

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

August 24, 2009

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Pitman

ROLL CALL

MINUTES – August 10, 2009

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 2 ONLY.

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

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

CONSENT AGENDA:

1. A. Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Tourism BID Board	08/24/09	06/30/10

1. Unexpired term of Linda Gallagher

B. Bid Awards:

(1) New Awning for Park 1 Parking Garage (Opened 8/11/09); Recommend Sign Products, Inc.; \$52,646.

(2) Purchase of Five (5) 2010 Truck Cabs and Chassis with Refuse Compactor Bodies for the Solid Waste Division (Opened 8/11/09); Recommend:

Schedule I	2 Units	Jack's Truck & Equipment	\$464,081.44
Schedule II	2 Units	Jack's Truck & Equipment	\$341,894.68
Schedule III	1 Unit	I-State Truck Center	\$153,470.00

C. Lease Agreement (3-year lease with 4th and 5th year renewal options) with Tami Kelling, dba Downtown Subs, for ground level space in the Park One Garage located at 224 North 29th St. Annual revenues: first year - \$12,000; second and third years - \$12,600; fourth and fifth optional years - \$12,960.

D. Contract Amendment between State of MT Department of Public Health and Human Services – Developmental Disabilities Division and MET Transit extending contract term an additional year from 7/1/09 through 6/30/10. Estimated revenue - \$100,000.

E. Amendment No. 2, W.O. 04-26, Zone 4 Reservoir and Facilities. Professional Services Contract, HDR Engineering, Inc., \$74,662.

F. Acknowledge Receipt of Petition for proposed street name change of Cynthia Park Drive to Sky Run Drive, and set a public hearing date for 9/14/09.

G. Declaring surplus property and authorizing a public auction of surplus City equipment and police recovered property on September 26, 2009.

H. Street Closures:

(1) ConocoPhillips Billings Refinery “Neighborhood Eat & Meet” on Tuesday, September 8, 2009; 5 p.m. to 7 p.m.; South 28th Street between 5th and 6th Avenues South.

(2) Broadwater School PTA Centennial Celebration on Friday, September 11, 2009; 4 p.m. to 9 p.m.; Fourth Street West from Broadwater Avenue to Wyoming Avenue and Wyoming Avenue from 4th Street West to 5th Street West.

(3) Holy Rosary Catholic Church Barnyard Bingo Fundraiser on Sunday, September 13, 2009; 8 a.m. to 5:30 p.m.; 500 block of Custer Avenue.

(4) Skyview High School Homecoming Parade on Friday, September 18, 2009; 12:30 p.m. to 2:30 p.m.; beginning at Skyview High School parking lot and proceeding down Wicks Lane to St. Bernard's Church.

(5) Montana Marathon Run on Sunday, September 20, 2009; 5:00 a.m. to 2:30 p.m.; start on Molt Road, east along Sam Snead Trail and Walter Hagen Drive,

south on 54th Street West, east on Rimrock Road, south on 46th Street West, east on Rangeview, north on 38th Street West, east on Poly Drive, south on Patricia Lane, east on Colton Boulevard, south on 17th Street West, east on Parkhill Drive, south on 3rd Street West, finish at Daylis Stadium.

I. Acceptance of Donation from the Yellowstone County DUI Task Force to the Billings Police Department for purchase of portable breath testers, \$5,000.

J. Acceptance of Donation from Exxon Mobil to fund airfare, hotel, per diem, and training costs for seven members of the Airport Aircraft Rescue Fire Fighting Staff to attend specialized petroleum-based fire training in Mandeville, LA, and College Station, TX, in September and November 2009; estimated total donation - \$14,000.

K. Approval of Grant Application through the State Coal Board for funding of the 25th Street Pedestrian Bridge over the Montana Rail Link tracks to connect Montana Avenue in the historic district of downtown Billings with the Minnesota Avenue Old Town Neighborhood District; \$200,000.

L. Approval of Staff Recommendation to Policy Coordinating Committee for the funding of the Alkali Creek Corridor Trail Connections and the Swords Park Trail, Phase II, CTEP projects.

M. Resolution of Intent to adopt the East Billings Urban Renewal District Master Plan, and set a public hearing date for 9/14/09.

N. Resolution temporarily suspending Section 24-411, BMCC, Parking for Camping Purposes, in the Shrine Auditorium parking lot, 1125 Broadwater Avenue, during the Big Sky Polka Club's Polkafest, September 4-6, 2009.

O. Final Plat Approval of Morledge Family Medical Village Subdivision.

P. Bills and Payroll

- (1) July 24, 2009
- (2) August 3, 2009

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. RESOLUTION RELATING TO \$297,000 POOLED SIDEWALK SERIES 2009 BONDS AWARDING THE SALE for the financing of construction of W.O. 05-02,

Miscellaneous/Developer Improvements; and W.O. 02-08, Milton Lane School Route Improvements. Bids opened 8/24/09. Recommendation to be made at meeting. (**Action:** approval or disapproval of staff recommendation.)

3. **PUBLIC HEARING AND RESOLUTIONS RELEVYING AND RESPREADING ASSESSMENTS** for (a) SID 1346 - installation of storm drain, curb and gutter, landscaping, and miscellaneous sidewalk on Lot 17, Block 92, Billings Original Townsite - North Broadway Streetscape; and (b) various Work Order Sidewalk Improvement Projects on Lot 39, Block 9, Broadwater Subdivision; Lot 17, Block 4, State Realty Addition; and Lot 0, Block 0 of Section 36, Township 01N, Range 25E – Rocky Mountain College. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)
4. **PUBLIC HEARING AND RESOLUTION APPROVING AND ADOPTING A BUDGET AMENDMENT FOR THE HEALTH INSURANCE FUND FOR FISCAL YEAR 2008/2009.** Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #856:** A zone change from Residential 6000 to Community Commercial on the east half of Lots 22-24, Block 272, Billings Original Town, located at 2215 6th Avenue North. George and Dorothy Wetstein, owners; Joyce Lunder, agent. Zoning Commission recommends approval and adoption of the determination of the 12 criteria. (**Action:** approval or disapproval of Zoning Commission recommendation.)
6. **PUBLIC HEARING AND SPECIAL REVIEW #878:** A special review to allow an all-beverage liquor license with gaming within an existing multi-tenant building located on a one-acre parcel legally described as Lot 6D, Block 2, Circle Fifty Subdivision, and addressed as 3839 Grand Avenue. Stock-Naughton, LLP, owner; James Heallow, agent. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.)
7. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.** (*Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.*)

Council Initiatives

ADJOURN

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



A

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, AUGUST 24, 2009

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

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

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	No Applications	Tourism BID Board	08/24/09	06/30/10

2. Unexpired term of Linda Gallagher

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 24th, 2009

TITLE: Contract Award for New Awning for Park 1 Parking Garage
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Chris Mallow, Parking Supervisor

PROBLEM/ISSUE STATEMENT: The awning at the Park 1 parking garage, located at 2912 3rd Ave. North, Billings, MT, is badly worn. The last major partial recovering was in 1993; since then only small repairs have done. The awning runs horizontally around three sides of the building and two vertical sections at the entrances. This project will totally replace all awning material, as well as provide a new aesthetically pleasing awning for the Park 1 customers. The project was advertised in the *Billings Times* and the City of Billings website on July 30th and August 6th, 2009. On August 11th, 2009, the following bids on this project were received:

CONTRACTOR	BASE BID
Sign Products, Inc.	\$52,646.00
Reliable Tent and Awning	\$60,514.00

FINANCIAL IMPACT: The total cost of the project is Fifty-two Thousand Six Hundred Forty-six dollars (\$52,646.00) and will be funded through Parking Division reserve funds. This project was not budgeted in FY10 because the major visible damage occurred after staff budgets were submitted to City Administration. The cost will be absorbed by reducing other expenses within the budget.

RECOMMENDATION: Staff recommends that City Council approve the award of the Park 1 awning replacement contract to the low responsive bidder Sign Products, Inc., for the amount of \$52,646.00.

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

Attachments:

A. Park 1 Awning Agreement

PARKING DIVISION AWNING AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 200____, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as "City," and Paul Cos, of Sign Products, Inc., hereinafter referred to as "Contractor."

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

1. Purpose: City agrees to hire Contractor as an independent contractor to perform the services New Awning at Park 1 Parking garage described in the Scope of Work attached hereto as Exhibit "A" and by this reference made a part hereof.

2. Effective Date: This Agreement is effective upon the date of its execution and will terminate upon completion of the project. The City of Billings will notify the contractor in writing, upon satisfactory completion of the project, that the contract is terminated. Project is to be completed no later than October 31st, 2009.

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

4. Contract Price: City shall pay Contractor for performance of the work in accordance with the Bid Documents, any Addendum and this Agreement, the sum of Fifty-two Thousand Six Hundred Forty-six dollars (\$52,646.00).

5. Payment Procedures

Contractor shall submit applications for payment on a monthly basis for any work accomplished during the preceding month, but subject to retainage as specified below.

City will make progress payments to Contractor on a monthly basis on Contractor's application for payment (invoiced to the City) for the work described in the Scope of Services. Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

The City shall retain five percent (5%) of the amount due the Contractor in accordance with the General Conditions and as outlined herein. Final Payment. Upon final completion and acceptance of the work in accordance with the General Conditions, the City shall pay the remainder of the contract price.

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

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

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

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

Before the City will execute this agreement and before any work at the site is started, the Contractor shall deliver to the City, certificates of insurance (and other evidence of insurance which Owner or any additional insured may reasonably request) which Contractor is required to purchase and maintain for the full term of this agreement.

7. Warranty: Contractor warrants that all services and work will be performed in a good workman-like manner. Contractor for a period of one (1) year from the time services are completed or any warranty described in the Scope of Services, whichever is greater.

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

Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or non-construction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto.

Unless superseded by federal law, each contractor shall ensure that at least 50% of the contractor's workers performing labor on a construction project are bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

In addition, unless superseded by federal law, all employees working on a public works contract shall be paid current prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis.

Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

The nature of the work performed or services provided under this contract meets the statutory definition of a "public works contract" under section 18-2-401(11)(a), MCA, and falls under the category of construction services (booklet attached).

9. Labor and Materials Bond: Contractor shall be required to furnish an approved Performance Bond in the amount of one hundred percent (100%) of the contract amount, to be held in force during the full term of this agreement.

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

11. Default and Termination: If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within ten (10) calendar days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for

damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

12. Liaison: City's designated liaison with Contractor is Paul Cox, President of Sign Products, Inc. and Contractor's designated liaison with City is Chris Mallow, Parking Supervisor.

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

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

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

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

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

CITY OF BILLINGS, MONTANA

CONTRACTOR (Print Name Above)

By _____
RON TUSSING, MAYOR

By _____

Print Name _____

Print Title _____

APPROVED AS TO FORM:

By _____
BRENT BROOKS, City Attorney

Exhibit A

The contractor will do a complete recover of all exterior awnings, vertical and horizontal, attached to the Park 1 parking garage located at 2912 3rd Ave North, Billings, Montana, 59101.

Contractor will perform the following duties:

- Removal of all frames from building.
- Removal of old covers from frames.
- General cleaning of frames.
- Manufacture new covers.
- Attach grometed, sewn, and roped covers to frames.
- Reinstall frames back on building.
- New covers to be manufactured from City's choice of color of Eradicable awning fabric.
- Adding two new sign panels to mount to existing frame at the two garage entrances, one on 3rd Ave and one on 30th Street.
 - Dibond panels only with applied vinyl graphics.
- Lettering on the awnings to be done with the eradication process, leaving white lettering on the colored fabric.



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Approval of Award to Purchase Five New 2010 Truck Cabs and Chassis with Refuse Compactor Bodies for the Solid Waste Division

DEPARTMENT: Public Works/Solid Waste Division

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

PROBLEM/ISSUE STATEMENT: The Solid Waste Division FY10 Budget includes funds to replace four older garbage trucks and add one additional truck to the fleet. All are included in the approved Equipment Replacement Plan, and they are scheduled for purchase this fiscal year.

Public Works is ordering three different styles of trucks. The automated “side load” trucks are used to pick up 90 and 300-gallon residential containers, automated “front load” trucks dump metal commercial dumpsters, and the roll-off truck hauls and dumps large 30 and 40 cubic yard containers. The additional truck being added to the fleet is the roll-off truck.

