, before me, a Notary Public for the State of Montana, personally appeared RON TUSSING and CARI MARTIN, known to me to be the Mayor and City Clerk respectively of the City of Billings, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written. Seal: 	
Printed Name: _____ Notary Public for the State of Montana Residing At: _____ My Commission Expires: _____	
Approved as to form: _____ Brent Brooks, City Attorney	

After recording return to:
City of Billings
Community Development Division
P.O. Box 1178
Billings, MT 59103

DEED RESTRICTION AGREEMENT
Affordable Housing Program

between

City of Billings
A Montana Municipal Corporation
whose address is
P.O. Box 1178 Billings, Montana 59103
the "City"

and

Interfaith Hospitality Network Yellowstone County, a Montana Public Benefit Corporation
whose address is
40 Tenth Street West, Billings, Montana 59102,
the "Owner / Developer", hereafter referred to as the "Owner"

DATE: 3/24/2009

A. PURPOSE

This Land Use Restriction Agreement ("Agreement") is made and entered into this day by and between the City and the Owner and is in effect from the date a Certificate of Occupancy is issued for the project outlined herein and continues for a period of **twenty (20) years of assured affordability**;

WHEREAS the City has granted to the Owner State of Montana's Department of Public Health and Human Services and Economic Development Initiative funding via the Consolidated Appropriations Act, 2008 (PL 110-161) as provided through the U.S. Department of Housing and Urban Development funding in the amount of **Four-hundred and sixty-five thousand dollars (\$465,000)** as a zero interest, deferred payment loan for the purpose of acquisition and rehabilitation of **four (4)** units of affordable rental housing commonly known and addressed as **1427 and 1429 Avenue C, Billings, Montana** and legally described as:

Lots 11 – 13, Block 6 of the Evergreen Subdivision, according to the official plat thereof on file and on record in the office of the Clerk and Recorder of said County; hereafter referred to as the "property";
and

WHEREAS the Owner must agree to continuously comply with certain occupancy and rent restrictions for each Assisted Unit for the Term of this Agreement; and the parties hereto have entered into this Agreement to evidence Owner's agreement to comply with such restrictions.

WHEREAS the City and Owner have signed a related Development Agreement regarding the acquisition and rehabilitation of affordable housing on the property, and agreements made in the Development Agreement are in effect during the entire period of affordability in conjunction with this Agreement;

NOW, THEREFORE in consideration of the grant and other good and valuable consideration, the parties hereto do hereby agree as follows.

B. DEFINITIONS

1. **Agreement** means this Land Use / Deed Restriction Agreement, as it may from time to time be amended.
2. **Assisted Unit** means any unit for which state and federal funds are used for acquisition, construction and / or rehabilitation.
4. **Low-Income Households** means households with a total household income not exceeding eighty (80) percent of current area median income in the area in which the property is located, as determined by the Secretary of Housing and Urban Development.
5. **Qualified Tenant** means a family or individual tenant of a Qualifying Unit who satisfies the income and residency requirements set forth in this Agreement. Individuals / households placed in residency for this project must: (i) qualify as "homeless" according to the following definition; and (ii) satisfy the residency requirements as established by the Developer for program participation:
 - 1) An individual / household lacking a fixed, regular, and adequate nighttime residence; and
 - 2) An individual / household whose primary nighttime residence is:
 - a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - b) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
6. **Qualifying Unit** means a housing unit:
 - a. Rented to either a Low-Income household; and
 - b. Is used in complying with the low-income and homeless occupancy requirements outlined herein.
7. **Term** means a period commencing after the completion of construction as evidenced by the Certification of Occupancy and enduring for the entire period of affordability of twenty (20) years.

C. USE AND OCCUPANCY OF THE PROPERTY

1. It is agreed that, during the Term, the Owner will maintain the property as rental housing and will rent or hold available for rental each Assisted Unit on a continuous basis.
2. The Owner will make the units continuously available for occupancy for Low-Income Households and incomes for qualifying households cannot exceed eighty (80) percent of the current area median household income.
3. The determination of whether the annual income of a household occupying or seeking to occupy a Qualifying Unit meets the applicable income limit and homeless designation shall be made prior to admission to occupancy of such household in a Qualifying Unit. Thereafter such determinations shall be made at least annually on the basis of an examination or reexamination of the current income of the household or individual. This information will be provided to the City on an annual basis by the

Owner.

4. Anything to the contrary in the foregoing notwithstanding, the Owner will not terminate the occupancy of any tenants in occupancy on the date hereof that are not Low-Income Households for purposes of meeting the requirements of this Agreement.
5. The Owner will name and retain the City as an additional insured on insurance policies as stipulated in the Development Agreement during the entire period of affordability, twenty (20) years.
6. The Owner will provide to the City, on an annual and ongoing basis, information pertaining to the level and cost of services the Qualified Tenant for one year prior to placement and one year post placement. The project has been funded as a "Housing First" project where cost-benefit data is a central component of programming and evaluation. The City will provide an approved format for cost-benefit reporting.

D. RENT LIMITATIONS FOR QUALIFIED TENANTS

The Owner may make a written request to the City for the schedule of maximum rents applicable to the property as of the date hereof, and the City shall provide such schedule within thirty days of the date that the City receives such request. Such rents shall be subject to annual adjustment upon publication by the U.S. Department of Housing and Urban Development of revised income limits for area low-income households, which adjustment shall be based upon changes in the applicable area median income limits.

E. LEASE PROVISIONS

1. Lease provisions

All tenant leases entered into with Qualified Tenants during the Term shall contain provisions wherein:

- a. Each individual lessee certifies the accuracy of the information provided in connection with the examination or re-examination of annual income of the household of such lessee;
- b. Each individual lessee certifies that the annual income and other eligibility requirements shall be deemed substantial and material obligations of his or her tenancy, that he or she will comply promptly with all requests for information with respect thereto from Owner or the City and that his or her failure to provide accurate information regarding such requirements (regardless of whether such inaccuracy is intentional or unintentional) or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her tenancy and constitute cause for immediate termination thereof.
- c. Initial leases between the owner and tenants must be for a least one year and are to be re-negotiated by mutual agreement for continuing leases thereafter.

2. Examination and Re-examination of Incomes

- a. The Owner shall be responsible for determination of the annual income and household composition of Qualified Tenants, and for re-examination of annual income and household composition of Qualified Tenants at least annually in accordance with procedures prescribed by the City. Documentation of this activity will be reported to the City on an annual basis.
- b. As a condition of admission to occupancy of a Qualifying Unit, Owner shall require head of household, and other such household members as it designates, to execute an approved release and consent authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to Owner and to the City such information as Owner or the City determines to be necessary. The use of disclosure of information obtained from a household or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this Agreement.

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- c. Owner shall not be deemed to be in violation of this Agreement if, in determining Annual Income and household composition of a Qualified Tenant:
 - i. Owner has relied in good-faith upon information which is supplied to Owner by the tenant;
 - ii. Owner has no reason to believe such information is false; and
 - iii. Owner has complied with all requirements with respect to verification of household income and household composition.

3. Certification by Owner of Continued Compliance

During the term, on each anniversary of the date of the Certificate of Occupancy, Owner shall submit to the City a certification in a form prescribed by the City, as to Owner's compliance with all of the terms and provisions of this Agreement.

4. Maintenance of Documents

All tenant lists, applications, leases, waiting lists, income examinations and reexaminations relating to the property shall at all times be kept separate and identifiable from any other business of the Owner which is unrelated to the property, and shall be maintained, in a reasonable condition for proper audit and subject to examination and photocopying during business hours by representatives of the City.

5. Compliance Review

The City periodically will monitor the Owner's compliance with the requirements of this Agreement. In conducting compliance reviews, the City will rely primarily on information obtained from Owner's records and reports, findings from on-site monitoring, and audit reports. The City may also consider relevant information gained from other sources, including litigation and citizens complaints.

6. Inspections

- a. During the Term, beginning after completion of construction and / or rehabilitation, the City or its representative shall inspect the property a minimum of every **three years** as required for projects with a total number of units between **one (1) and four (4)** units to document the property continues to comply with Section 8 Housing Quality Standards. The Owner will provide the City with source documentation verifying income of tenants every six (6) years as required.
- b. If at any time during the Term the property is found to be in noncompliance with Section 8 Housing Quality Standards, Owner agrees:
 - i. To complete the repairs necessary to bring the property into compliance within thirty (30) days of notification by the City;
 - ii. Notify the City that the repairs have been completed; and
 - iii. Contact the City to schedule re-inspection.

7. Releases

The City shall execute such documents as may be required to evidence release of the property from the covenants and restrictions set forth in this Agreement based upon the expiration of the Term as provided.

8. Lease Provisions

Leases between the Owner and tenants **may not** contain any of the following provisions:

- a. **Agreement to be sued:** Agreement by the tenant to be sued, to admit guilt or to judgment in favor of the Owner in a lawsuit in connection with the lease;
- b. **Treatment of Property:** Agreement by the tenant that the Owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This provision does not apply to disposition of personal property left by a tenant who has vacated a property;
- c. **Excusing Owner from responsibility:** Agreement by the tenant not to hold the

Owner or Owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

- d. **Waiver of notice:** Agreement of the tenant that the Owner may institute a lawsuit without notice to the tenant;
- e. **Waiver of legal proceedings:** Agreement of the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- f. **Waiver of a jury trial:** Agreement by the tenant to waive any right to a jury trial;
- g. **Waiver of right to appeal court decision:** Agreement by the tenant to waive the tenant's right to appeal or to otherwise challenge in court a court decision in connection with the lease;
- h. **Tenant chargeable with cost of legal actions regardless of outcome:** Agreement by the tenant to pay attorney's fees or other legal costs, even if the tenant wins in a court proceeding by the Owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

F. REPRESENTATIONS AND WARRANTIES OF OWNER

Owner represents and warrants that he has validly executed this Agreement and the same constitutes the binding obligation of Owner. Owner has full power, authority and capacity to enter into this Agreement, to carry out Owner's obligations as described in this Agreement and to assume responsibility for compliance with all applicable federal rules and regulations.

To the best of Owner's knowledge, the making of this Agreement and Owner's obligations hereunder:

- 1. Will not violate any contractual covenants or restrictions between the Owner or any third party affecting the property;
- 2. Will not conflict with any of the instruments that create or establish Owner's authority;
- 3. Will not conflict with any applicable public or private restriction;
- 4. Does not require any consent or approval or any public or private authority which has not already been obtained;
- 5. Will not be threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against the Owner, without regard to capacity, any person with whom Owner may be jointly or severally liable, or the property or any part thereof; and
- 6. No litigation or proceedings are pending or to the best of owner's knowledge, threatened against Owner which if adversely determined could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the property, or any portion thereof, or which could in any way interfere with the consummation of this Agreement.

Owner agrees to indemnify and hold harmless the City from and against all liabilities, losses, claims, damages, judgements, costs and expenses (including, without limitation, reasonable attorney's fees) incurred by the City as a result of any material inaccuracy in any of the representations and warranties contained herein.

G. ENFORCEMENT AND REMEDIES

- 1. If the Owner defaults in the performance of any of its obligations under this Agreement or breaches any covenant, agreement or restriction set forth herein, and if such default remains uncured for a period of sixty (60) days after notice thereof shall have been given by the City (or for any extended period approved in writing by the City if the default or breach stated in such notice can be corrected, but not within such 60 day period, unless Owner does not commence such correction or commences such correction with such 60 day period but thereafter does not diligently pursue the same to completion within such extended period), the City shall be entitled to apply to any court

having jurisdiction of the subject matter for specific performance of this Agreement, for an injunction against any violation of this Agreement, or for such other relief as may be appropriately compensated by monetary damages in the event of Owner's default. The City shall be entitled to its reasonable attorneys' fees in any such judicial action in which the City shall prevail.

2. Each right, power and remedy of the City provided for in this Agreement now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the City of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the City of any or all such other rights, powers or remedies.

H. MISCELLANEOUS

1. Notices

All notices required or permitted to be given under this Agreement must be in writing and will be deemed to have been duly given if delivered personally or mailed, postage prepaid, by registered or certified United States mail, return receipt requested, addressed to the parties at the following address:

FOR THE CITY:
Community Development Manager
Community Development Division
PO Box 1178, Billings, Montana 59103

FOR THE OWNER:
Interfaith Hospitality Network Yellowstone County
40 Tenth Street West, Billings, Montana 59102

2. Binding Effect; Covenants Running with the Land

During the Term, this Agreement and the covenants, reservations and restrictions contained herein shall be deemed **covenants running with the land** for the benefit of the City and its successors, and shall pass to and be binding upon Owner's heirs, assigns and successors in title to the property, or if the property shall not include title to land, but shall include a leasehold interest in land, this Agreement and the covenants, reservations et al shall bind the leasehold interest as well as the property and shall pass to and be binding upon all heirs, assigns and successors to such interests; provided.

Upon expiration of the Term in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

If a portion or portions of the property are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the property. The City, at Owner's cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or refiled in such places, and Owner shall pay or cause to be paid all recording, filing, or payments in lieu of taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law, in the opinion of qualified counsel, in order to establish, preserve and protect the ability of the grantee to enforce this Agreement.

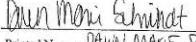
L. SIGNATURES

Judy G. Johnson, President Interfaith Hospitality Network Yellowstone County	Adela Awner, Executive Director Interfaith Hospitality Network Yellowstone County
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Signature: 	Signature: 
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STATE OF MONTANA) County of Yellowstone) On the <u>24th</u> day of <u>MARCH</u> , 2009, before me, <u>JAWN MARIE SCHWINDT</u> , a Notary Public for the State of Montana, personally appeared JUDY G. JOHNSON and ADELA AWNER, known to me to be the President and Executive Director respectively of the Interfaith Hospitality Network Yellowstone County, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.
--

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

Seal:	 Printed Name: <u>Dawn Marie Schmidt</u> Notary Public for the State of Montana Residing At: <u>Billings, MT</u> My Commission Expires: <u>9/9/2012</u>
-------	--

Cari Martin, City Clerk City of Billings	Ron Tussing, Mayor City of Billings
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Signature:	Signature:
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STATE OF MONTANA) County of Yellowstone) On this _____ day of _____, 2009, before me, a Notary Public for the State of Montana, personally appeared RON TUSSING and CARI MARTIN, known to me to be the Mayor and City Clerk respectively of the City of Billings, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.
--

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

Seal:	 Printed Name: _____ Notary Public for the State of Montana Residing At: _____ My Commission Expires: _____
Approved as to form:	Brent Brooks, City Attorney

After recording, please return to:
City of Billings
Community Development Division
PO Box 1178
Billings, MT 59103

MONTANA TRUST INDENTURE

THIS TRUST INDENTURE, made this day, 3/24/2009, between:

Interfaith Hospitality Network Yellowstone County, whose mailing address is
40 Tenth Street West, Billings, Montana 59102 as GRANTOR;

BRENT BROOKS, of Billings, Montana,
an attorney licensed to practice law in the State of Montana,
whose mailing address is P.O. Box 1178, Billings, MT 59103, as TRUSTEE; and the

CITY OF BILLINGS, a Municipal Corporation,
organized under the laws of the State of Montana,
whose mailing address is P.O. Box 1178, Billings, MT 59103, as BENEFICIARY.

In consideration of the indebtedness herein recited, GRANTOR hereby irrevocably grants, bargains, sells, conveys, and warrants to TRUSTEE, in trust with power of sale the following described property situated in the City of Billings, Yellowstone County Montana, commonly known as **1427 and 1429 Avenue C**:

Lots 11 - 13, Block 6 of the Evergreen Subdivision, according to the official plat thereof on file and on record in the office of the Clerk and Recorder of said County.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, including, but not limited to all water, water rights and ditch rights, whether represented by shares of capital stock in a ditch company or by individual ownership or otherwise, now existing or which may hereafter be acquired by "Grantor," and all screens, storm windows and doors, window shades, inlaid floor coverings, wall-to-wall carpeting, furnaces, radiators, and all heating, air conditioning, lighting, plumbing, gas, electric, refrigerating and incinerating equipment of whatever kind and character which are now located, or situated in or upon any of the buildings located on the above described premises, or shall hereafter be installed therein or thereon, or in or upon any building or buildings hereafter to be erected on the above described premises or any part thereof, and any substitutions for or any additions to any of said fixtures or equipment, and together with all the improvements now on said lands, and all improvements and building materials that may be placed thereon, and all rents, royalties, profits, other revenue, income and benefits arising from the use or enjoyment of all or any portion of the above described property, or from any contracts pertaining to the use or enjoyment of such property, subject however, to the right, power and authority hereinafter conferred upon BENEFICIARY to collect and apply such rents, royalties, profits, revenue, income and other benefits.

TO SECURE TO BENEFICIARY:

the property, that the property is encumbered, that it does not exceed thirty (30) acres in area, and that GRANTOR will warrant and defend generally the title to the property against all claims and demands subject to any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring BENEFICIARY'S interest in the property.

TO PROTECT THE SECURITY OF THIS TRUST INDENTURE, GRANTOR AGREES:

1. To perform each and every obligation secured hereby in accordance with its terms; to pay and discharge before delinquency all taxes, assessments, liens or encumbrances now or hereafter affecting any part of the said property; to keep the said property, including all improvements and fixtures now or hereafter located thereon, in good repair and condition, free and clear of all mechanic's and material men's liens, and insured against loss from fire with extended coverage under policies to be delivered to and held by BENEFICIARY, written in form and in amounts satisfactory to BENEFICIARY in such amounts as BENEFICIARY may require and with loss payable to BENEFICIARY as BENEFICIARY'S interest may appear, to neither commit nor permit waste; to complete and restore promptly in a good and workmanlike manner any building which may be damaged or destroyed thereon, and to comply with all laws, covenants and restrictions affecting said property; and, if the loan secured or any part thereof is being obtained for the purpose of financing construction of improvements on said property, then GRANTOR further agrees:
 - a. To commence construction promptly and to pursue the same with reasonable diligence to completion in accordance with plans and specifications satisfactory to the BENEFICIARY as outlined in the Final Approved Work List, and
 - b. To allow BENEFICIARY to inspect said property at all times during construction.
2. TRUSTEE, upon presentation to it of an affidavit signed by BENEFICIARY, setting forth facts showing a default by GRANTOR under this paragraph, is authorized to accept as true and exclusive all facts and statements therein, and to act thereon as provided in this instrument and as allowed by law.
2. To pay, at BENEFICIARY's option, in addition to each payment hereunder, or under the note secured hereby, an amount reasonable estimated by the BENEFICIARY to be sufficient to enable the BENEFICIARY to pay, as they become due, all hazard insurance premiums, taxes, assessments, maintenance, and other charges upon the property subject hereto, and any deficiency because of the insufficiency of such additional payments shall be forthwith deposited by the GRANTOR with BENEFICIARY upon demand by the BENEFICIARY.
3. Except as otherwise expressly provided herein, to pay all costs, fees and expenses of this trust, including costs of search and evidence of title, advertising and recording expense, documentary taxes and TRUSTEE'S attorney's fees as allowed by law.
4. If GRANTOR defaults in any respect, then BENEFICIARY or TRUSTEE may (but shall not be obligated to) without notice to or demand upon GRANTOR, and without releasing GRANTOR from any obligation hereof, cure such default, and GRANTOR will on demand reimburse BENEFICIARY or TRUSTEE for all amounts thus advanced or expended, together with interest thereon at the rate applicable to the promissory note herein described, and the payment of any such additional advances shall be secured hereby.
5. At the option of BENEFICIARY, to pay to BENEFICIARY monthly and concurrently with payment of principal and interest, a sum equal to one-twelfth (1/12th) of the annual taxes, assessments, insurance premiums, maintenance, and other charges upon the property, as estimated by the BENEFICIARY, in trust nevertheless for GRANTOR'S use and benefit and for payment by BENEFICIARY of any such items when due. The failure of GRANTOR to make any of such payments shall constitute a default under this Trust Indenture.

IT IS MUTUALLY AGREED, THAT:

6. Without affecting the liability of any person, including GRANTOR, for the payment of any indebtedness secured hereby, or the lien of this trust indenture on the remainder of the property for the full amount of any indebtedness unpaid, BENEFICIARY and TRUSTEE are respectively empowered as follows:

BENEFICIARY may from time to time and without notice:

 - a. Release any person liable for the payment of any of the indebtedness.
 - b. Extend the time or otherwise alter the terms of payment of any of the indebtedness.
 - c. Alter, substitute or release any property securing the indebtedness.
7. TRUSTEE may, at any time and from time to time, upon the written request of BENEFICIARY:
 - a. Consent to the making of any map or plat of the property.

- b. Join in granting any easement or creating any restriction thereon.
- c. Join in any subordination or other agreement affecting this trust indenture or the lien or charge thereof.
- d. Reconvey, without warranty, all or any part of the property.
- 8. Upon written request of BENEFICIARY stating that all sums secured hereby have been paid, and upon surrender of this trust indenture to TRUSTEE for cancellation and retention and upon payment by BENEFICIARY of its fees, TRUSTEE shall reconvey to GRANTOR, without warranty, the property then held hereunder. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."
- 9. In case of loss and payment by an insurance company, or in the event of any award of damages now or hereafter made in connection with any condemnation for public use of or injury to said property or any part thereof, the amount of the insurance money or award shall, at the option of BENEFICIARY, be applied on the indebtedness secured hereby. The BENEFICIARY shall have full authority, but shall not be obligated, to make proof of loss and adjust and collect insurance, and any insurer is hereby authorized and directed to make payment for such loss directly to the BENEFICIARY.
- 10. Time is of the essence hereof. Upon default by GRANTOR in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the BENEFICIARY. In the event of such default, BENEFICIARY may execute or cause TRUSTEE to execute a written notice of sale of such property to satisfy the obligation hereof, and TRUSTEE or BENEFICIARY shall file such notice for record, in each county wherein said property or some part thereof is situated. BENEFICIARY shall also deposit with TRUSTEE, the note and all documents evidencing expenditures secured hereby.
- 11. Foreclosure by advertisement and sale shall be accomplished in accordance with the Montana Small Tract Financing Act. The person conducting the sale may, for any cause he deems expedient, postpone the sale for a period not exceeding fifteen (15) days by public proclamation by such person at the time and place fixed in the notice of sale, and no other notice of the postponed sale need be given. TRUSTEE shall execute and deliver to the purchaser its deed conveying said property so sold, but without any covenant of warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person including BENEFICIARY (but excluding Trustee) may bid at this sale. After deducting all costs and expenses of exercising the power of sale and of the sale including cost of search and evidence of title, advertising and recording expense, documentary taxes and TRUSTEE and BENEFICIARY, or either of them, with accrued interest thereon at the rate of nine percent (9%) per annum from the date of expenditure thereof, and the surplus, if any, of the person or persons legally entitled thereto; provided the TRUSTEE in his discretion, may deposit such surplus with the County Clerk and Recorder of the county in which the sale took place. GRANTOR agrees to surrender possession of the trust property to the purchaser at the aforesaid sale on the tenth (10th) day following said sale, in the event such possession has not previously been delivered by GRANTOR.
- 12. Upon the occurrence of any default hereunder, BENEFICIARY shall have the option to declare all sums secured hereby immediately due and payable and foreclose this trust indenture in the amount provided by law for the foreclosure of mortgages on real property and BENEFICIARY shall be entitled to recover in such proceedings all costs and expenses incident thereto, including reasonable attorney's fees in such amount as shall be fixed by the court.
- 13. If all or any part of the property or an interest therein is sold or transferred by GRANTOR without BENEFICIARY'S prior written consent, excluding (a) the creating of a lien or encumbrance subordinate to this trust indenture, (b) the creation of a purchase money security for household appliance, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest not containing an option to purchase, BENEFICIARY may, at its option, declare all the sums secured by this trust indenture to be immediately due and payable and failure of GRANTOR to pay the full unpaid principal balance and accrued interest thereon within thirty (30) days after written demand shall constitute a default hereof.
- 14. Except as may be otherwise provided herein, GRANTOR agrees to pay to BENEFICIARY or TRUSTEE the costs and expenses, including reasonable attorney fees incurred by either of them in instituting, prosecuting or defending any court action in which GRANTOR does not prevail, if such action involves the interpretation hereof or performance hereunder by a party hereto or the breach of any provision hereof by a party hereto, including but not limited to an action to obtain possession of the above described property after exercise of the power of sale granted hereunder.
- 15. Waiver by BENEFICIARY of any default by GRANTOR shall not constitute a waiver by BENEFICIARY of a subsequent default. Failure by BENEFICIARY to exercise any right, power or privilege so long as such default remains uncured if a subsequent default occurs. Any right, power or privilege given BENEFICIARY herein shall be in addition to and shall not preclude the exercise by

BENEFICIARY of, any other right, power or privilege which BENEFICIARY may have at law or in equity.

16. This trust indenture shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. All obligations of GRANTOR hereunder are joint and several. The term BENEFICIARY shall mean the owner and holder, including any pledges, of the note secured hereby.

17. TRUSTEE accepts this trust when this trust indenture, duly executed and acknowledged, is made a public record as provide by law. TRUSTEE is not obligated to notify any party hereto of a pending sale under any other trust indenture or of any action or proceeding in which GRANTOR, BENEFICIARY, or TRUSTEE shall be a party unless brought by TRUSTEE.

18. This trust indenture is made within the State of Montana pursuant to the Small Tract Financing Act of Montana, and is not made or taken in substitution for any mortgage in existence on the effective day of said Act.

19. GRANTOR requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at the address herein above set forth.

IN WITNESS WHEREOF, the GRANTOR has hereunto set his hand and seal the day and year first above written.

Judy G. Johnson, President Interfaith Hospitality Network Yellowstone County	Adela Awner, Executive Director Interfaith Hospitality Network Yellowstone County
Signature: 	Signature: 
STATE OF MONTANA) ; ss. County of Yellowstone) On the <u>24th</u> day of <u>March</u> , 2009, before me, <u>DAWN MARIE SCHWARTZ</u> , Notary Public for the State of Montana, personally appeared JUDY G. JOHNSON and ADELA AWNER, known to me to be the President and Executive Director respectively of the Interfaith Hospitality Network Yellowstone County, and whose names are subscribed to the within instrument and acknowledged to me that they executed the same.	Seal:  Printed Name: <u>DAWN MARIE SCHWARTZ</u> Notary Public for the State of Montana Residing At: <u>BILLINGS, MT</u> My Commission Expires: <u>9/9/2012</u>
Approved as to form:	Brent Brooks, City Attorney

PROMISSORY NOTE

\$465,000 PRINCIPAL
Billings, Montana

FOR VALUE RECEIVED, **Interfaith Hospitality Network Yellowstone County**, hereinafter referred to as the "Borrower", promises to pay to the City of Billings, hereinafter referred to as the "Lender", a principal sum equal to the amounts the Borrower receives from Lender pursuant to (i) that certain Deed Restriction Agreement and (ii) that certain Trust Indenture, both of even date herewith, and both by and between Borrower and Lender; in no event, however, shall such amount exceed **\$465,000**.

RATES AND TERMS: The Promissory Note does not accrue interest or have monthly repayments but is due and payable under the following upon the occurrence of either:

1. Borrower's failure to use the "Property" (defined below) in accordance with both (i) that certain Development Agreement by and between Borrower and Lender, and (ii) the Deed Restriction Agreement; or
2. The sale or transfer of the Property.

This Promissory Note is secured by the Trust Indenture, which relates to the following real property located in the jurisdictional boundaries of the City of Billings, and more particularly described as follows (the "Property"):

*Lots 11 - 13, Block 6 of the Evergreen Subdivision,
according to the official plat thereof on file and on record in the
office of the Clerk and Recorder of said County.*

The Borrower shall transfer or assign the Property herein described only with the written consent of Lender. Such consent shall not be unreasonably withheld provided Lender's security interest herein is adequately protected. Lender may, at its option, declare immediately due and payable all sums secured by the Trust Indenture upon the sale or transfer of all or any part of the Property without the Borrower's prior knowledge and written consent.

During the term of this Promissory Note, the Borrower shall keep the Property free from all liens or encumbrances of any kind, except the Trust Indenture, the Deed Restriction Agreement, the Development Agreement, and those liens or encumbrances expressly consented to in writing by the Lender. Any such liens or encumbrances shall constitute a default herein and Borrower agrees to indemnify and hold the Lender harmless from any liability for such liens and encumbrances.

The Borrower covenants and agrees that it will commit no waste that will lessen the value of the Property nor shall it cause any damage thereto which shall reduce the value of the Property as security for the repayment of the principal amount of this Promissory Note.

During the term of this Promissory Note and until full repayment hereof, the Borrower shall secure and maintain, if insurable, the insurance for comprehensive and fire loss coverage covering full replacement cost of the Property covering both Borrower and Lender. Property taxes, first mortgage and all other financial obligations shall be paid before delinquency.

If default be made in any of the covenants of the Deed Restriction Agreement or the Trust Indenture securing this Promissory Note, and Lender does not elect to pursue its remedies under this Promissory Note, the Deed Restriction Agreement or the Trust Indenture, then such failure to pursue such remedies shall not constitute a waiver of the right to exercise the same in the event of any subsequent default or at any other time. The Borrower agrees to pay a reasonable attorney's fee, in addition to other costs, in case of the collection of this Promissory Note by an attorney, either with or without suit.

The Borrower shall at all times comply with the use, occupancy and resale restrictions affecting the Property described in the Deed Restriction Agreement and the Trust Indenture. If the Borrower fails or refuses to comply with such use, occupancy and resale restrictions, the Lender may, at its option and with notice as provided in such the Deed Restriction Agreement and the Trust Indenture, declare the entire unpaid principal balance of this Promissory Note immediately due and payable and may invoke any remedies provided in such Deed Restriction Agreement, the Trust Indenture or applicable law in the event of default.

The indebtedness evidenced by this Promissory Note is secured by the Deed Restriction Agreement and the Trust Indenture, and reference is made to those agreements for rights as to acceleration of the indebtedness evidenced by this Promissory Note.

Interfaith Hospitality Network Yellowstone County

By: 
Judy G. Johnson, President

Date: 3/24/2007

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Acknowledge Receipt of Petition to Vacate a Portion of Zimmerman Trail abutting Lot 5, Scott Subdivision and Set a Public Hearing Date

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: The City of Billings recently platted Arlene Subdivision out of the parcels purchased for Zimmerman Trail just south of Poly Drive. The subdivision plat dedicated the necessary right of way for Zimmerman Trail and split the remaining land into three developable parcels. The final plat was approved at the June 26, 2006, City Council Meeting. The City purchased the land for \$0.82 per square foot. The city has offered to sell the parcels and any unnecessary right of way to adjacent land owners at the same price the land was purchased (\$0.82 per square foot). The city vacated portions of Zimmerman Trail abutting Lots 1, 2, 4, and 6, Scott Subdivision in 2006. The property owners, James and Jenica Buker, of Lot 5, Scott Subdivision has requested to vacate a portion of Zimmerman Trail abutting Lot 5, Scott Subdivision. This will put the property back on the tax rolls and relieve the city of its maintenance.

ALTERNATIVES ANALYZED:

1. Approve acknowledgement of petition to vacate the above-mentioned right-of-way and set a public hearing for June 8, 2009.
2. Do not approve acknowledgement of petition to vacate the right-of-way.

FINANCIAL IMPACT: The property owners of Lot 5, James and Jenica Buker, are proposing to purchase 5,093 sf of right of way for \$4,176.26.

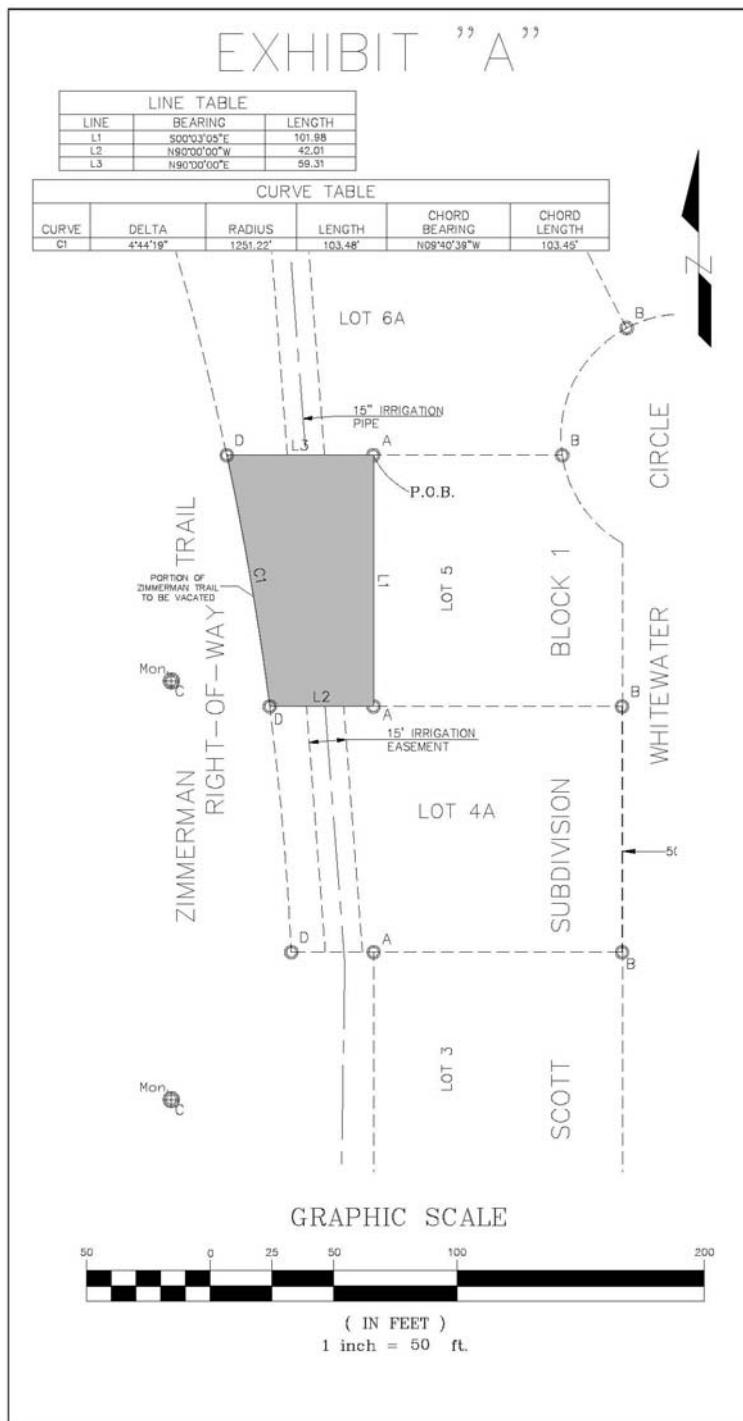
RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to vacate a portion of Zimmerman Trail abutting Lot 5, Scott Subdivision and set a public hearing for June 8, 2009.

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

ATTACHMENT

A. Map Depicting Area to be Vacated



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 11, 2009

TITLE: Al Bedoo Shrine Parade Street Closure

DEPARTMENT: Public Works – Engineering Division

PRESENTED BY: Dave Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Al Bedoo Shrine request street closures starting at 10:00 am to 12:00 pm June 6, 2009, on the parade route starting at 23rd Street North up to 32nd Street North and ending at 27th Street North for a parade including bands, marching units, motorized units, horses and clowns.