FINANCIAL IMPACT: The Solid Waste Division budgeted adequate funds to purchase the five trucks. Bids were advertised July 30th and August 6th, and ten bid packets were distributed to various truck and refuse compactor vendors. Bids were received and opened on August 11, 2009. The bids are summarized as follows:

SCHEDULE I – Two (2) New Tandem Tilt Cabs, 2010 Model, 62,000 GVW Cab & Chassis with Dual Steering and 31-Cubic Yard Automated Side Loading Refuse Compactor Body with 5-Year Engine & Transmission Warranty and 24-Month Packer Warranty

Vendor	<u>Tri-State</u>	<u>I-State</u>	<u>Jack's Truck</u>
Truck	Mack	Condor	Autocar
Packer	Heil	Heil	Heil
Bid Each	\$251,403.00	\$254,895.00	\$248,040.72
Total 2 Units	\$502,806.00	\$509,790.00	\$496,081.44
Less Trade #0134	(30,000.00)	(30,000.00)	(30,000.00)
Less Trade #0135	(32,000.00)	(32,000.00)	(32,000.00)
Net Bid	\$470,806.00	\$477,790.00	\$464,081.44

SCHEDULE II – Two (2) New Tandem Tilt Cabs, 2010 Model, 62,000 GVW Cab & Chassis with 40-Cubic Yard ½ Pack Front Load Refuse Compactor Body with 5-Year Engine & Transmission Warranty, Body Service Lift, and 24-Month Packer Warranty

Vendor	<u>Tri-State</u>	<u>Tri-State</u>	<u>Tri-State</u>	<u>I-State</u>	<u>I-State</u>
Truck	Mack	Mack	Mack	Condor	Condor
Packer	New Way	Heil	Wittke	New Way	Heil
Bid Each	\$212,610.00	\$219,227.00	\$218,160.00	\$214,918.00	\$221,535.00
Total 2 Units	\$425,220.00	\$438,454.00	\$436,320.00	\$429,836.00	\$443,070.00
Less Trade #0136	(38,800.00)	(45,000.00)	(38,800.00)	(38,800.00)	(45,000.00)
Less Trade #0137	(38,800.00)	(45,000.00)	(38,800.00)	(38,800.00)	(45,000.00)
Net Bid	\$347,620.00	\$348,454.00	\$358,720.00	\$352,236.00	\$353,070.00
Vendor	<u>I-State</u>	<u>Jack's Truck</u>	<u>Jack's Truck</u>	<u>Jack's Truck</u>	
Truck	Condor	Autocar	Autocar	Autocar	
Packer	Wittke	New Way	Heil	Wittke	
Bid Each	\$220,638.00	\$209,747.34	\$216,364.34	\$215,297.34	
Total 2 Units	\$441,276.00	\$419,494.68	\$432,728.68	\$430,594.68	
Less Trade #0136	(38,800.00)	(38,800.00)	(45,000.00)	(38,800.00)	
Less Trade #0137	(38,800.00)	(38,800.00)	(45,000.00)	(38,800.00)	
Net Bid	\$363,676.00	\$341,894.68	\$342,728.68	\$352,994.68	

SCHEDULE III – One (1) New Tandem Conventional Cab, 2010 Model, 62,000 GVW, Set-Back Axle, Cab & Chassis with Chain Operated Roll-On/Roll-Off Hoist System with 5-Year Warranty on Engine, Transmission, Hoist Cylinders, and 24-Month Hoist Warranty

Vendor	<u>Tri-State</u>	<u>Tri-State</u>	<u>I-State</u>	<u>I-State</u>	<u>Motor Power</u>
Truck	Mack	Mack	Freightliner	Freightliner	International
Hoist	Cascade	Advantage	Cascade	Advantage	Cascade
Bid Each	\$164,341.00	\$166,484.00	\$153,470.00	\$155,613.00	\$159,461.00

RECOMMENDATION

Staff recommends that Council award the contract for purchase of five new 2010 truck cabs and chassis with refuse compactor bodies as follows:

Schedule I –Two Units – Jack's Truck & Equipment	\$464,081.44
Schedule II –Two Units – Jack's Truck & Equipment	\$341,894.68
Schedule III – One Unit – I-State Truck Center	\$153,470.00

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Lease Agreement for Tami Kelling, DBA Downtown Subs
DEPARTMENT: Administrative Services – Parking Division
PRESENTED BY: Chris Mallow, Parking Supervisor

PROBLEM/ISSUE STATEMENT: The ground level of the Park 1 garage has six tenants that lease retail/office space. This space, located at 224 29th Street, was previously occupied by Gunsmoke BBQ and has been vacant for one year. The Council is being asked to approve a new lease agreement with Tami Kelling, DBA Downtown Subs, for three years with two one-year option to renew. The company will use this space as a retail sandwich restaurant.

ALTERNATIVES ANALYZED: Staff has analyzed the following alternatives: (1) approve lease with Tami Kelling, DBA Downtown Subs; (2) seek a different tenant; or, (3) leave space vacant.

FINANCIAL IMPACT: The revenues are projected in the FY 2010 budget. The retail space consists of 1,500 square feet. Revenue for the first year will be \$12,000 (1,500 square feet x \$8.00). No rent will be due for September and October, 2009 in recognition of and to offset the cost of lease space modifications being paid for by Tenant. Tenant will have proper insurance in place before access to the space is allowed. Revenue for the second and third year will be \$12,600.00 (1500 square feet x \$8.40). If tenant exercises the two one-year options to renew, the fourth and fifth year revenues will be \$12,960.00 (1,500 square feet x \$8.64).

RECOMMENDATION

Staff recommends Council approval of the lease agreement with Tami Kelling, DBA Downtown Subs.

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

ATTACHMENTS

Lease agreement with Downtown Subs (3 copies)

**PARK ONE
LEASE AGREEMENT**

THIS INDENTURE, made and entered into this ____ day of _____, 20____, by and between the **CITY OF BILLINGS, MONTANA**, hereinafter referred to as "Landlord" and Tami Kelling, DBA Downtown Subs, 212 North 29th Street, City of Billings, County of Yellowstone, Montana, hereinafter referred to as "Tenant."

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

1. LEASE

The Landlord does hereby grant, demise and lease unto the Tenant, for and in consideration of the rents, covenants, and agreements hereinafter specified to be paid, kept and performed by the Tenant, premises at 224 North 29th Street consisting of 1500 square feet of integrated part of building known as "Park 1" located between 29th and 30th Streets on 3rd Ave North, in Billings, Montana. Exact location and size of premises to be shown on Exhibit "A" which is attached and made a part of this agreement.

2. TERM, POSSESSION, AND RENEWAL

The term of this lease shall be for an initial three years, starting on November 1st, 2009, through October 31st, 2012. Landlord grants to Tenant the two (2) consecutive options to renew this lease for a further term of one (1) year commencing on November 1st, 2012, and ending October 31st, 2014, both inclusive, subject to the provisions of this lease. However, that written notice of the exercise of this option shall be given by Tenant to Landlord at least ninety (90) days before expiration of the original term of this lease and provided further, that this option may be exercised by Tenant only in event all rents have been fully paid and that all provisions of this lease on the part of the Tenant to be observed have been fully and faithfully observed.

3. RENT

Rent for the first 12 months of this lease shall be \$12,000.00 (1500 square feet x \$8.00) payable in twelve (12) equal monthly installments of \$1,000.00, beginning November 1, 2009. No rent will be due for September and October, 2009 in recognition of and to offset the cost of lease space modifications being paid for by Tenant.

Rent for the second year, beginning November 1st, 2010, shall be \$12,600.00 (1500 square feet x \$8.40) payable in twelve (12) equal monthly installments of \$1,050.00.

Rent for the third year, beginning November 1st, 2011, shall be \$12,600.00 (1500 square feet x \$8.40) payable in twelve (12) equal monthly installments of \$1,050.00.

Rent for the fourth and fifth year, beginning November 1st, 2012, if Tenant exercises the option to renew this lease, shall be \$12,960.00 (1,500 square feet x \$8.64) payable in twelve (12) equal monthly installments of \$1,080.00.

All rents shall be paid in advance by the first day of each month.

4. INSURANCE

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

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

5. UTILITIES SERVICES

Tenant agrees, at their own expense to pay for all utilities used by the Tenant on the premises during the term of this lease.

6. IDEMNIFICATION OF LANDLORD BY TENANT

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

7. ADVERTISING SIGNS

The Tenant shall be allowed to provide, at their own expense, such advertising displays on the exterior of the building as may be appurtenant to their business, provided however that such displays will be in accordance with the laws and regulations of the State of Montana and the

City of Billings, Montana, and that such displays will not deface, damage or devalue the demised property during their use or after their removal, reasonable wear and tear expected. All signs must be approved in writing by the Landlord prior to installation which approval shall not be unreasonably withheld.

8. IMPROVEMENTS BY TENANTS

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

9. FIXTURES AND PERSONAL PROPERTY

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

10. ASSIGNING AND SUBLetting

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

11. LANDLORD'S ACCESS TO INSPECT

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

12. TENANT TO HAVE PEACEABLE POSSESSION

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

13. TRASH AND RUBBISH

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

14. ATTORNEY FEES AND COSTS ON VIOLATION OF LEASE

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

15. DEFAULT AND RE-ENTRY

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

16. CONDUCT OF BUSINESS BY TENANT

Recognizing that it is in the interest of Tenant's successful operation of their business, Landlord shall allow Tenant at Tenant's election to be open for business daily, including Sundays and Holidays, and Landlord shall not interfere, by regulation or other imposition, with the hours or the days of business operation by the Tenant. The Tenant covenants and agrees that from and after its initial opening for business, it will operate and conduct within the premises the business which it has been licensed and permitted to operate or such other lawful business licensed and permitted by Landlord. More specifically, Tenant is authorized to conduct the business or businesses more fully described in Exhibit B and no other businesses or occupations without written consent from Landlord.

17. NOTICES

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

Downtown Subs
Tami Kelling
North 29th Street

Parking Division Director
City of Billings
P.O. Box 1178

Billings, MT 59101

Billings, MT 59103

18. MUTUAL RELEASE FOR HAZARDS COVERED BY INSURANCE

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

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

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

20. SMOKE FREE CITY-OWNED OR LEASED BUILDINGS

All buildings owned or leased by the City of Billings are designated as smoke free as provided in the Montana Clean Indoor Air Act, Montana Code Annotated sections 50-40-102 through 50-40-201 (2009) and Sec. 2-402 of the Billings, Montana, City Code. The Tenant shall comply with all requirements of these laws.

21. WAIVER

A waiver of any breach or default by either Landlord or Tenant shall not be a waiver of any other breach or default. Landlord or Tenant approval of any act by the other requiring consent or approval shall not be deemed to waive or render unnecessary Landlord or Tenant consent to or approval of any other subsequent similar act by Landlord or Tenant.

22. PREVENTION OR DELAY

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

23. PARKING SPACES

Up to **five (5) covered spaces at the regular monthly rate** in the Park 1 Garage are available to Tenant and will be on a space reserved in the garage, rather than an individual reserved space, concept.

24. TAXES AND ASSESSMENTS

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

25. BINDING EFFECTS

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

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

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

CITY OF BILLINGS (LANDLORD)

BY: _____
ITS (MAYOR)

ATTEST:

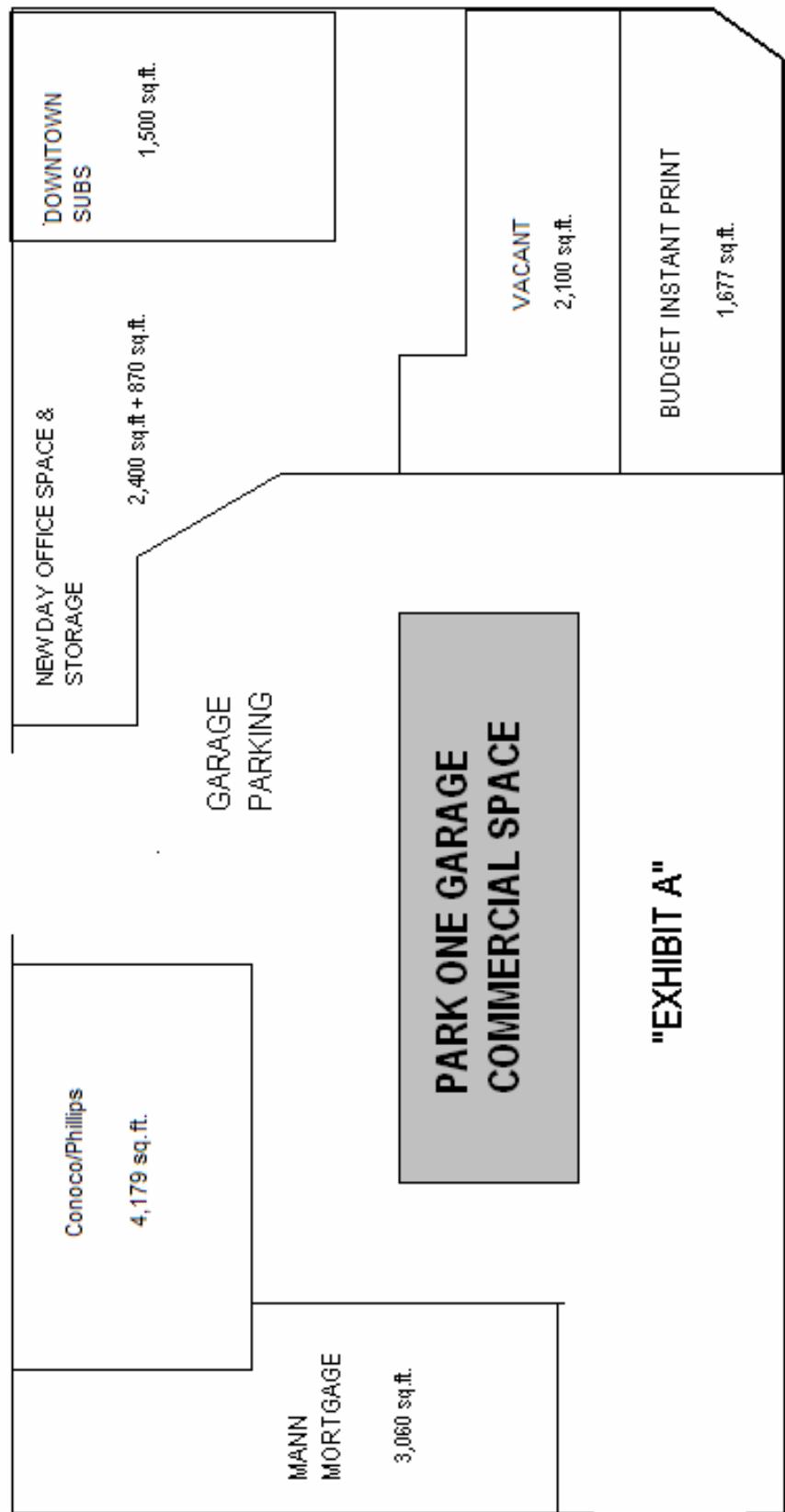
CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Tami Kelling, DBA Downtown Subs (TENANT)

BY: _____
ITS _____



D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 24, 2009

TITLE: Approval of Contract Amendment with the State of Montana Department of Public Health and Human Services – Developmental Disabilities Division

DEPARTMENT: Aviation and Transit Department

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

PROBLEM/ISSUE STATEMENT: Since July 1997, the State of Montana Department of Public Health and Human Services (DPHHS) - Developmental Disabilities Division (DD) has contracted with MET Transit to provide specialized transportation for developmentally disabled individuals to and from their home or group home and their respective DD Division day/work programs. The service MET Special Transit provides improves the quality of life for persons with developmental disabilities. The contract payments for this service are based on a per-person, per-mile ridership.

The contract amendment extends the contract term an additional year, from July 1, 2009, through June 30, 2010. A copy of the contract amendment is on file in the City Clerk's office.

FINANCIAL IMPACT: Through this contract amendment the City's Transit Division could receive up to \$100,000 in revenue for FY 09/10 for the services provided.

RECOMMENDATION

Staff recommends that Council approve the one year contract amendment and authorize the Mayor to execute the attached transportation contract amendment between the City's MET Transit Division and the Montana Department of Public Health and Human Services - Developmental Disabilities Division.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 24, 2009

TITLE: W.O. 04-26—Zone 4 Reservoir and Facilities, Amendment No. Two to the Professional Services Contract with HDR Engineering, Inc.

DEPARTMENT: Public Works

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The Engineering Division recommends an amendment to the Professional Services Contract with HDR Engineering, Inc. for W.O. 04-26—Zone 4 Reservoir and Facilities. The original contract, dated March 26, 2007, is for design services. Amendment No. One, approved June 22, 2009, extends the termination date of the contract and provides services for bidding and construction administration (including inspection).

Amendment No. Two compensates HDR for additional services that HDR initially believed could be covered by the original contract budget. However, now that all the details have been finalized and the project has been bid, much more effort was required than anticipated and the original budget was exceeded. The additional services are generally associated with, but are not limited to, design aspects of the project, assistance with additional land acquisition, and breaking the project into two phases. A copy of Amendment Two is attached.

FINANCIAL IMPACT: This project is being funded by a State Revolving Fund (SRF) loan. Amendment No. 2 represents an increase in the amount of the contract by \$74,662.00. The FY 2010 budget and limit of the SRF loan include ample funds for this increase.

Approved Funding Amount: **\$ 8,097,885.00**

Previously encumbered for original contract: \$ (497,885.00)

Previously encumbered for Amendment No. 1: \$ (594,700.00)

Encumbered for construction of Phase 1: \$(2,468,000.00)

Encumbered for construction of Phase 2: \$(2,676,578.00)

Amount being requested for Amendment No. 2: **\$ (74,662.00)**

Remaining Funding: **\$ 1,786,060.00**

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute Amendment No. 2 to the Professional Services Contract with HDR Engineering, Inc. for W.O. 04-26—Zone 4 Reservoir and Facilities, in the amount of \$74,662.00.

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

ATTACHMENT

Attachment 'A': Contract Amendment No. 2 (3 pages)

INTRODUCTION

The Engineering Division recommends an amendment to the Professional Services Contract with HDR Engineering, Inc. for W.O. 04-26—Zone 4 Reservoir and Facilities. The original contract, dated March 26, 2007, is for design services. Amendment No. One, approved June 22, 2009, extends the termination date of the contract and provides services for bidding and construction administration (including inspection).

Amendment No. Two compensates HDR for additional services that HDR initially believed could be covered by the original contract budget. However, now that all the details have been finalized and the project has been bid, much more effort was required than anticipated and the original budget was exceeded. The additional services are generally associated with, but are not limited to, design aspects of the project, assistance with additional land acquisition, and breaking the project into two phases. A copy of Amendment Two is attached.

BACKGROUND

This project has gone through numerous changes since its creation in June, 2004. The project has been delayed and experienced extreme fluctuation due to the uncertainty of the land and development issues around the original tank site. Scope changes and delays have led HDR to incur additional costs beyond their original budget.

The original project was based on a rectangular concrete 3-cell 3 million gallon reservoir for Zone 4, a new pump station connected to the reservoir, and a reservoir for Zone 5 West (referred to as Zone 4 ½ at that time). Restrictions levied by Shane Gundlach (owner of land purchased by City for reservoir and pump station and all surrounding land) required the Zone 4 Reservoir to be located on a rock shelf half-way up the rims. Access to the pump station would be from above the rims across the DNRC land to the southeast. Early in the summer of 2006, HDR laid out a proposed easement across the DNRC land to be used for access. The cost to purchase this easement was so high that other alternatives had to be investigated.

On September 7, 2006, HDR was awarded a contract for a Value Engineering (VE) study. Mr. Gundlach changed his plans and no longer intended to build a house and reside on the property surrounding the Zone 4 Reservoir parcel, so the VE study posed the possibility of accessing the site from below the rims. The VE also recommended constructing three 1 million gallon round ground storage tanks based on a fused glass material and not initially providing a Zone 5 West reservoir. The VE estimated cost of the original concept was \$10.5 million, but the proposed alternative was about \$2 million less.

A utility easement had been previously purchased from Mr. Gundlach, but in December, 2006, the City requested assistance to change the easement to also include access and to obtain

additional land to make it easier to design, construct, and access the project. In February, 2007, the purchase of two additional parcels (known as Areas A and B) was nearly complete, but it was put on hold when Mr. Gundlach indicated he was going to deed to the City approximately 60 acres around the original parcel, making the purchase of Areas A and B unnecessary. HDR subsequently investigated an alternate access road utilizing the potentially newly deeded land.

On March 26, 2007, HDR was formally awarded a contract for the design of Zone 4 Reservoir(s) and a Zone 5W Pump Station. The deeding of 60 additional acres still had not materialized, so in May, 2007, HDR investigated more options assuming the 60 acres AND Areas A and B would not be obtained by the City. In June, 2007, Mr. Gundlach sued the City for not being allowed to develop his land that surrounded the City's parcel for the new tank. As part of a response to this lawsuit, the City requested information from HDR in July to reinforce the need for the Zone 4 Reservoir and Zone 5W Pump Station. Many of the services provided by HDR up to this point were not included in the scope of work of their contract, but they obliged the City's requests in an effort to keep the project moving forward.

In August, 2007, a formal kick-off meeting was finally held between the City and HDR. The status of any additional land was still unknown.

In November, 2007, HDR developed an option for a less costly and more beneficial access road that would require buying a small (0.29 acre) additional parcel of land. Mr. Gundlach verbally agreed to sell this small parcel. In December, the Certificate of Survey was completed and buy-sell documents were prepared. Mr. Gundlach never executed the documents to complete the sale.

Between February and May of 2008, HDR began actual design, based on three 1 million gallon tanks on a ledge halfway up the rims with a pump station built below. Plan drawings were completed for the layout of the tanks and valve vaults between the tanks. The pump station was laid out but not specifically located because of the uncertainty of the access road. HDR ultimately halted work due to the uncertainty and issues from the lawsuit between Gundlach and the City.

In June, 2008, HDR initiated the idea of constructing a composite tank (concrete base, or stem, with a steel tank on top). A composite tank could be built below the rims and eliminate the need to access the tanks on a ledge, essentially eliminating the need for more land for an access road. In August, HDR completed a new cost estimate for a composite tank, coming in at about \$6.6 million—a savings of almost \$2 million compared to the concept worked on up to that time.

In September, 2008, HDR restarted design based on one 2 million gallon composite tank with a pump station located in the stem of the tank tower. In December, the project was broken into two phases—Phase 1 for the erection of the composite tank tower; Phase 2 for all site work, construction of the pump station inside the stem, and all associated field piping—to facilitate the potential use of Federal stimulus funds and to avoid a general contractor markup on the tank manufacturer. Assuming a minimal markup of 5%, the City would save over \$100,000 by dividing the project into separate phases.

In June, 2009, Phase 1 was bid and awarded for \$2,468,000. In July, Phase 2 was bid and awarded for \$2,676,578. The contracts for construction total \$5,144,578, almost \$1.5 million less than HDR's preliminary estimate for the composite tank and less than half of the estimate on the original concept.

To summarize, the specific scope of work changed with the decision to design and construct an elevated composite tank and to break the project into two phases. Some of the original scope items were reduced or eliminated, so HDR thought these would offset the additional costs incurred previously and that the then-current budget would be sufficient to complete the revised project. However, finalizing the details of the revised project to obtain the best end-result took more effort than anticipated. HDR went above and beyond and outside the original scope of work to provide the City with the most cost effective and proficient project possible. Now that the project has bid and is moving toward beginning construction, the City is experiencing substantial cost savings (over \$5 million) compared to initial concepts and the original scope of work, largely due to HDR's additional efforts that they are now requesting compensation for.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute Amendment No. 2 to the Professional Services Contract with HDR Engineering, Inc. for W.O. 04-26—Zone 4 Reservoir and Facilities, in the amount of \$74,662.00.

ATTACHMENT

K. Attachment 'A': Contract Amendment No. 2 (3 pages)

ATTACHMENT 'A'

**AMENDMENT NUMBER TWO
TO THE
AGREEMENT FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING
SERVICES
BY AND BETWEEN THE CITY OF BILLINGS, MONTANA
AND HDR ENGINEERING, INC.
FOR PROJECT: W.O. 04-26 –
ZONE 4 RESERVOIR AND FACILITIES**

THIS AMENDMENT NUMBER ONE, made and entered into this _____ day of _____, 2009, modifies the Agreement for Professional Services, W.O. 04-26, by and between the City of Billings, Montana, and HDR Engineering, Inc., dated March 26, 2007. The Agreement is modified as follows:

Item 1: Section 4. Compensation: Method of Payment

Increase the amount of compensation by \$74,662 to One Million One Hundred Sixty Seven Thousand Two Hundred and Forty Seven and no/100 DOLLARS (\$1,167,247.00).

Item 2: **Appendix A - Basic Services of Engineer, Phase II Scope**

Change the first bullet under **Provide Engineering Services for Zone 5 West Pump Station** to the following:

- Design new Zone 5/6 Pump Station to be included within the stem of the composite tank located at the base of the Rims, located on land previously purchased by the City.

(adjust discipline scope and associated fee breakdown for revised pump station location and construction type)

Change the third Phase II Scope Item to the following:

Provide Engineering Services for a new Zone 4 Reservoir

- Provide preliminary design on Value Engineering concept of three one million gallon (MG) reservoirs.
- Research elevated composite tank options.
- Design new 2.0 MG Zone 4 Reservoir to store 2.0 MG of water when at high water level (HWL), with HWL to approximately match the Waldo

Reservoir. Reservoir and piping will be designed including a layout for a second 2.0 MG reservoir.

- Reservoir construction to be elevated composite type with a non-mechanical mix type system to facilitate water circulation.
- Design to be set up with future reservoir to operate either individually or in series.
- Provide access to top of tank and hatches to get inside tank.
- Provide provisions for painting tank.
- Provide colored tank selected by the City.
- Provide tank overflows and associated erosion control measures for overflow water.
- Provide tank level instrumentation to allow transmission of tank level to SCADA system.

Add the following:

Provide Assistance in Acquisition of Additional Land for Access Road in Addition to Second Land Purchase

- Provide necessary drawings needed for additional 0.29 acre land acquisition.
- Provide legal surveying and descriptions.

Provide Engineering Services for Modifications at the Waldo/Staples Site to accommodate new Zone 4 Tank

- Provide new valving in valve vault at Staples site to allow automatically filling, drawing and shut off of Waldo Reservoir.
- Provide associated electrical and instrumentation for new automatic valve.

Provide Engineering Services for two Bid Packages

- Phase 1 Bid Package to primarily include the composite tank.
- Phase 2 Bid Package to include the Zone 5W Pump Station, waterlines, access road and site work.

Delete the following subtask:

409 – Provide final design of 62nd Street Improvements

Item 3: **Appendix B - Methods and Times of Payment, Section 1. Payments for Basic Services, Paragraph A.**

Increase the amount of compensation by \$74,662 to One Million One Hundred Sixty Seven Thousand Two Hundred and Forty Seven and no/100 DOLLARS (\$1,167,247.00).

Item 4: **Appendix B - Methods and Times of Payment, Section 4. Fee Increases**

Per the provisions of this paragraph increase fee of revised scope for project delay of 20 months.

All provisions of the Agreement dated March 26, 2007, shall remain in full force and effect except as amended herein.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number Two as of the day and year first above written.

CONSULTANT

HDR Engineering, Inc.

BY: _____
Amanda B. McInnis, P.E.

TITLE: Vice President

DATE: _____

ATTEST:

CITY

City of Billings

BY: _____
Mayor (or Council Designee)

DATE: _____

APPROVED AS TO FORM:

By: _____
City Attorney

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, August 24, 2009**

TITLE: Acknowledge Receipt of Petition and Set a Public Hearing for the Proposed Street Name Change of Cynthia Park Drive to Sky Run Drive

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: William Krutzfeldt, developer of Mont Vista Subdivision, has requested that Cynthia Park Drive west of 50th Street West be renamed to Sky Run Drive. The preliminary plat of Mont Vista Subdivision was approved at the June 22, 2009, City Council Meeting. In the Mont Vista Subdivision, Sky Run Drive will be dedicated and run into Cynthia Park Drive. Cynthia Park Drive is undeveloped and is abutted by Mont Vista Subdivision on one side and Cynthia Park on the other side.

ALTERNATIVES ANALYZED:

1. Acknowledge Receipt of Petition and set a public hearing for September 14, 2009.
2. Do not approve acknowledge receipt of petition.

FINANCIAL IMPACT: Due to the fact that Cynthia Park Drive is undeveloped, there is no financial impact to changing Cynthia Park Drive to Sky Run Drive.