Recommended conditions of approval include the Al Bedoo Shrine:

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

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closures named above for the Al Bedoo Shrine Parade on June 6, 2009 from 10:00 am until 12:00 pm.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit
- B. Event map
- C. Certificate of insurance



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

Please check the type of activity you are applying for:

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

Submit this application with attachments to either the: Public Works office, 2224 Montana Ave., Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION HAL SLAVENS

ORGANIZATION MAKING APPLICATION AL BEDOO SHRINE

PHONE 259-4384 / 671-2992

ADDRESS Box 20673 CITY BILLINGS STATE MT ZIP 59104

EMAIL ADDRESS _____

APPROXIMATE TIME EVENT WILL:

Assemble 10:00 AM Start 11:00 AM Disband 12:00 PM

DATE OF EVENT 7 JUN 09

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

PARADE OF SHRINE UNITS FROM APPROX 20 DIFFERENT CITIES. BANDS, MARCHING UNITS, MOTORIZED UNITS (CARTS, MOTORCYCLES, ETC), HORSES, CLOWNS.

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

USUAL ROUTE FOR PARADE MAP #1

BAG PARKING METERS ON 2ND AVE BETWEEN 18TH & 27TH FOR REVIEWING TRAILOR MAP #2

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE Harold B. Lauer DATE 4 APR 09

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

FEES: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

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

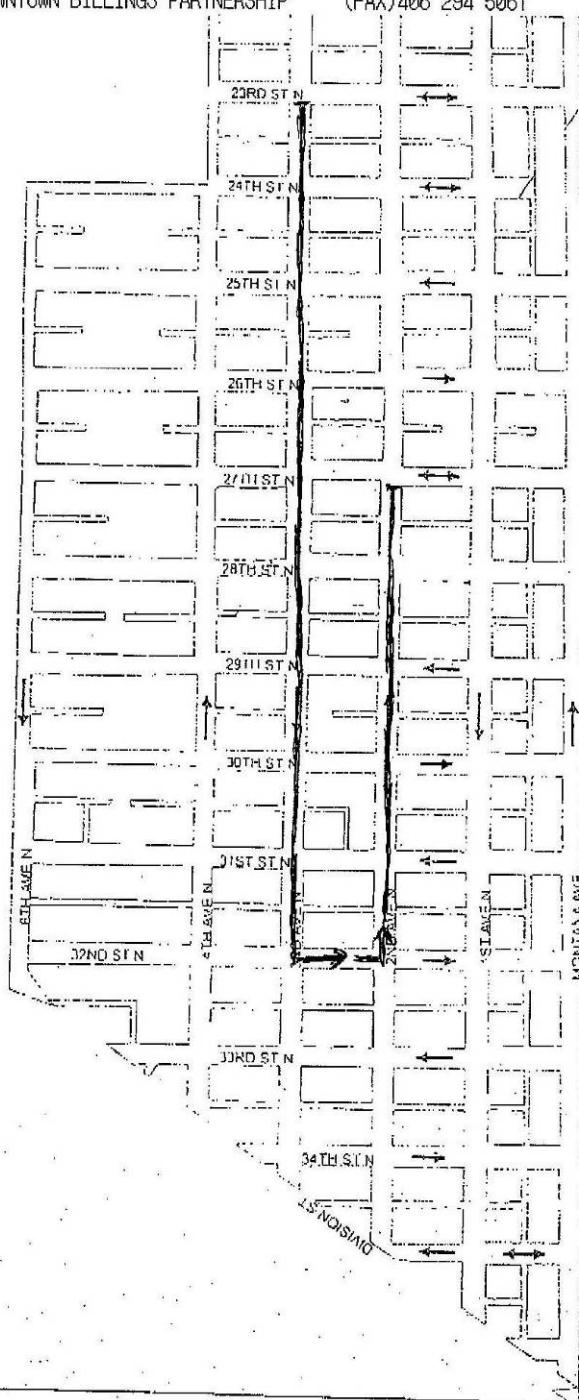
APR-22-2009 (WED) 06:31

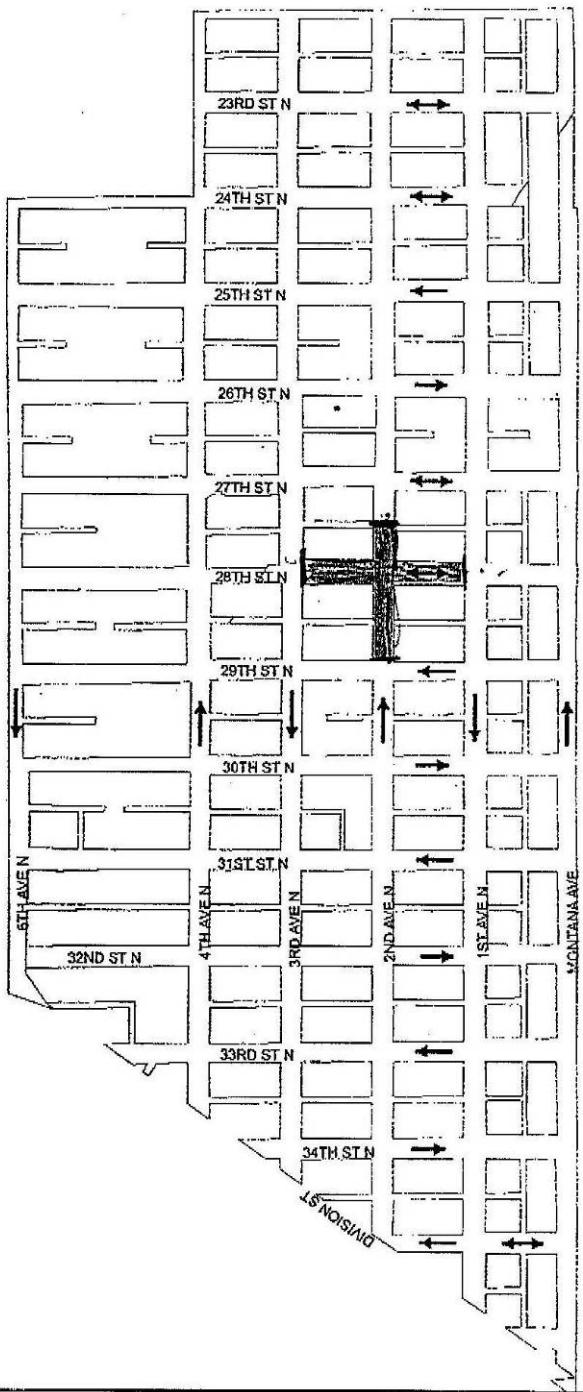
DOWNTOWN BILLINGS PARTNERSHIP

(FAX) 406 294 5061

P. 004/009

Downtown Billings Street Direction Map Parade Route Map #1



Downtown Billings Street Direction Map*Map #2*

APR-22-2009(WED) 06:31 DOWNTOWN BILLINGS PARTNERSHIP (FAX) 406 294 5061 P. 006/009
 Rx Date/Time APR-15-2009 (THU) 10:13 406 254 8906 P. 002
 04/16/2009 10:56 FAX 406 254 8906 Burns Insurance Agency 0002/0003

ACORD™ CERTIFICATE OF LIABILITY INSURANCE					DATE (MM/DD/YYYY) 03/24/2008
PRODUCER Phone: (406) 256-6036 Fax: (406) 254-8906 BURNS INSURANCE AGENCY INC 711 NORTH 27TH BILLINGS MT 59101		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
		INSURERS AFFORDING COVERAGE			NAIC #
INSURED AL BEDOO SHRINE TEMPLE A.A.O.N.M.S. C/O IT'S CLUBS AND UNITS 1125 BROADWATER AVENUE BILLINGS MT 59102		INSURER A: Praetorian Insurance Company			
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
COVERAGES					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSURER LTR INDEX	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY) 05/01/09	POLICY EXPIRATION DATE (MM/DD/YY) 05/01/10	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	H881000342-01			EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (\$2,000,000) \$ 100,000 MED. EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS-COMP/OP AGG \$ 2,000,000
A	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PROJCT <input type="checkbox"/> LOC				
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	H882000288-01	05/01/09	05/01/10	COMBINED SINGLE LIMIT (EA ACCIDENT) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY - ADD \$
A	EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	H883000122-01	05/01/09	05/01/10	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? Type, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE-EA EMPLOYEE \$ E.L. DISEASE-POLICY LIMIT \$
OTHER:					
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS					
Parage June 6th: Above coverage subject to conditions and exclusions "City of Billings listed as additional insured"					
CERTIFICATE HOLDER			CANCELLATION		
CITY OF BILLINGS 210 N 27th BILLINGS, MT 59101			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, IT'S AGENTS OR REPRESENTATIVES.		
Attention: Bill Seden			AUTHORIZED REPRESENTATIVE		

ACORD 25 (2001/08)

Certificate # 28959

© ACORD CORPORATION 1988

G2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: St. Vincent's Health Care Heart and Sole Race Street Closures

DEPARTMENT: Public Works/Engineering

PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: St. Vincent's Health Care requests temporary street closures as outlined in the attached event route maps on Saturday, June 13, 2009, from 6:00 am to 1:00 pm for the annual Heart and Sole Race.

Recommended conditions of approval include St. Vincent's Health Care:

1. Have no alcohol consumption in the right of way
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate signs warning motorists of events
5. Provide a certificate of insurance naming City of Billings as additional insured
6. A representative from the event staff controlling vehicular traffic at intersections must be currently certified as traffic control flaggers by the Montana Flagger Training Program (MDT/LTAP) or by an American Traffic Safety Services Association (ATSSA) flagger training program. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles

ALTERNATIVES ANALYZED:

1. Approve request to close streets for the event (recommended)
2. Do not approve the street closures

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

RECOMMENDATION

Staff recommends that Council approve the temporary closure of the streets as outlined.

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

ATTACHMENTS

- A. Letter from St. Vincent Health Care outlining event
- B. Right of Way Special Activity Permit
- C. Course map and supporting document
- D. Certificate of Insurance



St. Vincent Healthcare Foundation

Benefiting the Healing Ministry of St. Vincent Healthcare

March 17, 2009

St. Vincent Healthcare Foundation
1106 N. 30th St.
Billings, MT 59101

To City of Billings To Whom It May Concern:

June 13th, 2009, St. Vincent Healthcare will be holding the 30th Annual Heart & Sole Run. This event includes the Montana 5K State Championship. All events start at 8:30 and include a 5K, 10K, 2Mile Health Walk and short $\frac{1}{2}$ mile stroll. The race begins on N. 30th St. across from St. Vincent Healthcare and ends on Poly Dr., north of Grandview Park. All activities following the event take place in Grandview Park between 6am and 1pm.

The proceeds from this race will benefit people who need supervised exercise programs at St. Vincent Healthcare and also youth in the YMCA Youth Programs.

Respectfully yours,

Chris Cook
Heart & Sole Run Director
YMCA

Linda Baugh
Special Events Coordinator
St. Vincent Healthcare Foundation

*Please consider including St. Vincent Healthcare in your Will or Estate Planning...
your legacy will live on in the lives of grateful patients for years to come.*

1106 North 30th Street, Billings, Montana 59101
406-237-3600 Fax 406-237-3619 www.svfoundation.org



2009

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

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Linda Baugh

ORGANIZATION MAKING APPLICATION St. Vincent Healthcare

PHONE 406-237-3603 (Chris Cook 498-4076)

ADDRESS 1106 N. 30th St. Billings, MT

CITY

STATE

ZIP

EMAIL ADDRESS Linda.L.Baugh@svh-mt.org

APPROXIMATE TIME EVENT WILL:

Assemble 6 am Start 8:30 am Disband 1 pm

DATE OF EVENT Saturday, June 13, 2009

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

Montana 5K State Championship, 5K, 10K, 2 Mile Health Walk, Triumph Trek (Circular Walk for Seniors), Proceeds from the event - "Heart & Sole Run" - provide scholarships for people with serious heart or lung problems who need supervised exercise programs and scholarships for the YMCA Youth Support Program.

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

Map attached

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

Volunteers will do clean up

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE Linda R. Baugh **DATE** 3/21/09

APPLICATION APPROVED _____ **DATE** _____

APPLICATION DENIED _____ **DATE** _____

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

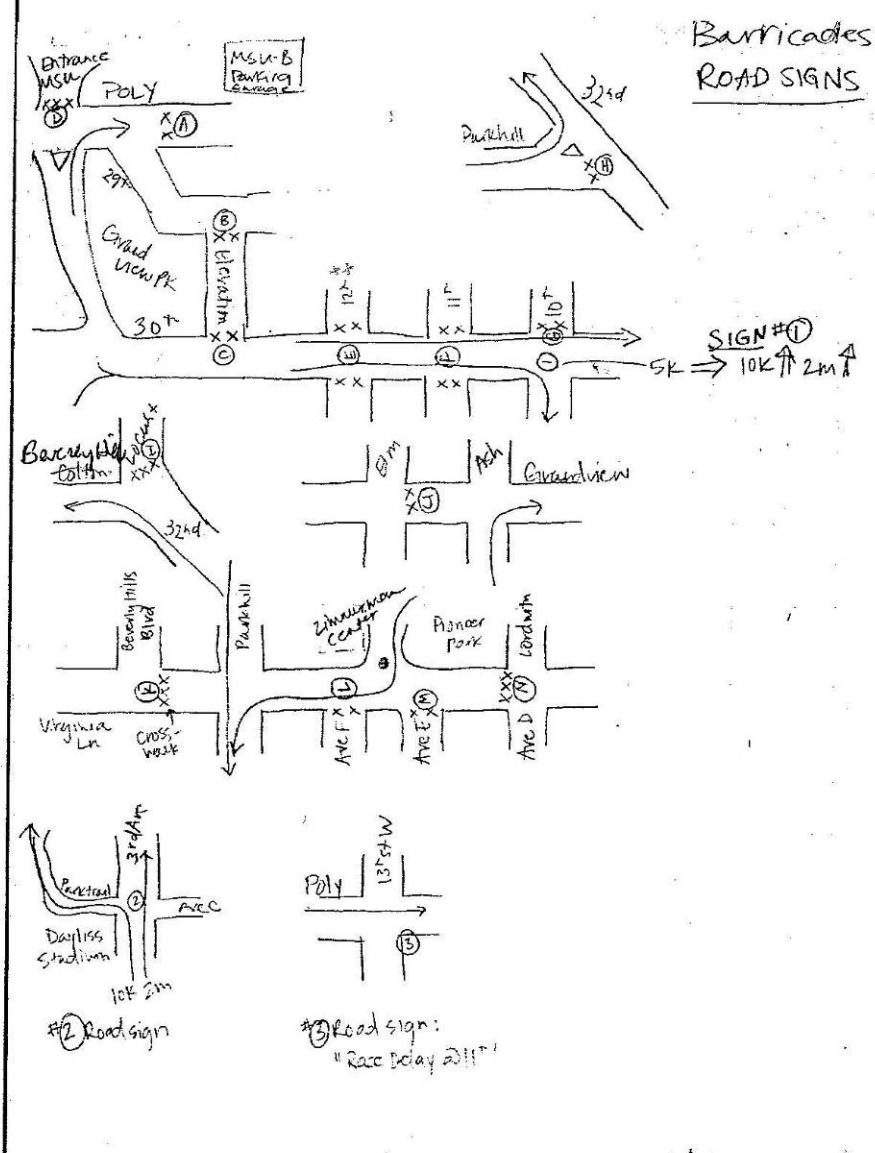
FOR CITY USE ONLY

FEES: _____

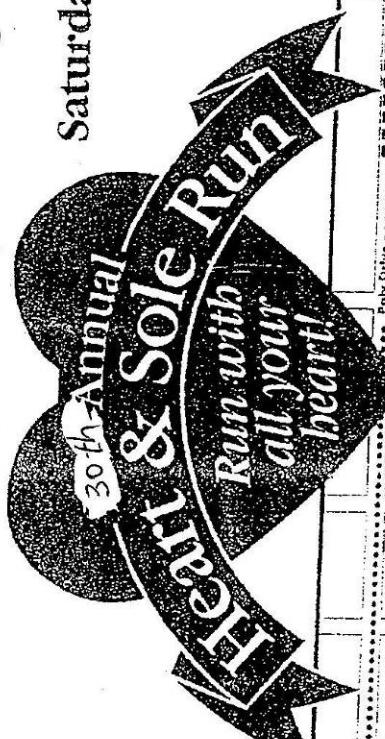
APPLICANT NOTIFIED BY: _____

DATE: _____

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

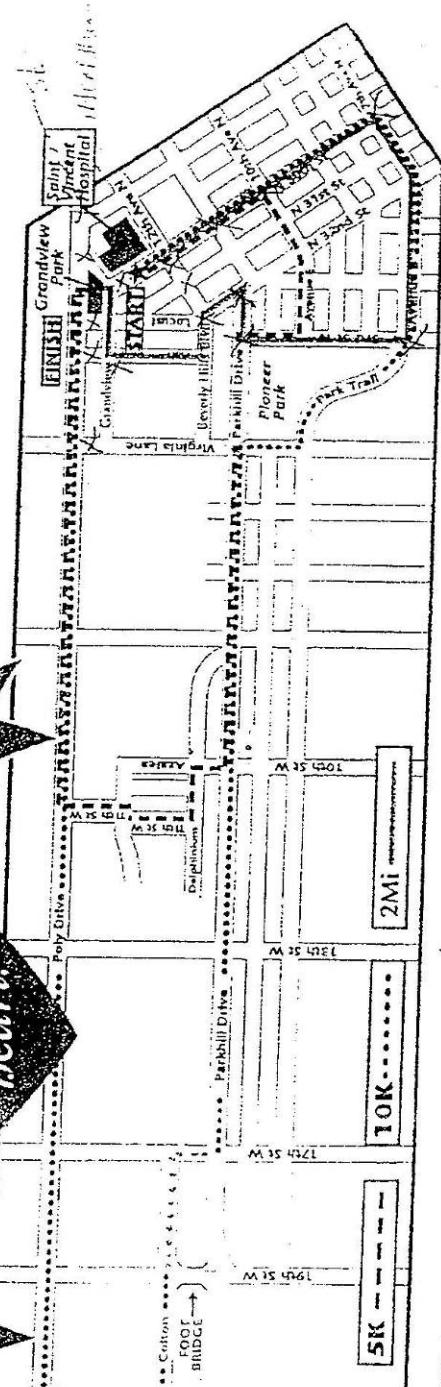


Saturday, June 13, 2009



WELLS
FARGO

St. Vincent
Healthcare



X - Monarchs
Royal School 1903



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 2

DATE (MM/DD/YYYY)
03/20/2009

PRODUCER	877-945-7378	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
Willis HHR 26 Century Blvd. P. O. Box 305191 Nashville, TN 372305191		INSURERS AFFORDING COVERAGE	
INSURED	St. Vincent Healthcare 1233 N. 30th St. PO Box 35200 Billings, MT 59107-5200	INSURER A: SELF INSURED TRUST	NAIC# 00000-002
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGE

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

INSR ADD'L LTR	INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	SELF - INSURED TRUST		3/1/2009	3/1/2010	EACH OCCURRENCE \$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (EA occurrence) \$
	X CLAIMS MADE <input type="checkbox"/> OCCUR					MED EXP (Any one person) \$
						PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 3,000,000
						PRODUCTS - COMP/OP AGG \$ 3,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				
		POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				
		AUTOMOBILE LIABILITY				
		ANY AUTO				
	ALL OWNED AUTOS		COMBINED SINGLE LIMIT (EA accident) \$			
	SCHEDULED AUTOS		BODILY INJURY (Per person) \$			
	Hired AUTOS		BODILY INJURY (Per accident) \$			
	NON-OWNED AUTOS		PROPERTY DAMAGE (Per accident) \$			
		GARAGE LIABILITY		AUTO ONLY - EA ACCIDENT \$		
		ANY AUTO		OTHER THAN EA ACC \$		
			AUTO ONLY: AGG \$			
		EXCESS / UMBRELLA LIABILITY		EACH OCCURRENCE \$		
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE		AGGREGATE \$		
	DEDUCTIBLE		\$			
	RETENTION \$		\$			
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/> Y/N		WC STATUTORY LIMITS \$	OTHR. \$	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NY)	<input type="checkbox"/>		E.L. EACH ACCIDENT \$		
	If yes, describe under SPECIAL PROVISIONS below			E.L. DISEASE - EA EMPLOYEE \$		
	OTHER			E.L. DISEASE - POLICY LIMIT \$		
	DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS					
	Linda Baugh, An Independent Contractor Is An Additional Insured With Regards To The Heart & Sole Race On June 13, 2009 And Also The Saints Annual Fundraising Dinner And Benefit October 1,2,3 & 4, 2009.					

CERTIFICATE HOLDER

CANCELLATION

Linda Baugh, An Independent Contractor St. Vincent Healthcare Foundation Attn: Dave Iron 1106 North 30th Street P. O. Box 35200 Billings, MT 591075200	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.	
	AUTHORIZED REPRESENTATIVE <i>Taren D. Chambers</i>	

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CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 2

DATE (MM/DD/YYYY)
03/11/2009

PRODUCER	877-945-7378	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
Willis HRH 26 Century Blvd. P. O. Box 305191 Nashville, TN 372305191		INSURERS AFFORDING COVERAGE	
INSURED	St. Vincent Healthcare 1233 N. 30th St. PO Box 35200 Billings, MT 59107-5200	INSURER A: Leaven Insurance Company Ltd	NAIC# C6684-001
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERS

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

INSR ADD'L LTR	INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
		GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
		GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC <input type="checkbox"/> AGG \$
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC <input type="checkbox"/> AGG \$
A		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	LIC310910	3/1/2009	3/1/2010	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 3,000,000 \$ \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE <input type="checkbox"/> Y/N OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below.				WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				
<p>DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS City of Billings is an Additional Insured as required by written contract. City of Billings - Right-of-Way Special Activity Permit which will be held on June 13, 2009.</p>						

CERTIFICATE HOLDER

CANCELLATION

City of Billings Department of Parks, Recreation and Public Lands Attn: Joe Sedin 1233 N. 30th Street P. O. Box 1178 Billings, MT 59103-1178	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE <i>Taren M. Chambers</i>

ACORD 25 (2009/01)

Coll:2639139 Tp1:898446 Cert:12231495

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G3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Yellowstone Health Partnership Fun Run/Walk Street Closure

DEPARTMENT: Public Works/Engineering

PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Yellowstone Health Partnership requests temporary street closures as outlined in the attached event route map on Sunday, June 20, 2009, from 7:00 am to 11:00 am for the Fun Run/Walk. Course map attached to brochure.

Recommended conditions of approval include that the Yellowstone Health Partnership:

7. Have no alcohol consumption in the public right of way
8. Clean area to be used and provide and empty waste cans
9. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
10. Provide and install adequate signs warning motorists of the event
11. Provide a certificate of insurance naming the City of Billings as additional insured
12. Provide additional traffic control at S. 27th Street crossing as approved by City Engineering
7. A representative from the event staff controlling vehicular traffic at intersections must be currently certified as traffic control flaggers by the Montana Flagger Training Program (MDT/LTAP) or by an American Traffic Safety Services Association (ATSSA) flagger training program. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles

ALTERNATIVES ANALYZED:

3. Approve request to close streets for the event (recommended)
4. Deny the street closures

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

RECOMMENDATION

Staff recommends that Council approval the temporary closure from 7:00 am to 11:00 am on Sunday, June 20, 2009 for the Fun Run/Walk.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit
- B. Brochure Describing Event & Course Map
- C. Certificate of insurance

Mar 23 09 05:00p... City Of Billings - Prpl D 406-247-8641

P:3...

03/23/2009 14:42 4062376291

CITY OF BILLINGS

PAGE 01/02



Please check the type of activity you are applying for:

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

Submit this application with attachments to either the Public Works office, 2224 Montana Ave., Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Kim Kaiser

ORGANIZATION MAKING APPLICATION Yellowstone Health Partnership

PHONE 406 - 651-6510

ADDRESS 123 S. 27th St Billings MT 59101

CITY Billings STATE MT ZIP 59101

EMAIL ADDRESS Kim.Kai@Riverstonehealth.org

APPROXIMATE TIME EVENT WILL:

Assemble 7:00 a.m. Start 8:00 a.m. Disband 11:00 a.m.

DATE OF EVENT June 20, 2009

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

See attached brochure

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

See attached brochure

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

1/4

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

Collect all cones and equipment for race.

Mar 23 09 05:01P... City Of Billings - Prpl D 406-247-8641

P. 4

03/23/2009 14:42 4862376291

CITY OF BILLINGS

PAGE 02/02

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

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

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

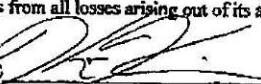
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE 

DATE 3.23.09

APPLICATION APPROVED _____

DATE _____

APPLICATION DENIED _____

DATE _____

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

FOR CITY USE ONLY

FEES: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

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

Montana Family Medicine Residency 8th Annual
Fun Run/Walk Registration Form

First Name	Last Name
Street Address	City
State	Zip Code
Home Phone	Work Phone
E-mail	Birth Date: / /
Fax/Email to the first 75 registered participants!!!	

MAIL ENVELOPE AND PAYMENT TO:	
Montana Family Medicine Residency 123 S. 27th Street Billings, MT 59101 Phone: 406-247-3306	
Make checks payable to: MFMFR	
TOTAL: _____	

Waiver:

I know that running a race is a potentially hazardous activity. I should not enter and run unless I am medically able and properly informed. I assume all risks associated with running in the event, including but not limited to falls, contact with other participants, the effects of the weather, including heat and humidity, traffic and conditions of the road. All risks, side, long term and apparent risks. I, my heirs, and my executors, and my administrators, and my dependents, do hereby release and agree not to hold to act on my behalf, Montana Family Medicine Residency, and all the officers and volunteers, their representatives and successors from all claims or liabilities of any kind arising out of my participation in this event.

Signature _____ Required for all participants. Parent or guardian must sign for participants under 18 years old.

DRAFT

FUN RUN EVENT INFORMATION

5K Fun Run/Walk
Saturday, June 20, 2009

Race Day Schedule

Sunday, June 21, 2009

Registration: 7:30 am - 8:00 am

Run/Walk start: 8:00 am

Refreshments, Awards & Prizes
following the Fun Run/Walk at South Park

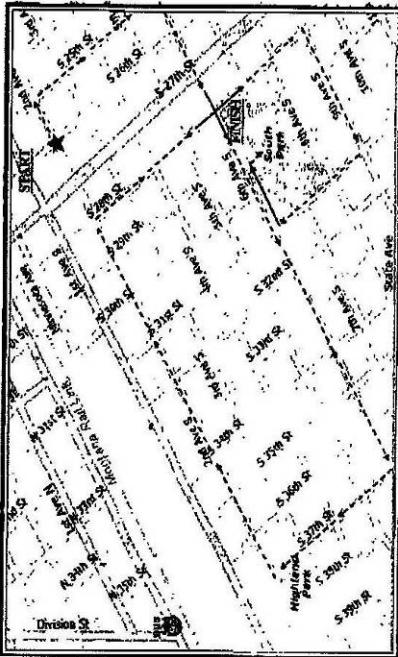
Sponsor a Participant

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

For more information contact:

Montana Family Medicine Residency
247-3306

COURSE MAP



6/2009

Client# 200		CITYOFBI			
ACORD. CERTIFICATE OF LIABILITY INSURANCE					
PRODUCER Holness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
INSURED City Of Billings %Human Resources Dept. P.O. Box 1178 Billings, MT 59104		INSURERS AFFORDING COVERAGE INSURER A: Penn-American Insurance Co. INSURER B: INSURER C: INSURER D: INSURER E:			
COVERS THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSURANCE TYPE GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded:250 GEN'L AGGREGATE LIMIT APPLIED PER: POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC		POLICY NUMBER BINDER828538	POLICY EFFECTIVE DATE (MM/DD/YY) 04/01/09	POLICY EXPIRATION DATE (MM/DD/YY) 04/01/10	LIMITS
AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> Hired AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT <input type="checkbox"/> (Ex. accident) BODILY INJURY <input type="checkbox"/> (Per person) BODILY INJURY <input type="checkbox"/> (Per accident) PROPERTY DAMAGE <input type="checkbox"/> (Per accident)
GARAGE LIABILITY <input type="checkbox"/> ANY AUTO					AUTO ONLY - EA ACCIDENT <input type="checkbox"/> EA ACC OTHER THAN AUTO ONLY: <input type="checkbox"/> AGG EACH OCCURRENCE <input type="checkbox"/> AGGREGATE <input type="checkbox"/> \$ <input type="checkbox"/> \$ <input type="checkbox"/> \$
EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION <input type="checkbox"/> \$					WC STATUS TORT LIMITS <input type="checkbox"/> 30 E.L. EACH ACCIDENT <input type="checkbox"/> \$ E.L. DISEASE - EA EMPLOYEE <input type="checkbox"/> \$ E.L. DISEASE - POLICY LIMIT <input type="checkbox"/> \$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below OTHER					
DESCRIPTION OF OPERATION/ LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS Holder is listed as an additional named insured on policy for the event of MFMR 5K Fun Run/Walk on 6/20/09.					
CERTIFICATE HOLDER Yellowstone Health Partnership 123 S. 27th Street Billings, MT 59101		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 			

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: Alberta Bair Theater Annual Fundraiser Event

DEPARTMENT: Public Works/Engineering

PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Alberta Bair Theater requests the temporary closure from 10:00 am to midnight on June 27, 2009, of Second Avenue North between 27th and 29th Streets and Broadway between 1st Avenue and 3rd Avenue North for the Wild West Soiree that will include a Western Murder Mystery and Western Street Dance with live music and vendors.

Recommended conditions of approval include; Alberta Bair Theater:

1. Contacting all businesses and making them aware of the event two weeks in advance
2. Notifying all emergency facilities, bus lines and media at least two weeks in advance
3. Providing certificate of insurance naming City of Billings as additional insured
4. Provide and install adequate traffic barricades and signs directing motorists around closure

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closures named above for the Alberta Bair Fundraiser.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit Application

- B. Street Closure Map
- C. BID Event Kit
- D. Certificate of Insurance



City of Billings RIGHT-OF-WAY ACTIVITY PERMIT

Please check the type of activity you are applying for:

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

Submit this application with attachments to either the: Public Works office, 2224 Montana Ave., Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION William R. Wood

ORGANIZATION MAKING APPLICATION Alberta Bair Theater

PHONE 406-256-8915

ADDRESS PO Box 1556 Billings MT 59103

CITY Billings STATE MT ZIP 59103

EMAIL ADDRESS woody@albertabairtheater.org

APPROXIMATE TIME EVENT WILL:

Assemble Start 2:00pm Disband 11:00pm

DATE OF EVENT June 27, 2009

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

Wild West Soiree - Fund raising event for ABT to include family event during afternoon; western murder mystery and western street dance during the evening. Event will include live music and special group of actors interacting with crowd and food. Possible western merchandise vendors

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

Footprint of event will be second avenue between 27th & 29th Streets and Broadway between 1st Avenue & 3rd Avenue

Dinner theater will be on Broadway between 3rd and 4th Avenues

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

ABT will clean and/or contract to use B10 services (purple people)

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE: Willie R. Wood DATE 1/16/09

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

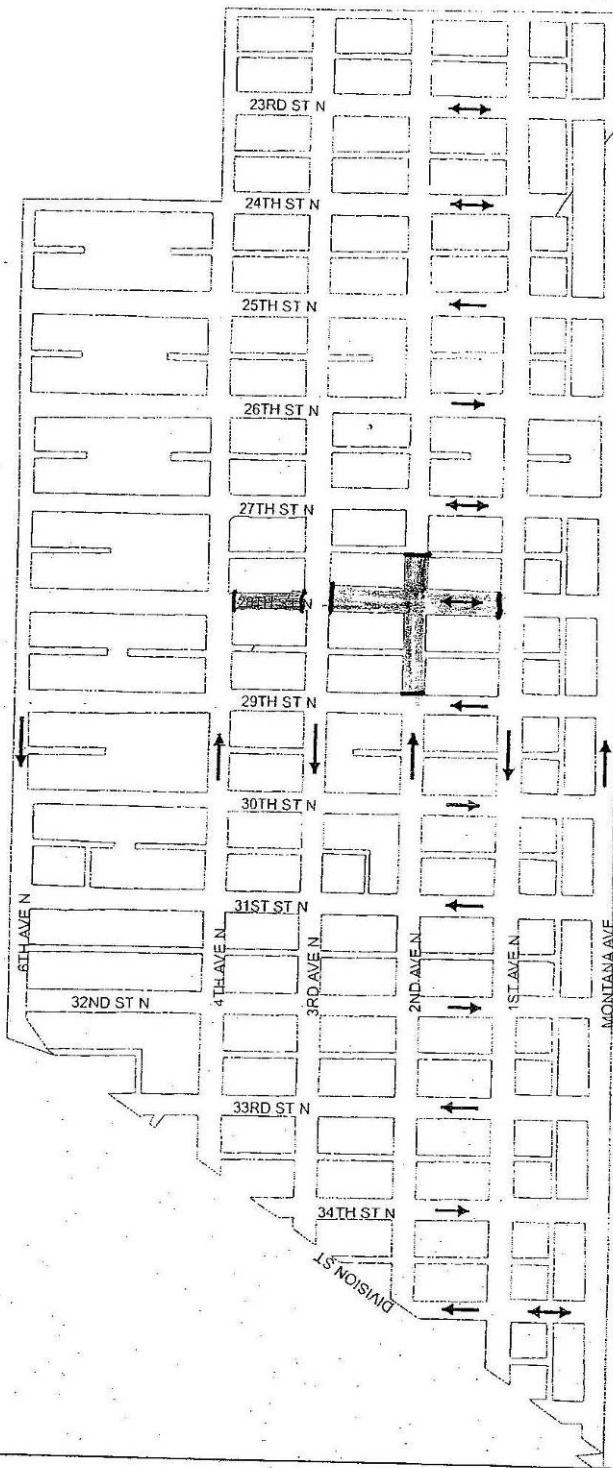
FEES: _____

APPLICANT NOTIFIED BY _____

DATE: _____

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

Downtown Billings Street Direction Map





BID Event Kit of Parts Usage Packet

Below you will see a step by step process that must be implemented in order to close streets and hold an event. You may stage and implement your own event downtown and make use of the BID's "Kit of Parts." You must obtain your own street closure permission and provide your own liability insurance.

STEP 1: Make sure you have a PLAN AND that your block neighbors are "on board" with the idea...or, at least, do not object to your plan.

-Date(s) of Event: June 27, 2009

-Does this event require any Street Closure? Yes No

-Do you have Liability Insurance that will cover this event? Yes No
(You will be required to provide a "Binder" to the City of Billings showing coverage)

-Will you be serving alcoholic beverages? Yes No
(A permit may be required from the Billings Police Department)

What Blocks will be closed: (Example: The 200 Block of N. Broadway)

List all: 300 Block N. Broadway, 100 Block N. Broadway, 200 Block N. Broadway

Briefly Describe Your Event Activity/Participants:

Family Street Fair w/vendors (Food, drink & crafts) - noon - 5:00pm

Street Dance w/ Food & Drink vendors 7:00-11:00pm

Dinner theater fundraiser - 300 people plus 12 performers 5:30pm - 8:00pm

-Specify the exact date and TIME the blocks noted above will be CLOSED: 10:00am - M:night 6/27

-Specify the exact date and TIME the blocks noted above will be REOPENED: M:night 6/27

-Indicate your traffic re-route plan: BE SPECIFIC...SEE EXAMPLE

(Example if closing the 200 Block of N. Broadway...Northbound traffic on N. 28th would be diverted west at 1st Ave. North then resume northbound at N. 29th & southbound traffic on N. 28th would be diverted east at 2nd Ave. North then resume southbound at N. 27th)

-List All of the Businesses impacted by the closure and have them "sign off" on the event:

BUSINESS NAME:	ADDRESS:	SIGNATURE:
1. Christian Science Reading Room	2817 2nd Ave N.	John Galt
2. Desmonds	7019 7th Ave N.	Mark Blake
3. necces's	2821 2nd Ave North	Erica Johnson
4. Goldsmith Gallery	2820 2nd Ave	Paul Petersen
5. "Meridian	2818 2nd Ave N	Don Miller
6. Cricket Clothing	2814 2nd Ave N	Janice K. Gray
7. Montague's	2810 2nd Ave N	John Hartung
Bark Creek		
8. Jackets + Co	112 N. Broadway	Patty Cracraft
9. Muscle Knead - LN SEP	108 N. BROADWAY	
10. Clip + Play	106 N. Broadway	Debra Clark

BUSINESS NAME:

ADDRESS

SIGNATURE:

12. Narcisa 100th N. Broadway Carolyn Hunter

13. ~~Almond B-Downs~~ 214 N Broadway ~~Naomi Blattman~~

14. ~~Joint Apartments~~ 123 N. Broadway ~~Joint~~

15. Paul's Edibles 2712 2nd Ave N Sarah Farn

16. Burkhardt Photography 2710 2nd Ave N Tom Burkhardt

17. Forest Bella 2710 2nd Ave N Vicki Tolle

18. Gallery Interiors 2702 2nd Ave N Rose Walter

19. Rock Creek Coffee 124 N Broadway Peggy Gangago

20. Indian Nation's 207 N. Broadway ~~Naomi Blattman~~

21. BELIZA SALON 217 N BROADWAY ~~Naomi Blattman~~

22. Prairie Blossoms 225 N. Broadway ~~Sally Tolle~~

23.