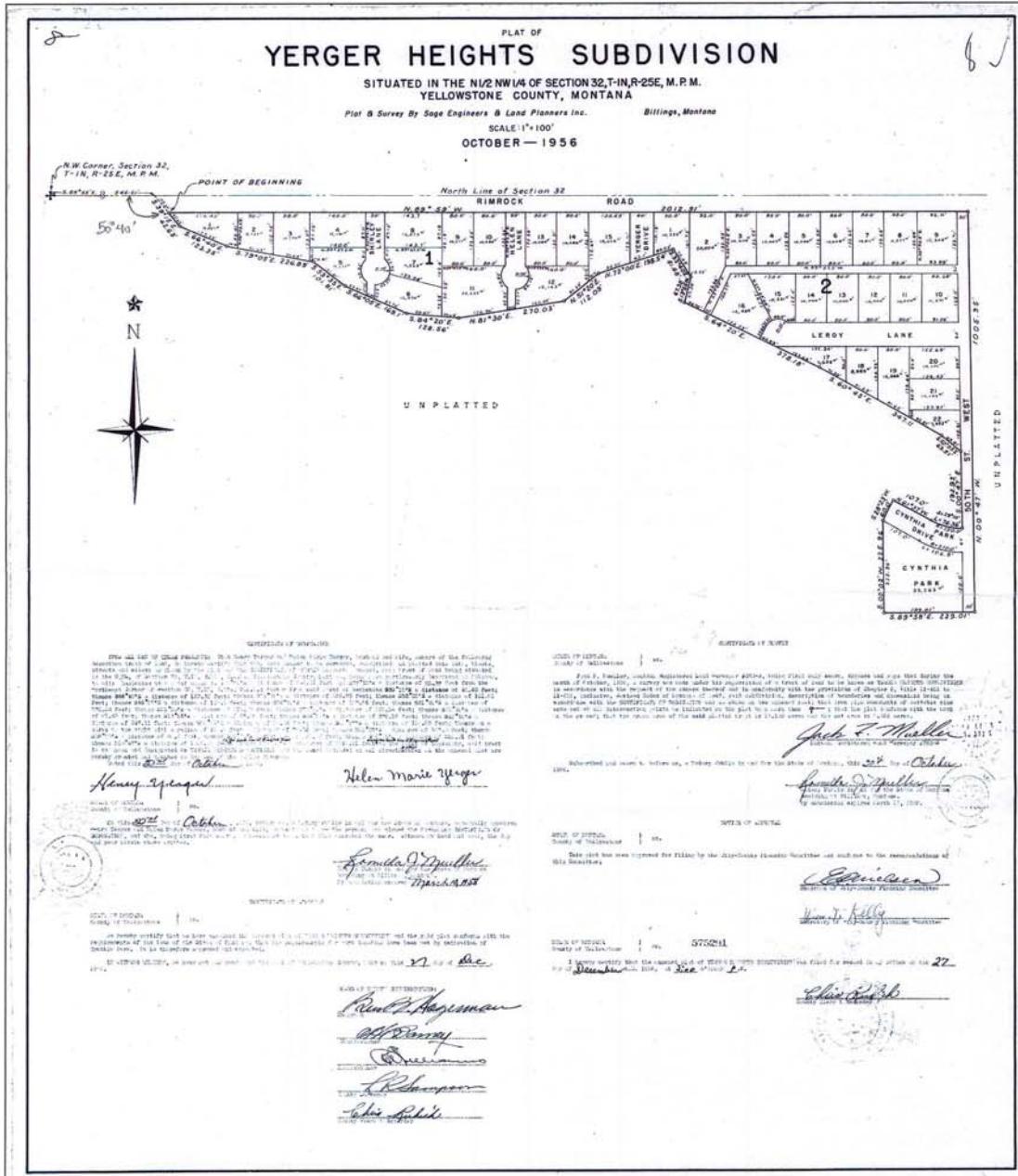
RECOMMENDATION

Staff recommends that Council acknowledge the receipt of petition to change the street name of Cynthia Park Drive to Sky Run Drive and set a public hearing for September 14, 2009.

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

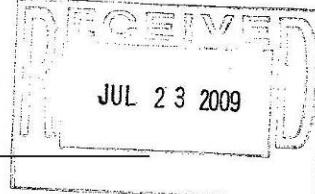
ATTACHMENT

- A. Map of Cynthia Park Drive
- B. Formal Request from Developer



07\07488\AdjoiningPlots&c

KRUTZFELDT RANCH, LLC
BOX 1265
MILES CITY MT 59301
PHONE: 406-951-4200 FAX: 406-234-2226
E-mail: wjk@midrivers.com



Mr. Chris Hertz, P.E.
Staff Engineer
Billings Public Works
510 North Broadway, 4th Floor
Billings, MT 59101

Re: Cynthia Park Drive name change

Dear Mr. Hertz:

As a follow-up to our recent e-mails, would you please proceed to change the name of Cynthia Park Drive to a new name of Sky Run Drive. Presently, Cynthia Park Drive is an unpaved street approximately 250 feet long and it runs into Sky Run Drive on its west end. Sky Run Drive is the name of a street in the Mont Vista Subdivision that will be filing a plat using the name Sky Run Drive.

Krutzfeldt Ranch, LLC owns the land north and west of Cynthia Park Drive. Cynthia Park is south of Cynthia Park Drive and Krutzfeldt Ranch, LLC owns the land south of Cynthia Park. The land east of Cynthia Drive is 50th Street West and is annexed into the City of Billings. Except for the City, it appears Krutzfeldt Ranch, LLC is the only abutting landowner.

Thank you for your assistance.

Sincerely,

William J. Krutzfeldt

P.O. Box 1265
Miles City, MT 59301
Cell Phone: (406) 951-4200
Fax: (406) 234-2226
Email: wjk@midrivers.com



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

SUBJECT: Sale of Surplus Property
DEPARTMENT: Administration-Finance Division
PRESENTED BY: Liz Kampa-Weatherwax, Purchasing Agent

PROBLEM/ISSUE STATEMENT: The City of Billings will conduct an auction of surplus City items and police recovered property on Saturday, September 26, 2009, at the Billings Operations Center, located at 4848 Midland Road, Billings, MT 59101.

Attached is a list of those items departments would like sold at the City auction. The list has been circulated to all departments for their review. If other departments are interested in any of the items, they will not be auctioned.

The final list may change and will include only items no longer needed by the City of Billings.

FINANCIAL IMPACT:

The 2008 surplus auction proceeds after costs were \$46,757.22, which was returned to the participating City Departments and Divisions proportionately.

RECOMMENDATION

Staff recommends that City Council declare the attached list of items as surplus property and give staff authorization to sell them at the public auction.

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

ATTACHMENT

A. City of Billings Auction List (available 8/25/09)

H1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 24, 2009

TITLE: ConocoPhillips Billings Refinery "Neighborhood Eat & Meet" Event
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Citizens Advisory Council (CAC) requests the temporary street closure of South 28th Street between 5th Ave. S. and 6th Ave S. on Tuesday September 8, 2009 from 5:00 – 7:00 p.m. for a discussion on the safety and emergency response plans surrounding the ConocoPhillips Refinery area followed by an opportunity for people to share their thoughts, ideas and concerns about what's happening in the neighborhood.

Recommended conditions of approval include ConocoPhillips Refinery (CAC):

1. Notifying all emergency facilities, bus lines and media at least two weeks in advance
2. Providing certificate of insurance naming City of Billings as additional insured
3. Provide and install adequate traffic barricades and signs directing motorists around closure
4. Provide a minimum 10' wide unobstructed drive lane on the street for emergency vehicle access
5. Insure that the fire engine from Station 2 can gain access to 5th Avenue South for emergency responses

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 closure named above for ConocoPhillips Refinery.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit Application
- B. Letter outlining event
- C. Map outlining closure
- 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 CLINTON G. YOUNG - MANAGER, FINANCE + PUBLIC RELATIONS

ORGANIZATION MAKING APPLICATION CONOCOPHILLIPS BILLINGS REFINERY

PHONE 406-285-2511

ADDRESS 401 S. 23rd STREET, BILLINGS, MT 59101
CITY STATE ZIP

EMAIL ADDRESS CLINT.G.YOUNG@CONOCOPHILLIPS.COM

APPROXIMATE TIME EVENT WILL:

Assemble 3:00 P.M. Start 5:00 PM Disband 8:00 P.M.

DATE OF EVENT SEPT. 8, 2009

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

CONOCOPHILLIPS BILLINGS REFINERY CITIZENS ADVISORY COUNCIL - 10TH ANNUAL "NEIGHBORHOOD EAT + MEET" FOR GATEWAY TRIANGLE AREA. THIS EVENT PROVIDES AN OPPORTUNITY FOR RESIDENTS, BUSINESSES + ORGANIZATIONS IN THE AREA TO BE UPDATED ON THE SAFETY + EMERGENCY RESPONSE PLANS SURROUNDING THE CONOCOPHILLIPS REFINERY AREA.

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

SEE ATTACHED MAP SHOWING PORTION OF STREET TO BE CLOSED

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

SOUTH 28TH STREET BETWEEN 5TH AVE S. AND 6TH AVE S.

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

CONOCOPHILLIPS WILL CLEAN UP ALL TABLES, CHAIRS + TRASH GENERATED BY 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.

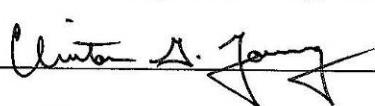
FOR DOWNTOWN EVENTS: YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

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.~~

~~SEE ATTACHED AMENDMENT~~ 

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 Clinton A. Jolley DATE 07/27/2009

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

AMENDMENT

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 injury to or death of any person and from all liability claims, actions, judgments which may arise from the activity. However, this indemnity and hold harmless obligation shall not apply to any damage to property and injury to or death of any person and from all liability claims, actions, judgments to the extent caused by the sole negligence, gross negligence, or willful misconduct of City of Billings, its officers, agents, employees and volunteers.

Notwithstanding anything in this agreement to the contrary, in no event shall either party be liable to the other party for any special, indirect, or consequential damages including, but not limited to, claims for loss of use, rents, anticipated profit or business opportunity, or business interruption.

CJK



Steven Steach
ConocoPhillips
Billings Refinery Manager

P.O. Box 30198
Billings, MT 59107
406-255-2551

August 23, 2009

Dear xxxx:

I would like to personally invite you along with the ConocoPhillips Billings Refinery Citizens Advisory Council (CAC) to our 10th annual "Neighborhood Eat & Meet" event for the Gateway Triangle area. Our theme this year is: **Keeping the Community Safe - Training Side by Side.** This event provides an opportunity for residents, businesses, and organizations in the area to be updated on the safety and emergency response plans surrounding the ConocoPhillips Refinery area. The event starts at 5:00 p.m. The location is the Fire Station on South 28th Street.

Tuesday, September 8, 2009

5:00 – 7:00 p.m.

Location: Fire Station on South 28th Street

Tent, tables & chairs will be available.

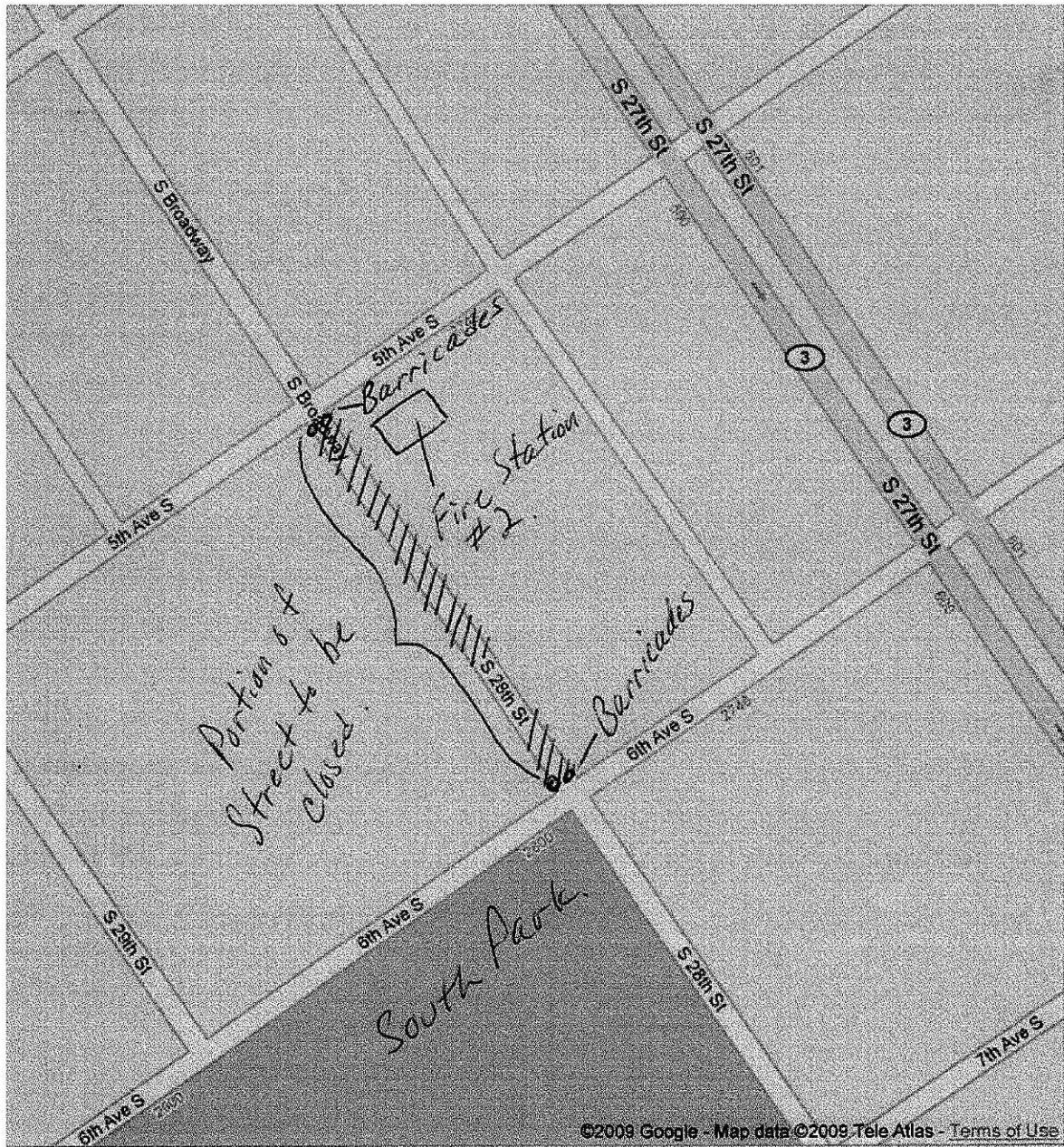
Speakers include City Administrator Tina Volek, Billings Fire Chief Paul Dextrus, Billings Police Chief Rich St. John, South Side Neighborhood Task Force Representative Jim Ronquillo and ConocoPhillips Refinery Manager Steve Steach. The presentations will be followed by an opportunity for people to share their thoughts, ideas and concerns about what's happening in the neighborhood.

To help you understand better who we are, we are enclosing a brochure explaining the work of the ConocoPhillips Citizens Advisory Council. In addition, we are enclosing a copy of the flyer that will be hand-delivered to the residents of the neighborhood. If you have any questions or need more information, please contact Ann Clancy, Citizens Advisory Council Facilitator, at 252-6120 or by e-mail at aclancy@clancyconsultants.net.

Sincerely,

Steve Steach
Billings Refinery Manager

Encls: ConocoPhillips CAC Brochure, Eat and Meet flyer.





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/27/2009

PRODUCER	John L. Wortham & Son, L.P. 2727 Allen Parkway Houston, TX 77019	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.	
713-526-3366 www.worthaminsurance.com		INSURERS AFFORDING COVERAGE	NAIC #
INSURED	ConocoPhillips Company PO Box 2197 Houston TX 77252	INSURER A: ACE American Insurance Company	22667
		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.

INSR ADD'L LTR. INSR'D	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A ✓	GENERAL LIABILITY ✓ COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	HDOG23749488	3/15/2009	3/30/2010	EACH OCCURRENCE \$ 1,500,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,500,000 GENERAL AGGREGATE \$ 1,500,000 PRODUCTS - COMP/OP AGG \$ 1,500,000	
	GENL AGGREGATE LIMIT APPLIES PER: ✓ POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$	
	BODILY INJURY (Per person)				\$	
	BODILY INJURY (Per accident)				\$	
	PROPERTY DAMAGE (Per accident)				\$	
	AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG				\$	
	EXCESS / UMBRELLA LIABILITY OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> (Mandatory In NH) If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	OTHR \$ \$ \$
	OTHER					

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

Re: ConocoPhillips Billings Refinery Citizens Advisory Council - 10th. Annual "Neighborhood Eat & Meet" for Gateway Triangle Area - September 8, 2009.

CERTIFICATE HOLDER

City of Billings Attn: Public Works Office 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 <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 John L. Wortham & Son, L.P. <i>John L. Wortham & Son, L.P.</i>
--	---

ACORD 25 (2009/01)

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CERT NO.: 5421543 CLIENT CODE: 10CONOCOM (HOU) Linda Brown 7/27/2009 6:38:48 AM Page 1 of 3

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing Insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend, or alter the coverage afforded by the policies listed thereon.

CANCELLATION NOTICE

The CANCELLATION NOTICE on the CERTIFICATE OF INSURANCE is amended to include the following wording: The Insurance Companies may cancel the described policy(ies) by mailing or delivering ten (10) days written notice of cancellation to the Named Insured for: (1) Non Payment of premium or (2) any other circumstance permitted by state law or policy conditions.

ADDITIONAL INSURED DISCLAIMER

Coverage for Additional Insureds can vary significantly from policy to policy and thus Additional Insured status does not guarantee protection for all losses. Coverage is subject to actual policy terms and conditions.

CERTIFICATE - ADDENDUM

Named Insured:

ConocoPhillips Company
PO Box 2197
Houston TX 77252

Certificate Holder:**Issue Date:** 7/27/2009

City of Billings
Attn: Public Works Office
PO Box 1178
Billings, MT 59103

As Respects General Liability And Automobile Liability:
The City of Billings is included as Additional Insured where required by written contract executed prior to loss. The coverage provided for any Additional Insured is no greater than that required by written contract and in no event broader than the terms, conditions, and limits of the policy.

certsonline™

CERT NO.: 5421543 CLIENT CODE: 10CONOCOM (HOU) Linda Brown 7/27/2009 6:38:48 AM Page 3 of 3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 24, 2009

TITLE: Broadwater School PTA 100th Year Anniversary Street Closure
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Broadwater School PTA requests the temporary street closure of 4th Street West from Broadwater Avenue to Wyoming Avenue and Wyoming Avenue from 4th Street West to 5th Street West on Friday, September 11, 2009, from 4:00 p.m. until 9:00 p.m. to celebrate the 100th anniversary of the Broadwater School building. The proposed street closure will be for patrons attending the event.

Recommended conditions of approval include the Broadwater School PTA:

1. Notify all emergency facilities, bus lines and media at least two weeks in advance
2. Provide certificate of insurance naming City of Billings as additional insured
3. Provide and install adequate traffic barricades and signs directing motorists around closure
4. Provide a minimum 10' wide unobstructed drive lane on the street for emergency vehicle access

ALTERNATIVES ANALYZED:

1. Approve request to close street
2. Deny the street closure

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process permit.

RECOMMENDATION

Staff recommends that Council approve the closure named above for Broadwater School PTA.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit Application

- B. Map outlining closure
- 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 Wendy Jam (Broadwater PTA)

ORGANIZATION MAKING APPLICATION Jodi Cockburn

PHONE (406) 245-4204 252-3049

ADDRESS 415 Broadwater Ave. Billings MT 59101

EMAIL ADDRESS jaimknit@earthlink.net CITY STATE ZIP

APPROXIMATE TIME EVENT WILL:

Assemble 4ish Start 4:30 pm Disband 9pm

DATE OF EVENT Sept. 11, 2009

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

Party on the grounds of Broadwater School to celebrate the 100th anniversary of the building.

A BBQ with 3 live bands, alumni, current students and neighbor hood residents. We expect 500-800 people to attend.

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

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

school grounds

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

PTA will provide a clean-up crew and trash dumpsters.

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 Wendy Rain **DATE** 8/1/09

APPLICATION APPROVED _____ **DATE** _____

APPLICATION DENIED _____ **DATE** _____

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

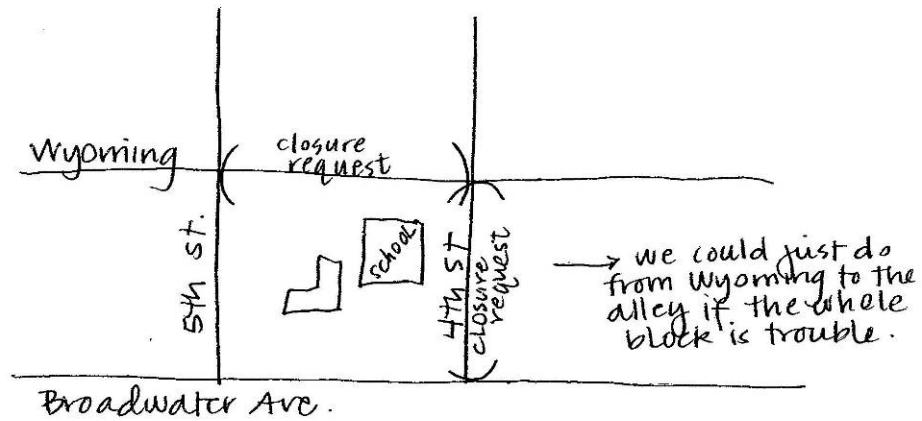
FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

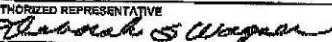
COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY



Client#: 1747

SDIST2YE

ACORD™ CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 08/13/2009
PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.		
INSURED Billings Public Schools (dba) School Dist #2 and High School Dist #2 415 North 30th Street Billings, MT 59101-1298		INSURERS AFFORDING COVERAGE INSURER A: American Zurich Insurance Co. INSURER B: American Alternative Insurance INSURER C: INSURER D: INSURER E:		
COVERAGES THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.				
INSR INDN LTR INSUR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY) 07/01/09	POLICY EXPIRATION DATE (MM/DD/YY) 07/01/10
A	GENERAL LIABILITY	CPO399387203	07/01/09	07/01/10
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR			
	<input checked="" type="checkbox"/> BI/PD Ded: \$25,000			
	GENL AGGREGATE LIMIT APPLIES PER			
	POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC			
AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (EA accident) \$
				ANY AUTO
				ALL OWNED AUTOS
				SCHEDULED AUTOS
				Hired AUTOS
				NON-OWNED AUTOS
GARAGE LIABILITY				BODILY INJURY (Per person) \$
				ANY AUTO
				AUTO ONLY - EA ACCIDENT \$
				OTHER THAN EA ACC \$
				AUTO ONLY: AGG \$
				PROPERTY DAMAGE (Per accident) \$
B	EXCESS/UMBRELLA LIABILITY	62A2UB000002302	07/01/09	07/01/10
	<input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE			
	DEDUCTIBLE			
	RETENTION \$			
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below			
OTHER				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS RE: Operations performed by the above insured RE: Birthday Celebration - Broadwater School - September 11, 2009 Certificate holder is additional Insured as required by written contract.				

CERTIFICATE HOLDER	CANCELLATION	10 Days for Non-Payment
The City of Billings P. O. 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 	

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

H3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 24, 2009

TITLE: Holy Rosary Catholic Church Barnyard Bingo Fundraiser
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Holy Rosary Catholic Church requests the temporary street closure on the 500 block of Custer Ave on Sunday September 13, 2009 from 8:00 a.m. - 5:30 p.m. for a fundraiser for an elevator for their church. In the proposed closed street there will be games, food, and entertainment.

Recommended conditions of approval include Holy Rosary Catholic Church:

1. Notifying all emergency facilities, bus lines and media at least two weeks in advance
2. Providing certificate of insurance naming City of Billings as additional insured
3. Provide and install adequate traffic barricades and signs directing motorists around closure
4. Provide a minimum 10' wide unobstructed drive lane on the street for emergency vehicle access
5. Insure that the fire engine from Station 2 can gain access to 5th Avenue South for emergency responses

ALTERNATIVES ANALYZED:

1. Approve request to close street
2. Deny the street closure

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process permit.

RECOMMENDATION

Staff recommends that Council approve the closure named above for Holy Rosary Catholic Church.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit Application**
- B. Letter outlining event**
- C. Map outlining closure**
- 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 DEACON MEL MELIUS

ORGANIZATION MAKING APPLICATION Holy Rosary Parish

PHONE 406-259-7611

ADDRESS 521 Custer Av. CITY Billings STATE MT ZIP 59101

EMAIL ADDRESS DEACONMEL

APPROXIMATE TIME EVENT WILL:

Assemble 8:00 AM Start 8:00 AM Disband 5:30 PM

DATE OF EVENT 9/13/09

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

FUND RAISER FOR NEW ELEVATOR IN CHURCH, ALSO, SOME SIDEWALK & CURB WORK. THE ACTUAL EVENT WHICH IS A "COW PLOW" WILL TAKE PLACE ON PRIVATE PROPERTY. IN THE PROPOSED CLOSED STREET THERE WILL BE GAMES, FOOD & ENTERTAINMENT.
PLEASE SEE ATTACHED MAP

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

N/A

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

500 BLOCK ON Custer Av., Billings, MT.

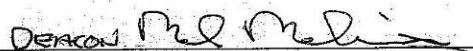
CLEAN UP IMPLEMENTATION: (Company contracted or services you will provide)

VOLUNTEERS FROM OUR CHURCH WILL TAKE CARE OF THE ABOVE MENTIONED DUTIES.

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 judgements 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

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES() NO()
(If yes, attach copy.)

FOR CITY USE ONLY

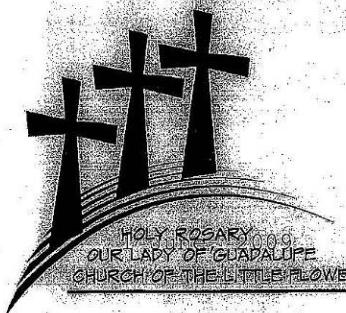
FEES: _____

COPIES TO:

CITY ADMINISTRATOR
POLICE CHIEF
PUBLIC WORKS DIRECTOR
FIRE CHIEF
MET MANAGER
FINANCE DIRECTOR
PRPL DIRECTOR
COUNTY SHERIFF'S DEPT.

APPLICANT NOTIFIED BY: _____

DATE: _____



3. PARISH OFFICE

521 Custer Avenue
Billings, MT 59101
(406) 259-7611

MAILING ADDRESS

P.O. Box 20938
Billings, MT 59104-0938

Dear Neighbor:

Hello from Holy Rosary Catholic Church!

We would like to invite you to attend an event we will be hosting on Sunday afternoon September 13, 2009 from 11am-4 pm. The event is called Barnyard Bingo. We will be using our parking lot and the area between the church and the school. There will be fun and games for adults and children, including inflatable slides, bingo and other carnival games. A barbecue and craft sale will also be included. Craft tables are available for a \$25.00 fee, if you are interested.

We have submitted a request to the city to close off Custer Avenue between 5th and 6th streets during the hours of our event. This will enable us to utilize the street for the games and provide safety for the children and families in attendance.

The city's application form requires that our neighbors be notified of and have no objection to the street closure. Therefore, we would like to ask for your support by signing the required petition. This event is a fund-raiser for an elevator for our church so our elderly and disabled members can participate in all of our events.

We will be in be contacting you within 2 weeks to ask for your signature to support the street closure. Thank you for being such a good neighbor and we hope to see you on September 13th!