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34.

Client#: 2149

ALBERTAB

DATE (MM/DD/YYYY)
04/10/09

ACORD™ CERTIFICATE OF LIABILITY INSURANCE	
PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED Alberta Bair Theater Corporation P.O. Box 1566 Billings, MT 59103	INSURERS AFFORDING COVERAGE INSURER A: Cincinnati Insurance Company INSURER B: INSURER C: INSURER D: INSURER E:

COVERAGE(S)

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

INQUIRIES LTR ISSUED	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	CPP0882643	07/01/08	07/01/09	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$500,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OF AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	CPP0882643	07/01/08	07/01/09	COMBINED SINGLE LIMIT (EA ACCIDENT) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY AGG \$
A	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	CPP0882643	07/01/08	07/01/09	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

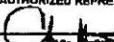
** Supplemental Name **

Alberta Bair Theater Corporation DBA Alberta Bair Theater;
Alberta Bair Endowment Foundation

(See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

The City of Billings PO Box 1178 Billings, MT 59103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE 	

Client#: 2149

ALBERTAB

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

<p>PRODUCER Holness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 58107-0638</p>		<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</p>	
<p>INSURED Alberta Bar Theater Corporation DBA P.O. Box 1556 Billings, MT 59103</p>		<p>INSURERS AFFORDING COVERAGE</p>	<p>NAIC #</p>
		INSURER A: Cincinnati Insurance Company	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGE

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

INSRCD LTR		TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	UNITS
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GENL. AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJCT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGES TO RENTED PREMISES (Ex. Occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				COMBINED SINGLE LIMIT (Ex accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION 3				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				1. WC STATUS, 2. OTH- TORT LIMITS, 3. ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER Liquor Liability	CPP0882643	07/01/08	07/01/09	\$1,000,000 Limit	
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDRD BY ENDORSEMENT / SPECIAL PROVISIONS ** Supplemental Name ** Alberta Bair Theater Corporation DBA Alberta Bair Theater Alberta Bair Endowment Foundation						
(See Attached Descriptions)						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDRESSED BY ENDORSEMENT / SPECIAL PROVISIONS

**** Supplemental Name ****

**Alberta Bair Theater Corporation DBA Alberta Bair Theater
Alberta Bair Endowment Foundation**

(See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

<p>The City of Billings PO Box 1178 Billings, MT 59103</p>	<p><u>CANCELLATION</u></p> <p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.</p> <p><u>AUTHORIZED REPRESENTATIVE</u></p> 
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ACORD™ CERTIFICATE OF LIABILITY INSURANCE

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INSURED Alberta Bair Theater Corporation P.O. Box 1556 Billings, MT 59103		INSURERS AFFORDING COVERAGE	NAIC #
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		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERS

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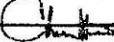
INSR ADD'L LTR	INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	CPP0882643	07/01/08	07/01/09	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$500,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMPOD AGG \$2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	CPP0882643	07/01/08	07/01/09	COMBINED SINGLE LIMIT (EA accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	CPP0882643	07/01/08	07/01/09	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A		OTHER Liquor Liab	CPP0882643	07/01/08	07/01/09	\$1,000,000 Limit

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

** Supplemental Name **

Alberta Bair Theater Corporation DBA Alberta Bair Theater,
Alberta Bair Endowment Foundation

(See Attached Descriptions)

CERTIFICATE HOLDER	CANCELLATION
The City of Billings PO Box 1178 Billings, MT 59103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM **CITY OF BILLINGS, MONTANA** **Monday, May 11, 2009**

TITLE: Big Sky State Games 5K Run Street Closure

DEPARTMENT: Public Works-Engineering Division

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

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests road closures starting at 3rd St. West at Grand Ave and 3rd St. West at Parkhill from 5:30 pm until 7:00 pm and partial road closure for Virginia Lane and Parkhill from 6:00 pm until 7:00 pm for Friday, July 17, 2009 for its annual 5K Run.

Recommended conditions of approval include Big Sky State Games:

1. Have no alcohol consumption in the right of way
2. Clean area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media as soon as possible
4. Provide and install adequate signs warning motorists of the event
5. Provide a certificate of insurance naming City of Billings as additional insured
6. A representative from the event staff controlling vehicular traffic at intersections must be currently certified as traffic control flaggers by the Montana Flagger Training Program (MDT/LTAP) or by an American Traffic Safety Services Association (ATSSA) flagger training program. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process application. Police, traffic control and litter removal are to be paid for by the Big Sky State Games.

RECOMMENDATION

Staff recommends that Council approve the temporary street closure from 5:30 pm to 7:00 pm on Friday, July 17, 2009 for its annual 5K run.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit Application
- B. Course map
- C. Certificate of insurance



City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION

Karen Sanford Gall

ORGANIZATION MAKING APPLICATION

Big Sky State Games

PHONE 254-7424

ADDRESS Box 7136 CITY Blsp STATE MT ZIP 59103

EMAIL ADDRESS ksge@bigskygames.org

APPROXIMATE TIME EVENT WILL:

Assemble 5:30 p.m. Start 6:15 p.m. Disband 7:30 p.m.

DATE OF EVENT Friday, July 17, 2009

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

5K Run - Kicks off Opening Ceremonies for the Big Sky State Games

Please see Attached Map.

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

Road Closures: 3rd St. West at Gerard AVE. 6:00 pm - 7:00 p.m.

↓ 3rd St. West at Parkhill 6:00 pm - 7:00 p.m.

Partial Closures: Virginia LN + Parkhill 6:00 pm - 7:00 p.m.

and Remaining intersections - following race route: 3rd St. W from Gerard to Parkhill intersections on Parkhill to 13th St. W and back to Daylis Stadium (Wendy's Field)

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

over

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

Big Sky State Games volunteers/staff will be responsible for any clean-up needed for the event.

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE Karen Murphy Hall DATE 3/10/09

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

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

5K Race Course

Parkhill Dr.

13th St. W.
12th St. W.

Pioneer Park

**DAYLIS
TRACK**

Finish

**1 Lap
Around
Track**

3rd St. W.

Start

5th St. West

Closed 6:00 - 7:00 p.m.

Canyon Ave

G6

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 11th, 2009

TITLE: Big Sky State Games Triathlon Street Closures

DEPARTMENT: Public Works/Engineering

PRESENTED BY: Dave Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests street closures from 6:00 am to 11:00 am on Sunday July 19, 2009, for a triathlon competition that includes a run course, bike course and kid's course as outlined in the attached maps.

Recommended conditions of approval include Big Sky State Games:

1. Have no alcohol consumption in the right of way
2. Provide police assistance at the corner of Roundup Road, Main and Shepherd Acton Rd
3. Clean area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media as soon as possible
5. Provide and install adequate signs warning motorists of the event
6. Provide a certificate of insurance naming City of Billings as additional insured
7. A representative from the event staff controlling vehicular traffic at intersections must be currently certified as traffic control flaggers by the Montana Flagger Training Program (MDT/LTAP) or by an American Traffic Safety Services Association (ATSSA) flagger training program. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the street closures from 6:00 am to 11:00 am on Sunday July 19, 2009 as outlined in the attached course maps

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

ATTACHMENTS

- A. Right of Way Special Activity Permit
- B. Bike Course Plan
- C. Maps outlining courses
- D. Certificate of insurance



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

Please check the type of activity you are applying for: *Triathlon*

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

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

PERSON MAKING APPLICATION Karen Sanford Gall

ORGANIZATION MAKING APPLICATION Big Sky State Games

PHONE 254-7426

ADDRESS Box 7136 Blgs. CITY MT ZIP 59103

EMAIL ADDRESS KSG@bigskygames.org or Sunrise@bigskygames.org

APPROXIMATE TIME EVENT WILL:

Assemble 6:00 A.M. Start 6:30 A.M. Disband 11:00 A.M.

DATE OF EVENT Sunday, July 19, 2009

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

*Triathlon Competition held by the Big Sky State Games
The event will include an adult + youth course - See attached maps.*

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

*Please see attached map of Running Route - Adult in yellow / youth in pink
Please see attached cycling leg of Triathlon course description - Property owners located in the Old Kmont area have been contacted & given approval of the route that pertains to them. The MT Dept. of Transportation + Yellowstone County have also been contacted for approval of the route that pertains to them. The cycling (adult) routes +*

BLOCK PARTY STREET LOCATION (IF APPLICABLE): Running Routes do not require any street closures

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

Big Sky State Games volunteers/staff will be responsible for any clean-up needed for the event.

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE Karen Skupin Hall **DATE** 3-9-09

APPLICATION APPROVED _____ **DATE** _____

APPLICATION DENIED _____ **DATE** _____

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

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

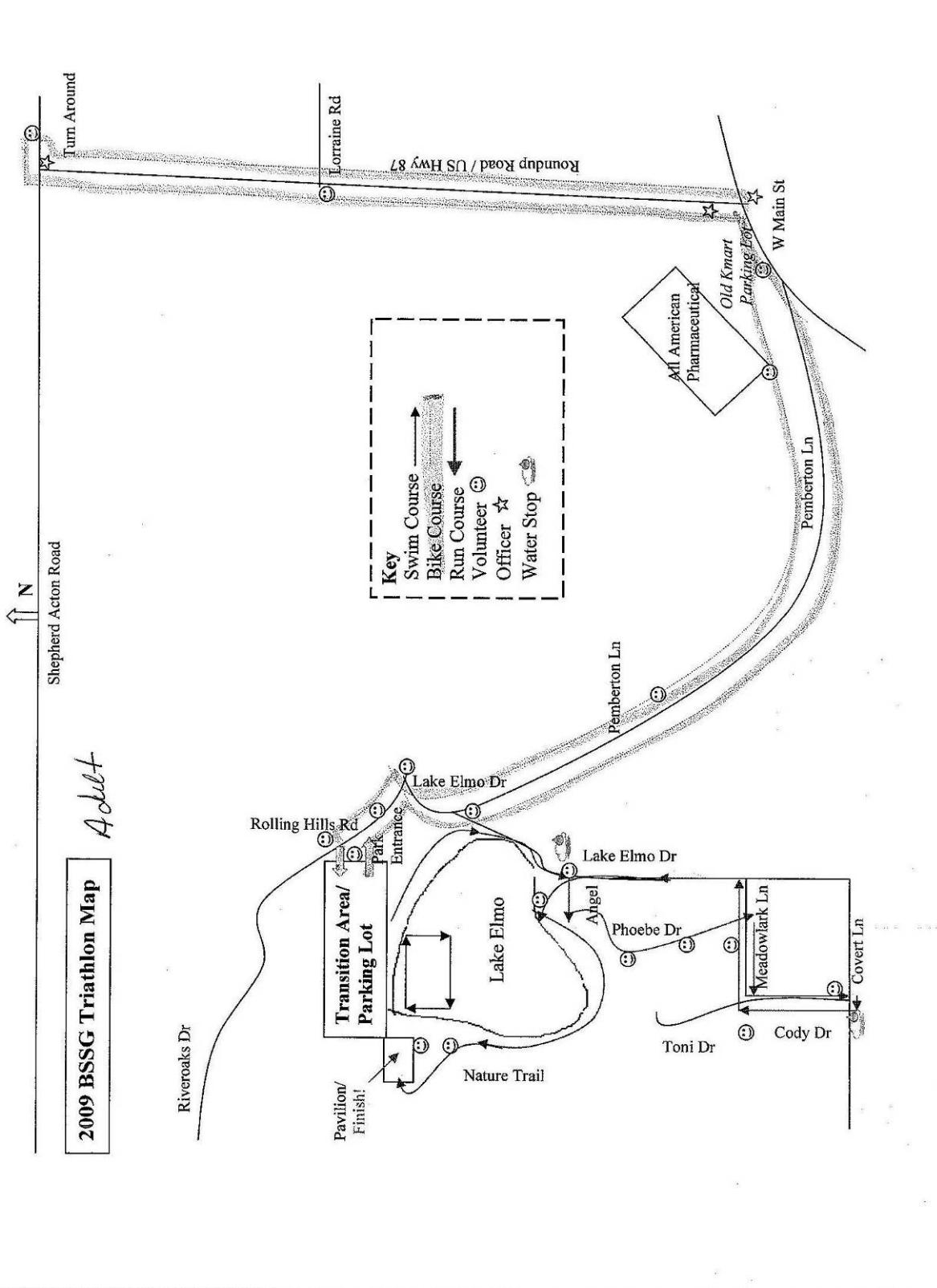
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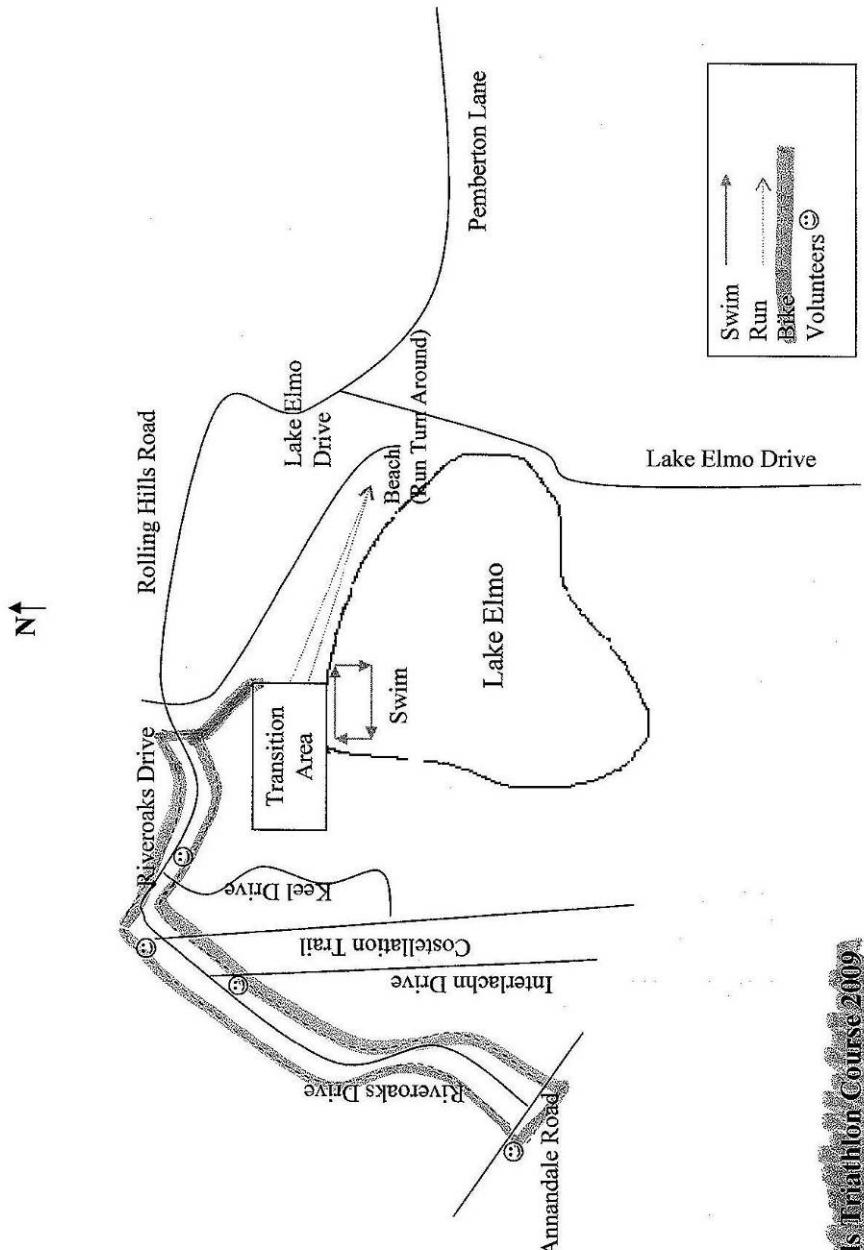
COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY

2009 BSSG Triathlon Bike Course & Plan

- Bike Course begins at conclusion of swim course, inside Lake Elmo State Park near the boat dock area
- Bikers exit the transition area and take a left proceeding past the Park entrance booth (**1 volunteer here**)
- Bikers take a right at the corner of Rolling Hills Rd and Lariat Trail. They proceed on Rolling Hills Rd. (**1 volunteer here**)
- Course continues straight on to Pemberton at the corner of Pemberton and Rolling Hills (**1 volunteer here**)
- At Pemberton and the parking lot entrance to the old KMART now home to the All American Pharmaceuticals, riders take a left into the lot. Lot will be coned so riders will know where to ride. None of the businesses are open on Sunday at 7:00 a.m. except Little Nevada Casino that opens at 8:00 a.m. (confirm).
- Riders exit the parking lot at Main - they take a immediate left turn on Main – and ride in the West Lane, not crossing the traffic on Main. The riders will be riding in a lane that has been coned off for the race. (**1 law enforcement officer in uniform with vehicle and flashing lights**)
- They take another left at the corner of Roundup Rd. and Main (**1 -2 law enforcement officers here with vehicle and flashing lights**)
- Riders will watch traffic to cross and ride the direction of traffic. Riders will ride on the very wide shoulder of the road.
- Riders continue 4.5 miles North on Hwy. 87
- (Volunteer at Lorraine Rd.)
- At the Shepherd Acton Rd. participants turn right proceed to turn around. (**Law enforcement on road to slow traffic**)
- Riders turn around and return to Billings on Hwy. 87 following the course in reverse. Riders ride with traffic the entire way back to Lake Elmo.

2009 BSSG Triathlon Map *Adult*





CERTIFICATE OF INSURANCE					ISSUE DATE (MM/DD/YY) 03-13-2009	
PRODUCER K & K INSURANCE GROUP, INC. 1712 MAGNAVOX WAY P O BOX 2338 FORT WAYNE, IN 46801-2338			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
INSURED NATIONAL CONGRESS OF STATE GAMES MONTANA AMATEUR SPORTS, INC. DBA BIG SKY STATE GAMES 1631 MESA AVENUE, SUITE E COLORADO SPRINGS, CO 80906			COMPANIES AFFORDING COVERAGE			
			COMPANY LETTER A NATIONAL CASUALTY COMPANY COMPANY LETTER B NATIONWIDE LIFE INS CO COMPANY LETTER C			
COVERAGES THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
CO. LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY) 12:01 AM 02-17-2009	POLICY EXPIRATION DATE (MM/DD/YY) 12:01 AM 12/31/09	LIMITS (in thousands)	
A	General Liability <input checked="" type="checkbox"/> Commercial General Liability <input type="checkbox"/> Claims Made <input checked="" type="checkbox"/> Occur. <input type="checkbox"/> Owner's & Contractors Prot. <input type="checkbox"/>	KRO0000000242701	12:01 AM 02-17-2009	12:01 AM 12/31/09	General Aggregate	\$ NONE
	Products-Comp/Ops Aggregate				\$ 1000	
	Personal & Advertising Injury				\$ 1000	
	Each Occurrence				\$ 1000	
	Fire Damage (Any one fire)				\$ 300	
	Medical Expense (Any one person)				\$ 5	
Participant Legal Liability	\$ 1000					
A	Automobile Liability <input type="checkbox"/> Any auto <input type="checkbox"/> All owned autos <input type="checkbox"/> Scheduled autos <input checked="" type="checkbox"/> Hired autos <input checked="" type="checkbox"/> Non-owned autos <input type="checkbox"/> Garage Liability <input type="checkbox"/>	KRO0000000242701	12:01 AM 02-17-2009	12:01 AM 12/31/09	Combined Single Limit	\$ 1000
	Bodily Injury (per person)				\$	
	Bodily Injury (per accident)				\$	
	Property Damage				\$	
	Each Occurrence					
	Aggregate					
	Excess Liability <input type="checkbox"/> <input type="checkbox"/> Other than Umbrella form				Statutory	
	\$				Each Accident	
	\$				Disease-Policy Limit	
B	Workers' Compensation and Employers' Liability	SPX0000003572300	12:01 AM 02-17-2009	12:01 AM 12/31/09	AD&D	\$ 10
	Primary Medical				\$ N/A	
	Excess Medical				\$ 25	
	Weekly Indemnity				\$ X N/A	
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS			\$250. DEDUCTIBLE APPLIES TO EXCESS MEDICAL			
RE: 2009 BIG SKY STATE GAMES			DATE: VARIOUS			
LOCATION: VARIOUS			CERTIFICATE HOLDER IS AN ADDITIONAL INSURED AS PER THE			
ADDITIONAL INSURED ENDORSEMENT FORM KRG156 ATTACHED						
CERTIFICATE HOLDER			CANCELLATION			
(ADDITIONAL INSURED)			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.			
			AUTHORIZED REPRESENTATIVE 			

Client#: 200

Box 64 - 257 - 6291
CITY OF BILLINGSDATE (MM/DD/YYYY)
03/27/09

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		INSURERS AFFORDING COVERAGE NAIC #	
		INSURER A: Penn-American Insurance Co.	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGE(S)

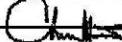
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES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

INSURER CODE LTR. INSUR.	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded:250 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	BINDER829538	04/01/09	04/01/10	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OF AGG \$2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AGG \$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTHER EL. EACH ACCIDENT \$ EL. DISEASE - EA EMPLOYEE \$ EL. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Re: Big Sky State Games 07/17/09 to 07/19/09

CERTIFICATE HOLDER

Montana Amateur Sports, Inc dba Big Sky State Games PO Box 7136 Billings, MT 59103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: Downtown Billings Association (DBA) Street Closures

DEPARTMENT: Public Works/Engineering

PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The DBA requests temporary street closures for its annual events as outlined in the attached document. These annual events are following the same basic outline as in previous years.

Recommended conditions of approval include DBA:

1. Contact all businesses and make them aware of the event two weeks in advance
2. Clean the area to be used and provide and empty waste cans after the event
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide a certificate of insurance naming the City of Billings as additional insured
5. Obtain proper alcohol and noise permits from the Police Department for events that require them

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closures as outlined in the attached document.

Approved By: City Administrator City Attorney

ATTACHMENTS

- A. Letter from DBA outlining events

B. Certificate of insurance



Downtown Billings Alliance
2815 2nd Ave N., Billings, MT 59101
Phone: 259-5060 Fax: 294-5061
Email: Sherris@downtownbillings.com

Street Closure Requests

ALIVE AFTER 5:

Alive After 5 has 13 different hosting venues. The Alive After 5 will include many of the same activities as it did last year. Each one hosted by a different restaurant/Pub. We will need street closure from 3 PM until 9 PM. The event includes music and alcohol sales (open container permit will be obtained by the hosting restaurant/pub) and usually draws a large crowd. The specific dates and hosting restaurants are:

ALIVE AFTER 5:

The first Alive After 5 will be hosted by The Downtown Billings Association. We are requesting to close the following Street

2nd Avenue from N 28th St(N Broadway) to N 29th St. (1 block) from 3:00 pm to 9:00 pm. Traffic diverted Left only onto N 29th from 2nd Ave N. Traffic on N 29th will not be allowed to turn east onto 2nd avenue N from N 29th.

ALIVE AFTER 5:

The second Alive After 5 will be hosted by Don Luis. We are requesting to close the following street:

N. 26th street from Montana Ave to 1st Ave N. (1 block) from 3:00 pm to 9:00pm. Traffic on 1st Ave N. and Montana Ave will not be affected except they will not be allowed to turn south onto N 26th St. from 1st Ave N.

ALIVE AFTER 5:

The third Alive After 5 will be hosted by Bin 119. We are requesting to close the following street:

N. 28th street(N Broadway) between 1st Ave N. and 2nd Ave N. (1 block) from 3:00 PM to 9:00 PM. Traffic on 1st Ave N. and 2nd Ave N. will not be affected except they will not be able to turn north from 1st Ave N or south from 2nd Ave N onto N 28th.

ALIVE AFTER 5:

The fourth Alive After 5 will be hosted by the Carlin. We are requesting to close the following street:

N. 25th street between Montana Ave and 1st Ave N. (1 block) from 3:00pm to 9:00pm. Traffic on Montana Ave will not be allowed to turn north onto N. 25th street and accommodations will be made for the Bus Depot(Bus traffic only) to access their facility via 1st Ave N. at N 25th street Since N 25th street is a north bound one way street, this will be a special departure for normal bus traffic. We will mark the street as closed at 1st Ave N. just to make sure that the regular traffic doesn't try to enter even though they would be going the wrong way on a one

way street. In addition we will use cones and caution tape. We will clearly mark a "No access area" on the street to accommodate any bus traffic (Most of the action and crowd occupancy in the street will occur far from the Bus Depot)

ALIVE AFTER 5:

Thursday, July 2, 2009

The fifth Alive After 5 will be hosted by Dean Wright CPA. We are requesting to close the following street:

N 31st Street between 4th Ave N and 6th Ave N. from 3:00 pm to 9:00pm. Traffic on 4th Ave N and 6th Ave N will not be affected except they will not be able to turn north from 4th Ave N. onto N 31st street.

ALIVE AFTER 5:

Thursday July 9, 2009

The sixth Alive After 5 will be hosted by Tiny's Tavern. We are requesting to close the following street:

N. 24th street between 4th Ave N. and 3rd Ave N.(1 block) from 3:00 pm to 9:00 pm. Traffic on 3rd Ave N. And 4th Ave N. will not be affected except they will not be able to turn north from 3rd Ave N. or south from 4th Ave N. Onto to N 24th street.

ALIVE AFTER 5:

Thursday July 30, 2009

The ninth Alive After 5 will be hosted by Pug Mahon's. We are requesting to close the following street:

N. 30th street between 1st Ave N and 2nd Ave N(1 block) from 3:00pm to 9:00pm. Traffic on 1st Ave N and 2nd Ave N will not be effected except they will not be able to turn south onto N 30th street from 2nd Ave N.

ALIVE AFTER 5:

Thursday August 6, 2009

The tenth Alive After 5 will be hosted by The Montana Brewing Co. We are requesting to close the following street:

N 28th (N Broadway) from 1st to 2nd (1block) from 3:00 pm to 9:00pm. Traffic on 1st Ave N and 2nd Ave N will not be except they will not be able to turn south from 2nd Ave N or north from 1st Ave N onto N. 28th.

ALIVE AFTER 5:

Thursday August 13, 2009

The eleventh Alive After 5's will be hosted by the Monte Carlo. We are requesting to close the following street

N 29th between 1st Ave N and Montana Ave (1 block) from 3:00pm to 9:00pm.Traffic on Montana Ave and 1st Ave N will not be effected except they will not be able to turn north onto N 29th street from Montana Ave.

STRAWBERRY FESTIVAL:

Saturday, June 09, 2009

The Strawberry Festival will include many of the same activities as in the past SEVENTEEN years. We request permission to close the following streets from 3:00 am to 7:00 pm: (6½ blocks)

N 28th from 1st to 3rd Ave. (traffic will not be allowed to turn north from 1st Ave N or south from 3rd Ave N onto N 28th)

2nd Ave N. from the alley west of N. 27th to N. 30th (traffic diverted right only onto N. 30th); And N. 29th from 1st to 3rd Ave. (traffic will not be allowed to turn north from 1st onto N 29th)

HARVESTFEST:**Saturday, October 10, 2009**

HarvestFest is a smaller Strawberry Festival. We are requesting the following streets to be closed on Saturday October 10, 2009 from 6AM to 5PM.

N. 28th from 1st to 3rd Ave. (traffic will not be allowed to turn south on N. Broadway from 3rd)
And 2nd Ave. from the alley west of N. 27th to N. 29th (traffic diverted left only onto N. 29th);

HOLIDAY PARADE:**Friday, November 27, 2009**

Pursuant to City Ordinance Sections 24-540 and 24-501 I would like to hereby request permission to hold our annual Holiday Parade. We intend to use the usual established Downtown Parade Route. We will start the parade at 7:00 PM on Friday, November 23, 2007 with final staging beginning in the staging area east of 26th St. at about 5:30 PM. We will arrange for proper closure of the staging area and parade route. We will do our best to ensure that no vehicles are parked in the parking lanes on 3rd Ave. between 27th and 29th streets and we will secure the services of the Billings Police Department to assist in temporary street closures, especially N. 27th.

We would request the usual police department support for this parade with a lead car and a follow car. We would also like permission to place a review trailer on 3rd Ave across from The Alberta Bair Theater...same as previous years. Finally, I hereby inform your department that there may be animals in this parade and the streets will need to be cleaned following the parade. We will arrange for event zone/no parking signs and place them on the parade route prior to the event.

CHRISTMAS STROLL:**Friday, December 4, 2009**

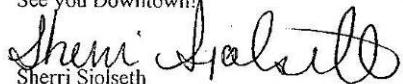
The Christmas Stroll will include many of the same activities as in the past FOURTEEN years and will be ending the event season. At this time, we are requesting that the following streets be closed from 4pm to 9:30pm: (3½ blocks)

N. 28th from 1st to 3rd Ave. (traffic diverted left only onto 1st N.);
And 2nd Ave. from the alley east of N. 27th to N. 29th (traffic diverted left only onto N. 29th).

For all of these events, Downtown Billings will provide necessary barricades for traffic control. We will also arrange for adequate trash cans to control litter as well as clean up. And, we will send letters before each event to inform emergency personnel of the street closures and parade events. At this time, we request adequate police escort for the holiday parade and bike/foot patrol officers, if available, at all events. If you have any questions or concerns, please call me at 259-5060.

Thank you for your time and consideration and for helping us make Downtown Billings a vibrant destination.

See you Downtown!


Sherri Sjolseth
Operations Director
Downtown Billings

Certificate of Liability Insurance documents for DBA events available for viewing in City Clerk's Office

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Resolution for Temporary Suspension of the Camping Ordinance

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: Each year the Bureau of Land Management (BLM) conducts large-scale fire cache staging and tanker base operations at the Airport to mobilize fire fighting services during the Summer fire season. This seasonal operation includes the addition of temporary mobile structures, tents, aircraft, ground support equipment and supplies, as well as campers to accommodate the rotation of fire fighting personnel. This expanded operation is a vital component of the region's fire fighting operations and is set up on the east end of the Airport near the BLM's current leasehold area in the Airport Business Park.

The BLM is requesting an exemption from BMCC Section 24-411, the City's RV and Camper Parking Ordinance for its annual seasonal fire mobilization operation for the period beginning July 1, 2009 through October 31, 2009 as it prepares for the fire season. The Ordinance prohibits parking for camping in anything other than an authorized tourist park, except for a 10-hour rest period in a parking lot in which the owner permits it. The Ordinance does provide for a temporary suspension of the Ordinance for a special event. The Airport also enters into a Letter of Understanding (LOU) establishing the terms and conditions of the BLM's use of the area for this seasonal operation. The Council granted a similar request from the BLM in 2007 and 2008.

ALTERNATIVES ANALYZED:

- Approve a resolution allowing camper parking in the Airport's Business Park for the BLM's annual seasonal fire mobilization operations.
- Do not approve the resolution.

FINANCIAL IMPACT: There is no financial impact anticipated. The BLM pays for any additional costs incurred in setting up the seasonal operation and restoring the location.

RECOMMENDATION

Staff recommends approval of a resolution allowing camper parking on the BLM Leasehold area in the Airport Business Park for 48 hours on either side of the period beginning July 1, 2009 through October 31, 2009.

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

Attachments:

A: Resolution

Attachment A

RESOLUTION O9 - _____

A RESOLUTION OF THE BILLINGS CITY COUNCIL TEMPORARILY SUSPENDING BMCC 24-411 TO ALLOW CAMPING IN THE AIRPORT BUSINESS PARK FOR THE BUREAU OF LAND MANAGEMENT'S ANNUAL SEASONAL FIRE MOBILIZATION OPERATIONS.

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

WHEREAS, the Bureau of Land Management (BLM) will conduct its annual seasonal fire mobilization operations at Billings Logan International Airport in the Airport Business Park; and

WHEREAS, the BLM utilizes temporary mobile structures, tents, aircraft, ground support equipment, and supplies, as well as campers to accommodate the rotation of fire fighting personnel during this vital component of the region's fire fighting operations. The BLM has requested that it be allowed to park campers and set up tents at the event site from July 1 through October 31, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA that BMCC Section 24-411 is hereby temporarily suspended for a period of forty-eight (48) hours before or after the period beginning July 1 through October 31, 2009, on the BLM leasehold in the Airport Business Park, located at Billings Logan International Airport.

APPROVED AND PASSED by the City Council of the City of Billings, Montana this 11th day of May 2009.

THE CITY OF BILLINGS:

BY: _____
RON TUSSING, MAYOR

ATTEST:

CARI MARTIN, CITY CLERK

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Ad-Hoc Council Advisory Committee on East-End Annexation Incentives

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: The City Council approved an initiative at its April 27, 2009, meeting to appoint an Ad-Hoc Advisory Committee to determine any incentives the City should offer to Yellowstone County properties owners to annex into the City before a set date. An estimated 45 properties are county islands within the East Billings Urban Renewal District (EBURD), which is within the City limits, or are properties that are east or south of the district. The EBURD was created by the City Council in 2005, and is bounded by North 10th Street, the BNSF Railroad lines, North 22nd Avenue and properties north of Sixth Avenue North. Many of the county properties are served by older water and sewer systems that need major repair. EBURD is expected in the future to be the site of capital improvements such as water, sewer and roads built with Tax Increment financing.

BMCC Sec. 2-224, Ad Hoc Council Advisory Committees, allows the Mayor and City Council to adopt an ad hoc advisory committee within certain limits, and authorizes the City Administrator to assign staff to the committee. The proposed first meeting is May 21, 2009.

ALTERNATIVES ANALYZED:

- Approve the resolution as presented;
- Amend the resolution by changing the appointments, scope or timeline for the proposed project;
- Deny the resolution, and find another way to encourage annexations in that area or allow properties to annex into the City at the owners' initiative as services are needed.

FINANCIAL IMPACT: The Council Ad-Hoc Advisory Committee on East-End Annexation Alternatives will have no cost to the City; however, recommendations made by the Committee could have an impact on future property tax revenue from the affected areas.

RECOMMENDATION

Approve the Resolution creating the Council Ad-Hoc Committee on East-End Annexation.