Sincerely,

Deacon Mel Melius
Pastoral Administrator

FOR A BLOCK PARTY, USE THE PETITION BELOW:

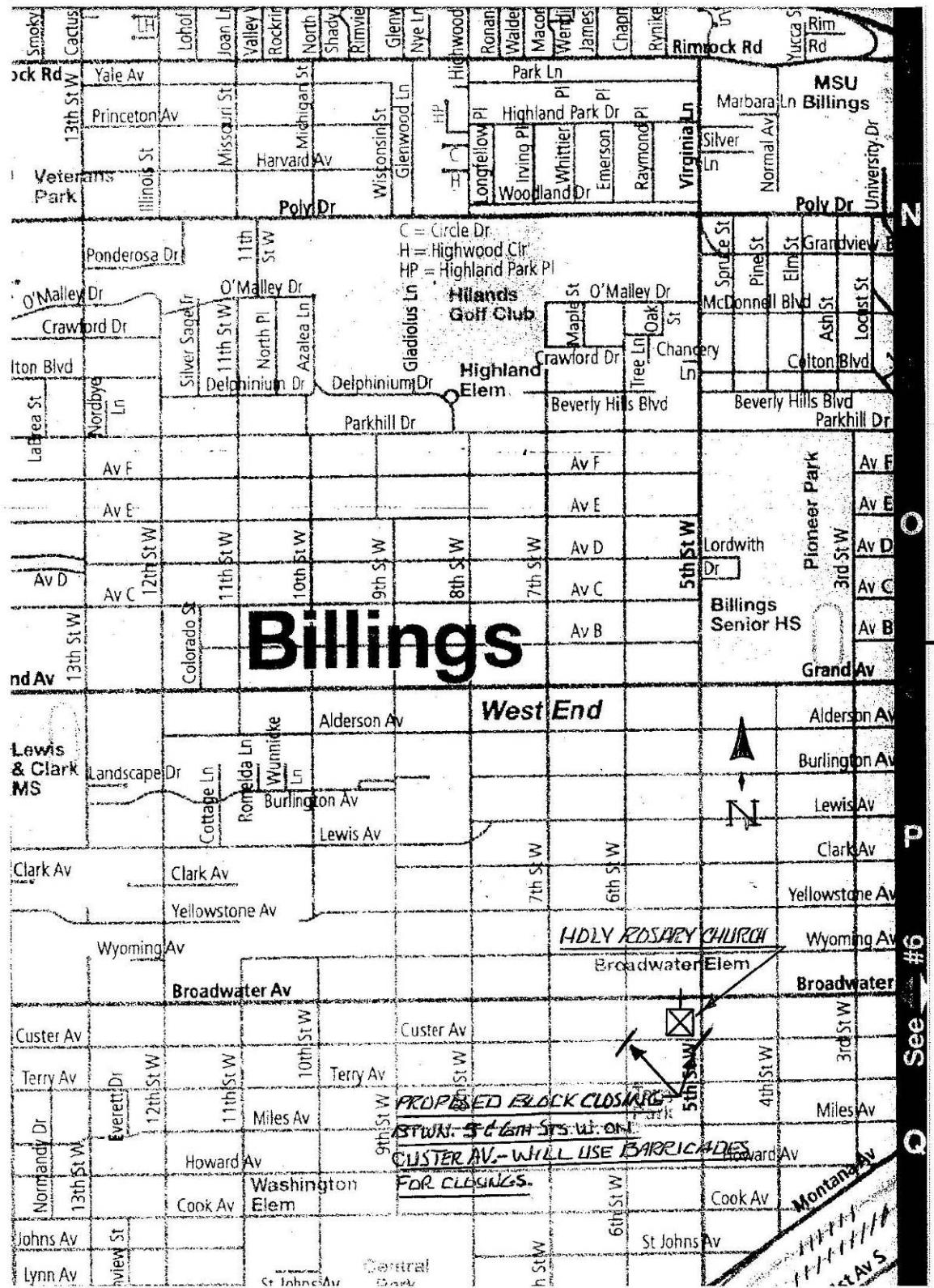
NUMBER OF RESIDENTS WITHIN BLOCK LOCATION: 15
NUMBER OF APPROVALS: 11
NUMBER OF DISAPPROVALS: - 14 -

PETITION

NAME	ADDRESS
Virginia Heiser	514 Custer
Don Williams	527 Custer
Therese Petermann	511 Custer
Yvonne	523 Custer X
Scott, Mrs	ADT#2 532 Custer X
Donald & Carol Cuttell	546 Custer A 10
Teddy Brown	520 Custer X
Elizabeth McGillicutty	528 Custer X
Jan Kuegen	547 Custer X
Janet Taylor	539 Custer X
Ulli Bohlander	540 Custer X

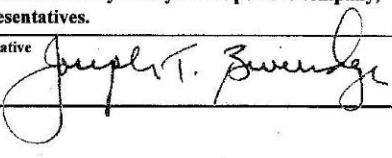
NOTE: WE HAVE NOT BEEN ABLE TO CONTACT 4 RESIDENTS - BUT WILL CONTINUE TO TRY.

DEPARTMENT REL



Certificate of Coverage

Date: 7/13/2009

Certificate Holder The Roman Catholic Bishop of Great Falls A Corporation Sole, Chancery Office P O Box 1399 Great Falls, MT 59403		This Certificate is issued as a matter of information only and confers no rights upon the holder of this certificate. This certificate does not amend, extend or alter the coverage afforded below.			
Covered Location Holy Rosary Church 521 Custer Avenue Billings, MT 59102		Company Affording Coverage THE CATHOLIC MUTUAL RELIEF SOCIETY OF AMERICA 10843 OLD MILL RD OMAHA, NE 68154			
Coverages <p>This is to certify that the coverages listed below have been issued to the certificate holder named above for the certificate indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded described herein is subject to all the terms, exclusions and conditions of such coverage. Limits shown may have been reduced by paid claims.</p>					
	Type of Coverage	Certificate Number	Coverage Effective Date	Coverage Expiration Date	Limits
	Property				Real & Personal Property
		General Liability	8560	7/1/2009	General Aggregate
			Excess Liability		
	Other			Personal & Adv Injury	
Description of Operations/Locations/Vehicles/Special Items Coverage only extends for claims arising out of Holy Rosary Church holding their Barnyard Bingo and Street Fair on September 13, 2009. Closure of the 500 block of Custer Avenue.					
Holder of Certificate Additional Protected Person(s) City of Billings <div style="border: 1px solid black; padding: 2px; display: inline-block;">0069000252</div>			Cancellation Should any of the above described coverages be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the holder of certificate named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives. Authorized Representative 		

ENDORSEMENT
(TO BE ATTACHED TO CERTIFICATE)

Effective Date of Endorsement 9/13/2009 Charge _____ Credit _____
Cancellation Date of Endorsement 9/14/2009

Certificate Holder The Roman Catholic Bishop of Great Falls
A Corporation Sole, Chancery Office
P O Box 1399
Great Falls, MT 59403

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

SECTION II - ADDITIONAL PROTECTED PERSON(S)

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

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

Schedule - ADDITIONAL PROTECTED PERSON(S)
City of Billings

Remarks: Coverage only extends for claims arising out of Holy Rosary Church holding their Barnyard Bingo and Street Fair on September 13, 2009. Closure of the 500 block of Custer Avenue.

PKS-122 (1-99)

Joseph T. Zwerdge
Authorized Representative

H4

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 24, 2009

TITLE: Skyview High School's Homecoming Parade
DEPARTMENT: Public Works-Engineering
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: Skyview High School requests permission to hold its annual Homecoming parade on Friday, September 18, 2009, from 12:30 pm to 2:30 pm (including set up and disbanding time). They will be assembling at the Skyview High School parking lot and proceeding down Wicks Lane to St. Bernard's Church.

Recommended conditions of approval include Skyview High School:

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

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closure named above on September 18th for Skyview High School's Homecoming Parade.

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

ATTACHMENTS

- A. Right of Way Special Activity Permit
- B. Map outlining route
- 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 Kurt Wohler

ORGANIZATION MAKING APPLICATION Skyview Student Council

PHONE (W) 281-5270 (C) 671-7748

ADDRESS Billings ↔ 1775 High Sierra Blvd MT 59105

EMAIL ADDRESS wohlertk @ billings.k12.mt.us.

APPROXIMATE TIME EVENT WILL:

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

DATE OF EVENT Friday September 18th 2009

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

Skyview homecoming and Spirit week parade, consist
of Student/Community made float.

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

Start in Skyview parking lot and head East
on Wicks until St. Bernard's Church on Wicks
(see map included)

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

N/A

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

N/A

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

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

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

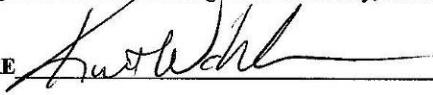
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE  **DATE** 7/7/09

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

Driving Directions from 226 Wicks Ln, Billings, MT to 1775 High Sier

MAPQUEST.

Total Time: 4 minutes Total Distance: 1.91 miles

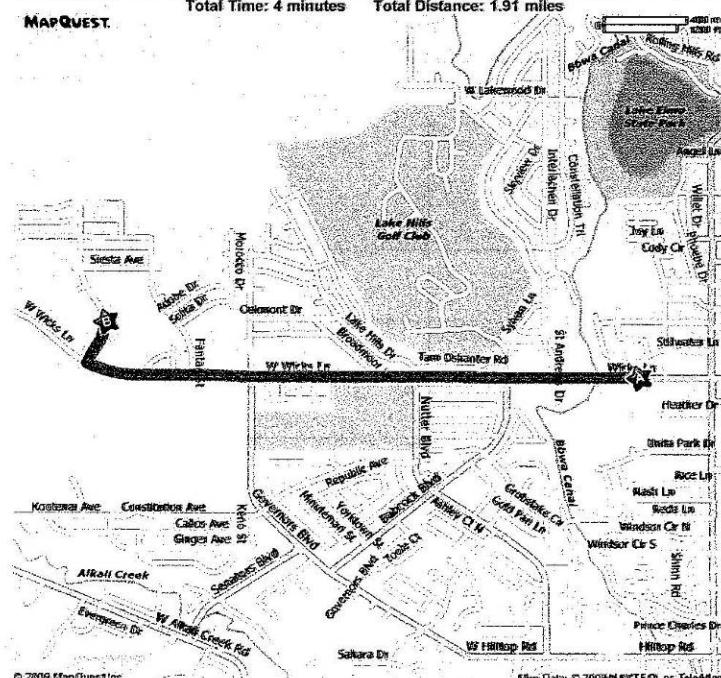
A: 226 Wicks Ln, Billings, MT 59105-3725

1: Start out going WEST on WICKS LN toward ST ANDREWS DR. 1.8 mi
2: Turn RIGHT onto HIGH SIERRA BLVD. 0.2 mi
3: End at 1775 High Sierra Blvd Billings, MT 59105-5402

B: 1775 High Sierra Blvd, Billings, MT 59105-5402

Total Time: 4 minutes Total Distance: 1.91 miles

MAPQUEST.



© 2009 MapQuest Inc.

Map Data © 2003 NAVTEQ © or TeleAtlas

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Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#).

Client#: 1747

SDIST2YE

DATE (MM/DD/YYYY)
7/01/2009

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 Billings Public Schools (dba) School Dist #2 and High School Dist #2 415 North 30th Street Billings, MT 59101-1298		INSURERS AFFORDING COVERAGE INSURER A: American Zurich Insurance Co. INSURER B: American Alternative Insurance INSURER C: INSURER D: INSURER E:	
		NAIC #	

COVERAGES

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

INSR ADD'L LTR	INSR'D TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> BI/PD Ded: \$25,000 GENL. AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC	CPO399387203	07/01/09	07/01/10	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$100,000 MED EXP (Any one person) \$EXCLUDED PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
B	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	82A2UB000002302	07/01/09	07/01/10	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$ \$ WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				
	OTHER				

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

RE: Operations performed by the above insured - Skyview Homecoming Parade, September 18, 2009

Certificate holder is additional insured as required by written contract.

CERTIFICATE HOLDER	CANCELLATION	10 Days for Non-Payment
City of Billings ATTN: Susan Welbrook 2224 Montana Avenue Billings, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.	
	AUTHORIZED REPRESENTATIVE <i>Deborah S Wagner</i>	

H5

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, August 24, 2009

TITLE: Montana Marathon Run and Street Closure Request
DEPARTMENT: Public Works Department-Engineering Division
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: Montana Marathon requests partial street closures for its annual Marathon event on Sunday, September 20, 2009, from 5:00 am to 2:30 pm. The marathon route begins on Molt Road, east on Sam Snead Trail and Walter Hagen Drive, south on 54th Street West, east on Rimrock Road, south on 46th Street West, east on Rangeview Drive, north on 38th Street West, east on Poly Drive, south on Patricia Lane, east on Colton, south on 17th Street West, east on Parkhill Drive, south on 3rd Street West, and finish at Daylis Stadium. The 10K and kids run are along the final portions of the marathon route. A full street closure on 3rd Street West from 6:00 am to 12:00 noon is requested for the finish line.