ATTACHMENT:

Attachment A – Resolution Creating the Ad-Hoc Advisory Committee

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

Attachment A

RESOLUTION NO. 09-____

**A RESOLUTION CREATING A CITY OF BILLINGS AD-HOC ADVISORY
COMMITTEE ON EAST-END ANNEXATION ALTERNATIVES**

WHEREAS, an East Billings Urban Renewal District (EBURD) was created by the City Council of the City of Billings in 2005 to encourage the renewal of a blighted area bounded by North 10th Street, the BNSF Railroad lines, North 22nd Avenue and properties north of Sixth Avenue North; and

WHEREAS, there are approximately 45 properties that are county islands within EBURD or are east or south of the City limits in the area, many of which are served by aging water and sewer systems; and

WHEREAS, some members of the Billings Urban Renewal District (BIRD), a property owners' group lying within the EBURD that encouraged the creation of the new district, have asked that the City Council consider incentives so those property owners will annex into the City while capital improvements such as roads, sewers and water lines are being planned and developed in the EBURD; and

WHEREAS, the City of Billings City Council on April 27, 2009, unanimously approved a motion duly made and seconded to determine what incentives, if any, the City Council should make available to those property owners to encourage their annexation into the City limits before a date certain; and

WHEREAS, BMCC Sec. 2-224 provides a method for the Mayor and City Council to create by resolution an Ad-Hoc Council Advisory Committee to address issues within certain limits.

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

1. There is hereby created an Ad-Hoc Advisory Committee on East-End Annexation Alternatives to recommend to the City Council what incentives, if any, the City should make available to owners of properties located between the METRA and the East Urban Renewal District (EBURD) if those owners agree to annex into the City by a date also to be recommended by the Ad-Hoc Advisory Committee.
2. The Ad-Hoc Advisory Committee on East-End Annexation Alternatives shall be composed of two City Council members, one of whom shall serve as chair of the Ad-Hoc Committee; two members designated by the Billings Industrial Revitalization District (BIRD) Board; and an ex-officio member designated by the Downtown

Billings Partnership, which is under contract with the City of Billings and the BIRD to manage the EBURD.

3. The City Administrator shall appoint such staff as are necessary to assist the Ad-Hoc Advisory Committee with information during its deliberations and to ensure compliance with all applicable open meetings laws.
4. The Ad-Hoc Advisory Committee on East-End Annexation Alternatives shall report its findings to the City Council no later than August 17, 2009.

APPROVED this 11th day of May 2009.

THE CITY OF BILLINGS

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: SID 1387 Zimmerman Trail Subdivision Sanitary Sewer Improvements
Resolution of Intent to Create District and Set a Public Hearing

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Zimmerman Trail Subdivision, located off of Highway 3 just east of Zimmerman Trial, currently has a private sanitary sewer system which is starting to fail. The property owners within Zimmerman Trail Subdivision have requested to hook up to public sanitary sewer. SID 1387 will construct the necessary improvements to hook all of the properties within Zimmerman Trail Subdivision up to public sanitary sewer.

ALTERNATIVES ANALYZED:

1. Approve the Resolution of Intent to Create SID 1387 and set a public hearing for June 8, 2009, City Council Meeting; or
2. Do not approve the Resolution of Intent to Create SID 1387.

FINANCIAL IMPACT: The total estimated costs of the Improvements, including bond costs, are \$167,000.00 which will be assessed to all of the property owners within the district.

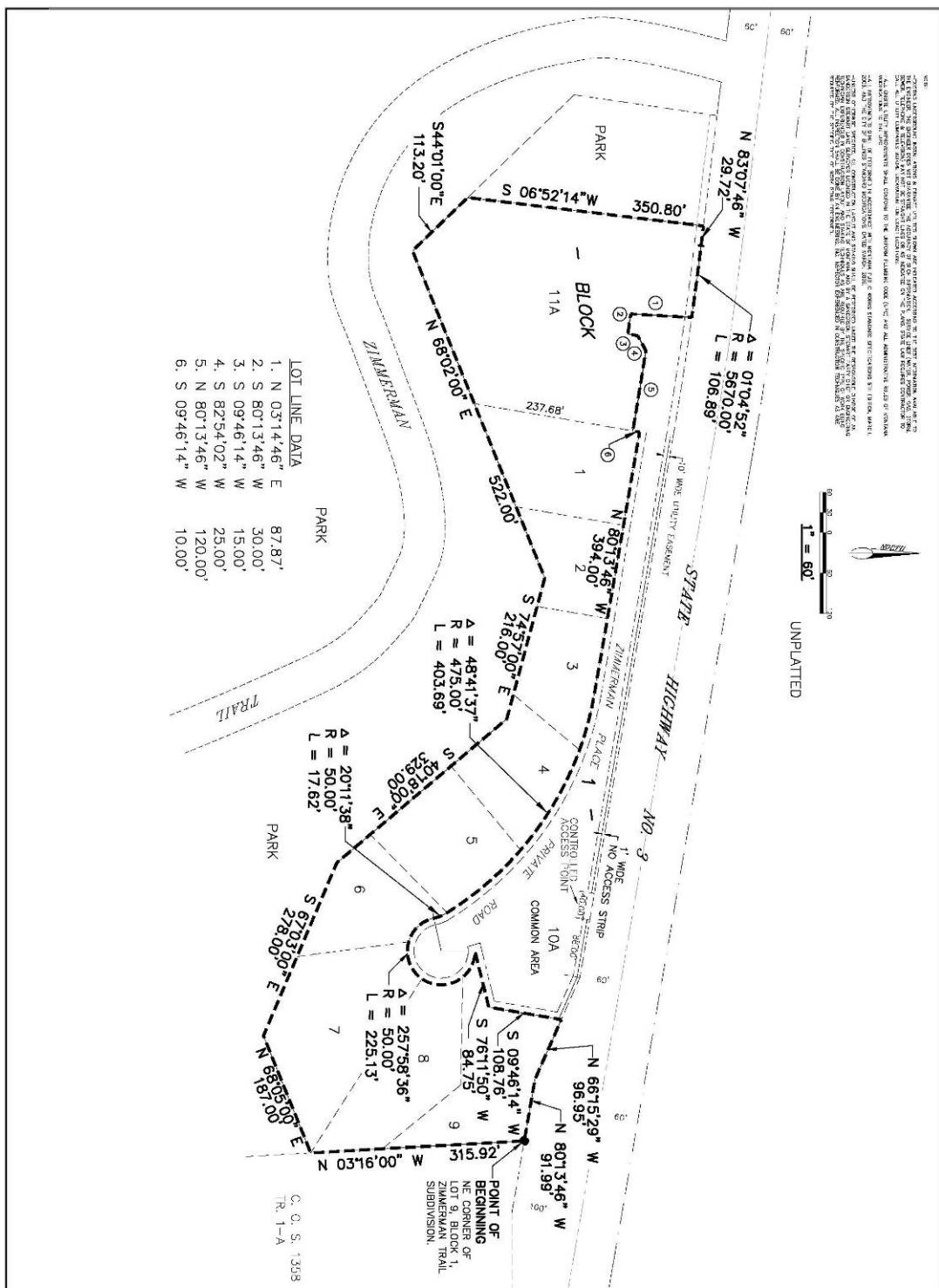
RECOMMENDATION

Staff recommends that Council approve the Resolution of Intent to Create SID 1387 and set a public hearing date for June 8, 2009.

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

ATTACHMENTS

- A. Boundary of Proposed Special Improvement District (1 page)
- B. SID 1387 Zimmerman Trail Subdivision Sanitary Sewer Improvements Resolution of Intent



SID 1387
PROVIDING SANITARY SEWER IMPROVEMENTS TO PORTIONS OF
ZIMMERMAN TRAIL SUBDIVISION
BILLINGS, MONTANA

SANDERSON STEWART
www.sandersonstewart.com

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. _____, entitled: **RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1387; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND** (the Resolution" was duly adopted by the City Council of the City at a meeting on May 11, 2009 that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.)

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof:

voted against the same:

or were absent. _____.

WITNESS my hand officially this _____ day of _____, 200__.

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT
NO. 1387; DECLARING IT TO BE THE INTENTION OF THE CITY
COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF
UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING
THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE
ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED
BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

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

Section 1. Proposed Improvements; Intention To Create District. The City proposes to undertake certain local Improvements (the “Improvements”) to benefit certain property

located in the City. The Improvements consist of the construction of Sanitary Sewer to serve Zimmerman Trail Subdivision, as more particularly described in Section 5. The total estimated costs of the Improvements are \$167,000.00 to be paid from Special Improvement District bonds hereinafter described. It is the intention of this Council to create and establish in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, a Special Improvement District (the "District") for the purpose of financing costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of Special Improvement District bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Bonds are \$167,000.00. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements.

Section 2. Number of District. The District, if the same shall be created and established, shall be known and designated as Special Improvement District No. 1387 of the City of Billings, Montana.

Section 3. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as Exhibit A hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on Exhibit B hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing of each of the properties in the District is shown on Exhibit F hereto (which are hereby incorporated herein and made a part hereof).

Section 4. Benefited Property. The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits A, B, and F are hereby declared to be the Special Improvement District and the territory which will benefit and be benefited by the Improvements and will be assessed for the costs of the Improvements as described in Section 7.

Section 5. General Character of the Improvements. The general character of the Improvements, as shown in Exhibit E, is the construction sanitary sewer improvements to serve Zimmerman Trail Subdivision.

Section 6. Engineer and Estimated Cost. The Engineer will be chosen through a proposal process. The City Engineer's Office has estimated that the costs of the Improvements, including all incidental costs, are \$167,000.00.

Section 7. Assessment Methods.

7.1. Property to be Assessed. All properties within the district are to be assessed for the costs of the Improvements, as specified herein. The costs of the Improvements shall be assessed against the property in the District benefiting from the Improvements based on the equal amount methods described in Section 7-12-4162, M.C.A., as particularly applied and set forth in this Section 7.

7.1.1 Equal Amount Method.

Assessment #1 will include sanitary sewer improvements to all of the properties within Zimmerman Trail Subdivision. The properties to be assessed for these improvements include Zimmerman Trail Subdivision, Block 1, Lots 1-9, and 11A. For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving sanitary sewer improvements, shall equally bear the costs of the street improvements as set forth in Part III hereto to arrive at an equal cost for the sanitary sewer improvements. The total estimated cost of Assessment #1 is \$167,000.00 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving sanitary sewer improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$16,700.00.

7.2. Assessment Methodologies Equitable and Consistent With Benefit. This Council hereby determines that the methods of assessment and the assessment of costs of the specific improvements against the properties benefited thereby as prescribed in this Section 7 are equitable in proportion to and not exceeding the special benefits derived from the respective improvements by the lots, tracts, and parcels to be assessed therefore within the District.

Section 8. Payment of Assessments. The special assessments for the costs of the Improvements shall be payable over a term not exceeding 15 years, each in equal semiannual installments of principal, plus interest, or equal semiannual payments of principal and interest, as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Property Owners have the right to prepay assessments as provided by law. Further, all owners shall have the opportunity to prepay their assessments prior to sale of the SID bonds.

Section 9. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The City will issue the Bonds in an aggregate principal amount not to exceed \$167,000.00 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the properties in the District. This Council further finds it is in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the city to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) **Estimated Market Value of Parcels.** The estimated market value of the lots, parcels, or tracts in the District as of the date of adoption of this resolution, as estimated, by the County Assessor for property tax purposes ranges from \$53,568.00 to \$512,952.00, and is set forth in Exhibit F. The average market value is \$270,655.70 with the median being \$259,710.00. The special assessments to be levied under Section 7 against each lot, parcel, or tract in the District is less than the increase in estimated value of the lot, parcel, or tract as a result of the construction of the Improvements.

(b) **Diversity of Property Ownership.** There are a total of 10 parcels within the

district boundaries. No improvements, public or private, are located on any of the parcels within the District. All of the parcels are owned by separate owners.

(c) Comparison of Special Assessments and Property Taxes and Market Value.

Value. Based on an analysis of the aggregate amount of the proposed, any outstanding special assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a parcel in the District) against each lot, parcel, or tract in the District in comparison to the estimated market value of such lot, parcel, or tract after the Improvements, the City concludes that, overall, the estimated market value of the lots, tracts, or parcels of land in the District exceeds the sum of special assessments, delinquent property taxes, and current assessments and is set forth in Exhibit F.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against the properties in the District shows that of 10 properties, zero (0) properties were delinquent, and is set forth in Exhibit F.

(e) The Public Benefit of the Improvements. The total estimated costs of the Improvements are \$167,000.00. The costs of the Improvements are to be paid from Special Improvement District bonds. All of the properties within the District are zoned Planned Unit Development. The property currently is on a private sanitary sewer system which is failing and the property owners have requested to hook up to public sanitary sewer.

Section 10. Reimbursement Expenditures.

10.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

10.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning

of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

10.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$167,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

10.04. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

10.05. Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 11. Public Hearing Protests. At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the City Clerk until 5:00 p.m., M.T., on the expiration date of said 15-day period (June 5, 2009), written protest against the proposed Improvements, or against the extension or creation of the District or both, and this Council will at its next regular meeting after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said, regular meeting will be held on Monday the 8th day of June 2009, at 6:30 p.m., in the Council Chambers, at 220 North 27th Street, in Billings, Montana.

Section 12. Notice of Passage of Resolution of Intention. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the Billings Times, a newspaper of general circulation in the county on May 21 and May 28, 2009, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or

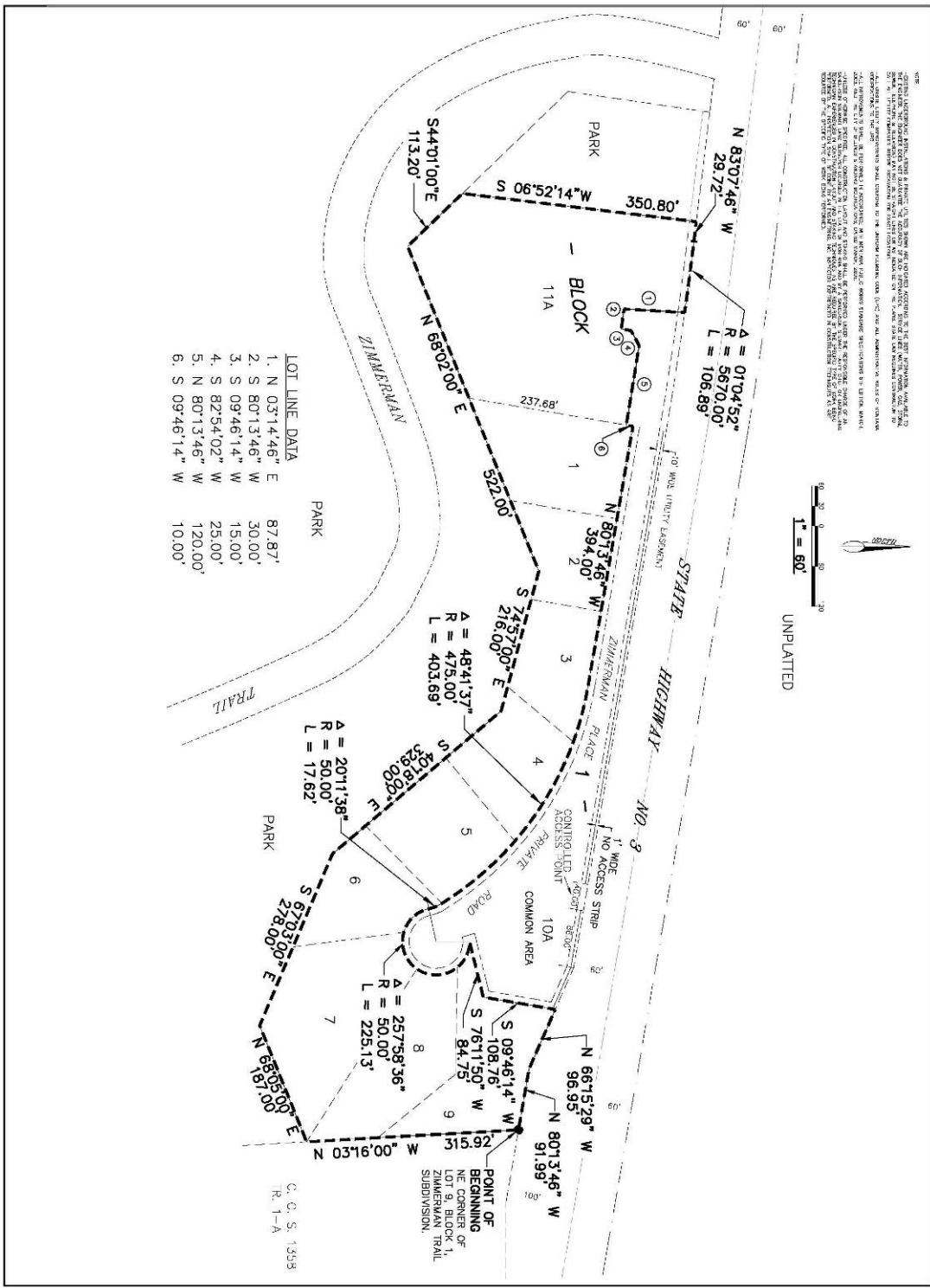
corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana,
this 11th day of May 2009.

Mayor

Attest:

City Clerk



SID 1387
PROVIDING SANITARY SEWER IMPROVEMENTS TO PORTIONS OF
ZIMMERMAN TRAIL SUBDIVISION
BILLINGS, MONTANA

BOUNDARY EXHIBIT

SANDERSON STEWART
www.sandersonstewart.com

EXH

EXHIBIT B

BOUNDARY DESCRIPTION SPECIAL IMPROVEMENT DISTRICT No. 1387 ZIMMERMAN TRAIL SUBDIVISION

Metes and Bounds Description:

A tract of land situated in the SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of Section 27, T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to wit:

Beginning at a point, which is the northeast corner of Lot 9, Block 1, Zimmerman Trail Subdivision;

thence, from said Point of Beginning, along the north and east lot lines of said Lot 9, the following courses and distances:

N 80°13'46" W a distance of 91.99 feet;

N 66°15'29" W a distance of 96.95 feet to the northeast corner of Lot 10A, Block 1, Zimmerman Trail Subdivision;

thence, along the east and south lot lines of said Lot 10A, the following courses and distances:

S 09°46'14" W a distance of 108.76 feet;

S 76°11'50" W a distance of 84.75 feet;

along a non-tangent curve to the right with a central angle of 257°58'36", a radius of 50.00 feet and a length of 225.13 feet;

along a curve to the left with a central angle of 20°11'38", a radius of 50.00 feet and a length of 17.62 feet;

along a curve to the left with a central angle of 48°41'37", a radius of 475.00 feet and a length of 403.69 feet;

N 80°13'46" W a distance of 394.00 feet to the northwest corner of Lot 1, Block 1, Zimmerman Trail Subdivision;

thence, along the west lot line of said Lot 1, S 09°46'14" W a distance of 10.00 feet to the northeast corner of Lot 11A, Block 1, Zimmerman Trail Subdivision;

thence, along the north lot line of said Lot 11A, the following courses and distances:

N 80°13'46" W a distance of 120.00 feet;

S 82°54'02" W a distance of 25.00 feet;

S 09°46'14" W a distance of 15.00 feet;

S 80°13'46" W a distance of 30.00 feet;

N 03°14'46" E a distance of 87.87 feet to a point on the south right-of-way line of State Highway No. 3;

thence, following said south right-of-way line the following courses and distances:

along a curve to the left of said south right-of-way line of State Highway No. 3 with a central angle of 01°04'52", a radius of 5670.00 feet and a length of 106.89 feet;

N 83°07'46" W a distance of 29.72 feet to the northwest corner of Lot 11A, Block 1, Zimmerman Trail Subdivision;

thence, along the west lot line of said Lot 11A, S 06°52'14" W a distance of 350.80 feet to the southwest corner of said Lot 11A;

thence, along the southern boundary of Zimmerman Trail Subdivision the following courses and distances:

S 44°01'00" E a distance of 113.20 feet;

N 68°02'00" E a distance of 522.00 feet;

S 74°57'00" E a distance of 216.00 feet;

S 40°18'00" E a distance of 329.00 feet;

S 67°03'00" E a distance of 278.00 feet;

N 68°05'00" E a distance of 187.00 feet to the southeast corner of Lot 8, Block 1, Zimmerman Trail Subdivision;

thence, along the east lot lines of said Lot 8 and Lot 9, Block 1, Zimmerman Trail Subdivision, N 03°16'00" W a distance of 315.92 feet to the Point of Beginning;

said tract containing an area of approximately 7.62 acres.

6-Apr-09

EXHIBIT C

SID 1387 - ZIMMERMAN TRAIL SUBDIVISION

ENGINEER'S ESTIMATE OF PROBABLE COST

Sanitary Sewer Improvements

This estimate is based on approximate quantities and costs for improvements, complete in-place to serve portions of Zimmerman Trail Subdivision

ALL ITEMS ARE COMPLETE IN-PLACE

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
101	1	LS	Mobilization and Insurance (5%)	@ \$4,339.21	/ LS = \$4,339.21
102	1	EA	e/one model DH502 grinder pump w/ controls & appurtenances	@ \$24,000.00	/ EA = \$24,000.00
103	1	LS	Power to pump station and control panel	@ \$3,000.00	/ LS = \$3,000.00
104	2,103	LF	2-inch SIDR-7 HDPE	@ \$20.00	/ LF = \$42,060.00
105	2	EA	2-inch valve	@ \$350.00	/ EA = \$700.00
106	1	LS	2-inch sanitary sewer service	@ \$500.00	/ LS = \$500.00
107	13	LF	Insulation	@ \$45.00	/ LF = \$585.00
108	2	EA	Manhole and flushing manhole assembly	@ \$1,750.00	/ EA = \$3,500.00
109	2	EA	Connection to existing LPSS	@ \$1,500.00	/ EA = \$3,000.00
110	170	SY	Asphalt restoration	@ \$30.00	/ SY = \$5,100.00
			Subtotal		= \$86,784.21
			Construction Contingency (10%)		= \$8,678.42
			TOTAL ASSESED CONSTRUCTION & CONTINGENCY		= \$95,462.63

<u>Construction Administrative Costs</u>	
Preliminary Engineering & Design	= \$6,341.19
Final Design	= \$2,386.57
Construction Inspection and Quality Control	= \$1,909.25
Construction Engineering and Management	= \$1,909.25
Quality Control Testing	= \$2,863.88
TOTAL ADMINISTRATIVE COSTS	= \$15,410.14

System Development Fee	
Master Meter (2-inch)	= \$27,342.00
4% Franchise Fee	= \$1,093.68
Total Wastewater System Development Fee	= \$28,435.68
Total Construction, System Development Fee, and Construction Administration	\$139,308.45
Bond Costs	\$ 27,691.55
Total Costs	\$167,000.00
Number of Parcels	10
Assessment per parcel	\$16,700.00

EXHIBIT D

SID 1387 - ZIMMERMAN TRAIL SUBDIVISION

TABLE OF ESTIMATED ASSESSMENTS PER ITEM

CODE #	ASSESSMENT ITEM	RAW SID FEES	% OF CONSTRUCTION	TOTAL TIER 1 CONSTRUCTION	TOTAL TIER 1 CONSTRUCTION	TOTAL UNITS PER ITEM	CASH		% APPLIED TO ASSESSMENT	SID BOND COSTS	TOTAL THRU ADMINISTRATION COSTS	UNIT COST PER ASSESSMENT	
							PER ITEM	PER UNIT					
1	Assessment #:	\$115,319.89	100.00%	\$8,678.42	\$123,898.31	\$15,410.14	\$139,308.45	10.00	EA	\$15,930.65	10.00	\$139,308.45	
	TOTALS	\$115,219.89	100.00%	\$8,678.42	\$123,898.31	\$15,410.14	\$139,308.45			\$139,308.45	100.00%	\$27,691.65	\$167,000.00

EXHIBIT E
SID 1387 - ZIMMERMAN TRAIL SUBDIVISION

PROJECT DESCRIPTION

Special Improvement District No. 1387 shall construct the following improvements to Zimmerman

- 1) Construction of sanitary sewer to serve Zimmerman Trail Subdivision.

EXHIBIT F

SID 1387 - ZIMMERMAN TRAIL SUBDIVISION

Sanitary Sewer Improvements

TAX ID, NUMBER 6-13	PREVIOUS SID #	PREVIOUS SID PAY-OFF	SID DELINQUENT	CASH ASSESSMENT	SID 1387 CONTRIBUTION	SID PAY-OFF + DELINQUENT + SID 1387 ASSESSMENT	ESTIMATED MARKET VALUE	ESTIMATED MARKET VALUE AFTER IMPROVEMENTS
CL1850		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$193,822.00	\$212,522.00
CL1851		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$255,552.00	\$272,552.00
CL1852		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$218,790.00	\$235,490.00
CL1853		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$299,178.00	\$313,878.00
CL1854		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$382,919.00	\$399,619.00
CL1855		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$263,868.00	\$280,568.00
CL1856		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$327,822.00	\$344,522.00
CL1857		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$512,952.00	\$529,652.00
CL1858		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$196,086.00	\$212,786.00
CL1860		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$53,568.00	\$70,268.00
AVERAGE		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$270,655.70	\$287,355.70
MEDIAN		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$259,710.00	\$276,410.00
LOW		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$53,568.00	\$70,268.00
HIGH		\$0.00	\$0.00	\$16,700.00	\$0.00	\$16,700.00	\$512,952.00	\$529,652.00

Note: Delinquent taxes are reported as of 4/07/09
 Areas that are shaded represent cash contributions.

CITY OF BILLINGS, MONTANA
SPECIAL IMPROVEMENT DISTRICT ASSESSMENT DATA
PART TWO

		DATA CARDS	PROCESSING COLS
DATE:	April 6, 2009	A&B	2 - 5
S.I.D. NUMBER:	1387	A	6 - 39
S.I.D. DESCRIPTION:	Sanitary Sewer Improvements for Zimmerman Trail Subdivision		
YEARS TO BE ASSESSED:	15	A	59 - 60
TOTAL S.I.D. AREA:	N/A	A	61 - 71
MEASUREMENT:	X EA	SF	LF
S.I.D. COSTS:	X	ESTIMATED PER CONCEPT PLANS ESTIMATED PER BID PRICE FINAL PER ACTUAL CONSTRUCTION	
S.I.D. MAIN IMPROVEMENT COST:	\$167,000.00		
SPECIAL ADDITIONS:			
CODE	Quantity	Unit Cost	Total
1 Assessment #1	10.00	\$ 16,700.0000	\$ 167,000.00
TOTAL PROJECT COST		= \$	167,000.00
			A
			89 - 96
(ALL COSTS TO INCLUDE PRORATA SHARE OF ADMINISTRATIVE COSTS)			
CITY CENTRAL SUPPORT SERVICES TO COMPLETE			
FIRST YEAR TO BE ASSESSED:		A	40 - 41
TYPE ASSESSMENT:	PENDING	FINAL	A
INTEREST RATE:		A	42
BOND ISSUE DATE:		A	53 - 58
		A	73 - 78

PART III
SID 1387 - ZIMMERMAN TRAIL SUBDIVISION
TABLE OF ESTIMATED ASSESSMENTS PER PROPERTY

SID COSTS:

ESTIMATE PER CONCEPT PLANS
 ESTIMATE PER BID PRICES
 FINAL PER ACTUAL CONSTRUCTION

PARCEL	OWNER	SUBDIVISION	BLK	LOT/ TRACT	TAX I.D. 6-13	Assessment #1			TOTAL COST
						CODE	1	EA	
						UNIT	\$16,700.0000		
1	DAVID GROSHENS	ZIMMERMAN TRAIL SUBDIVISION	1	1	C11850	1	1.00	\$16,700.00	\$16,700.00
2	GARY & JO DUSZKIEWICZ	ZIMMERMAN TRAIL SUBDIVISION	1	2	C11851	1	1.00	\$16,700.00	\$16,700.00
3	SHARON MARS	ZIMMERMAN TRAIL SUBDIVISION	1	3	C11852	1	1.00	\$16,700.00	\$16,700.00
4	VALERIE DEHOSTOS	ZIMMERMAN TRAIL SUBDIVISION	1	4	C11853	1	1.00	\$16,700.00	\$16,700.00
5	EDWIN & TERESA DINKEL	ZIMMERMAN TRAIL SUBDIVISION	1	5	C11854	1	1.00	\$16,700.00	\$16,700.00
6	MARY RUFFATO	ZIMMERMAN TRAIL SUBDIVISION	1	6	C11855	1	1.00	\$16,700.00	\$16,700.00
7	HOWARD & BRENDA KNAPP	ZIMMERMAN TRAIL SUBDIVISION	1	7	C11856	1	1.00	\$16,700.00	\$16,700.00
8	BRIAN BOSS	ZIMMERMAN TRAIL SUBDIVISION	1	8	C11857	1	1.00	\$16,700.00	\$16,700.00
9	JAMES & LOIS BOS	ZIMMERMAN TRAIL SUBDIVISION	1	9	C11858	1	1.00	\$16,700.00	\$16,700.00
10	STEVEN & PAULINE TOSTENRUD	ZIMMERMAN TRAIL SUBDIVISION	1	11A	C11860	1	1.00	\$16,700.00	\$16,700.00
TOTALS		Totals			10	10	10.00	\$167,000.00	\$167,000.00

PART III**SID 1387 - ZIMMERMAN TRAIL SUBDIVISION**

TABLE OF ESTIMATED ASSESSMENTS PER PROPERTY FOR CASH CONTRIBUTION

SID COSTS:

ESTIMATE PER CONCEPT PLANS
 ESTIMATE PER BID PRICES
 FINAL PER ACTUAL CONSTRUCTION

PARCEL	OWNER	SUBDIVISION	BLK	TRACT	LOT/ NUMBER	Assessment #1			2.5% PRIVATE	TOTAL COST	CONTRACT FEE	TOTAL CONTRIBUTION
						CODE	1	UNIT EA				
						RATE	\$13,930.8454					
1	DAVID GROSHENS	ZIMMERMAN TRAIL SUBDIVISION	1	1	C11850		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	GARY & JO DUSZKIEWICZ	ZIMMERMAN TRAIL SUBDIVISION	1	2	C11851		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3	SHARON MARS	ZIMMERMAN TRAIL SUBDIVISION	1	3	C11852		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4	VALERIE DEHOSTOS	ZIMMERMAN TRAIL SUBDIVISION	1	4	C11853		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5	EDWIN & TERESA DINKEL	ZIMMERMAN TRAIL SUBDIVISION	1	5	C11854		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
6	MARY RUFFATO	ZIMMERMAN TRAIL SUBDIVISION	1	6	C11855		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
7	HOWARD & BRENDA KNAPP	ZIMMERMAN TRAIL SUBDIVISION	1	7	C11856		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
8	BRIAN BOSS	ZIMMERMAN TRAIL SUBDIVISION	1	8	C11857		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
9	JAMES & LOIS BOS	ZIMMERMAN TRAIL SUBDIVISION	1	9	C11858		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
10	STEVEN & PAULINE TOSTENRUD	ZIMMERMAN TRAIL SUBDIVISION	1	11A	C11860		0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTALS			Totals			10	0	0.00	\$0.00	\$0.00	\$0.00	\$0.00

6-Apr-09

RECOMMENDED BONDING COST ANALYSIS

SID 1387 - ZIMMERMAN TRAIL SUBDIVISION

Sanitary Sewer Improvements

SID CONSTRUCTION COSTS	\$95,462.63
ADMINISTRATION COSTS	
Preliminary Engineering & Design	\$6,341.19
Final Design	\$2,386.57
Construction Inspection and Quality Control	\$1,909.25
Construction Engineering and Management	\$1,909.25
Quality Control Testing	\$2,863.88
SUBTOTAL ADMINISTRATION COSTS	\$ 15,410.14
SUBTOTAL PROJECT COSTS	\$ 110,872.77
SYSTEM DEVELOPMENT FEES	\$28,435.68
SUBTOTAL	\$ 139,308.45
CASH CONTRIBUTION	\$ -
PROJECT COST ATTRIBUTED TO BONDS	\$ 139,308.45
SID COSTS	
ADMINISTRATION / FINANCE FEES (2.5%)	\$ 4,175.00
ENGINEERING FEE (3.5%)	\$ 5,845.00
SID REVOLVING FUND (5%)	\$ 8,350.00
BOND DISCOUNT FEE (2%)	\$ 3,340.00
ISSUANCE COSTS (3.0%)	\$ 5,010.00
BANK FEES	\$ 1,000.00
ROUNDOFF	\$ (28.45)
TOTAL BONDING COST	\$ 167,000.00

BONDS AWARDED TO:

INTEREST RATE % DATE BONDS ISSUED:

BONDS @ \$ TOTAL ISSUE \$

PREMIUM \$ BONDS TO BE PAID ANNUALLY COMMENCING JANUARY 1,

AND SHALL MATURE JANUARY 1, _____

APPROVED THIS _____ DAY OF _____ 20____

ENGINEER FOR THE DISTRICT

DIRECTOR OF FINANCE

CITY ENGINEER



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: SILMD 307 – Resolution of Intent to Create a Special Improvement Lighting Maintenance District for Shiloh Road from Rimrock Road to Pierce Parkway and set a Public Hearing for Creation of the District at the June 8th Council Meeting

DEPARTMENT: Public Works Department

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

PROBLEM/ISSUE STATEMENT: With the expansion of Shiloh Road from Rimrock Road to Pierce Parkway, street lighting is proposed to provide for driver and pedestrian safety. In order to pay the energy and maintenance costs for lighting it is necessary to create a Special Improvement Lighting Maintenance District (SILMD), based on the lineal frontage method, to assess the energy and maintenance costs to abutting property owners. Passage of the Resolution of Intent is the first step in the legal process of creating a SILMD. Passage of this Resolution will trigger the mailing of legal notices to the affected property owners and set a public hearing for the June 8, 2009, City Council meeting, where action will be taken for creation of this SILMD.

ALTERNATIVES ANALYZED:

1. Create the SILMD to provide a source of funding for operation and maintenance of the streetlights and set a public hearing for June 8, 2009.
2. Do not create an SILMD nor set a public hearing date.

FINANCIAL IMPACT: All maintenance and energy costs for this proposed light district will be paid for by assessments against properties within the district. A number of City parks and City owned property lie within the district. The total estimated assessments for the City owned properties are \$18,943.64, or 31.33%.

RECOMMENDATION

Staff recommends that Council pass this Resolution of Intent to create SILMD 307 and set a public hearing date for June 8, 2009, where action will be taken for creation of this SILMD.

Approved By:

City Administrator

City Attorney

ATTACHMENTS

- A. District Boundary Map
- B. Resolution of Intent to Create SILMD 307

INTRODUCTION

With the expansion of Shiloh Road from Rimrock Road to Pierce Parkway, street lighting is proposed to provide for driver and pedestrian safety. In order to pay the energy and maintenance costs for lighting it is necessary to create a Special Improvement Lighting Maintenance District (SILMD), based on the lineal frontage method, to assess the energy and maintenance costs to abutting property owners. Passage of the Resolution of Intent is the first step in the legal process of creating a SILMD. Passage of this Resolution will trigger the mailing of legal notices to the affected property owners and set a public hearing for the June 8, 2009, City Council meeting, where action will be taken for creation of this SILMD.

PROCEDURAL HISTORY BACKGROUND

1. May 11th (this meeting), approve Resolution of Intent to create SILMD 307
2. May 14th, legal notices mailed to all affected property owners, 15-day protest period begins
3. May 14th and May 21st, legal notices published in the *Billings Times*
4. May 29th, 15-day protest period ends
5. June 8th Council meeting, Public hearing and creation of SILMD 307
6. November 2009, initial assessments appear on tax statements

BACKGROUND

The streetlights in the proposed district will be installed by the Montana Department of Transportation with the various phases of the Shiloh Road Project, but will be owned and operated by the City of Billings. Therefore, it is necessary to create a SILMD to pay for the energy and maintenance for the lighting. The monthly energy fees paid for street lighting are established by the Montana Public Service Commission and are subject to change in the future. It was determined that the best assessment method for this particular SILMD would be the frontage method where only properties abutting or sharing a boundary with Shiloh Road would be assessed their proportionate share of the SILMD.

Due to the varying nature of the properties located along Shiloh Road, estimated assessments differ greatly from property to property. The estimated annual assessments in this district will range from \$5.46 for individual condo owners, \$101.01 for individual residential property owners, \$3,335.49 for farm land, and \$2,321.61 for large commercial developments. The proportionate share to the City is \$18,943.64 or 31.33% of the overall district assessment, which primarily consists of the

Shiloh Drain frontage and will be continuously paid for by the City for the life of the District.

ALTERNATIVES ANALYSIS

1. Create the SILMD to provide a source of funding for operation and maintenance of the streetlights. This is the standard method of paying the cost of energy and maintenance for all street lighting in Billings.
2. Do not create an SILMD. In the case of Shiloh Road, a potential safety hazard would be created if the lights were not installed because of the raised median, roundabouts and anticipated number of pedestrians.
3. Development of some other source of funding to pay for street light energy and maintenance. Council has previously entertained discussions of creating a City-Wide arterial lighting district several times, but has directed staff not to pursue this option.

RECOMMENDATION

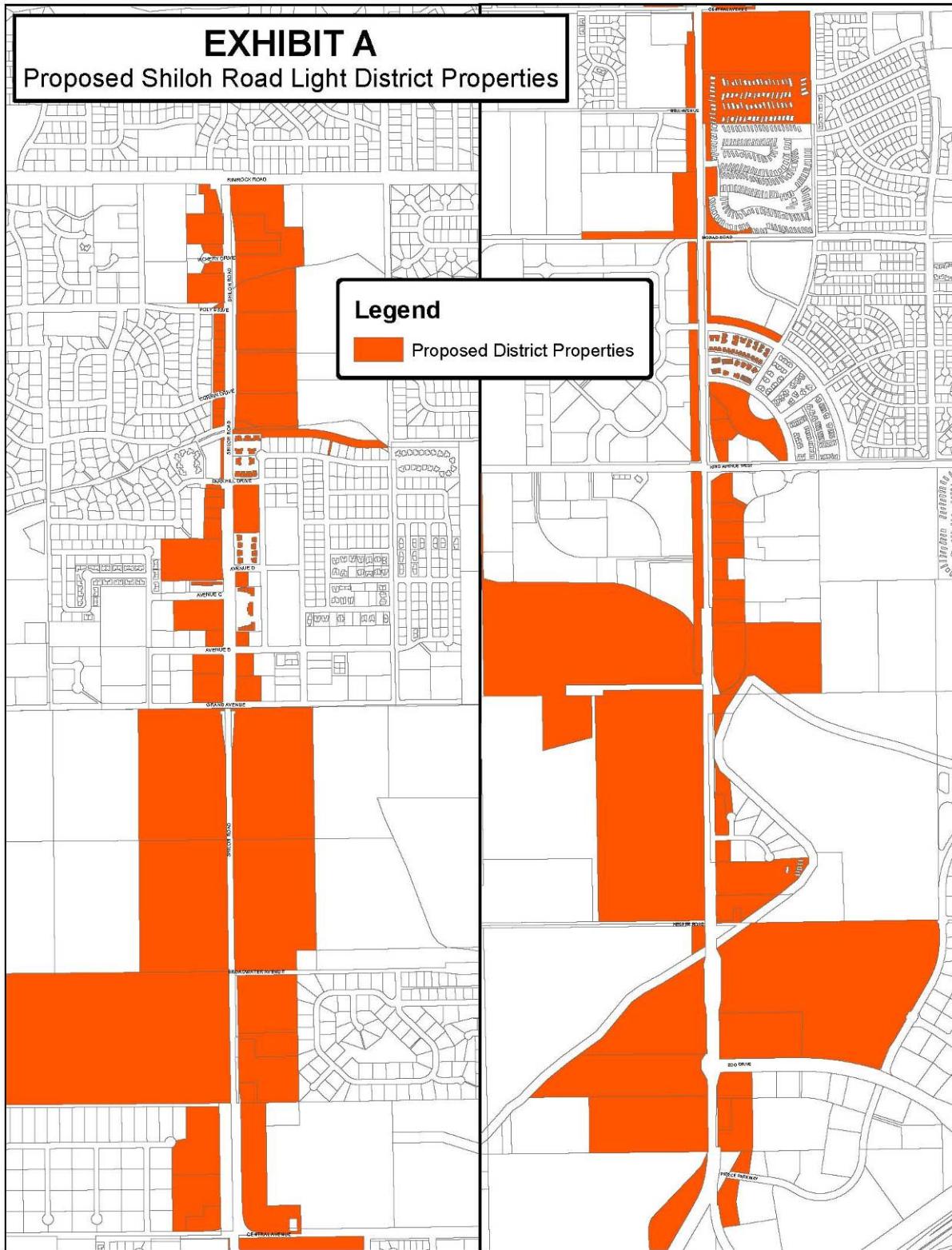
Staff recommends that Council pass this Resolution of Intent to create SILMD 307 and set a public hearing date for June 8, 2009, where action will be taken for the creation of this SILMD.

ATTACHMENTS

- A. District Boundary Map
- B. Resolution of Intent to Create SILMD 307

EXHIBIT A

Proposed Shiloh Road Light District Properties



RESOLUTION NO. 09-_____

A RESOLUTION OF INTENTION TO CREATE SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 307 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, safety, 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 it is the intention to create Special Improvement Lighting Maintenance District (SILMD) 307. That safety, 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 streetlights 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. 307" hereinafter called the District, and the boundaries of the District are hereby declared to include: All lots, parcels and pieces of land abutting or sharing a property boundary with Shiloh Road from Rimrock Road to Pierce Parkway, as shown on the map designated as Exhibit "A" available for viewing at the office of the City Clerk, 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 streetlights.

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 two-hundred and two (202) 250-watt high-pressure sodium (HPS) fixtures mounted on steel, mast arm style poles and served by underground wiring, fourteen (14) 70-watt metal halide (MH) fixtures mounted within the pedestrian crossing, two (2) 150-watt high-pressure sodium fixtures mounted on steel, mast arm style poles and served by underground wiring, and three (3) 400-watt high-pressure sodium fixtures mounted on steel, mast arm style poles and served by underground wiring. As this District is being created prior to the streetlights being installed, the number of lights described above is based off of plan quantities and may or may not reflect actual installed quantities. The City of Billings shall own and operate 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 approved by the Montana Public Service Commission. Said rate is currently estimated at \$6.12 per 150-watt HPS unit, \$10.27 per 250-watt HPS unit, \$15.26 per 400-watt HPS unit, \$7.23 per 70-watt MH unit, per month, and that NorthWestern Energy Company shall provide energy to the lighting fixtures. As the cost to supply energy and maintenance may change from year to year, assessments may vary from year to year to reflect these changes. 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 \$60,466.65; 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 its' assessable abutting or bordering property boundary bears to the assessable boundary of the entire District, exclusive of streets, avenues, alleys and other similar public places. The estimated cost of the District per year for property owners is on the basis of approximately \$1.25254133 per lineal foot of abutting or bordering property boundary.

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 this 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. 307 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 8th day of June, 2009, 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. 307 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. 307. Said notice is to be published and mailed on the same date.

PASSED by the City Council and APPROVED this 11th day of May 2009.

CITY OF BILLINGS

By _____
Ron Tussing Mayor

ATTEST:

By _____
Cari Martin City Clerk

SILMD 307- Exhibit B

TaxID	OwnerName	PhysicalAddress	Frontage	Estimated SILMD Assessment Based on Frontage
A26424	SOCO DEVELOPMENT &	GRAND AVE	244.64 \$	308.90
A26424B	MONTANA DEVELOPMENT CO	1511 SHILOH RD	234.53 \$	296.26
A26473	POTTERER, JIMMIE R & DONNIE M	3990 AVENUE D	147.95 \$	186.81
A26475A	STERNAD, JAY A	1655 SHILOH RD A	22.49 \$	28.40
A26475B	SMITH, EDWIN K & DEBORAH J	1655 SHILOH RD B	26.99 \$	34.08
A26475C	QD ENTERPRISES LLC	1655 SHILOH RD C	31.49 \$	39.76
A26475D	GALARNEAU, GORDON D JR & RINDA	1655 SHILOH RD D	35.99 \$	45.44
A26475E	FIRST INTERSTATE BANK	1655 SHILOH RD E	49.48 \$	62.48
A26475F	GARY & JULIE ROBINSON 1995 LIVING TRUST	1575 SHILOH RD	22.49 \$	28.40
A26475G	GARY & JULIE ROBINSON 1995 LIVING TRUST	1575 SHILOH RD B	26.99 \$	34.08
A26475H	TUCKSTER LLC	1575 SHILOH RD H	31.49 \$	39.76
A26475I	TUCKSTER LLC	1575 SHILOH RD H	35.99 \$	45.44
A26475J	HOMETOWN DEVELOPMENT-LLC	1575 SHILOH RD J	49.48 \$	62.48
A26475K	HOMETOWN DEVELOPMENT LLC	1605 SHILOH RD A	116.95 \$	147.67
A26482	BROWN, KEN	SHILOH RD	147.97 \$	186.83
A26486	HIGHGATE BILLINGS LLC	3980 PARKHILL DR	476.78 \$	602.02
A26490A	TAYLOR, PRISCILLA J	3981 AVENUE D UNIT 1	19.73 \$	24.91
A26490B	FULLER, BRADLEY D	3981 AVENUE D 2	19.73 \$	24.91
A26490C	CONNER, BILLIE CARLENE TRUSTEE	3981 AVENUE D 5	19.73 \$	24.91
A26490D	MURRAY, SHARON K	3981 AVENUE D 7	19.73 \$	24.91
A26490E	KILLENECK, JO	3981 AVENUE D 9	19.73 \$	24.91
A26490F	MURRAY, TONI C & GEORGE MAX	3981 AVENUE D 11	19.73 \$	24.91
A26490G	HART, ELIZABETH S	3981 AVENUE D 13	19.73 \$	24.91
A26490H	FOOS, KENNETH A & MARILEE	3981 AVENUE D 15	19.73 \$	24.91
A26490I	BLACKMAN, MARION F	3981 AVENUE D 16	19.73 \$	24.91
A26490J	RIDER, LINDA O	3981 AVENUE D 14	19.73 \$	24.91
A26490K	WEST, MARILYN &	3981 AVENUE D 12	19.73 \$	24.91
A26490L	SNOOZY, JO ELLEN	3981 AVENUE D 10	19.73 \$	24.91
A26490M	KILIAN, DENNIS D & BARBARA A	3981 AVENUE D 8	19.73 \$	24.91
A26490N	TANK, WILLIAM G	3981 AVENUE D 6	19.73 \$	24.91
A26490O	ROSSIGNOL, RICHARD & JULIA	3981 AVENUE D 4	19.73 \$	24.91
A26490P	MURRAY PROPERTIES LLC	3981 AVENUE D 2	19.73 \$	24.91
A26626	CITY OF BILLINGS		20.00 \$	25.25
A27989	B & P LEASING	625 S 38TH ST W UNIT 1	4.32 \$	5.46
A27990	HAMAN, ALICE M	625 S 38TH ST W UNIT 2	4.32 \$	5.46
A27991	BENNETT, MARLINE V	626 S 38TH ST W 3	4.32 \$	5.46
A27992	PARIS, ROSE ELLEN & GREGORY DON	626 S 38TH ST W 4	4.32 \$	5.46
A27993	OAKLAND, SHARON M	625 S 38TH ST W 5	4.32 \$	5.46
A27994	PROPP, MANDIE	625 S 38TH ST W 6	4.32 \$	5.46
A27995	B & P LEASING	625 S 38TH ST W 7	4.32 \$	5.46
A27996	KUHN, EDNALA	625 S 38TH ST W 8	4.32 \$	5.46
A27997	LANG, MILTON H J	625 S 38TH ST W 9	4.32 \$	5.46
A27998	RONNING, ROBERT	625 S 38TH ST W 10	4.32 \$	5.46
A27999	SNELLING, ANDREW D	625 S 38TH ST W 11	4.32 \$	5.46
A28000	FORSETH, EIVIND B & JUDITH L	626 S 38TH ST W 12	4.32 \$	5.46
A28001	PARKER, KOLEN F	626 S 38TH ST W 13	4.32 \$	5.46
A28002	KERNER, RHONDA L	625 S 38TH ST W 14	4.32 \$	5.46
A28003	KING, JUSTIN J	625 S 38TH ST W 15	4.32 \$	5.46
A28004	OAKLAND, RICH	625 S 38TH ST W 16	4.32 \$	5.46
A28005	KING, JAMES M TRUSTEE	625 S 38TH ST W 17	4.32 \$	5.46
A28006	PREVOST, ANDREA	625 S 38TH ST W 18	4.32 \$	5.46
A28007	GUTHRIE, RAYMOND F & VIRGINIA A	626 S 38TH ST W 19	4.32 \$	5.46
A28008	CLARK, JOHN W	625 S 38TH ST W 20	4.32 \$	5.46
A28009	DAVIS, WILLIAM K	626 S 38TH ST W 21	4.32 \$	5.46
A28010	LIPPERT, CHAD A	625 S 38TH ST W 22	4.32 \$	5.46
A28011	CARLSON, DEON L	625 S 38TH ST W 23	4.32 \$	5.46
A28012	JOKI, MARGARET RAE & KENNETH M	625 S 38TH ST W 24	4.32 \$	5.46
A28013	ECHEVERRI, NORA I &	625 S 38TH ST W 25	4.32 \$	5.46
A28014	B & P LEASING	625 S 38TH ST W 26	4.32 \$	5.46
A28015	BOYER PROPERTIES LLC	626 S 38TH ST W 27	4.32 \$	5.46
A28016	KORBER, JOHN E	626 S 38TH ST W 28	4.32 \$	5.46
A28017	LONE ANTELOPE PROPERTIES LLC	625 S 38TH ST W 29	4.32 \$	5.46
A28018	SEBORG, MYRNA	625 S 38TH ST W 30	4.32 \$	5.46
A28019	BOYER PROPERTIES LLC	626 S 38TH ST W 31	4.32 \$	5.46
A28020	DUNNING, KEE A	625 S 38TH ST W 32	4.32 \$	5.46
A28021	B & P LEASING	625 S 38TH ST W 33	4.32 \$	5.46
A28022	TEMME, LOWELL TRUSTEE	625 S 38TH ST W 34	4.32 \$	5.46
A28023	BOYER PROPERTIES LLC	626 S 38TH ST W 35	4.32 \$	5.46

SILMD 307- Exhibit B

TaxID	OwnerName	PhysicalAddress	Frontage	Estimated SILMD Assessment Based on Frontage
A28024	RALPH, WILLIAM M	626 S 38TH ST W 36	4.32 \$	5.46
A28025	YELVINGTON, TAMARIA	626 S 38TH ST W 37	4.32 \$	5.46
A28026	LARSON, CARL L	626 S 38TH ST W 38	4.32 \$	5.46
A28027	HAMMEL, MARILYN K	625 S 38TH ST W 39	4.32 \$	5.46
A28028	PAIGE, PATRICK K	625 S 38TH ST W 40	4.32 \$	5.46
A28029	BOWLES, PATRICK D & BARBARA	626 S 38TH ST W 41	4.32 \$	5.46
A28030	BRUHAUG, EDWARD O &	625 S 38TH ST W 42	4.32 \$	5.46
A28031	BOEHS BARBARA	626 S 38TH ST W 43	4.32 \$	5.46
A28032	HEMMER, DOROTHY M	625 S 38TH ST W 44	4.32 \$	5.46
A28033	CHARLIE, FRED A	625 S 38TH ST W 45	4.32 \$	5.46
A28034	HICKEL, ROSALIE A	626 S 38TH ST W 46	4.32 \$	5.46
A28035	RHEA, ERIC M	625 S 38TH ST W 47	4.32 \$	5.46
A28036	CUCCIARDI, MICHAEL & CHERYL	625 S 38TH ST W 48	4.32 \$	5.46
A28037	BLUM, BLANCHE E	625 S 38TH ST W 49	4.32 \$	5.46
A28038	WORTHINGTON, BETTY L	625 S 38TH ST W 50	4.32 \$	5.46
A28039	LICH, VAL	625 S 38TH ST W 52	4.32 \$	5.46
A28040	LOOS, DONNA &	625 S 38TH ST W 54	4.32 \$	5.46
A28041	SMILEY, CHERYL K	625 S 38TH ST W 56	4.32 \$	5.46
A28042	KLUSMANN, DULCIE O	625 S 38TH ST W 3920	4.32 \$	5.46
A28043	TAYLOR, WANELTA	625 S 38TH ST W 3922	4.32 \$	5.46
A28514	ROCKY MOUNTAIN OIL INC	4041 GRAND	291.00 \$	367.44
A28515	STOCKMAN BANK OF MONTANA	1450 SHILOH RD	190.42 \$	240.44
A28526	GOODMAN INC	4007 AVENUE B	163.46 \$	206.40
A28527A	SHILOH-GRAND CENTER LLC		17.67 \$	22.31
A28527B	SHILOH-GRAND CENTER LLC		17.75 \$	22.41
A28527C	SHILOH-GRAND CENTER LLC		22.47 \$	28.38
A28527D	SHILOH-GRAND CENTER LLC		22.47 \$	28.38
A28527E	SHILOH-GRAND CENTER LLC		7.48 \$	9.44
A28527F	SHILOH-GRAND CENTER LLC		10.27 \$	12.97
A28527G	SHILOH-GRAND CENTER LLC		17.67 \$	22.31
A28799A	EKANGER, MARY L. TRUSTEE	2010 SWANSON LN	19.03 \$	24.03
A28799B	BILLMAN, TANA M	2012 SWANSON LN	19.03 \$	24.03
A28799C	WEIDINGER, RICHARD J & SHERI L	2014 SWANSON LN	19.03 \$	24.03
A28799D	FRANK, CYNTHIA	2016 SWANSON LN	19.03 \$	24.03
A28799E	DUNCAN, DAVID F & TIFFANY A	2018 SWANSON LN	19.03 \$	24.03
A28799F	BARTHEL, LAWRENCE J & RITA J	2020 SWANSON LN	19.03 \$	24.03
A28799G	HOTCHKISS, CONNIE & JANICE L TRUSTEES	2022 SWANSON LN	19.03 \$	24.03
A28799H	BENTS, STEVEN V & JOANNE LOUISE &	2024 SWANSON LN	19.03 \$	24.03
A28799I	TROST, DANIEL	2026 SWANSON LN	19.03 \$	24.03
A28799J	BEFHIN, DONALD D	2028 SWANSON LN	19.03 \$	24.03
A28799K	WOLFF, DENNIS D	2030 SWANSON LN	19.03 \$	24.03
A28799L	DAHLEIDE, BLAINE D	2032 SWANSON LN	19.03 \$	24.03
A28817	CITY OF BILLINGS		38.00 \$	47.98
A28826	DENOWH, AGNES E	3955 OLYMPIC BLVD UNIT 1	5.96 \$	7.53
A28827	KNUDSEN, MILES & RHONDA	3955 OLYMPIC BLVD UNIT 2	5.96 \$	7.53
A28828	LONE ANTELOPE PROPERTIES, LLC	3955 OLYMPIC BLVD 3	5.96 \$	7.53
A28829	C & L PROPERTY MANAGEMENT LLC	3955 OLYMPIC BLVD 4	5.96 \$	7.53
A28830	FASCHING, MICHAEL L	3955 OLYMPIC BLVD 5	5.96 \$	7.53
A28831	O'NEIL, MARTIN & JUDY	3955 OLYMPIC BLVD 6	5.96 \$	7.53
A28832	MOSELEY, BRENDA L	3955 OLYMPIC BLVD 7	5.96 \$	7.53
A28833	BOYER PROPERTIES LLC	3955 OLYMPIC BLVD 8	5.96 \$	7.53
A28834	WEST, DANIEL	3955 OLYMPIC BLVD 9	5.96 \$	7.53
A28835	VINCENT, THERESA M	3955 OLYMPIC BLVD 10	5.96 \$	7.53
A28836	PRATT, CHARLES F & MARILYN I	3955 OLYMPIC BLVD 11	5.96 \$	7.53
A28837	BLACK KERRI	3955 OLYMPIC BLVD 12	5.96 \$	7.53
A28838	GUM, NOLAN BARRY	3955 OLYMPIC BLVD 13	5.96 \$	7.53
A28839	GOLT, ANTHONY J	3955 OLYMPIC BLVD 15	5.96 \$	7.53
A28840	CHILDERS FAMILY TRUST	3955 OLYMPIC BLVD 15	5.96 \$	7.53
A28841	PIPER, PENNY L	3955 OLYMPIC BLVD 16	5.96 \$	7.53
A28842	BOYERS PROPERTIES LLC	3955 OLYMPIC BLVD 17	5.96 \$	7.53
A28843	BLACKBURN LINDSAY S	3955 OLYMPIC BLVD 18	5.96 \$	7.53
A28844	KOLSTAD, JON C	3955 OLYMPIC BLVD 19	5.96 \$	7.53
A28845	TAYLOR, TAMMY M	3955 OLYMPIC BLVD 20	5.96 \$	7.53
A28846	BEVERLEY, JONATHAN C	3955 OLYMPIC BLVD 21	5.96 \$	7.53
A28847	WOO SUN, NANCY M	3955 OLYMPIC BLVD 22	5.96 \$	7.53
A28848	SORUM, KRISTINA A	3955 OLYMPIC BLVD 23	5.96 \$	7.53
A28849	THOGERSEN, TIMOTHY L & LONI	3955 OLYMPIC BLVD 24	5.96 \$	7.53
A28850	B & P LEASING LLC	3955 OLYMPIC BLVD 25	5.96 \$	7.53

SILMD 307- Exhibit B

TaxID	OwnerName	PhysicalAddress	Frontage	Estimated SILMD Assessment Based on Frontage
A28851	JONES-AUSTIN, T	3955 OLYMPIC BLVD 26	5.96 \$	7.53
A28852	LAI, NGAI HOI &	3955 OLYMPIC BLVD 27	5.96 \$	7.53
A28853	PATES, SHERI G	3955 OLYMPIC BLVD 28	5.96 \$	7.53
A28854	BEERY, BUFFY JO	3955 OLYMPIC BLVD 29	5.96 \$	7.53
A28855	RIEGER, ANDREA & CODY	3955 OLYMPIC BLVD 30	5.96 \$	7.53
A28856	REED, KATE A	3955 OLYMPIC BLVD 31	5.96 \$	7.53
A28857	HICKS, JONATHAN M	3955 OLYMPIC BLVD 32	5.96 \$	7.53
A28862	WOOD, STEPHEN & JANICE A	3955 OLYMPIC BLVD 33	5.96 \$	7.53
A28863	DEVRIES, BRENDA C	3955 OLYMPIC BLVD 34	5.96 \$	7.53
A28864	CARPENTER, KINSEY T	3955 OLYMPIC BLVD 35	5.96 \$	7.53
A28865	LEATHERBERRY, THOMAS	3955 OLYMPIC BLVD 36	5.96 \$	7.53
A28866	KREMER, CLARINDA DAWN	3955 OLYMPIC BLVD 37	5.96 \$	7.53
A28867	KNUDSEN, RHONDA & MILES	3955 OLYMPIC BLVD 38	5.96 \$	7.53
A28868	MILLER, KENNETH C & EMRIE A TRSTES	3955 OLYMPIC BLVD 39	5.96 \$	7.53
A28869	MILLER, WALTER D & PATRICIA K	3955 OLYMPIC BLVD 40	5.96 \$	7.53
A29193	DONOHOE, PAUL S TRUSTEE	2070 SWANSON LN	42.77 \$	54.01
A29194	THOMPSON, SHARON & LOREN L	2072 SWANSON LN	42.77 \$	54.01
A29195	WALTERS, WILLIAM D & BONNIE K	2074 SWANSON LN	42.77 \$	54.01
A29196	KELLISON, BONNIE K &	2076 SWANSON LN	42.77 \$	54.01
A29197	OBENAUER, MICHAEL E & BARBARA L	2078 SWANSON LN	42.77 \$	54.01
A29198	FRANK, JANIS J	2080 SWANSON LN	42.77 \$	54.01
A29199	ERWIN W & COLLEEN M SMITH REV TRUST	2082 SWANSON LN	42.77 \$	54.01
A29200	POUSH, DONALD K & NANCY G	2084 SWANSON LN	42.77 \$	54.01
A29201	SCHANCK, NORMA J	2086 SWANSON LN	42.77 \$	54.01
A29202	NUNLEY, JOANN	2088 SWANSON LN	42.77 \$	54.01
A29258	KONS SOOPER INC		224.77 \$	283.81
A29261	KONS SOOPER INC	747 SHILOH RD	245.16 \$	309.56
A29262	KONS SOOPER INC	727 SHILOH RD	319.30 \$	403.17
A29966	CITY OF BILLINGS	SHILOH RD	86.24 \$	108.89
A29967	ST JOHN'S LUTHERAN MINISTRIES INC	2511 SHILOH RD	649.57 \$	820.20
A29970	SISTERS OF CHARITY OF LEAVENWORTH	2223 SHILOH RD	688.25 \$	869.04
A34025	SHILOH CROSSING, LLC	1101 SHILOH CROSSING BLVD	26.85 \$	33.90
A34026A	G & R INVESTMENT PROPERTIES, LLC	1002 SHILOH CROSSING BLVD	248.31 \$	313.54
A34026B	SHILOH CROSSING, LLC	1010 SHILOH CROSSING BLVD	189.23 \$	238.94
A34026C	SHILOH CROSSING, LLC	1020 SHILOH CROSSING BLVD	277.35 \$	350.21
A34026D	SHILOH CROSSING, LLC	1100 SHILOH CROSSING BLVD	814.11 \$	1,027.96
A34027	SHILOH CROSSING, LLC	910 SHILOH CROSSING BLVD	177.94 \$	224.68
A34027A	SHILOH CROSSING, LLC	856 SHILOH CROSSING BLVD	248.61 \$	313.92
A34027B	SHILOH CROSSING, LLC	840 SHILOH CROSSING BLVD	218.90 \$	276.40
A34027C	FIRST INTERSTATE BANK	830 SHILOH CROSSING BLVD	405.29 \$	511.75
C01754D	CITY OF BILLINGS	SHILOH RD	302.53 \$	382.00
C01755	KINCAID LAND LLC	2724 SHILOH RD	295.98 \$	373.73
C01756	NICK, JOHN M & BETTY J	4007 VICKERY DR	115.27 \$	145.54
C01756C	HELEN P HALL REVOCABLE TRUST	4008 VICKERY DR	115.43 \$	145.75
C01757	KINCAID LAND LLC	2512 SHILOH RD	295.00 \$	372.49
C02218	STRUCKMAN, TRAVIS & ASHLEY	2416 SHILOH RD	90.00 \$	113.64
C02219	COLEMAN, RALPH L & NANCY L	2410 SHILOH RD	80.00 \$	101.01
C02220	KOSTER, CHARLES R & TRUDY S	2404 SHILOH RD	80.00 \$	101.01
C02221	COONFARE, ALAN B & APRIL L.	2322 SHILOH RD	80.00 \$	101.01
C02222	FRANKS, CARL L	2316 SHILOH RD	80.00 \$	101.01
C02223	KUMETAT, STEVEN L	2310 SHILOH RD	80.00 \$	101.01
C02224	ALLEN, DARREN W & KRISTEN H	2304 SHILOH RD	85.00 \$	107.33
C02225	ERICKSON, MERLAND B & CAROL ANN	2208 SHILOH RD	90.00 \$	113.64
C02226	KELLEY, FRANCIS J & RUTH K	2206 SHILOH RD	95.70 \$	120.84
C02236	REDFIELD, RONALD L & PEARL R SCOTT	2122 SHILOH RD	116.53 \$	147.14
C02236A	LEHFELDT, CHRIS A & HOLLY A	2114 SHILOH RD	90.00 \$	113.64
C02236B	PAPPAS, GEORGE J SR & KAREN V	2106 SHILOH RD	80.00 \$	101.01
C02239C	CITY OF BILLINGS		0.00 \$	
C02240A	R K DEVELOPMENT LLC	2012 SHILOH RD	100.00 \$	126.27
C02241	RK DEVELOPMENT LLC	2004 SHILOH RD	100.00 \$	126.27
C02241C	CITY OF BILLINGS	PARKHILL DR	54.27 \$	68.53
C02242	BILLINGS URBAN FIRE SERVICE AREA	1918 SHILOH RD	101.11 \$	127.67
C03644	UNRUH, KEVIN & DEBBIE	3929 HESPER RD	30.00 \$	37.88
C08659	EGGEBRECHT FAMILY LIMITED PTNRSHP		761.49 \$	961.52
C08661C	EGGEBRECHT FAMILY LIMITED PTNRSHP		436.65 \$	551.35
C09419	MATHESON, RONALD W & NANCY L	3961 TEMPLE PL	468.21 \$	591.20
C09421	RING, KEVIN L	3949 ESTATE PL	411.79 \$	519.96
C09429	NEW LIFE ASSEMBLY	3950 TEMPLE PL	247.86 \$	312.96

SILMD 307- Exhibit B

TaxID	OwnerName	PhysicalAddress	Frontage	Estimated SILMD Assessment Based on Frontage
C10239	NW APARTMENT PORTFOLIO II SHILOH GLEN LL	3900 OLYMPIC BLVD	93.56 \$	118.14
C10240	CITY OF BILLINGS (PARKS)		1061.49 \$	1,340.33
C11980	JTL GROUP INC	SHILOH RD	1838.63 \$	2,321.61
C11984	YELLOWSTONE COUNTY		134.65 \$	170.02
C13938	SHILOH 47 LLP	3954 ZOO DR	309.82 \$	391.20
C13939	SHILOH 47 LLP	2043 SHILOH RD	364.32 \$	460.02
C13940	SHILOH 47 LLP	2085 SHILOH RD	252.81 \$	319.22
C13944	SHILOH 47 LLP	3979 PIERCE PKWY	262.70 \$	331.71
C13950A	SHILO 47 LLP	3979 PIERCE PKWY	626.26 \$	790.77
D00321	INTERNATIONAL CHURCH OF THE	3906 BROADWATER AVE	580.85 \$	733.43
D00323	YELLOWSTONE VETERINARY PROPERTIES LLP	345 SHILOH RD	204.86 \$	258.67
D00325	KEYSTONE INC	3933 CENTRAL AVE	1321.36 \$	1,668.46
D00348	DEACONESS BILLINGS CLINIC	616 SHILOH RD	1320.00 \$	1,666.74
D00486A	BELL, ROBERT D & BERGMAN, JANET R T		1738.65 \$	2,195.36
D00502	FIRST SOUTHERN BAPTIST CHURCH	SHILOH RD	768.48 \$	970.35
D00517	EGGEBRECHT FAMILY LIMITED PTNRSHP		737.27 \$	930.94
D00517A	EGGEBRECHT FAMILY LIMITED PTNRSHP	3808 SHILOH RD	570.45 \$	720.30
D00609B	INDUSTRIAL PLANNING ASSOCIATES LP	HESPER RD	292.16 \$	368.91
D00609C	INDUSTRIAL PLANNING ASSOCIATES LP	HESPER RD	216.96 \$	273.95
D00611	YELLOWSTONE BAPTIST COLLEGE		200.00 \$	252.54
D00612	LESTER, SHIRLEY I		319.91 \$	403.94
D00797	LONG FAMILY LIMITED PARTNERSHIP	SHILOH RD	1129.05 \$	1,425.63
D00797A	LARSON FAMILY PROPERTIES LLC	SHILOH RD	484.89 \$	612.26
D00798	JTL GROUP INC	SHILOH RD	237.80 \$	300.27
D00799A	LARSON FAMILY PROPERTIES LLC	SHILOH RD	648.97 \$	819.44
D00835A	MONTANA DEPT OF HIGHWAYS	SHILOH RD	1458.92 \$	1,842.15
D04710	LUTHERAN RETIREMENT HOME INC	2621 SHILOH RD	1018.74 \$	1,286.35
D04719	SQUIRES, GARY M & DAWN	2504 SHILOH RD	62.22 \$	78.56
D04746	SHILOH UNITED METHODIST CHURCH INC		417.42 \$	527.07
D04746A	LEHENBAUER REAL ESTATE LP	1720 SHILOH RD	294.96 \$	372.44
D11401	ZEELAH FARM LLC	1122 SHILOH RD	1318.53 \$	1,664.89
D11403	ZEELAH FARM LLC	SHILOH RD	1323.06 \$	1,670.61
D11775	INTERNATL CHURCH OF THE FOURSQUARE	517 SHILOH RD	59.98 \$	75.74
D11776	INTNL CHURCH OF THE FOURSQUARE	321 SHILOH RD	435.94 \$	550.45
D11872	YEGEN GRAND AVE FARMS INC		1318.52 \$	1,664.87
D11873	YEGEN GRAND AVE FARMS INC		1323.06 \$	1,670.61
D12486	REGER, JAMES R & DEBORAH C	ZOO DR	528.50 \$	667.33
	Shiloh Drain Right-of-Way		5522.17 \$	6,972.75
	Ann Ross Park		2457.60 \$	3,103.16
D12710	REGER, JAMES R & DEBORAH C (2/3) &	ZOO DR	760.68 \$	960.50
			47,887.45 \$	60,466.65
	Total of City's Contribution		\$	18,943.64
	Total City Percentage		\$	0.31

SILMD 307 - Exhibit C
Shiloh Road from Rimrock Road to Pierce Parkway
Legal Description of Properties with District

Tracts of land situated in the, Yellowstone County, Montana, more particularly described as:



AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Preliminary Plat of Goodwin Acres Subdivision, Amended Lot 2A
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: On April 1, 2009, owners, Bruce and Lynette Jensen, applied for preliminary minor plat approval for Goodwin Acres Subdivision, Amended Lot 2A. The proposed subdivision creates 2 lots from a 0.79-acre tract of land. The subject property is located on Gentry Lane, just north of the 2500 block of Poly Drive. The property is currently vacant but in an established residential neighborhood and is zoned Residential 9,600 (R-96). Two variances from the street development standards in the City Subdivision Regulations are being requested in order to match the existing neighborhood street standards. The City Council will review the preliminary plat, and approve, conditionally approve, or deny the proposed subdivision and variance requests at the May 11, 2009, meeting. The representing agent is EEC, Inc.

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

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

RECOMMENDATION

Planning staff recommends approval of the variance requests from Sections 23-406.B.6 and 23-406.B.13 of the City Subdivision Regulations, conditional approval of the preliminary plat of Goodwin Acres Subdivision, Amended Lot 2A, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

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

INTRODUCTION

On April 1, 2009, owners, Bruce and Lynette Jensen, applied for preliminary minor plat approval for Goodwin Acres Subdivision, Amended Lot 2A. The proposed subdivision creates 2 lots from a 0.79-acre tract of land. The subject property is located on Gentry Lane, just north of the 2500 block of Poly Drive. The property is currently vacant but is in an established residential neighborhood and is zoned Residential 9,600 (R-96). The representing agent is EEC, Inc.

PROCEDURAL HISTORY

- A pre-application meeting was held on August 21, 2008, to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on April 1, 2009.
- The City Council will consider the preliminary plat on May 11, 2009.

BACKGROUND

The proposed subdivision will create 2 lots that are 20,309 and 14,143 square feet in size. The owners are in the process of constructing a single-family residence on Lot 2A-1 and will likely sell the other lot. The property is bordered on all sides by single-family residential uses, and is located at the end of the Gentry Lane cul-de-sac.

General location:	Gentry Lane, north of the 2500 Block of Poly Drive
Legal Description:	Lot 2A of Goodwin Acres Subdivision, in Section 35, T1N, R25E
Subdivider/Owner:	Bruce and Lynette Jensen
Engineer and Surveyor:	Eggart Engineering Company
Existing Zoning:	R-96
Existing land use:	vacant (one residence under construction)
Proposed land use:	2 single-family residences
Gross area:	0.79 acres
Proposed number of lots:	2
Lot sizes:	Max: 20,309 square feet Min.: 14,143 square feet
Parkland requirements:	Parkland is not required for minor subdivisions.