Recommended conditions of approval include Montana Marathon:

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

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

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

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

ATTACHMENTS

- A. Right of Way Special Activity Permit
- B. Letter outlining event
- C. Course map and directions
- 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 Kate Novakovich

ORGANIZATION MAKING APPLICATION Montana Governor's Cup Marathon Events (MGCM)

PHONE 672-1772, TimeAir Sports Race Headquarters 245-9735

ADDRESS 1603 Grand Ave. Billings MT 59102

CITY STATE ZIP

EMAIL ADDRESS Knovakovich@bresnan.net

APPROXIMATE TIME EVENT WILL:

Assemble 5:00 AM Start 7:00 AM - MOLT Disband 2:30 PM

DATE OF EVENT SUNDAY, SEPTEMBER 20, 2009

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

MGCM events are a marathon and 1 day running/walking event starting in MOLT, Half at Shorey Rd, 10K at Rangeview Park, Kid's Runs around Pioneer Park, all finishing at WENDY'S FIELD AT DAVIS STADIUM

* Per phone conversation 6/29/09 - Full street closure on 3rd Street West from 6:00 AM until 12:00 noon

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

map attached - same as 2008

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

SELF CLEAN UP

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

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

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

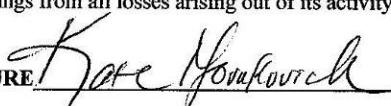
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE  **DATE** _____

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



City of Billings
Engineering Department

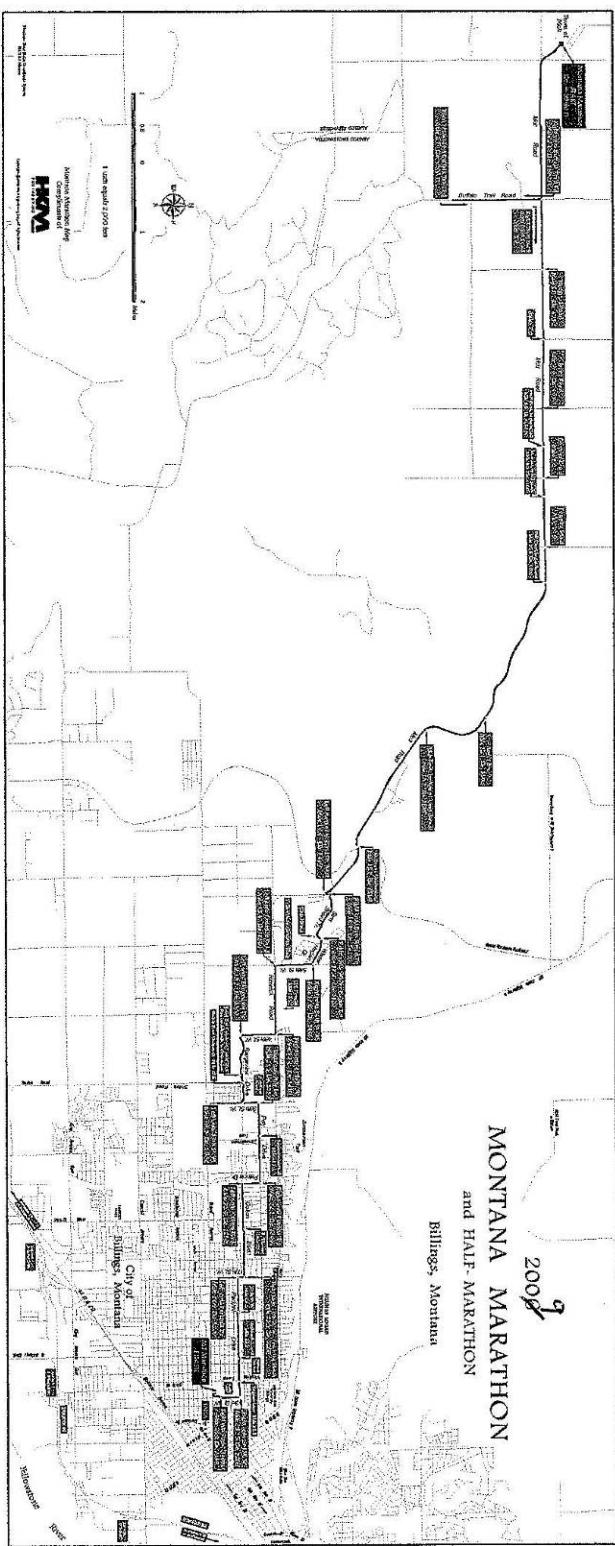
Dear Ms. Wellbrook,

The Montana Governor's Cup Marathon events will be held Sunday, September 20, 2009, beginning in Molt, and finishing in Wendy's Field at Daylis Stadium. The marathon and relay begin at 7:00 AM, the half marathon at 8:00 AM, and the 10K begins at 9:00 AM. All races are on the same course. This year we would like to add a kid's run around Pioneer Park for ages 9-12. They would begin and end at the stadium, using the sidewalk around the park. We will barricade and cone major traffic areas, changes in direction, and down 3rd Ave. into the stadium, to finish around the track. Busses will provide transportation to the start lines from Senior High parking lot.

If additional information is needed please contact me at 672-1772. Our website can provide additional information if needed at www.montanagovernorscupmarathon.org. Our race headquarters is Time Out Sports at 1603 Grand Ave, Billings, MT 59102.

Regards,
Kate Novakovich

A handwritten signature in black ink that reads "Kate Novakovich". The signature is fluid and cursive, with "Kate" on the left and "Novakovich" on the right, connected by a flourish.



JUN/27/2009/SAT 04:15 AM

P. 001



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/26/2009

PRODUCER (260)467-5690 FAX: (260)467-5651 STAR Insurance - Fort Wayne Office 2130 East DuPont Road	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.
Fort Wayne IN 46825	INSURERS AFFORDING COVERAGE
INSURED ROAD RUNNERS CLUB OF AMERICA/2009 AND ITS MEMBER CLUBS 6434 POUND APPLE COURT COLUMBIA MD 21045	INSURER A: NATIONAL CASUALTY COMPANY 11991 INSURER B: NATIONWIDE LIFE 66869 INSURER C: INSURER D: INSURER E:

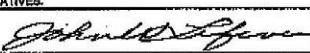
COVERS

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 ADDL LIN INSURD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	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"/> LEGAL LIABILITY TO PART. <input type="checkbox"/> \$1,000,000 GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	ER00000000172601	12/31/2008 12:01 A.M.	12/31/2009 12:01 A.M.	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ NONE PRODUCTS - COMP/OF AGG \$ 1,000,000			
	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							
	A				ER00000000172601	12/31/2008 12:01 A.M.	12/31/2009 12:01 A.M.	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
								GARAGE LIABILITY <input type="checkbox"/> ANY AUTO
								EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE <input type="checkbox"/> Y/N OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below								
B		SPX000003566300 MEDICAL	12/31/2008 12:01 A.M.	12/31/2009 12:01 A.M.				
	EXCESS MEDICAL \$10,000 \$250 DEDUCTIBLE PER CLAIM AD / SPECIFIC LOSS \$2,500							
	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATION OF THE NAMED INSURED.							
	DATE & EVENT: 09/20/09 MONTANA GOVERNORS CUP MARATHON INSURED CLUB: YELLOWSTONE RIMRUNNERS, ATTN: KATE NOVAKOVICH; P.O. BOX 2424, BILLINGS, MT 59101							

CERTIFICATE HOLDER	CANCELLATION
09/20/09 CITY OF BILLINGS ATTN: SUSAN WELLERCOOK P.O. 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 John LeFever/JR <i>John LeFever</i>

ACORD 25 (2009/01)
INS025 (2009/01)© 1988-2009 ACORD CORPORATION. All rights reserved.
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ACORD CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 6/26/2009	
PRODUCER (260) 467-5690 FAX: (260) 467-5651 STAR Insurance - Fort Wayne Office 2130 East DuPont Road		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.			
Fort Wayne IN 46825		INSURERS AFFORDING COVERAGE		NAIC #	
INSURED Yellowstone Rim Runners P O Box 2424		INSURER A: NATIONAL CASUALTY COMPANY			
Billings MT 59103		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.					
INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY) 12/31/2008	POLICY EXPIRATION DATE (MM/DD/YY) 12/31/2009	LIMITS
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR	6L-XKG-00000002169-01 STRAIGHT EXCESS	12/31/2008 12:01 AM	12/31/2009 12:01 AM	EACH OCCURRENCE \$ DAMAGE 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				
	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				
	DEDUCTIBLE RETENTION \$				
	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below.				
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED. DATE & EVENT: 09/20/09 MONTANA GOVERNORS CUP MARATHON					WC STATL TORY LIMITS EL EACH ACCIDENT EL DISEASE - EA EMPLOYEE EL DISEASE - POLICY LIMIT
CERTIFICATE HOLDER		CANCELLATION			OTH- ER
09/20/09 CITY OF BILLINGS ATTN: SUSAN WELLBROOK P.O. 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 John Lefevere/JR 



AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: DUI Task Force \$5,000 Donation
DEPARTMENT: Billings Police Department
PRESENTED BY: Rich St. John, Chief of Police

PROBLEM/ISSUE STATEMENT: The DUI Task Force has informed the Billings Police Department by copy of the attached letter, of its \$5,000 donation for the purchase of portable breath testers (PBTs). The PBTs will be purchased, an invoice sent to DUI Task Force, and reimbursement will be made.

FINANCIAL IMPACT: Approximately 10 replacement PBTs will be purchased from an expenditure account in Fund 709. When reimbursement is made by the DUI Task Force, the amount will be placed in the revenue account for Fund 709.

RECOMMENDATION

Staff recommends that Council approve the \$5,000 donation from the DUI Task Force.

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

ATTACHMENTS

A – Letter from DUI Task Force



ATTACHMENT A

YELLOWSTONE COUNTY DUI TASK FORCE

P.O. Box 20982 • Billings, Montana 59104

July 21, 2009

Chief St. John
Captain John Bedford
Billings Police Department
City Hall
220 N. 27th Street
Billings, Montana 59101

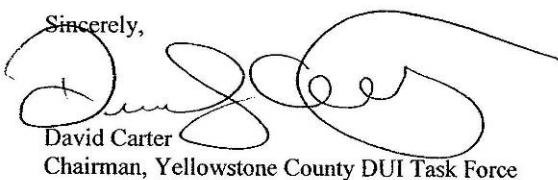
RE: Yellowstone County DUI Task Force \$5,000 reimbursement for purchase of
Portable Breath Test (PBT) instruments

Dear Chief St John:

Earlier this year, the Yellowstone County DUI Task Force approved individual payments to local and state law enforcement agencies and treatment provided for the purchase of PBTs. This letter confirms the approval of a reimbursement not to exceed \$5,000 to the Billings Police Department after purchase of the equipment. This equipment will facilitate the effective enforcement of the DUI laws in this community.

Thank you for your time and attention to this matter.

Sincerely,



David Carter
Chairman, Yellowstone County DUI Task Force
Deputy County Attorney

Stop drivers under the influence

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Acceptance of Donated Value from Exxon Mobil for Specialized Fire Training for Airport's Aircraft Rescue Fire Fighting Staff

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The Airport's Aircraft Rescue Fire Fighting (ARFF) Division participates in a Mutual Aid role with the local area refineries. This year, Exxon Mobil is offering to pay for some specialized training for seven (7) of the Airport's ARFF staff in support of this Mutual Aid role. This training takes place at the Delgado Community College Training Facility in Mandeville, Louisiana, and at the Texas Engineering Extension Services Training Facility in College Station, Texas. Exxon Mobil is willing to provide the airfare, hotel, per diem, and training costs in order to have the ARFF employees trained to handle large petroleum based fires in the event they are needed in a Mutual Aid support role. This training will significantly benefit our ARFF staff, as they would encounter fuel fires during a large scale aircraft accident. The total cost for this training is estimated to be around \$2,000 per person, subsequently the donated value of the training is estimated at \$14,000. ARFF staff will participate in the three (3) day training in groups of 2-3 during the months of September and November 2009.

Administrative Order #103 requires that all donations of more than \$500 be accepted by the City Council.

FINANCIAL IMPACT: The City will receive no actual cash value for the estimated donated \$14,000 of cost for this training, just the benefit of having seven (7) members of the Airport's ARFF staff participating in this specialized training.

RECOMMENDATION

Staff recommends that Council accept Exxon Mobil's donated value of \$14,000 for specialized training for the Airport's ARFF staff.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Coal Impact Grant Application for 25th Street Pedestrian Bridge
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: The City of Billings is seeking \$200,000 in funding through a State Coal Board, Coal Impact Grant for the 25th Street Pedestrian Bridge over the Montana Rail Link (MRL) tracks to connect Montana Avenue in the historic district of downtown Billings with the Minnesota Avenue Old Town Neighborhood District. This bridge will provide the connection to the existing bike lanes striped along South 25th Street that will link to the existing trail through Coulson Park along the Yellowstone River. The project will use an existing Carnegie steel bridge located in Joliet that spanned Rock Creek in the early 1900s.

The proposed bridge project is included in the Framework Plan for Downtown Billings and also is part of the Old Town Neighborhood Plan recently approved by City Council. The bridge is also identified in the Heritage Trail Plan. With the addition of the bridge in downtown Billings, the existing Heritage Trail paths and network will enable visitors and residents to participate in a broad range of outdoor activities, provide a safe route across the railroad tracks for residents of bordering neighborhoods, and make the Yellowstone River greenway available to the historic and/or cultural tourists who may be visiting downtown. The parking lot on the south side of the tracks also could allow large recreational vehicle parking to access Downtown Billings from Interstate 90. The project proposes that the City of Billings will lease the land from MRL on the south side of the tracks for the parking lot and that funds generated from the parking lot may be used to maintain the lot and bridge structure.

ALTERNATIVES ANALYZED: If the City Council does not approve this grant application, other sources of funding will need to be considered as the project moves forward.

FINANCIAL IMPACT: The 25th Street Pedestrian Bridge Project is estimated to cost approximately \$625,000 with an additional \$125,000 for the construction of a public parking lot on the south side of the railroad tracks. Funds for the parking lot could be secured through the Parking Advisory Board with approval by the Mayor and Council. BikeNet has secured \$7,500

from previous grants. The City of Billings is requested \$200,000 from this Coal Impact Grant. With future direction from the governing bodies, additional funds may be sought through private organizations, CTEP, and remaining GO Bond funds.

RECOMMENDATION

Staff recommends that the City Council approve the submittal of a Coal Board Coal Impact Grant for \$200,000 for a portion of the 25th Street Pedestrian Bridge project.

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

ATTACHMENT:

A. Certification for the Coal Impact Grant Application

COAL IMPACT GRANT PRE-APPLICATION

Department of Commerce
Montana Coal Board
301 South Park Avenue
P.O. Box 200523
Helena, MT 59620-0523

Date:

Application #
(Assigned by Coal Board staff)

Certification

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

In accordance with section 90-6-205, MCA, the applicant is eligible for a Coal Impact grant and has the statutory authority to administer and make expenditures to provide for the proposed government service or facility.

Name: **Ron Tussing**

Title: **Mayor of the City of Billings**

Signature:

Date:

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: 2009 Community Transportation Enhancement Program (CTEP) Project
Recommendations to Policy Coordinating Committee

DEPARTMENT: Planning and Community Services

PRESENTED BY: Scott Walker, Transportation Planner

PROBLEM/ISSUE STATEMENT: The Policy Coordinating Committee (PCC) at its meeting on April 1, 2009, asked staff to review the current Community Transportation Enhancement Program (CTEP) projects under consideration by the City and County. This included reviewing six CTEP projects that had been under consideration or previously approved, and the funding options based on concerns from the PCC that the Main Street Pedestrian Underpass Project bid came in very high and that funding was needed to address some of the other projects that could not be allocated to the Underpass at the time. The six active projects are the Main Street Pedestrian Underpass, Swords Park Trail (Phase II), Earl Guss Park Trail, 25th Street Pedestrian Bridge, Broadwater Connection, and Shiloh Road Landscaping.