ALTERNATIVES ANALYSIS

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

RECOMMENDED CONDITIONS OF APPROVAL

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

1. To ensure the provision of easements, a 5-foot wide sidewalk, street light and fire hydrant easement shall be shown on the final plat adjacent to the Gentry Lane right-of-way. Additionally, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for other utility easements. *(Required by 23-410, BMCC, and in exchange for right-of-way variance)*
2. In order to mitigate impacts on local services, Section III.A. of the Subdivision Improvements Agreement (SIA) shall be amended as follows:
In the third paragraph, delete the last sentence and replace it with "The design thickness of the street improvements shall be determined from actual field tests conducted by a responsible testing laboratory. The design section shall be submitted to, reviewed by, and approved by the City Engineer." *(Required by 23-406.B.10., BMCC)*
3. In order to mitigate impacts on local services, Section VI. of the SIA shall be amended as follows:
Subsection A. shall be replaced with: "Separate and independent water services shall be constructed at the property owners expense from an existing water main located in Doreen Drive."
Subsection B. shall be replaced with: "Separate and independent sewer services shall be constructed at the property owners expense from an existing sanitary sewer main located in the alley west of the subdivision. An easement to allow sewer service from the alley to Lot 2A-2 is provided." *(Required by 23-408 and 23-409, BMCC)*
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

- A variance from Section 23-406.B.6, BMCC to allow for a 50-foot wide street right-of-way dedication for Gentry Lane, in lieu of a 56-foot wide dedication.
- A variance from Section 23-406.B.13, BMCC to allow for a 5-foot wide curb-style sidewalk in lieu of a boulevard-style sidewalk.

City staff recommends approval of both variances; further discussion on these requests and recommendations can be found in Attachments C and E.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

RECOMMENDATION

Planning staff recommends approval of the variance requests from Sections 23-406.B.6 and 23-406.B.13 of the City Subdivision Regulations, and conditional approval of the preliminary plat of Goodwin Acres Subdivision, Amended Lot 2A, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A



Figure 1: View looking West down Gentry Lane. Road and sidewalk improvements will match existing improvements.



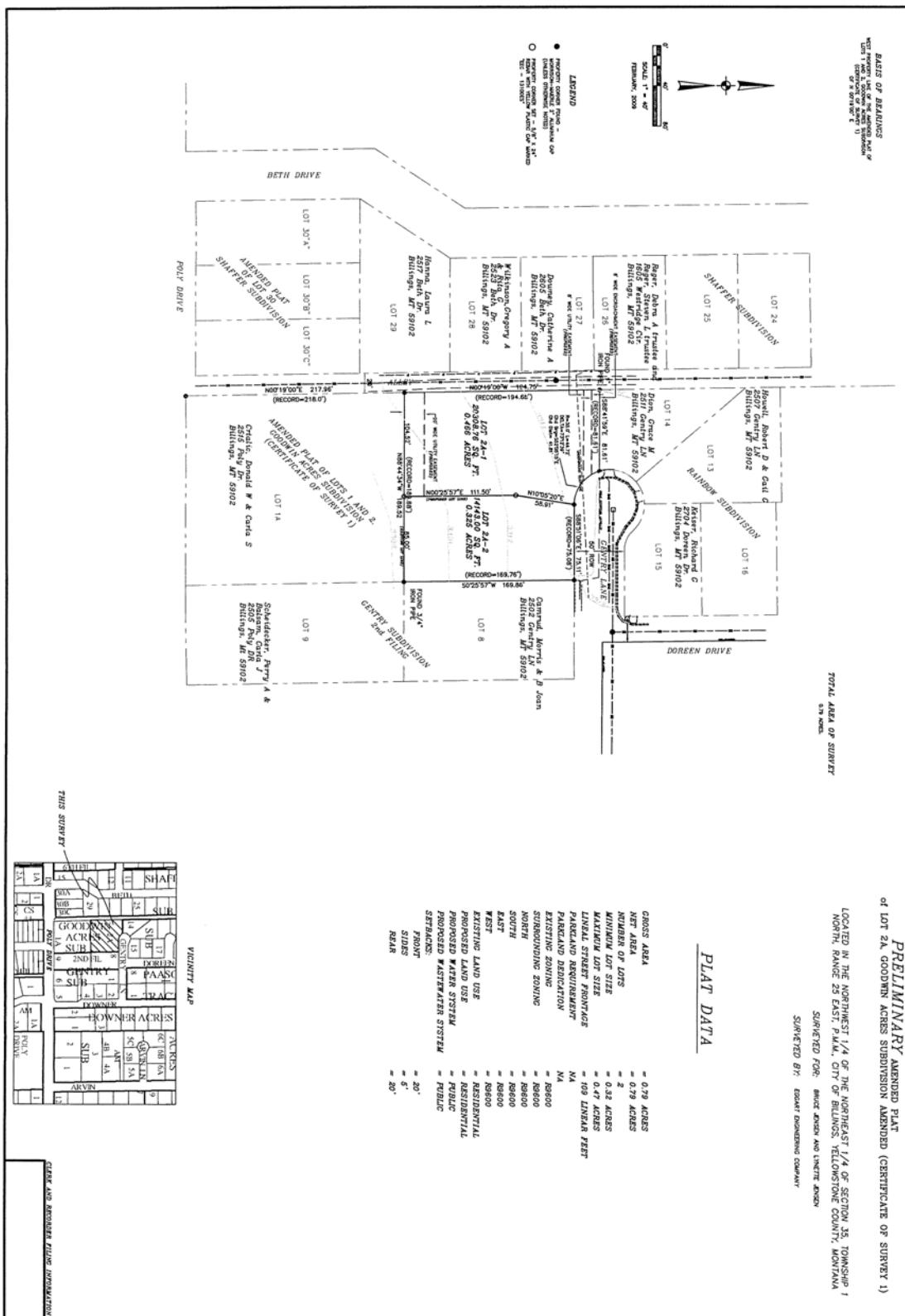
Figure 2: View looking south at proposed Lot 2A-2.



Figure 3: View looking southwest at proposed Lot 2A-1 and alley beyond.

ATTACHMENT B

Preliminary Plat of Goodwin Acres Subdivision, Amended Lot 2A



ATTACHMENT C

Findings of Fact

The Planning staff is forwarding the recommended Findings of Fact for Goodwin Acres Subdivision, Amended Lot 2A for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-304 (c) (1)]

1. Effect on agriculture and agricultural water user facilities

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

2. Effect on local services

- a. **Utilities** – Water and sanitary sewer services can be provided by the City of Billings by connecting to the existing mains found within the adjacent public rights of way. There is an existing water main in Doreen Drive, and an existing sanitary sewer main in the alley on the west side of the subdivision. Public Works-Distribution and Collection Division has requested that the language found in Section VI. of the SIA should be amended to more clearly state the requirements for services. This is recommended as a condition of approval (**Condition #3**).

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

- b. **Storm water** – Storm water is proposed to be draining using the curb and gutter to the nearest storm water inlet. All improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** –Gentry Lane fronts the subject property on the north and an alley exists on the west side of the property. A 50-foot wide street right-of-way is presently dedicated place for Gentry Lane, and since this subdivision only affects a short portion of it (approximately 90 feet), the subdividers have requested a variance from the current right-

of-way dedication requirements of 56 feet. Staff is supportive of this variance request in this existing situation if a 5-foot wide easement is provided adjacent to the street for future street lights, hydrants and drive approaches (**Condition #1**). Additionally, the existing sidewalk improvements in the neighborhood adjacent to the subject property do not meet the current requirements for boulevard-style sidewalks. The subdivider have requested a variance from the boulevard sidewalk requirements, to allow for a curb-style sidewalk to match the current design in the neighborhood. Staff is supportive of this variance request as well. Additional information on both variance requests can be found in Attachment E.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1928 17th St. West (Fire Station #3). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** –School District #2 provides educational services to elementary through high school students. No comments were received from the schools at the time this report was compiled.
- g. **Parks and Recreation** –There are no parkland dedication requirements for minor subdivisions.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. Individual mail boxes will serve the two new lots.

3. Effect on the natural environment

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

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

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

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

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

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the Urban Area 2005 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]

1. Yellowstone County-City of Billings 2008 Growth Policy

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

- a. Goal: More housing and business choices within each neighborhood (p. 6).
- b. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).
- c. Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).

2. Urban Area 2005 Transportation Plan Update

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

3. Heritage Trail Plan

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

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

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

E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]

The subdivision will make use of the City's water, sanitary sewer, and stormwater sewer systems, and the City's solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304 (c) (6)]

The subject property is located in the R-96 zoning district. The proposed lots and any future development of the land shall comply with the standards set forth in Section 27-308, BMCC.

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

The subdivider shall provide a 5-foot wide easement along the frontage of Gentry Lane for potential future sidewalk, street lights and fire hydrants, as well as any utility easements requested by MDU and NWE (**Condition #1**).

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

Legal and physical access is provided to the proposed lots Gentry Lane.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Goodwin Acres Subdivision, Amended Lot 2A does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, May 11, 2009.

Ron Tussing, Mayor

ATTACHMENT D
Mayor's Approval Letter

May 12, 2009

Bruce and Lynette Jensen
2517 Arvin Rd.
Billings, MT 59102

Dear Applicants:

On May 11, 2009, the Billings City Council conditionally approved the preliminary plat of Goodwin Acres Subdivision, Amended Lot 2A. The conditions of approval are as follows:

1. To ensure the provision of easements, a 5-foot wide sidewalk, street light and fire hydrant easement shall be shown on the final plat adjacent to the Gentry Lane right-of-way. Additionally, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for other utility easements.
2. In order to mitigate impacts on local services, Section III.A. of the Subdivision Improvements Agreement (SIA) shall be amended as follows:
In the third paragraph, delete the last sentence and replace it with "The design thickness of the street improvements shall be determined from actual field tests conducted by a responsible testing laboratory. The design section shall be submitted to, reviewed by, and approved by the City Engineer."
3. In order to mitigate impacts on local services, Section VI. of the SIA shall be amended as follows:
Subsection A. shall be replaced with: "Separate and independent water services shall be constructed at the property owners expense from an existing water main located in Doreen Drive."
Subsection B. shall be replaced with: "Separate and independent sewer services shall be constructed at the property owners expense from an existing sanitary sewer main located in the alley west of the subdivision. An easement to allow sewer service from the alley to Lot 2A-2 is provided."
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

The City Council also approved your variance requests from Sections 23-406.B.6 and 23-406.B.13, BMCC to allow for a 50-foot right-of-way dedication for Gentry Lane, and curb-style sidewalks.

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

Sincerely,

Ron Tussing, Mayor

Pc: Scott Swanson, EEC

ATTACHMENT E
Variance Requests

**SIDEWALK STYLE
VARIANCE REQUEST
AMENDED LOT 2A of GOODWIN ACRES SUBDIVISION
AMENDED**

The plat of Amended Lot 2A of Goodwin Acres Subdivision Amended requests a variance for installing 5 foot wide curb style walk rather than 5 foot wide boulevard style walk in the Gentry Lane right-of-way.

1. The granting of this variance will not be detrimental to the public health, safety, or general welfare of other adjoining properties. This new sidewalk will bring sidewalk into a place where there currently is none.
2. Because of the particular physical surroundings of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced. The adjoining property on the east has an existing 5 foot wide curb style walk along Gentry Lane. The adjoining property on the north has no sidewalk along Gentry Lane. New 5 foot wide curb style walk will better transition into the improvements of the two adjoining properties.
3. This variance will not affect the taxpayer's burden.
4. The approval of this requested variance will not affect zoning or the Growth Policy for the area.
5. The use of curb style walk will be just as functionally efficient as boulevard style walk would be in this location.

**RIGHT-OF-WAY WIDTH
VARIANCE REQUEST
AMENDED LOT 2A of GOODWIN ACRES SUBDIVISION
AMENDED**

The plat of Amended Lot 2A Goodwin Acres Subdivision Amended requests a variance for the right-of-way width of the Residential Local Access road. A 50 foot street right-of-way in place of a 56 foot right-of-way for the non cul-de-sac portion and 35 foot radius in place of a 56 foot radius for the culd-de-sac portion of the right-of-way is requested for Gentry Lane.

1. The granting of this variance will not be detrimental to the public health, safety, or general welfare of other adjoining properties since the proposed right-of-way width is the same as the adjoining neighbors and will maintain the continuity of the area.
2. The lots on either side of the subject parcel are already developed. Increasing the right-of-way width from what is currently platted would not fit well into the existing established neighborhood alignment.
3. This variance will not result in a taxpayer's burden; Maintenance and taxes will be relatively unaffected by the variance.
4. The approval of this requested variance will not affect zoning or the Growth Policy for the area.
5. The granting of this variance will not diminish the functionality of the existing street. Matching existing features on both sides will enhance the flow and continuity of the area.

M1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,808,898.04 audited and are presented for your approval for payment. A complete listing of the claims dated April 10, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

M2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,346,882.57 audited and are presented for your approval for payment. A complete listing of the claims dated April 17, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Public Hearing and Resolution Amending the FY2009 Budget
DEPARTMENT: Administration-Finance Division
PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Staff is requesting a budget amendment to establish budget authority in the Airport Capital Grant Fund to rehabilitate Taxiway "A" East, a project which will be 100% funded with grant money from the American Recovery and Reinvestment Act (ARRA) and administered by the Federal Aviation Administration (FAA). Immediate action is requested because priority is given to entities that can obligate funds pursuant to a "Grant Offer and Acceptance" initiated by June 17, 2009. The Airport has requested bids for the project, which will be presented to City Council for award at the May 26, 2009, meeting. The project is listed in the City's Capital Improvement Plan (CIP) for construction in FY 2011, and therefore meets the requirements of ARRA to supplement future expenditures rather than supplant currently planned expenditures

FINANCIAL IMPACT: The amendment will provide the budget authority to add \$1,400,000 of grant revenue to the Airport Capital Grant Fund and increase capital expenditures from the Airport Capital Grant Fund by \$1,400,000.

RECOMMENDATION

Staff recommends that Council conduct a public hearing and following the public hearing approve the resolution adopting the Airport Capital Grant Fund budget amendment for FY2009.

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

ATTACHMENT

A: A Resolution to Make Fiscal Year 2009 Adjustment Appropriation

RESOLUTION 09-_____

A RESOLUTION TO MAKE A **FISCAL YEAR 2009** ADJUSTMENT APPROPRIATION 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 notification that the City's Airport is approved to receive American Recovery and Reinvestment Act (ARRA) grant money in **FY 2009**, 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 A)

APPROVED by the City Council, this 11th day of May, 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A

Revenue **Expenditure**

409 - Airport

This request is to establish budget authority to rehabilitate Taxiway "A" East which will be 100% funded with American Recovery and Reinvestment Act (ARRA) grant money. The project is listed in the City's Capital Improvement Plan (CIP) for construction in FY 2011, and therefore meets the requirements of ARRA to supplement new projects rather than supplant existing ones.

409-7126-331	1980	\$1,400,000	Grant revenue
409-7126-711	9680	\$1,400,000	Capital outlay

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, MAY 11, 2009

SUBJECT: Continuance of Public Hearing and Approval of Resolution Approving and Adopting Third Quarter Budget Amendments for Fiscal Year 2008/2009

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Third Quarter Budget amendments are requested for the following:

1. A budget amendment is required for an SID bond sale that was not known when preparing the FY2009 budget. Bond costs related to SID 1385, located at King Avenue East, included capitalized interest costs which were transferred from the Construction Fund to the Debt Service Fund for SID 1385. Bond proceeds fund these costs.
2. The General Fund-Municipal Court will require a budget amendment for expenditures for a defendant's 90-day examination, transport to and treatment at the State Hospital to determine his fitness to proceed to trial. General Fund reserves will be used to fund these expenditures.
3. The General Fund-Code Enforcement expenditure budget will decrease by \$20,200, while the General Fund-Parks and Recreation Department expenditure budget will increase by \$20,200, as the Parks and Recreation Department will be performing the weed abatement services.

RECOMMENDATION

Staff recommends that the City Council continue the public hearing from April 27, 2009, and approve the resolution approving and adopting the budget amendments for Fiscal Year 2008/2009.

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

ATTACHMENT

A-Resolution to Make Fiscal Year 2008/2009 Adjustment Appropriations (with Exhibit A)

RESOLUTION 09-

A RESOLUTION TO MAKE **FISCAL YEAR 2009** 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 a **Quarterly Budget Review (FY 2008/2009)**, 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 A)

PASSED AND APPROVED by the City Council, this 11th day of May, 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A

Revenue Expenditure

Bond costs related to the SID 1385 located at King Avenue East included administration costs of 11% for Engineering, Finance and the Revolving Fund, as well as a bond discount and bond sale fees. Also capitalized interest costs were transferred from the Construction Fund to the Debt Service Fund for SID 1385. Bond proceeds will fund these amendments.

432-3110-431-9310	\$600,000	Roads/Streets
432-3110-431-8255	\$266,530	Transfer to Debt Service
832-1572-383-7514	\$266,530	Transfer from SID Construction

The General Fund-Municipal Court needs a budget amendment for a defendant for the cost of the 90-day examination, transport, and treatment at the State Hospital to determine his fitness to stand trial. This is the responsibility of the Court pursuant to MCA 46-14-221(5).

010-1212-412-3575	\$46,347	Mental Health
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The Parks and Recreation Department will be performing weed abatement services. In the General Fund, the budget for Code Enforcement is decreasing \$20,200, and the budget for Parks and Recreation is increasing \$20,200.

Code Enforcement:

010-4321-419-3586	(\$19,000)	Weed Abatement
010-4321-419-3585	(\$1,200)	Nuisance Abatement

Parks & Recreation:

010-5112-452-2120	\$7,300	Small Items
010-5112-452-2310	\$1,000	Fuel
010-5112-452-2320	\$1,000	Parts
010-5112-452-2330	\$300	Equipment Parts
010-5112-452-1160	\$10,600	Temporary Wages

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Public Hearing and First Reading of an Ordinance Expanding Ward IV:
Annexation #09-02

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: On April 27, 2009, the City Council approved the annexation of a property legally described as Lot 26, Block 19, Lillis Heights Subdivision (see Attachment A). The request for annexation was submitted by MCS Properties, LLC, the owner of the property. Upon annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward IV will be conducted at this meeting. The second reading of the ordinance will be conducted on May 26, 2009.

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

RECOMMENDATION

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

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

A. Ward Ordinance and Exhibit A

ATTACHMENT A

ORDINANCE NO. 09-_____

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

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

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

Tracts of land situated in the SE1/4 of Section 29, T.1N., R.25E., P.M.M., and the NE1/4 of Section 32, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Lot 26, Block 19, Lillis Heights Subdivision, Recorded February 19, 1957, under Document No. 578193, Records of Yellowstone County; including all adjacent right-of-way of Rim Point Drive and Rimrock Road.

Containing 0.740 gross acres and 0.255 net acres.

(# 09-02) See Exhibit "A" Attached

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

3. **REPEALER.** All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 11th day of May, 2009.

PASSED by the City Council on the second reading this 26th day of May, 2009.

THE CITY OF BILLINGS:

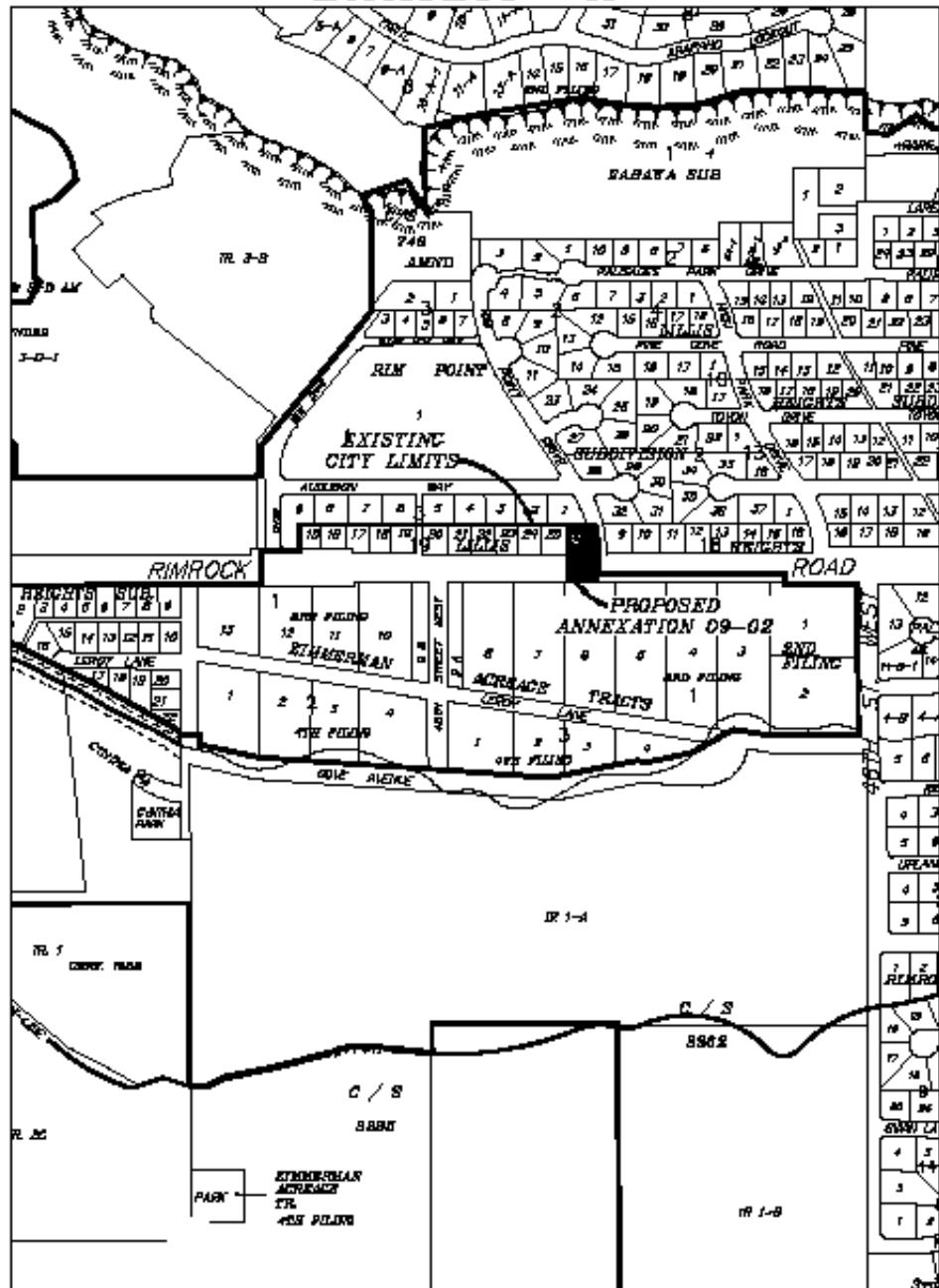
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 09-02)

EXHIBIT "A"



AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA**

Monday, May 11, 2009

TITLE: Public Hearing and Resolution to Create SID 1386 East & West MacDonald Drive

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: The property owners within SID 1386 desire to construct public improvements along both East and West MacDonald Drive. The boundary of this proposed special improvement district is as indicated on the attached map. The improvements to be constructed with SID 1386 consist of curb and gutter, approaches, and street improvements. The Resolution of Intent to create SID 1386 was approved at the April 13, 2009, City Council Meeting. The written protest period ended May 01, 2009. If approved, it is anticipated that construction of SID 1386 will begin in the summer/fall of 2009 and be completed by the spring of 2010.

ALTERNATIVES ANALYZED:

1. After holding a public hearing, approve the Resolution Creating SID 1386; or
2. After holding a public hearing, do not approve the Resolution Creating SID 1376.

FINANCIAL IMPACT: The total estimated costs of the improvements are \$454,096.99. The cost of the improvements are to be paid from the following sources: 1) \$323,000.00 of Special Improvement District Bonds hereinafter described; 2.) \$182,732.34 cash contribution from the City of Billings utilizing gas tax and storm drain funds.

RECOMMENDATION

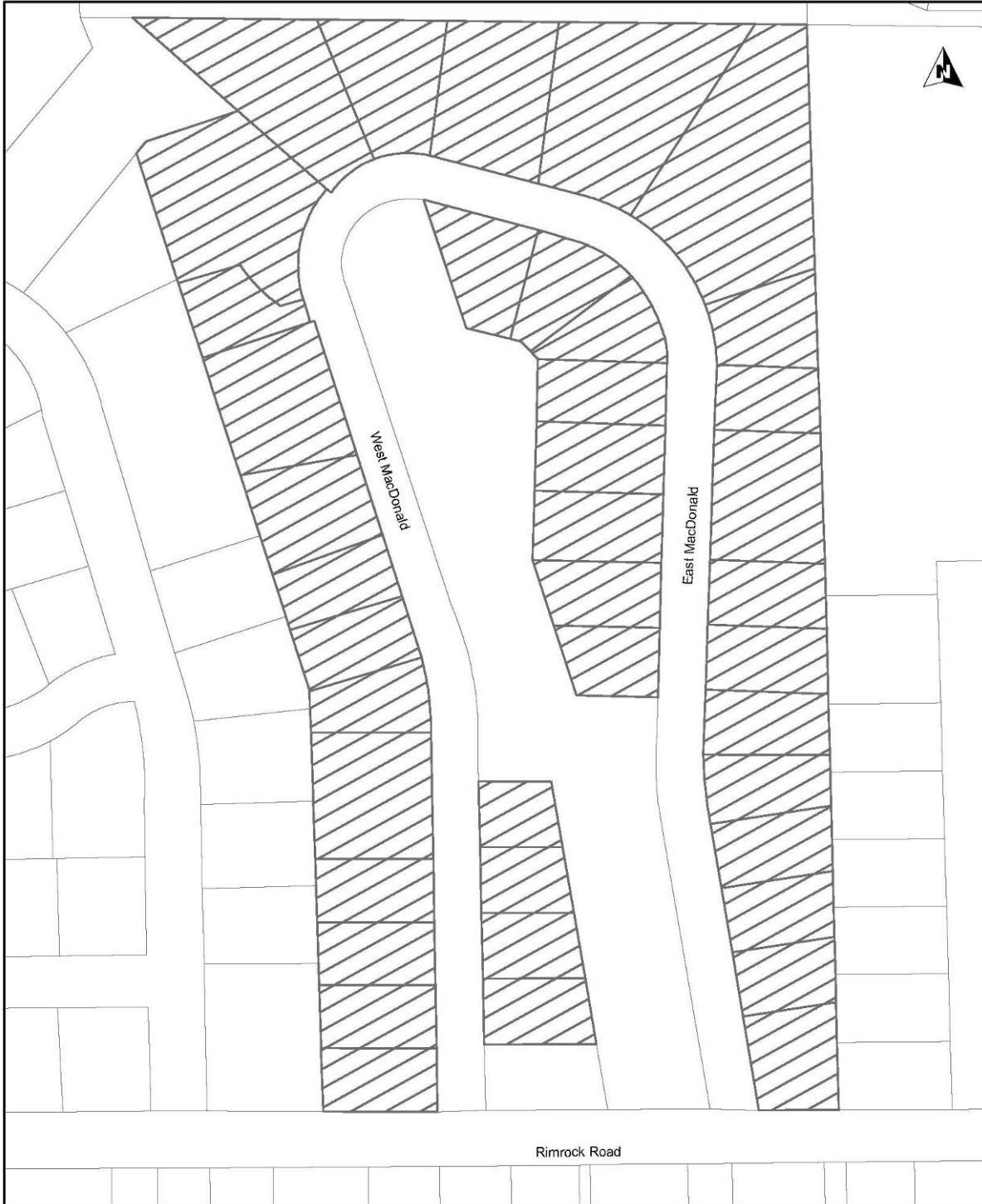
Staff requests that Council approve Resolution Creating SID 1386.

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

ATTACHMENT

- A. Boundary of Proposed Special Improvement District
- B. SID 1386 East and West MacDonald Drive Resolution Creating District

SID 1386 - MacDonald Drive
Exhibit A
Boundary Map



CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 09-_____, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. **1386**; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on **April 13, 2009**, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: _____

_____; voted against the same: _____
_____; abstained from voting thereon: _____
_____; or were absent: _____
_____.
_____.

WITNESS my hand officially this _____ day of _____.

Cari Martin CITY CLERK

RESOLUTION NO. 09-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. **1386**; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Passage of Resolution of Intention. This Council, on **April 13, 2009**, adopted Resolution No. **09-18804** (the "Resolution of Intention"), pursuant to which this Council declared its intention to create a special improvement district, designated as Special Improvement District No. **1386** of the City, under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds drawn on the District (the "Bonds"), the creating and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with the law, and on **May 11, 2009**, this Council conducted a public hearing on the creation or extension of the District and the making of the Improvements. The meeting of this Council at which this resolution was adopted is the first regular meeting of the Council following the expiration of the period ended 15 days after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period").

Section 3. Protests. Within the Protest Period, _____ protest was filed with the City Clerk and not withdrawn by the owners of property in the District subject to assessment for 100% of the total costs of the Improvements or representing 100% of the area of the District to be assessed for the cost of the Improvements. **The protest represents _____% of the assessed cost.**

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period, if any, are hereby found to be insufficient. The

findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2 (j) (2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2 (f) (2) of the Regulations, or (iv) expenditures in a “de minimis” amount (as defined in Section 1.150-2 (f) (1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs for the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of **\$323,000** after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2 (d) (3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, there are not City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.05. Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being

generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this **11th Day of May, 2009.**

THE CITY OF BILLINGS:

BY _____
Ron Tussing
MAYOR

ATTEST:

BY _____
Cari Martin
CITY CLERK

6

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, May 11, 2009

TITLE: Allocations for the Community Development Block Grant (CDBG), HOME Investment Partnership (HOME) Program and approval of the FY2009-2010 Annual Action Plan

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Brenda Beckett, Community Development Manager

PROBLEM/ISSUE STATEMENT: City Council action is needed to approve the FY2009-2010 Annual Action Plan and budget recommendations in preparation for the U.S. Department of Housing and Urban Development's deadline for Consolidated Plan submission on May 15, 2009. The City Council previously held a public hearing on the allocation of the City of Billings FY2009-2010 CDBG and HOME funding and the fifth year Consolidated Plan Annual Action Plan for FY2009-2010 on Monday, April 27, 2009. An additional informational presentation was made during the April 20, 2009, City Council Work Session.

ALTERNATIVES ANALYZED:

Allocation recommendations conform to pre-determined spending caps on several categories including: CDBG and HOME Administration (20% and 10% of new funding prospectively); Public Service Caps (up to 15% of new CDBG funding); and Community Housing Development Organizations (15% of HOME allocation). Changes within funding caps are allowed within certain categories. Affordable Housing, Neighborhood Projects and Economic Development funding amounts can be exchanged. A change in the Public Services category should result in an equal change in the same category. Changes made which do not comply with federal spending caps would place the City's entitlement for federal funds at risk.

FINANCIAL IMPACT: In FY2009-2010, the City will receive \$711,449 in new CDBG funding and \$538,612 in HOME funding. Program income and funding remaining from completed projects brings the totals available for allocation for this fiscal year to \$995,671 for CDBG and \$645,592 for the HOME program. Federal revenues received for the CDBG and HOME programs are provided through the U.S. Department of Housing and Urban Development. The Community Development Board recommendations are attached and comply with funding limitations.

City staff also anticipates receipt of an additional \$190,430 in CDBG stimulus funding subsequent to the American Recovery and Reinvestment Act. Regulations on how this funding must be used have not been released and program allocations will undergo a separate process.

RECOMMENDATION

Staff recommends that the City Council approve the allocation of CDBG and HOME funds as proposed by the Community Development Board for FY2009-2010 and the FY2009-2010 Annual Action Plan as the fifth year of the Consolidated Plan for FY2005-2009.

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

ATTACHMENTS

- A. FY2009-2010 Annual Action Plan (11)
- B. Community Development Board Budget Recommendations (3)
- C. CDBG / HOME Programs FY2009-2010 Project Summaries (6)
- D. Task Force Priorities (4)
- E. FY2009-2010 Final Revenue (1)

INTRODUCTION

The Community Development Board has made recommendations to City Council on the allocation of CDBG and HOME funding for FY2009-2010. On April 27, the City Council held a public hearing to provide public input on the recommendations and the allocation of CDBG and HOME resources in the community. Additional background on the Community Development Board's recommendation was provided to the City Council prior to the public hearing during a work session on April 20, 2009.

Also to be considered is the FY2009-2010 Annual Action Plan, representing the fifth year of planning for the FY2005-2009 Consolidated Plan. The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive, coordinated fashion utilizing available federal and non-federal resources. The Annual Action Plan for FY2009-2010 will serve as the planning tool for the City's CDBG and HOME Programs.

The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinney Act and the Housing for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinney funds or HOPWA funds, therefore the City's Consolidated Plan is focused on CDBG and HOME activities.

The Consolidated Plan combines planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for urban and rural areas of Montana outside of Billings, Great Falls, and Missoula.

The City Council is asked to consider the input received and make a final decision on the FY2009-2010 CDBG and HOME budgets and FY2009-2010 Annual Action Plan on Monday, May 11, 2009.

PROCEDURAL HISTORY

The City of Billings has been receiving CDBG funds since the mid-1970s and HOME funds since the early 1990s. These funds are provided by the federal government and are primarily targeted in Billings to address the affordable housing and neighborhood revitalization needs of the community. The FY2009-2010 budget represents the fourth year Action Plan to implement the City's 5-Year Consolidated Plan. The Consolidated Plan identifies strategies for the use of housing and community development resources in the community.

In allocating CDBG and HOME resources, the City of Billings goes through an extensive process to gather public input on the use of the funds. This year's applications were available at the beginning of December and due at the end of January. Task force input was requested in February and March. The Community Development Board held budget hearings on the use of

the CDBG and HOME resources on March 19 and 20, prepared preliminary recommendations on April 7 and finalized recommendations on May 5. A copy of the priorities of the task forces, as received during this process, is included in Attachment D.

The City Council public hearing is required by the Federal government and is part of the 30-day public comment period on the program beginning April 10 and extending to May 11. The City Council is scheduled to act on the CDBG and HOME programs on May 11. An application will then be submitted by HUD's May 15, 2009 deadline for review and, pending HUD approval, the program year will begin July 1, 2009.

BACKGROUND

The public hearing held on April 27 on the FY2009-2010 CDBG / HOME budget and the FY2009-2010 Annual Action Plan is part of the public input process for the use of these funds in the community. Each year the City of Billings requests application for the use of these funds for housing and community development activities. These applications are then forwarded to the Community Development Board, which prepares its recommendation for the City Council consideration.

The City is required to provide no more than 20% of its CDBG funding for administration, fair housing and planning type activities (\$171,110) and must provide 15% (estimated at \$81,000) of its annual HOME allocation for activities carried out by Community Housing Development Organizations (CHDOs). The City is required to provide no more than 10% of HOME funding for administration activities (\$53,861). The City can allocate up to 15% of CDBG resources (\$123,986) to nonprofit organizations or other projects classified as public service activities, ranging from daycare to crime prevention activities.

The City received 14 applications for housing and neighborhood activities and 14 applications for public service funding. Project summaries for activities proposed this year are included as Attachment C. CDBG and HOME resources represent the main federal commitment to communities to address the need to preserve the existing supply of affordable housing and promote the development of new affordable housing. Few other federal, state or local resources are available to address these housing needs.

ALTERNATIVES ANALYZED

The allocation of funding is restricted by the eligibility requirements for CDBG and HOME funding. Projects are focused on activities that promote new affordable housing or preserving the existing supply of affordable housing and those neighborhoods where the affordable housing stock is located. The applications for housing and neighborhood activities are consistent with this focus. The Community Development Board reviewed the proposed projects and analyzed various alternatives for funding.

STAKEHOLDERS

Stakeholders for the CDBG and HOME programs include:

1. Applicants for funding - The City receives applications from a variety of organizations which apply for public service funding or for housing funding, such as, Living Independently for Today and Tomorrow and Volunteers of America. A summary of the applicants is included as Attachment C and applications are available online: <http://www.ci.billings.mt.us/index.asp?nid=761> .
2. Neighborhood Task Forces – The task forces communicate neighborhood needs and solutions to those needs utilizing both CDBG and HOME resources. Task forces are also asked to prioritize housing and neighborhood applications. These priorities have been provided in Attachment D for your review. Funding recommendations are in alignment with Task Force priorities including emphasis on First Time Homebuyer, Housing Rehabilitation and Affordable Housing programs.
3. The Community Development Board, as an advisory body to the City Council, provides detailed oversight to both the CDBG and HOME programs throughout the year and facilitates an extensive process to prepare recommendations for the City Council consideration.

CONSISTENCY WITH ADOPTED POLICIES OR PLAN

Projects proposed for consideration are consistent with the goals and objectives of the adopted FY2005-2009 Consolidated Plan for the use of CDBG & HOME resources in Billings. Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment completed for the City of Billings by Montana State University-Billings Center for Applied Economic Research. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data.

This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities: (1) increasing housing cost compared to income and its effect on low income renters and homeowners in achieving safe, decent & affordable housing; (2) an aging population and the associated increase in the percentage of the population with disabilities; (3) a slight decrease in the price of rental housing and short term concern over the number of multi-family units; and (4) the age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

The following five strategies are proposed by the City of Billings in its FY2005-2009 Consolidated Plan to address Billings' housing and community development needs.

Strategy #1

Promote the preservation of the existing supply of affordable housing in the community by:

- Providing affordable financing to allow low and moderate-income homeowners to perform needed repairs to their homes;
- Providing affordable financing to encourage rehabilitation of multi-family units affordable to lower income residents in the community; and,
- Reducing the loss of existing standard housing units affordable to lower income households due to redevelopment activities.

Strategy #2

Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located by:

- Upgrading the housing stock in older lower income neighborhoods;
- Providing incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods;
- Supporting activities that provide amenities and address infrastructure needs of older lower income neighborhoods; and,
- Supporting efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.

Strategy #3

Promote new affordable housing opportunities by:

- Encouraging the development of new affordable single, multi family, and special needs housing in the community through private developers and non-profits; and,
- Promoting homeownership.

Strategy #4

Work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs by:

- Encouraging housing and community development organizations to work together to build strong community structures to better address needs and respond to opportunities; and,
- Supporting activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes.

Strategy #5

Improve the economic conditions of lower income households in the community by:

- Supporting efforts of community organizations to address the human service needs of lower income residents of the community in general and our lower income neighborhoods in particular; and
- Supporting the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.

Proposed goals and objectives for each of these strategies for FY2009-2010 are identified in the Annual Action Plan included as Attachment A. The complete FY2005-2009 Consolidated Plan, the 2005 MSU-B Housing Needs Assessment and the drafted 2009-2010 Annual Action Plan is available for review online: <http://www.ci.billings.mt.us/index.asp?nid=500> .

RECOMMENDATION

Staff recommends that the City Council approve the allocation of CDBG and HOME funds as proposed by the Community Development Board for FY2009-2010 and the FY2009-2010 Annual Action Plan as the fifth year of the Consolidated Plan for FY2005-2009.

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

ATTACHMENTS

- FY2009-2010 Annual Action Plan (11)
- Community Development Board Budget Recommendations (3)
- CDBG / HOME Programs FY2009-2010 Project Summaries (6)
- Task Force Priorities (4)
- FY2009-2010 Final Revenue (1)

**City of Billings, Montana
ANNUAL ACTION PLAN FY 2009-2010
CDBG / HOME Programs**

EXECUTIVE SUMMARY

This is the City of Billings' last year Action Plan of a five-year strategic plan that identifies activities it will undertake in 2009-2010 to address priority needs in the community. The draft Annual Action Plan was open for public comment extending from April 10 through May 11, 2009. A public hearing was held on April 27, 2009 during the Billings City Council meeting to accept public comments on the Annual Action Plan and Community Development Board recommendations for funding. The Action Plan for FY 2009-2010 serves as the budget for the City's Community Development Block Grant (CDBG) Program and HOME Investment Partnerships Program (HOME). Projects proposed for this year are found in Appendix A and funded projects can be found in Appendix G.

The Consolidated Plan is required for participation by the City of Billings in the U.S. Department of Housing and Urban Development (HUD) CDBG and HOME Programs and also for homeless programs funded under the McKinney-Vento Homeless Assistance Act and the Housing Opportunities for Persons with AIDS (HOPWA) Program. The City of Billings does not receive McKinney funds or HOPWA funds. Focused on CDBG and HOME activities, the Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. A separate Consolidated Plan is prepared by the City of Great Falls, the City of Missoula, and the State of Montana for non-entitlement areas of the state.

The CDBG and HOME programs covered by the Consolidated Plan have three basic goals:

1. To provide decent housing which includes maintaining the affordable housing stock in the community, increasing the availability of permanent housing that is affordable to lower-income households without discrimination, increasing support of housing which enables persons with special needs to live independently, and to assist homeless persons to obtain affordable housing.
2. To provide a suitable living environment which includes improving the safety and livability of neighborhoods, increasing access to quality facilities and services, reducing the isolation of income groups within areas by deconcentrating housing opportunities and revitalizing deteriorating neighborhoods, restoring and preserving natural and physical features of special value for historic, architectural, or aesthetic reasons, and conserving energy resources.

3. To expand economic opportunities including creating jobs accessible to lower-income individuals, providing access to credit for community development activities which promote long-term economic and social viability and empowering lower-income persons in federally assisted and public housing to achieve self-sufficiency.

Activities under these programs must primarily benefit low and moderate income persons. The strategies described in the City of Billings' Consolidated Plan outlines a specific course of action for the community's housing and community development activities. The plan builds on local assets to meet the needs of the community and sets forth goals, objectives, and performance measures to assure progress in achieving the strategies described in the plan.

The structure and content of this plan are based on specific requirements of the U.S. Department of Housing and Urban Development for the preparation of the Consolidated Plan. Many terms used in this document are specific to the Consolidated Plan process and HUD programs, and the reader may consult the Community Development Office for assistance.

Available Funding, Expenditure Limits and Match Requirements

CDBG administration and planning activities are budgeted at \$171,110 which is 20% of the new CDBG allocation (\$711,449) in addition to eligible program income (\$144,103). The proposed budget also includes \$140,119 in projects which have been cancelled or completed (cannot be included in administration costs). One hundred percent of available funding will be used to benefit the low to moderate income households.

The amount of funding available for Public Service Activities is \$123,986. This amount represents 15% of prior year income (15% of \$115,121 is \$17,268) and the estimated new CDBG allocation (15% of \$711,449 is \$106,717), and no additional reprogrammed funding from Public Services from prior years.

HOME administration activities are budgeted at \$53,861 which includes 10% of estimated new HOME revenue (10% of \$538,612 is \$53,861). As First Time Homebuyer funding returned to the City prior to the affordability period expiring is considered "recaptured" funding, no additional "program income" has been received and considered eligible for additional administration expenses.

The City of Billings meets HOME matching requirements through low-interest financing available for First Time Homebuyer Loans issued through the Montana Board of Housing (MBOH) and matching funds provided for other affordable housing projects undertaken with HOME funds, such as private contributions and other local bank financing.

Neighborhood Stabilization Program Plan

The City of Billings approved a Substantial Amendment to the City of Billings' Annual Action Plan for FY2008-2009 on January 26, 2009 to utilize funds provided under the Housing and Economic Recovery Act of 2008 (HERA) (Pub.L.110-289, 122 Stat. 2654, enacted July 30, 2008) through the HUD Neighborhood Stabilization Program (NSP). The geographic area covered in the Action Plan and amendment is the City of Billings municipal boundaries, with priority emphasis on areas with a high foreclosure risk in low income task force areas.

The NSP provides \$19.6 million in CDBG funds to the Montana Department of Commerce (MDOC) to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within its communities. In addition, the funds can be used to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes.

The City of Billings intends to utilize granted funding in a manner that complies with regulations established by HUD as published in the Federal Register on October 6, 2008. This includes obligating funding via contract for service within 18 months of HUD's approval of the MDOC's Action Plan Amendment and full expenditure of obligated funds within 48 months of HUD's approval date.

All projects will be located in the City of Billings municipal limits which have been determined to be eligible for NSP project funding due to city blocks having HUD foreclosure risk scores between five and eight. Periods of affordability will be assigned in accordance with the subsidy amount committed and expended for each project. The City will not undertake activities which will trigger the Uniform Relocation Act. The City will be leveraging funding from available application sources including CDBG, HOME and partner-provided funding sources to facilitate NSP activities.

In general, the City will undertake the following activities, to be funded in part with NSP funding:

- Acquisition, rehabilitation (including infrastructure as part of redevelopment) and resale of foreclosed or abandoned homes to income qualified homebuyers as their primary residence;
- Financial assistance to income qualified homebuyers who are purchasing an abandoned or foreclosed home; and
- Acquisition of properties and demolition of existing structures that meet the definition of blight in the community. These properties will be redeveloped in the future for use as permanent affordable housing.

As required, all NSP funding must be committed within an 18 month timeframe and must be carried out within four years. The projects will begin in early 2009 and will be continued until early 2013. This timeframe commences upon formal execution of the grant agreement between HUD and the State of Montana which occurred on March 19, 2009.

CDBG Stimulus Funding

The City anticipates receiving HUD notice of an additional \$190,430 in stimulus funding subsequent to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) signed into law by President Obama on February 17, 2009. The Community Development Division does not anticipate receiving other stimulus funding directly. This funding must be committed via written contract within 120 days of HUD notification to the office. Projects and activities eligible for this funding include...(waiting for HUD notification)

The City will undergo a separate allocation process for stimulus funding.

Past Performance

The City of Billings received comments from the U.S. Department of Housing and Urban Development regarding Comprehensive Annual Performance Evaluation Report (CAPER) in October 2008. The overall evaluation concluded the City of Billings CDBG and HOME programs are making strides in providing affordable housing and addressing community needs.

FFY2005-2009 CONSOLIDATED PLAN SUMMARY

The FFY2005-2009 Consolidated Plan followed a plan development process which included the development of the 2005 Billings Housing Needs Assessment completed by Montana State University-Billings, input from neighborhood groups, and public hearings on housing and community development needs. The plan was adopted by the Billings City Council on May 9, 2005.

The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive, coordinated fashion utilizing available federal and nonfederal resources. Five primary strategies are proposed in the FY2005-FY2009 Consolidated Plan to meet the diverse needs of Billings' lower-income households. These needs have been primarily identified through the 2005 Billings Housing Needs Assessment. This needs assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following four characteristics of the community that the City of Billings will attempt to address with housing and community development activities:

1. Increasing housing cost compared to income and its effect on low-income renters and homeowners in achieving safe, decent and affordable housing;

2. An aging population and the associated increase in the percentage of the population with disabilities;
3. A slight decrease in the price of rental housing and short-term concern over the number of multi-family units scheduled to be constructed in 2005; and
4. The age and condition of the community's affordable housing stock, particularly in the older neighborhoods surrounding the City's Central Business District.

Addressing these community characteristics requires the continuation of existing partnerships and developing new partnerships between public, private and non-profit sectors of the community.

FEDERAL FISCAL YEAR (FFY) 2005-2009 STRATEGIC PLAN

The following five strategies are proposed by the City of Billings in its FY2005-2009 Consolidated Plan to address Billings' housing and community development needs.

Strategy #1

Promote the preservation of the existing supply of affordable housing in the community, by:

- Providing affordable financing to allow low and moderate-income homeowners to perform needed repairs to their homes;
- Providing affordable financing to encourage rehabilitation of multi-family units affordable to lower income residents in the community; and,
- Reducing the loss of existing standard housing units affordable to lower income households due to redevelopment activities.

Strategy #2

Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located, by:

- Preserving the housing stock in older lower income neighborhoods;
- Providing incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods;
- Supporting activities that provide amenities and address infrastructure needs of older lower income neighborhoods; and,
- Supporting efforts of residents of lower income neighborhoods to work together to address needs and respond to opportunities.

Strategy #3

Promote new affordable housing opportunities, by:

- Encouraging the development of new affordable single, multi-family, and special needs housing in the community through private developers and non-profits; and,
- Promoting homeownership.

Strategy #4

Work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs, by:

- Encouraging housing and community development organizations to work together to build strong community structures to better address needs and to respond to opportunities; and,
- Supporting activities that promote fair housing and increase awareness of the rights and responsibilities of protected classes.

Strategy #5

Improve the economic conditions of lower income households in the community, by:

- Supporting efforts of community organizations to address the human service needs of lower income residents of the community in general and our lower income neighborhoods in particular; and
- Supporting the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.

The complete FY2005-2009 Consolidated Plan can be viewed online:

<http://www.ci.billings.mt.us/index.asp?nid=500>

FFY 2009-2010 ANNUAL PLAN		
Strategy #1 - Promote the preservation of the existing supply of affordable housing in the community.		
Objective	Implementation Plan	2009-2010 Goals
Provide affordable financing to lower income homeowners to perform needed repairs.	Complete substantial rehabilitation ¹ work through the Housing Rehabilitation Loan Program.	15 homes
	Complete minor rehabilitation work through the Minor Home Repair Program.	15 homes
	Provide funding for single purpose rehabilitation projects targeted to elderly and special needs lower income homeowners. Providing funding to organizations increases the total leveraged funding available for repair programs.	Assist with repairs for the elderly and disabled by working with non-profit organizations such as: LIFTT (7 ramps) and Rebuilding Together (4 homes).
	Pursue grant and private funding to support activities that increase resources available for housing rehabilitation activities.	Staff support & coordination to Rebuilding Together and other organizations performing rehabilitation.
	Complete substantial rehabilitation work to rental units for occupancy by lower income, elderly and special needs households through the Affordable Housing Development Program.	5 rental units
Provide affordable financing to rehabilitate rental units affordable to lower income residents.		
Reduce the loss of existing standard housing units affordable to lower income households due to redevelopment activities.	Continue to work with organizations involved with redevelopment activities to promote the preservation of the existing supply of affordable housing and to mitigate the effects of demolition or conversion when it does occur.	Continue working with the Housing Needs Analysis Subcommittee of the Affordable Housing Task Force to continue work on housing guidelines ² .

¹ For the purposes of this plan, substandard condition of housing is defined by the City of Billings as properties requiring more than \$20,000 in funding to complete all required code related improvements to the property. Substandard condition but suitable for rehab would be those properties where \$20,000 invested would address all safety hazard conditions related items associated with the house within primary systems ranging from electrical, plumbing, heating, roofing, and foundation repairs.

² Housing is being lost due to redevelopment activities separate from CDBG and HOME activities. This work group has been established to study housing needs including the loss of housing units due to demolition or redevelopment activities and to develop local housing guidelines acceptable to the community. This initiative will increase local awareness of the negative cumulative effect resulting in the loss of affordable housing units. Local guidelines will be developed which balance the expansion needs of our community with affordable housing.

Utilize the State of Montana's Neighborhood Stabilization Program (NSP).	Pursue project opportunities to utilize the NSP program to purchase and renovate homes that have been abandoned and foreclosed.	5 homes
Strategy #2 - Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located.		
<i>Objective</i>	<i>Implementation Plan</i>	<i>2009-2010 Goals</i>
Preserve the housing stock in older lower income neighborhoods.	<p>See also implementation plan for strategy #1.</p> <p>Support house painting program for lower income homeowners.</p> <p>Support Tree Program to remove and replace diseased or dangerous trees for lower income homeowners.</p> <p>Support activities that help preserve historic properties.</p>	<p>-</p> <p>5 homes</p> <p>6 trees through public service activity</p> <p>Support annual Yellowstone Historic Preservation Board work plan.</p>
Provide incentives to encourage development of vacant lots and redevelopment of substandard properties in lower income neighborhoods.	<p>See also implementation plan for strategy #3.</p> <p>Provide support for the Affordable Housing Task Force to make recommendations for a developer incentive program in conjunction with the Planning Department's Smart Growth initiative.</p>	<p>-</p> <p>The Affordable Housing Task Force will review incentive programs for infill and affordable housing development.</p>
Support activities that provide amenities and address the infrastructure needs of older lower income neighborhoods.	<p>Support planned neighborhood improvements included in City's Capital Improvement Plan (CIP).</p> <p>Provide Special Assessment Grants for lower income households to help pay for Special Improvement District Assessments (SIDs) resulting from the City's public improvement projects.</p> <p>Encourage the redevelopment of the South 27th Street Corridor.</p> <p>Encourage the implementation of the Heritage Trail Bike Plan in lower income areas in conjunction with the Healthy Communities "Built Environment" initiative.</p> <p>Promote historic preservation activities in a coordinated manner through Historic Preservation Organizations.</p>	<p>Implement City's FY2009-2010 CIP and projects funded through CDBG.</p> <p>30 homeowners</p> <p>Complete one new redevelopment project (500, 700 and 1000 blocks of South 27th Street).</p> <p>Plan and seek funding for needed improvements in task force neighborhoods.</p> <p>Support annual Yellowstone Historic Preservation Board work plan.</p>
Support efforts of residents of lower income neighborhoods	Support Neighborhood Planning efforts and provide on-going support for monthly task force meetings.	Staff support for newsletter monthly mailings.

to work together to address needs and respond to opportunities.		Facilitate task force initiatives through applications to CDBG and HOME.
Utilize the State of Montana's Neighborhood Stabilization Program (NSP).	Pursue project opportunities to utilize the NSP program to demolish units built prior to 1978 requiring more than \$25,000 in rehabilitation.	3 homes

Strategy #3 - Promote new affordable housing opportunities.

<i>Objective</i>	<i>Implementation Plan</i>	<i>2009-2010 Goals</i>
Encourage the development of new affordable single family, and multi-family, special needs housing in the community through private developers and non-profits.	Provide funding through the Affordable Housing Development Program to encourage the development of new affordable housing in the community emphasizing new / converted: <ul style="list-style-type: none"> • Elderly and Disabled housing • Special needs housing • Housing in lower income neighborhoods (Strategy #2) • Housing for very low and extremely low-income renters 	20 units
Promote homeownership.	Provide capacity building and funding to Community Development Housing Development Organizations (CHDOs) to undertake activities to meet priority affordable housing needs.	10 units
	Complete Phase II & III of the Kings Green Affordable Housing Project.	14 units
	Work to address loss of mobile / manufactured housing affordable to lower income households.	Complete Phase III of Kings Green, utilize the Affordable Housing Task Force to make recommendations regarding infrastructure development post Phase III.
	Work with Affordable Housing Task Force to identify and address barriers to affordable housing and to encourage infill development.	Establish work groups through the Affordable Housing Task Force to study & make recommendations for housing options.
	Support activities of the Housing Authority of Billings (HAB) and other assisted housing providers to meet the needs of very low-income households.	Support implementation of HAB's 5-Year Plan.

	Provide funding for support services to address the needs of the homeless, elderly, and special needs populations.	Provide staff support for the new Mayor's Committee on Homelessness.
	Assist lower income households achieve home ownership through the City's First Time Homebuyer program in partnership with Montana Board of Housing (MBOH).	50 homebuyers & \$4 million in set aside financing.
	Support homebuyer education in partnership with Montana Homeownership Network.	150 households
	Support Billings Partners for American Indian Homeownership effort to increase homeownership rates for American Indians and other minorities in the community.	Implementation of partnership goals to increase the homeownership rate for American Indians in Billings.
	Support efforts to increase homeownership rates for Hispanic Americans and other minorities in the community.	Implementation of partnership goal to increase the homeownership rate for Hispanic Americans and other minorities in Billings.
Utilize the State of Montana's Neighborhood Stabilization Program (NSP).	Provide land banking opportunities for lots where homes have been demolished for non-profit organizations.	3 lots

Strategy #4 - Work as an active partner with non-profits, neighborhood groups, and others to address housing & community development needs.

<i>Objective</i>	<i>Implementation Plan</i>	<i>2009-2010 Goals</i>
Encourage housing & community and development organizations to work together to build strong community structures to better address needs and respond to opportunities.	Sponsor the Affordable Housing Task Force which brings together organizations such as the Housing Authority of Billings, Habitat for Humanity, HRDC, Big Sky EDA, homeWORD, realtors and lenders to address affordable housing issues of common concerns.	Complete work on the strategic plan and implement the plan through subcommittees.
	Sponsor the Adjacent Neighborhood Committee which brings together the City's neighborhood task forces and Downtown Billings Partnership.	Host bi-monthly meetings and provide staff support for task force initiatives.
	Support the activities of the Billings American Indian Homeownership Partnership which brings together approximately 20 organizations to increase the homeownership rate for American Indians.	Implementation of partnership goal to increase the homeownership rate for American Indians in Billings.
	Support Neighborhood Task Forces to identify and address neighborhood needs.	Complete neighborhood plans & support distribution of monthly newsletters.
Support activities and organizations promoting fair housing and increase awareness of the rights and responsibilities of	Undertake fair housing activities in a coordinated manner with organizations with an interest in promoting fair housing.	Implement new strategies designed in response to the new 2007 Analysis of Impediments to Fair Housing Choice's FY2008-2012 Fair Housing Plan through the FY 2009-2010 Fair Housing Action Plan.

protected classes.		Facilitate partnerships to ensure an application for the Fair Housing Initiatives Program (FHIP) funding through HUD is put forth in 2009 for calendar year 2010.
	Complete new Analysis of Impediments to Fair Housing Choice for the Billings community in 2007 and develop new a Fair Housing Plan for FY2008-2012.	Implement the five-year fair housing plan for 2008 to 2012, which is based on results of the Analysis of Impediments to Fair Housing Choice.

Strategy #5 - Improve the economic conditions of lower income households in the community.		
<i>Objective</i>	<i>Implementation Plan</i>	<i>2009-2010 Goals</i>
Support efforts of community organizations to address the human service needs of lower income residents of the community in general and lower income neighborhoods in particular.	Utilize up to 15% of CDBG funding for public service activities to improve the economic conditions of lower income households.	Continue to implement performance measures to determine impact of assisted activities.
Support the efforts of economic development and non-profit agencies to undertake strategies that will result in job training and employment opportunities for lower income households.	Provide technical assistance to lower income households interested in starting or expanding an existing business.	<p>Provide technical assistance to 100 lower income households.</p> <p>Implement performance measures to determine impact of assisted activities.</p>
	Promote Hispanic American Homeownership	Provide staff support to establish new group to increase economic opportunities and homeownership for Hispanic Americans in Billings.
Utilize the State of Montana's Neighborhood Stabilization Program (NSP).	Purchase and rehabilitate an abandoned building downtown in order to provide housing and economic opportunities for low income households.	1 building

CD BOARD RECOMMENDATIONS
HOUSING & NEIGHBORHOOD ACTIVITIES
2009-2010

CDBG / HOME GRANT HISTORY			2007-2008	2008-2009	2009-2010	Staff Recommendation		Board Prelim Recommendation		Board FINAL Recommendation	
					ONE YEAR Requests	CDBG	HOME	CDBG	HOME	CDBG	HOME
Admin / Planning	HN - 1	CDBG Administration	\$168,592	\$156,950	\$175,000	\$168,821	-	\$168,821	-	\$171,110	-
	HN - 2	HOME Administration	\$67,489	\$62,921	\$65,000	-	\$50,000	-	\$50,000	-	\$53,861
	HN - 3	Professional Services	\$0	\$0	\$25,000	\$0	-	\$0	-	\$0	-
	HN - 4	Housing Rehabilitation Loan Program	\$287,207	\$300,000	\$300,000	\$262,633	-	\$300,000	-	\$300,000	-
	HN - 5	HOME/CDBG Affordable Housing Support	\$300,000	\$200,000	\$300,000	\$100,000	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000
	HN - 6	First Time Home Buyer Program	\$341,329	\$283,690	\$450,000	\$100,000	\$325,980	\$120,633	\$325,980	\$128,076	\$360,731
	HN - 7	Set-Aside for CHDOs - min. must be 15% of HOME	\$75,126	\$72,594	\$75,000	-	\$81,000	-	\$81,000	-	\$81,000
	HN - 8	Neighborhood Stabilization Program	\$0	\$0	\$50,000	\$50,000	-	\$50,000	-	\$50,000	-
	HN - 9	Living Independently for Today & Tomorrow	\$12,500	\$12,500	\$30,000	\$12,500	-	\$12,500	-	\$12,500	-
	HN - 10	Rebuilding Together	\$10,000	\$10,000	\$10,000	\$10,000	-	\$10,000	-	\$10,000	-
	HN - 11	Paint Program - Revised for FY09-10	\$0	\$0	\$10,000	\$10,000	-	\$10,000	-	\$10,000	-
Affordable Housing Activities	HN - 12	Property Management - Including NSP Properties	\$8,000	\$5,000	\$20,000	\$15,000	-	\$15,000	-	\$15,000	-
	HN - 13	Special Assessment Grants	\$47,500	\$44,796	\$50,000	\$25,000	-	\$25,000	-	\$25,000	-
	HN - 14	Washington Street Infrastructure - Water Line	\$0	\$0	\$108,000	\$108,000	-	\$0	-	\$0	-
Total Funded (includes projects not listed):			\$1,470,243	\$1,148,451	\$1,668,000	\$861,954	\$606,980	\$861,954	\$606,980	\$871,686	\$645,592

CD BOARD RECOMMENDATIONS

PUBLIC SERVICE ACTIVITIES

2009-2010

CDBG GRANT HISTORY			2007-2008	2008-2009	THREE YEAR Requests	Preliminary Recommendation	FINAL Recommendations
PUBLIC SERVICES	PS - 1	Boys & Girls Club - Gang Prevention Project	\$3,300	\$0	\$30,000		
	PS - 2	Community Housing Resource Board	\$6,600	\$5,000	\$15,000		
	PS - 3	Crisis Center - Seeds of Success	\$0	\$0	\$22,477		
	PS - 4	Forever Families	\$8,250	\$0	\$30,000	\$22,634	\$23,493
	PS - 5	Housing Montana	\$0	\$0	\$30,000		
	PS - 6	HRDC - Growth Thru Art & Various Programs, FY09-10 Application is for Emergency Services	\$6,600	\$5,000	\$30,000		
			\$4,125	\$8,000 <i>Harmony</i> <i>IDAs</i>			
	PS - 7	Interfaith Hospitality Network	\$0	\$0	\$30,000		
	PS - 8	Project Homeless Connect	\$0	\$0	\$30,000		
	PS - 9	Scottish Rite Clinic - Pediatric Therapy	\$0	\$5,000	\$26,000		
	PS - 10	Southgate Cop Shop	\$4,125	\$2,000	\$15,000		
	PS - 11	Volunteers of America - Independence Hall	\$0	\$0	\$30,000	\$22,634	\$23,493
	PS - 12	Yellowstone Health Partnership - Med Assistance Program	\$7,425	\$7,431	\$27,000	\$27,000	\$27,000
	PS - 13	Young Families Early Head Start	\$7,425	\$15,000	\$30,000	\$30,000	\$30,000
	PS - 14	YWCA Gateway House	\$6,600	\$6,600	\$20,000	\$20,000	\$20,000
Total Funded (includes projects not listed):			\$136,111	\$118,081	\$365,477	\$122,268	\$123,986
Total Available:						\$122,268	\$123,986

Difference between Preliminary and Final Recommendations:

CDBG funding was increased by \$9,732 over the Budget Baseline used for allocations. The Community Development Board recommended supporting Administration and Professional services within the 20% administration cap (an additional \$2,289).

Additional funding eligible for Public Services was recommended for equal division and allocation to Forever Families and Volunteers of America in compliance with the 15% maximum Public Services cap (an additional \$859 each).

HOME funding was increased by \$38,612 over the Budget Baseline used for allocations. The Community Development Board recommended supporting Administration services within the 10% maximum administration cap (an additional \$3,861).

Allocation recommendations for Community Housing Development Organizations (CHDOs) have been based on the maximum estimate for HOME allocation, and must be a minimum of 15% of the new HOME allocation for the year. The Budget Baseline recommendation was estimated by using the maximum HOME allocation expected and this recommendation will not change (allocated at \$81,000).

Remaining CDBG and HOME funding is recommended for allocation to the First Time Homebuyer Program (CDBG \$7,443 and HOME \$34,751), totaling an additional \$42,194 which is expected to support an additional five to six homebuyers.

HOUSING & NEIGHBORHOOD ACTIVITIES

FY 2009 – 2010 APPLICATION SUMMARY

K.

ADMINISTRATION/PLANNING

Amount

1.	CDBG Administration	\$ 175,000
2.	HOME Administration	65,000
3.	Professional Services	25,000

AFFORDABLE HOUSING ACTIVITIES

4.	Housing Rehabilitation Loan Program	300,000
5.	HOME / CDBG Affordable Housing Support	300,000
6.	First Time Home Buyer Program	450,000
7.	Set-Aside for CHDOs – Must be 15% of HOME funds	75,000
8.	Neighborhood Stabilization Program	50,000
9.	Living Independently For Today & Tomorrow – Ramp Program	30,000
10.	Rebuilding Together – Home Rehabilitation	10,000

NEIGHBORHOOD PROJECTS

11.	Paint Program	10,000
12.	Property Management – Including NSP Properties	20,000
13.	Special Assessment Grants	50,000
14.	Washington Street Infrastructure – Water Line	<u>108,000</u>

Total Requested **\$1,668,000**

HOUSING & NEIGHBORHOOD ACTIVITIES

FY 2009 – 2010 APPLICATION SUMMARY

ADMINISTRATION / PLANNING / FAIR HOUSING ACTIVITIES		
HN - 1	CDBG Administration Funds are requested for general administration expenditures for CDBG Program including office space, salaries and benefits for various staff positions. CDBG also provides the resources for administration for other grant programs related to Community Development received by the City.	\$175,000
HN - 2	HOME Administration Funds are requested for general HOME administration expenditures and salary and benefits for the HOME Program Coordinator.	\$65,000
HN - 3	Professional Services Funds are requested for (1) the 2009 Housing Needs Analysis in the amount of \$20,000; and (2) assistance with the Mayor's Committee on Homelessness in the amount of \$5,000.	\$25,000
AFFORDABLE HOUSING ACTIVITIES		
HN - 4	Housing Rehabilitation Loan Program Funds are requested to rehabilitate up to 15 homes throughout the City of Billings. The program is intended to provide affordable financing to low / moderate income applicants to provide substantial improvements that help preserve the City's affordable housing stock and revitalize older neighborhoods. Funds will be used to partially fund the CD Grants Coordinator position.	\$300,000
HN - 5	HOME / CDBG Affordable Housing Support Program Funds are requested to encourage the development of affordable housing for lower-income households in the City of Billings. Applicants for this program can be for-profit developers or non-profit agencies.	\$300,000
HN - 6	First Time Home Buyer Program Funds are requested to assist low-income families in the purchase of their first home. The program is designed to provide financial assistance to help qualify for traditional housing financial programs to purchase a home. Funds will be used to provide down payment assistance, closing costs, and minor repairs and for related project administration expense.	\$450,000
HN - 7	HOME Set-Aside Community Development Organizations (CHDO) As a recipient of HOME funds, the City of Billings must provide at least 15% of its funding for CHDO activities. CHDO funds will be made available by the City of Billings through an application and approval process. This funding is requested for CHDOs to develop affordable housing in the community.	\$75,000
HN - 8	Neighborhood Stabilization Program Funds are requested to provide up-front funding for project costs in appraisals, engineering, inspection, and consulting services to determine feasibility of specific properties for purchase through this foreclosure intervention program.	\$50,000
HN - 9	Living Independently for Today and Tomorrow (LIFTT) Funds are requested to construct or provide maintenance work on ramps for low-income persons with disabilities to access their homes.	\$30,000
HN - 10	Rebuilding Together – Home Rehabilitation Funds are requested for building materials and construction costs to assist up to five low-income households. Volunteers paint, clean, weatherize, and perform carpentry work. Plumbing, roofing, and electrical work is completed by certified and licensed professionals.	\$10,000

HN - 11	<p><i>Exterior Paint Program</i></p> <p>Funds will be used to assist up to 5 low-income homeowners with exterior painting projects to their owner-occupied stick built or mobile / manufactured homes. The program targets those households at or below 60% of the area median income. The maximum assistance for supplies and labor for each project is \$2,000 and will incorporate the use of lead-safe work methods if needed.</p>	\$10,000
NEIGHBORHOOD PROJECTS		
HN - 12	<p><i>Property Management</i></p> <p>Funds are requested to pay existing SIDs and maintain weeds and snow on property previously acquired through the CDBG program. These properties are primarily located along South 27th Street which were purchased specifically for re-development. This program will also be utilized for property management expenses incurred in the Neighborhood Stabilization Program.</p>	\$20,000
HN - 13	<p><i>Special Assessment Grants</i></p> <p>Funds are requested to provide grant funds to lower-income households impacted by Special Improvement District assessments for public improvements such as curb, gutter, and sidewalk projects in lower income areas.</p>	\$50,000
HN - 14	<p><i>Washington Street Infrastructure</i></p> <p>Funds are requested for infrastructure construction costs to extend 12" water main on Washington 810 feet to the south property line of Lot 7, Willis Subdivision. This water main extension will support a proposed 18-unit affordable housing project to be located at 307 Washington Street directed at serving tenants at or below 60% AMI. Additionally, the water main extension will support current adjacent properties along the extended line. CDBG funding will support this effort to initiate infrastructure development in a high need area and is consistent with the stated strategies of the Consolidated Plan and goals and objectives of the 2003 Growth Policy. Hope is to expand city water services to LMI areas for future development.</p>	\$108,000

PUBLIC SERVICE ACTIVITIES

FY 2009 – 2010 APPLICATION SUMMARY

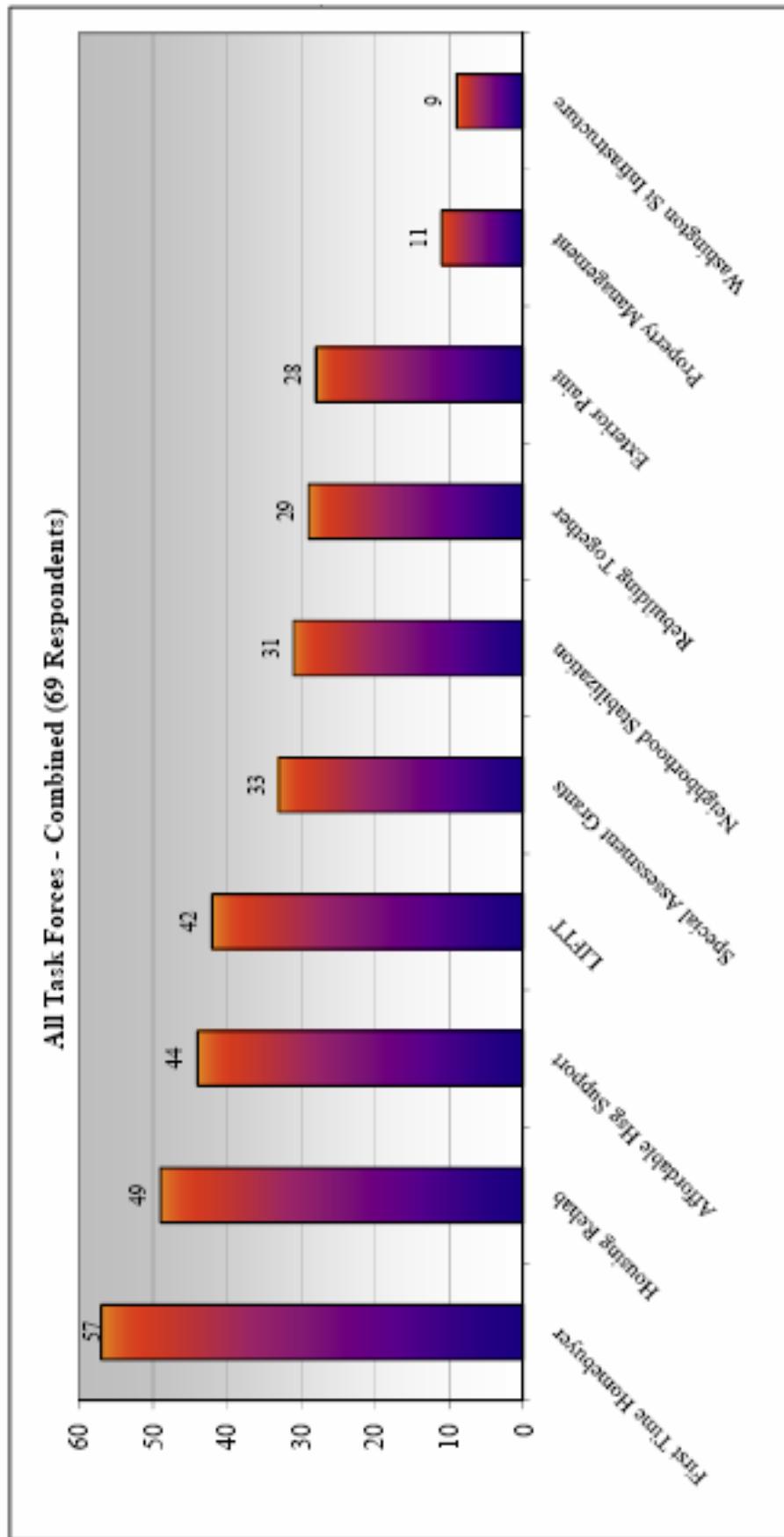
	<u>Amount</u>
1. Boys & Girls Club – Gang Prevention & Graffiti Removal Pilot	\$ 30,000
2. Community Crises Center – Seeds for Success	\$ 22,477
3. Community Housing Resource Board – Fair Housing Outreach	\$ 15,000
4. Forever Families – Resource Center	\$ 30,000
5. Housing Montana – HomeOwnership Center	\$ 30,000
6. HRDC – Emergency Assistance	\$ 30,000
7. Interfaith Hospitality Network – Partners’ Home	\$ 30,000
8. Mayor’s Committee on Homelessness – Project Homeless Connect	\$ 30,000
9. Scottish Rite Clinic – Pediatric Therapy Program	\$ 26,000
10. Southgate Cop Shop – Facilities Rent, Utilities, Maintenance	\$ 15,000
11. Volunteers of America – Independence Hall Enrichment	\$ 30,000
12. Yellowstone Health Partnership – Medication Assistance Program	\$ 27,000
13. Young Families Early Head Start – Personal Financial Classes	\$ 30,000
14. YWCA - Gateway House	<u>\$ 20,000</u>
Total Requested	<u>\$365,477</u>

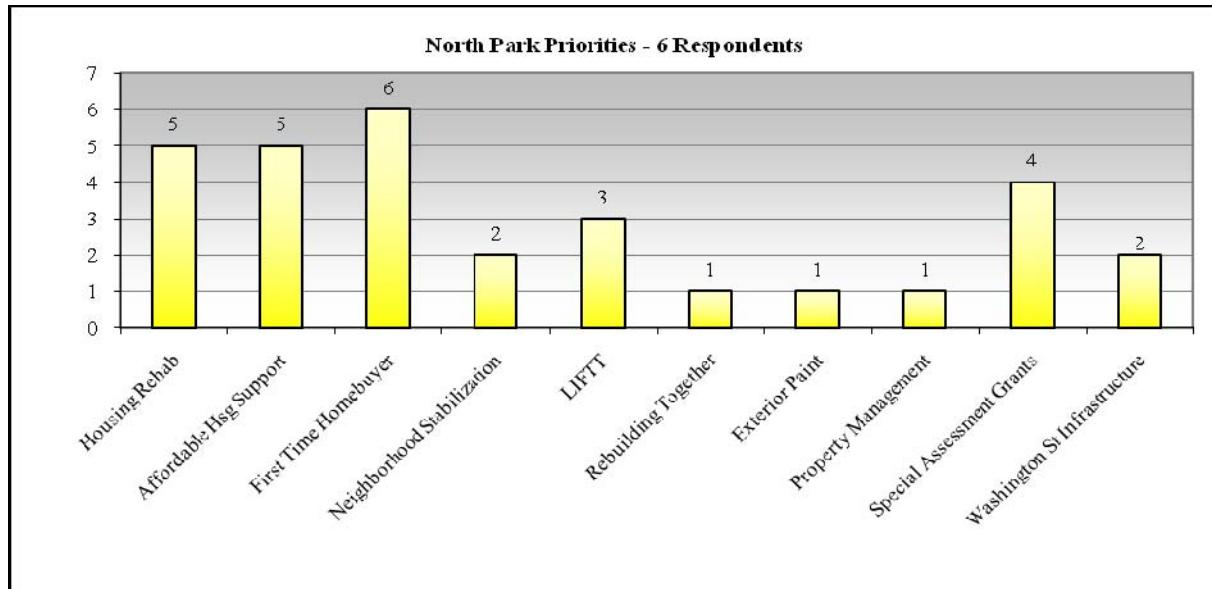
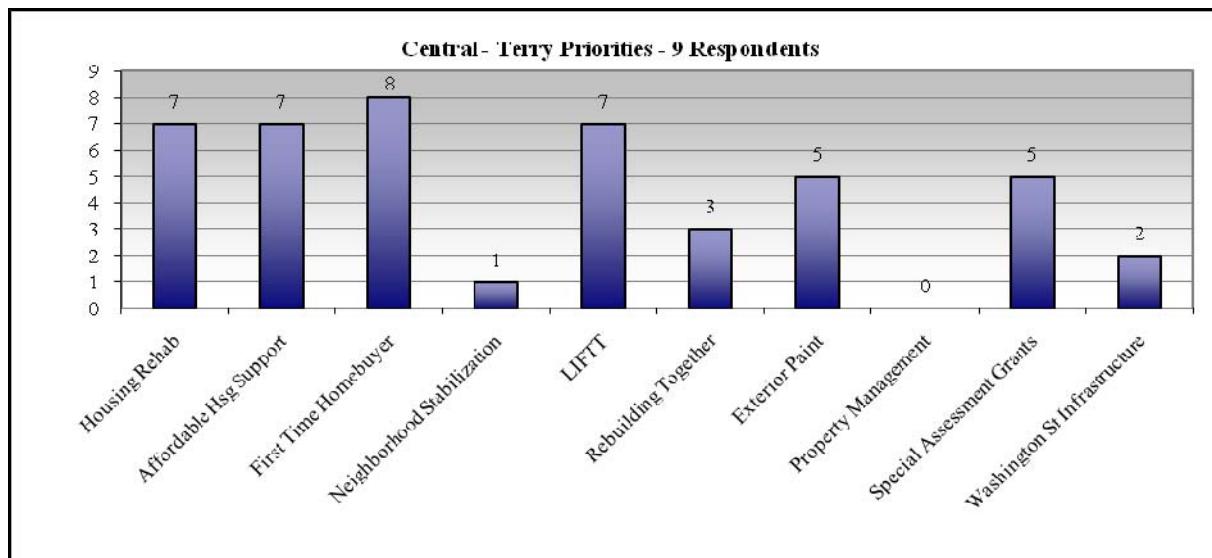
FY 2009 – 2010 APPLICATION SUMMARY

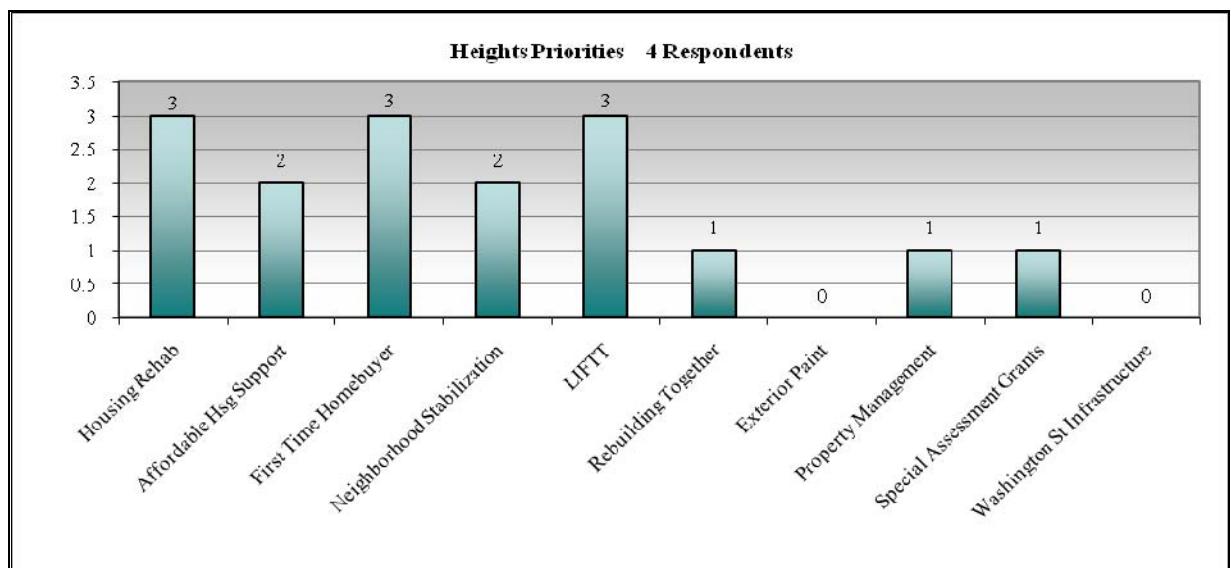
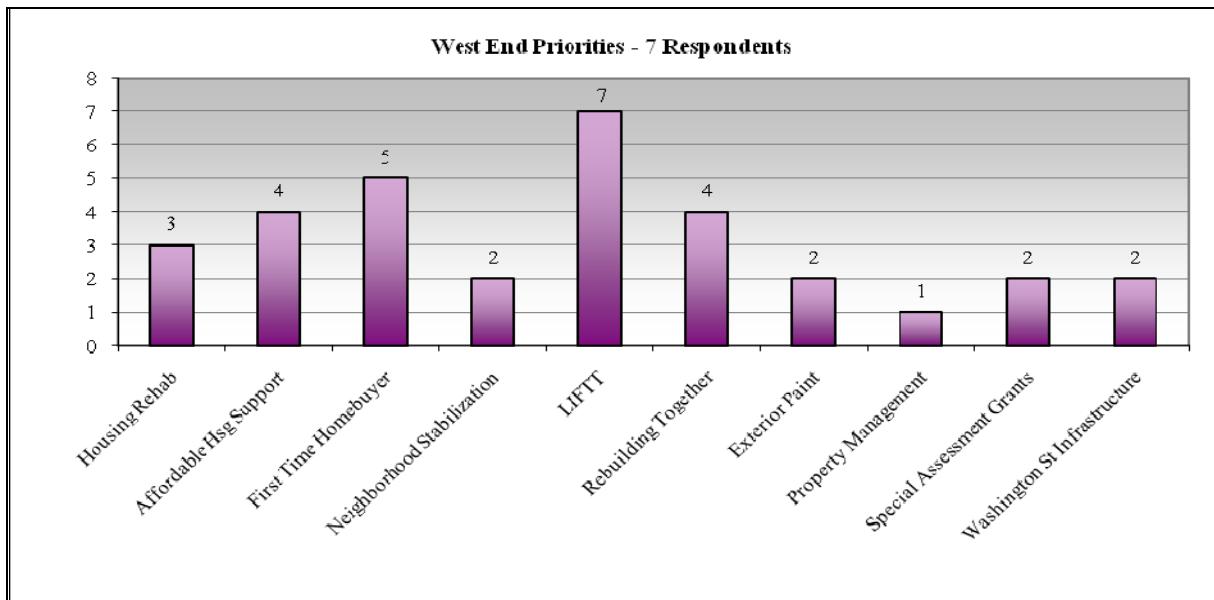
PS – 1	<i>Boys & Girls Club – Gang Prevention & Graffiti Removal Pilot</i>	
	Funds are requested to support the Gang Prevention programming at the Bair Family Clubhouse and to conduct 10 graffiti removal projects during the Summer Programs each of the next three summers.	\$30,000
PS – 2	<i>Community Housing Resource Board</i>	
	Funds are requested to support a contractor position and supplies to provide direct services to consumers in the form of workshops and distribution of fair housing materials. This includes public service announcements and news articles and on data collection activities designed to create a community-wide picture of fair housing issues in the community.	\$15,000
PS - 3	<i>Community Crisis Center – Seeds for Success</i>	
	Funds are requested to purchase 8 new computers, software, HIPAA approved screen covers and to purchase a newer used passenger van, insurance & license plates for the year, as well as filing cabinets to store our confidential data. The Community Crisis Center is an overnight shelter for the homeless.	\$22,477
PS - 4	<i>Forever Families Resource Center</i>	
	Funds are requested to cover operating expenses such as rent, utilities, insurance, and maintenance. Funds will also be used to expand projects and services provided in the past and to promote new activities for this foster family resource center.	\$30,000
PS - 5	<i>Housing Montana – Home Ownership Center</i>	
	Funds are requested to purchase equipment including tables, chairs, electronic equipment for visual learning, consumable supplies including purchased preprinted materials, handouts, training tools for participants, support continuing education requirements for instructors, financial services for reporting requirements, printing and postage for mailings and outreach materials, as well as salary support for educators and counseling services.	\$30,000
PS - 6	<i>HRDC – Emergency Assistance</i>	
	Funds are requested to cover direct service which can include rental assistance, damage deposit, mortgage payment, and food vouchers, averaging \$400-\$450 per household.	\$30,000
PS - 7	<i>Interfaith Hospitality Network</i>	
	Funds are requested to cover case management, travel & training, child care for parents attending classes, subsidy/emergency costs, computer equipment, and postage	\$30,000
PS - 8	<i>Project Homeless Connect</i>	
	Funds are requested for one consultant position and administrative costs for one year to facilitate capacity-building for this one-day homeless service event. After the first year, the position will be self-sustaining through grant writing and fundraising.	\$30,000
PS - 9	<i>Scottish Rite Clinic – Pediatric Therapy Program</i>	
	Funds are requested to pay for therapeutic intervention expenses, operating, and therapeutic equipment expenses needed to provide evaluation and therapy services to children with disabilities.	\$26,000
PS - 10	<i>Southgate Cop Shop</i>	

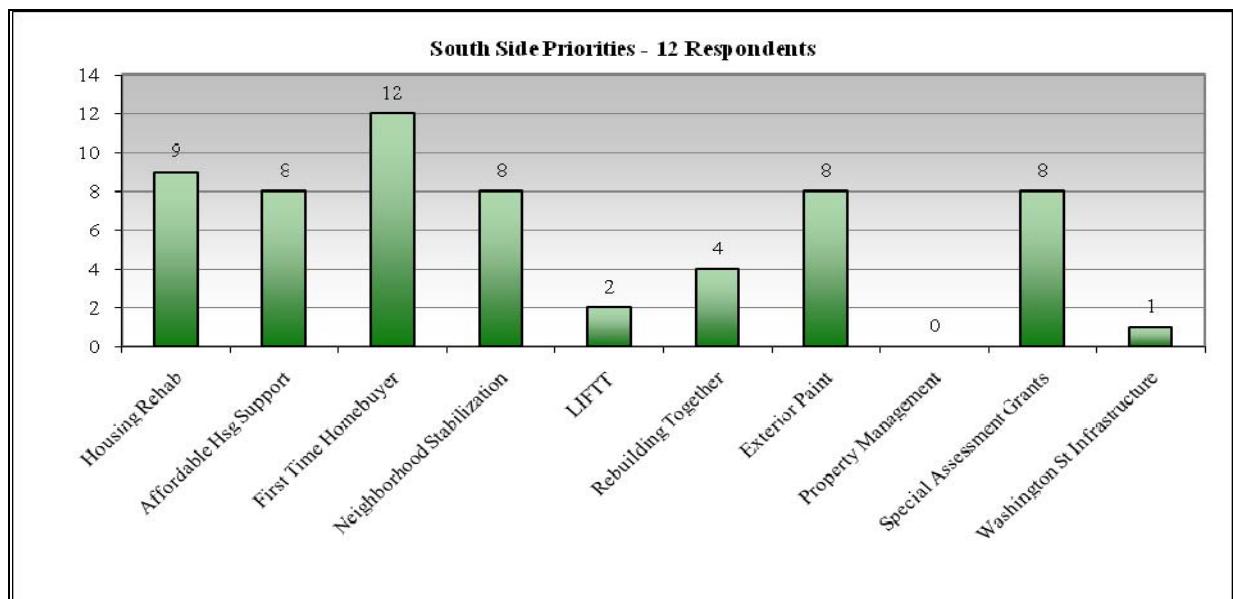
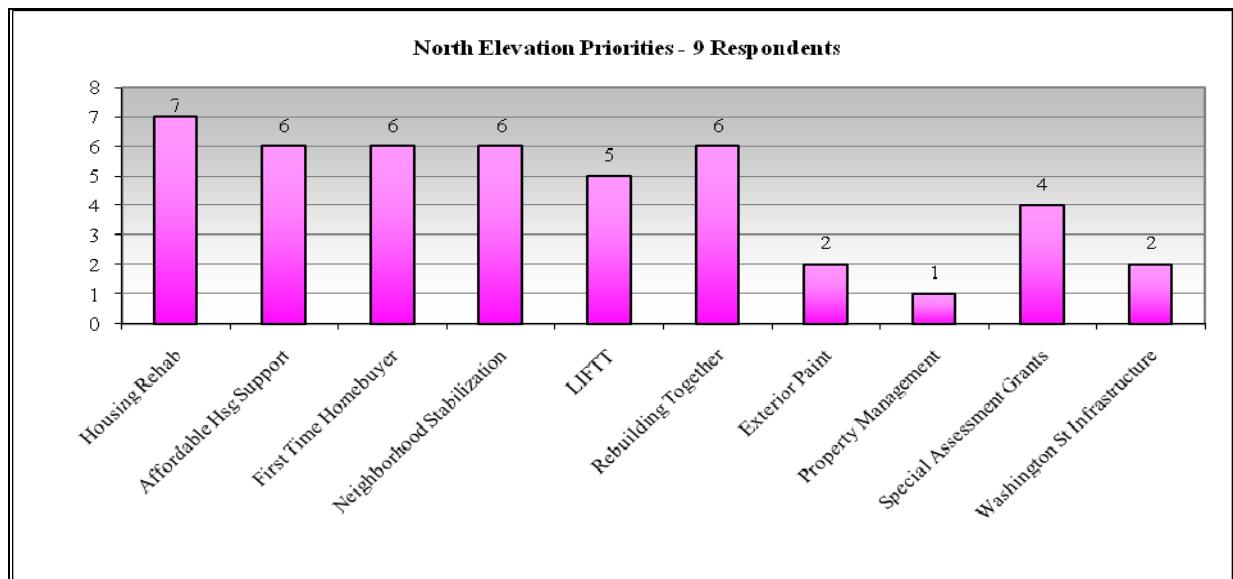
	Funding is requested to assist with rent, utilities and insurance for this neighborhood cop shop.	\$15,000
PS - 11	<i>Volunteers of America – Independence Hall</i> Funding is requested to purchase furniture, fixtures and equipment for the Independence Hall transitional living facility at 700 Lake Elmo Road, Billings, Montana.	\$30,000
PS - 12	<i>Yellowstone Health Partnership - Medication Assistance Program</i> Funds are requested for salaries of staff for the Medication Assistance Program (MAP) over a three year period at the Deering Clinic site.	\$27,000
PS - 13	<i>Young Families Early Head Start</i> Funding is requested to provide furniture/equipment/supplies for three additional classrooms; family case management services for 12-24 additional children; and for new personal financial planning classes for all parents in the program.	\$30,000
PS-14	<i>YWCA - Gateway House Domestic Violence & Sexual Assault Services</i> Funding is requested to support general operating expenses of the program, which includes utilities, phones, taxes, supplies, security, building repairs, and accountant contracted services. Gateway services include housing, support, education, and advocacy for victims of domestic violence and sexual assault.	\$20,000

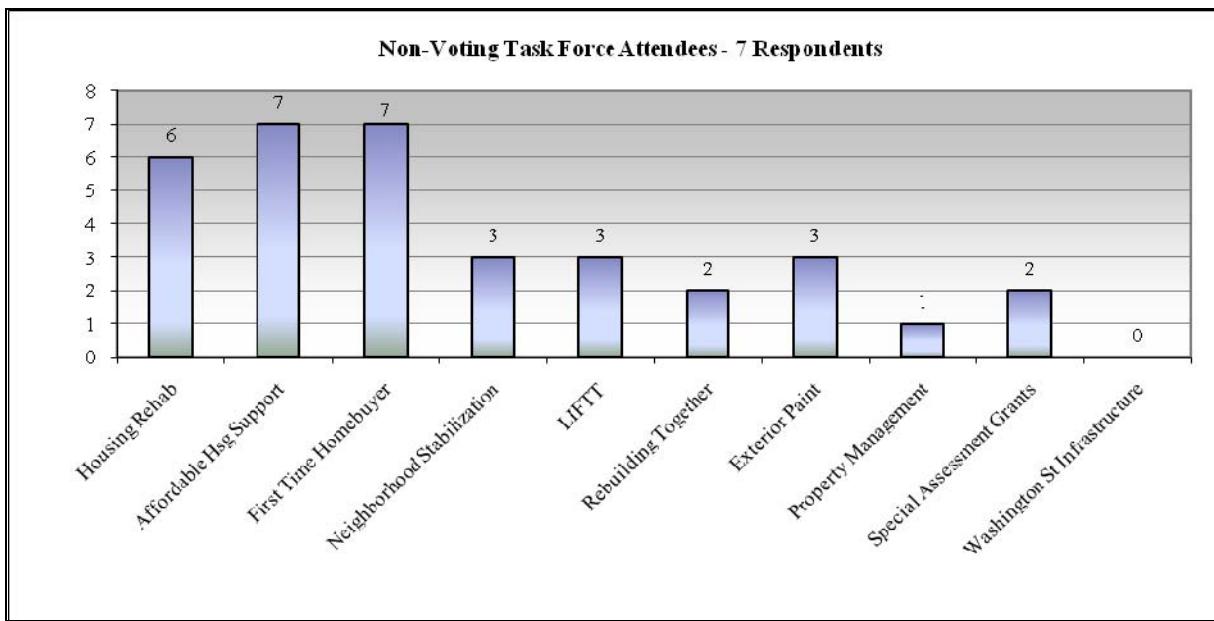
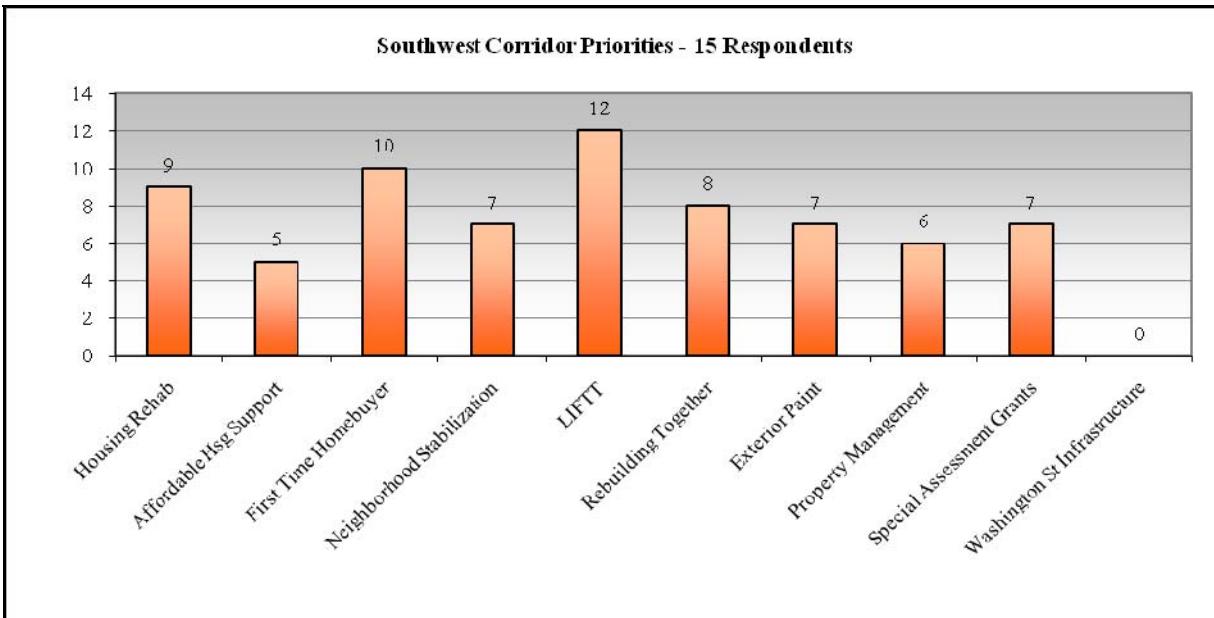
CDBG / HOME FY 2009-2010











COMMUNITY DEVELOPMENT DIVISION

FINAL Revenue FY 2009-2010

ARRA Stimulus Funding	\$190,430	American Recovery and Reinvestment Act (PENDING)
CDBG REVENUE		
HUD CDBG Grant	\$711,449	Estimated Annual Allocation
Loan Principal	\$14,057	Parkview Convalescent
Loan Interest	\$7,472	Parkview Convalescent
CDBG Reprogrammed* Funds	\$140,119	See detail below - cannot be included in Admin Cap
Housing Rehab Loans Repayment	\$52,000	At 50% year lapsed for 08-09
Prior Year Program Income - Rehab	\$70,360	Program income over est. (Rehab Loans & Interest)
Miscellaneous Revenue	\$78	
Rehab Interest	\$136	At 50% year lapsed
CDBG Revenue Total:	\$995,671	
20% Cap on CDBG Administration:	\$171,110	Includes only new revenue, not reprogrammed*
PUBLIC SERVICE FUNDING		
15% of CDBG Allocation	\$106,717	
15% of previous year program income (\$115,121)	\$17,268	
PUBLIC SERVICE TOTAL:	\$123,986	
CDBG Revenue Total:	\$995,671	
Reduced by Public Services Total:	\$123,986	
Total Available for Housing & Neighborhood:	\$871,686	
HOME REVENUE		
HUD HOME Grant	\$538,612	Estimated Annual Allocation
FTTB Loans Recaptured	\$36,580	At 50% year lapsed for 08-09
FTTB Loans Program Income	\$0	
Prior Year Recaptured	\$70,400	Program income over est. (FTTB loans)
Prior Year Program Income	\$0	
HOME Revenue Total:	\$645,592	
10% Cap on HOME Administration:	\$53,861	Includes only new allocation and 10% PI, not reprogram
15% Mandatory CHDO Allocation:	\$80,792	Includes 15% of new allocation, not reprogrammed*
Total Available for HOME Activities:	\$564,800	
<i>*CDBG Reprogrammed Funds Detail:</i>		
03-04 Rental Rehab Program	\$8,425	
05-06 Rental Rehab Program	\$32,663	
05-06 Paint Program	\$816	Cancelled or completed projects
06-07 Minor Home Repair	\$21	(not included in caps)
06-07 Paint Program	\$2,000	
06-07 Central - Terry PCE Groundwater Educ	\$1,000	
06-07 Special Assessment Grants	\$18,005	
07-08 Special Assessment Grants	\$47,189	
07-08 VOA Veteran's Homeless Program	\$30,000	
HN / Admin Reprogrammed Total:	\$140,119	
Total Available in CDBG & HOME:	\$1,641,263	

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, May 11, 2009

TITLE: Fiscal Year 2010 Downtown Billings Partnership Project Proposal

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Asst. City Administrator

PROBLEM/ISSUE STATEMENT: The N. 27th Street tax increment district (TID) should have FY 2010 funds totaling at least \$20,000 available for projects. The Downtown Billings Partnership (DBP) Board of Directors considered and approved a list of four projects that use that funding. All of the projects are consistent with the Downtown Framework Plan that the City adopted in 1997. The request is slightly out of sequence with the usual City budget process, but it is consistent with past practices that identified downtown projects before the usual budget cycle when the City and DBP executed work plans and agreements for managing the former downtown TID. The request is being made at this time because at least two and maybe three of the projects should be completed early in the summer and waiting for the citywide budget approval would delay them until late summer.

ALTERNATIVES ANALYZED: The City Council may:

- Approve the request as submitted
- Deny the request
- Modify the request or delay its approval to coincide with the rest of the FY 2010 budget

FINANCIAL IMPACT: TID funds must be spent within the district, so spending them for these projects will not negatively impact other City operations. The City Council could decline the request and save the funds for appropriation in a subsequent fiscal year, but they still must be spent for public improvements within the district.

RECOMMENDATION

Staff recommends that Council approve the Downtown Billings Partnership's request for FY 2010 funding of \$20,000 for four downtown improvement projects.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

A: DBP Project Proposal

ATTACHMENT A

MEMORANDUM

To: City of Billings – City Council
And Administration Staff
From: Downtown Billings Partnership, Inc.
Date: April 27, 2009



RE: Consent Agenda Action Item Request

Attached, please find a City Council Action Item request that the DBP Board of Directors approved regarding N. 27th Street TIFD projects for FY 2010. Please advise that everything is in order for this action item to appear for action on the May 11, 2009 Agenda (Consent, hopefully) of the Billings City Council. If you have any questions, please do not hesitate to contact me.

Thank you.

4-a1

DBP Board April 2009 AGENDA ITEM:

Downtown Billings BOARD Action Item April 2009

TITLE: Kit of Parts – N. 27th District
COMMITTEE: Staff
PRESENTED BY: Staff

PROBLEM/ISSUE STATEMENT: The Framework Downtown Billings was "carried over" from the old Urban Renewal Plan (URP) into the URP for the N. 27th Street District. In fact, the new URP recognizes the ongoing and adaptive nature of the old plan. It should be noted that when the Tax Increment Financing provision of the old plan expired, the plan, itself, did not.

Expansion and ongoing maintenance of the Street Kit of Parts would be a good "first step" in the implementation of the new URP and can begin with the limited amount of funds available in FY2010 for projects. While parking continues to be the #1 concern of the potential street level development community, "street-mosphere" continues to be of interest and plays directly into the curb appeal concept.

Many buildings in downtown still have major street level vacancies that could benefit from a street-mosphere project. The Crowne Plaza has proposed a cooperative venture and the staff of the Downtown Hub would like to explore some street enhancements as well.

FINANCIAL IMPACT: As of July 1, 2009 – August 31, 2009, there will be about \$20,000 "cash" available for "projects." Once the DOR certifies the value of the increment in August, we could have approximately \$55,000 more. Until the city actually has the funds in the account, staff would recommend that we only explore projects that would fall within the \$20K range. Thus we propose the following "up to" amounts be allocated:

• Landscape and sidewalk improvements on 1 st Ave. North at N. 27 th	\$4500
• Tree medication via the PMDs and the BID	\$2500
• SkyPoint Cleaning	\$6000
• Additional Kiosk/Pedestrian Signs	\$7000
Total =	\$20000

OPTIONS:

- Board approval of project/budget, request City Council approval

- b) Board approval of separate "line items" above, request Council approval
- c) Board rejects project

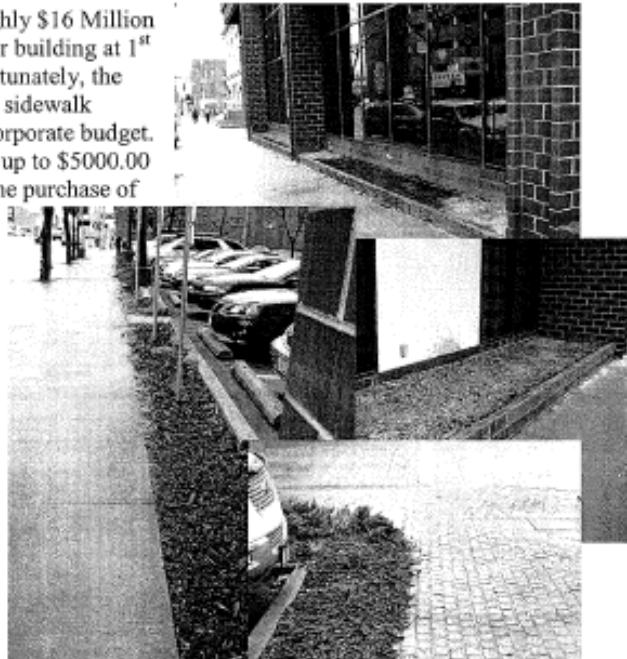
Staff recommends option "a"

KIT OF PARTS – 2009 – 2010

The Crowne Plaza has invested roughly \$16 Million into the renovation and repair of their building at 1st Ave. North and N. 27th Street. Unfortunately, the last piece, the flowers, plantings and sidewalk improvements were cut from their corporate budget. They are requesting that we allocate up to \$5000.00 (see ESTIMATE #1) to assist with the purchase of materials to complete the project. They will provide the labor for installation and ongoing maintenance.

The project includes:

- 1) Plantings at 4 outside locations
- 2) Removal of a "bark" strip between the parking lot and the sidewalk – replace with continuation of the Montana Ave. stamped concrete pattern a neat hedge.



Last summer, using BID, DBP and donated funds, the BID treated almost all of the sick trees in the immediate city center and the impact was dramatic and immediate. Trees that had leaves turning brown early in June were healthy and green all summer. The city arborist warned us last year that the treatment had to be continuous for at least 3

years. The BID is requesting a budget of up to \$2500 (see ESTIMATE #2) to continue the treatment for the summer of 2009.

Skypoint is
FILTY. (See
ESTIMATE #3)



The Downtown Alliance replaced all of the signs, updated the maps and repaired broken glass on a key element of the Framework's Kit of Parts, the pedestrian wayfinding signs.

We currently have 5 in place and we have had interest from several downtown organizations who would propose we consider at least two more. At a 2009 price tag of about \$5000.00 each (see



ESTIMATE #4) an up to budget of \$8,000.00 would insure one, at least and if matching private funds can be acquired, we could get two.

On April 17th, the DBP Board of Directors voted unanimously (with two members abstaining due to conflict of interest) to approve the staff recommendation for the Kit of Parts action item – N. 27th Street (new) TIFD with modifications. The motion required that Crowne Plaza plant the sidewalk strip with a neat hedge instead of installing stamped concrete. The Board requested that this item go before the Billings City Council at the May 11, 2009 Meeting.

EXHIBIT B - DBP OPERATIONS/PROJECTS BUDGET FY2010
Approved by DBP Board February 27, 2009

PROPOSED N. 27TH TIFD DISTRICT FY 2010 BUDGET		ACTUAL	BALANCE
Estimated Cash Balance as of 5/30/09 - Tax Year 2008	\$134,870.00	\$0.00	\$134,870.00
Projected Increases - Tax Year 2009	\$89,000.00	\$0.00	\$89,000.00
TOTAL FUND	\$214,870.00	\$0.00	\$214,870.00
Expenses			
DBP Management Services	(\$98,580.00)	\$0.00	(\$98,580.00)
Expansion of historic district	(\$15,000.00)	\$3,000.00	(\$12,000.00)
Council Approved TIFD Projects	(\$75,000.00)	\$0.00	(\$75,000.00)
Other Service Charges	(\$9,000.00)	\$0.00	(\$9,000.00)
BALANCE	\$17,290.00	\$0.00	\$17,290.00