Staff has reviewed these projects and significant changes have occurred in funding options for these projects. This includes the funding of the Shiloh Road Landscaping with ARRA Funds, the opportunity to fund \$380,000.00 of the Swords Park Trail, Phase II, with the ARRA-based Federal Energy Efficiency and Conservation Block Grant, and efficiency of combining the Earl Guss Park Trail and Main Street Underpass projects into one under CTEP. Given these changes, staff is providing the Council with updated funding information to move forward with completion of the Main Street Pedestrian Underpass and Earl Guss Park Trail (the combined project is now named the Alkali Creek Corridor Trail Connections), and the Swords Park Trail (Phase II) CTEP projects (See Attachment A). The two remaining projects 25th Street Bridge and Broadwater connection remain on the list as future priority projects.

The Yellowstone County Board of Planning at its meeting on July 28th and the Yellowstone County Commission at its meeting on July 31st both made recommendations to PCC to approve and fund the Alkali Creek Corridor Trail Connections and Swords Park Trail, Phase II projects. The County Commissioners also indicated they want to ensure the trail included in the City's

proposed Alkali Creek Road reconstruction remains along the street and any remaining CTEP funds from these allocations be put toward the future 25th Street Bridge project.

ALTERNATIVES ANALYZED: The City Council may decide to support funding of the Alkali Creek Corridor Trail Connections and the Swords Park Trail, Phase II, CTEP projects and recommend this action to the PCC, not recommending funding of the projects, or make different funding recommendation. However, the funding for the recommended projects is complete and changing the projects at this time could jeopardize a series of funding opportunities.

FINANCIAL IMPACT: The funding packages for these projects are outlined in Attachment A and show that the projects may be funded with the only direct impact to the City being a contribution from City Public Works to provide utility access along the Earl Guss Trail

RECOMMENDATION

Staff recommends the City Council approve its recommendation to the PCC to approve of the Alkali Creek Corridor Trail Connections and the Swords Park Trail, Phase II CTEP projects and project funding for 2009.

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

ATTACHMENT:

A. CTEP Funding Summary

CTEP as of August 5, 2009

\$2,361,009 Available in Total CTEP Funds

Swords Park Trail, Phase II

Estimated Cost-	\$800,000
Available Funding-	\$800,000
• Energy Efficiency and Conservation Block Grant	\$380,000
• Recreational Trails Grant	\$25,000
• Original CTEP	\$62,000*
• New CTEP	\$333,000*
	<u>\$800,000</u>

*CTEP Match \$53,009 (covered in the Energy Efficiency and Conservation Block Grant)

Alkali Creek Corridor Trail Connections

Main Street Pedestrian Underpass and Earl Guss Park Trail

Estimated Cost-	\$2,450,000
Total Available Funding-	\$2,550,009
• TCSP	\$237,000
• *BikeNet	\$125,000
• *Dowl/HKM	\$8,000
• *St. V's	\$10,000
• *RTP	\$25,000
• *County RTP/BikeNet	\$17,000
• *City Pub. Works	\$20,000
• *Sample Foundation	\$10,000
• *Bond Issue	\$70,000
• CTEP	\$2,028,009
	<u>\$2,550,009</u>

*CTEP Match Sources	\$272,158
○ BikeNet	\$125,000
○ Dowl/HKM	\$8,000
○ St. V's	\$10,000
○ RTP	\$21,250
○ County RTP/BikeNet	\$14,450
○ City Public Works	\$20,000
○ Sample Foundation	\$10,000
○ Land Design	\$5,000
○ Bond Issue	\$58,458
	<u>\$272,158</u>



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, August 24, 2008

TITLE: East Billings Urban Renewal District Master Plan – Resolution of Intent to Adopt and Set Date of Public Hearing

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT

The East Billings Urban Renewal District (EBURD) Master Plan is a community vision for the long term development and redevelopment of about 500 acres just east of the central downtown Billings area. It extends southwest to northeast from North 22nd Street to the Metra Park Arena and Exhibition Center Campus, and north-south from 6th Avenue North to Montana Avenue. The Master Plan study area follows the Tax Increment Finance District established in the 2006 East Billings Urban Renewal Plan. The process to prepare the EBURD Master Plan has taken about one year to complete and has involved the consultant team headed by national planning firm EDAW-AECOM, Big Sky Economic Development Authority, the East Billings Industrial Revitalization District, the City Council and Board of County Commissioners, city and county staff, and many agencies and community members. Public meetings and a community planning charrette were held as part of the process as well as several smaller stakeholder meetings.

The Planning Board conducted a public hearing on July 28, 2009, and is forwarding a recommendation to adopt the EBURD Master Plan to the City Council and the Board of County Commissioners. The Council at its July 6, 2009, work session heard a presentation on the EBURD Master Plan. At this meeting, the council will consider a Resolution of Intent to Adopt the EBURD Master Plan and set a date for a public hearing to receive comment on the Master Plan. The public hearing is scheduled for the Council meeting on September 14, 2009. The City Council has been provided CDs of the EBURD Master Plan with this memo. Hard copies of the Plan are on file in the City Clerk's Office and the Planning Division Office.

FINANCIAL IMPACT

There is no immediate financial impact by adopting this plan. The governing bodies and community will decide during implementation of the plan what projects and strategies to move forward with and identify funding for these projects at that time.

RECOMMENDATION

The Yellowstone County Board of Planning recommends the City Council adopt the EBURD Master Plan as part of the Yellowstone County and City of Billings 2008 Growth Policy.

ATTACHMENT

- A. Yellowstone County Board of Planning Resolution 09-02
- B. Resolution of Intent to Adopt the EBURD Master Plan and set a Public Hearing

Approved By: City Administrator City Attorney

ATTACHMENT A

RESOLUTION NO. 09-2

RESOLUTION TO RECOMMEND ADOPTION OF THE EAST BILLINGS URBAN RENEWAL DISTRICT MASTER PLAN

WHEREAS, pursuant to Title 76, Chapter 1, PART 601, Montana Codes Annotated, the Yellowstone County Board of Planning, desires to adopt a Neighborhood or Area Master Plan consistent with the 2008 Growth Policy covering the entire Yellowstone County Board of Planning jurisdiction:

WHEREAS, on the 28th day of July, 2009, a public hearing was held by the Yellowstone County Board of Planning for the purpose of receiving public comments on the proposed East Billings Urban Renewal District Master Plan:

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Yellowstone County Board of Planning recommends adoption of the East Billings Urban Renewal District Master Plan.

APPROVED AND PASSED by the Yellowstone County Board of Planning this 28th day of July, 2009.

THE YELLOWSTONE COUNTY BOARD OF PLANNING:

BY: Bill Iverson
Bill Iverson, President

ATTEST:

BY: Candi Beaudry
Candi Beaudry, Executive Secretary

ATTACHMENT B

RESOLUTION NO. 09-_____

RESOLUTION OF INTENT TO ADOPT THE EAST BILLINGS URBAN RENEWAL DISTRICT MASTER PLAN AS PART OF THE YELLOWSTONE COUNTY - CITY OF BILLINGS 2008 GROWTH POLICY.

WHEREAS, pursuant to Title 76, Chapter 1, PART 601, Montana Codes Annotated, the Billings City Council, desires to adopt a Neighborhood Master Plan consistent with the 2008 Growth Policy covering the entire Yellowstone County Board of Planning jurisdiction:

WHEREAS, on the 28th day of July, 2009, a public hearing was held by the Yellowstone County Board of Planning for the purpose of receiving public comments on the proposed EBURD Master Plan and on the 14th day of September 2009, the Billings City Council will hold a public hearing for the same purpose:

WHEREAS, The Yellowstone County Board of Planning by Resolution 09-02, recommends the Billings City Council adopt the proposed Neighborhood Plan and any ordinances and resolution for its implementation:

NOW, THEREFORE, BE IT HEREBY RESOLVED that it is the intent of the Billings City Council to adopt the EBURD Master Plan as part of the Yellowstone County – City of Billings 2008 Growth Policy.

APPROVED AND PASSED by the City Council of the City of Billings this 24th day of August, 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, Aug. 24, 2009

TITLE: Resolution—Temporary Suspension of the Camping Ordinance

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: The Big Sky Polka Club is seeking an exemption from the City's RV and camper parking ordinance for its annual Polkafest, to be held Labor Day Weekend (Sept. 4-6, 2009) at the Shrine Auditorium, 1125 Broadwater Ave.

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

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

ALTERNATIVES ANALYZED:

- Approve a resolution allowing RV and camper parking in the Shrine Auditorium for the Polka Festival. Such an exemption was granted in 2005 -2008 for the same event.
- Do not approve the resolution.

FINANCIAL IMPACT: None anticipated.

RECOMMENDATION

Approve a resolution allowing RV and camper parking in the Shrine Auditorium parking lot for 48 hours on either side of the Big Sky Polka Club's Polkafest, Sept. 4-6, 2009.

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

Attachments:

- A: Resolution
- B: Letter from Big Sky Polka Club, Inc.

RESOLUTION 07-__

**A RESOLUTION OF THE BILLINGS CITY COUNCIL
TEMPORARILY SUSPENDING BMCC 24-411 TO ALLOW
CAMPING IN THE SHRINE AUDITORIUM PARKING
LOT FOR THE 2009 BIG SKY POLKA FESTIVAL.**

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

WHEREAS, the Big Sky Polka Club, Inc., will hold its annual Big Sky Polka Festival from Sept. 4-6, 2009, at the Shrine Auditorium, 1125 Broadwater Avenue; and

WHEREAS, the owners of 14-18 recreational vehicles and campers are expected to attend the event, and the Big Sky Polka Club has asked that they be allowed to park their vehicles at the event site.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA that BMCC 24-411 is hereby temporarily suspended for a period of 48 hours on either side of September 4-6, 2009, at the Shrine Auditorium, 1125 Broadwater, for the Big Sky Polka Festival.

PASSED AND APPROVED by the City Council this 24th day of August, 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

RECEIVED

AUG - 4 2009

City Administrator

Christina Volek
Billings City Administrator
August 2th, 2009
Subject; RV Parking
Big Sky Polka Festival (PolkaFest)

Dear Christina,

Big Sky Polka Club of Billings requests, as in previous years, that visiting RV's have permission from the city, to park very short term during Big Sky Polka Clubs Polka festival event. The event takes place September 4th-6th, 2009 at the Shrine Auditorium. We are expecting 14-18 RV'S and they would be parking at the rear of the Shrine lot, saving valuable parking for our local and out of town guests traveling by car. Many of these RV guests are Club leaders and promoters of dance clubs around the country and Canada. They usually stay at the event site in private lots such as: The Shrine, Elks, Moose and Eagle Clubs. The RV'S will be departing on or before September 1st.

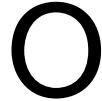
Tina, will vocal approval from the City Council and the City Administrator be sufficient or do we need to pick up an official permit? Last year you personally delivered a letter of approval that was very much appreciated.

Thanks so much for your help and time,

Sincerely,



L. Keith Kraft
Big Sky Polka Club, Pres.
Ph. 656-7470 or 255-2126



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Final Plat of Morledge Family Medical Village Subdivision

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: The final plat for Morledge Family Medical Village Subdivision, is being presented to Council for approval. On March 9, 2009, the City Council conditionally approved 4 lots from a 2.8-acre tract of land. The subject property is located on the northwest corner of Poly Drive and 17th St. West. The property has been developed with a large medical office building since 1981 and is zoned Planned Unit Development (PUD) with underlying Residential Professional (RP) zoning. The 4 lots will be developed in phases with four new medical offices. The existing office building will be removed as the property is re-developed. The owner is Morledge Family, LLC. The representing agent is DOWL-HKM Engineering. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Morledge Family Medical Village Subdivision.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

A: Plat

ATTACHMENT A

P1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 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 \$2,023,009.81 have been audited and are presented for your approval for payment. A complete listing of the claims dated July 24, 2009, in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

P2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 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 \$2,756,213.74 have been audited and are presented for your approval for payment. A complete listing of the claims dated August 3, 2009, in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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



2

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

SUBJECT: Awarding Sale of Bonds Relating to \$297,000 Pooled Sidewalk Series 2009

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City Council has previously approved the authorization for the sale of bonds relating to Pooled Sidewalk Series 2009. This staff memo recommends award of the sale of bonds totaling \$297,000 for financing the following projects:

WO 02-08 Milton Lane School Route improvements \$53,000

BACKGROUND INFORMATION: Bids on \$297,000 for bonds will be received August 24, 2009, and a report will be made at the Council meeting.

RECOMMENDATION

Staff recommends award of the bond bid to the lowest responsive bidder, to be named at the Council meeting.

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

ATTACHMENT

A - Resolution

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$297,000 POOLED SPECIAL SIDEWALK, CURB, GUTTER, AND ALLEY APPROACH BONDS, SERIES 2009; AWARDING THE SALE THEREOF AND APPROVING CERTAIN MATTERS WITH RESPECT THERETO" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on August 24, 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 Council Members voted in favor thereof: _____

_____; voted against the same:

_____; abstained from voting thereon:

_____; or were absent: _____

_____.
WITNESS my hand and seal officially this _____ day of August, 2009.

(SEAL)

City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO \$297,000 POOLED SPECIAL SIDEWALK,
CURB, GUTTER, AND ALLEY APPROACH BONDS, SERIES 2009;
AWARDING THE SALE THEREOF AND APPROVING CERTAIN MATTERS
WITH RESPECT THERETO

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

1. This Council on August 10, 2009 adopted Resolution No.09-18856 providing for the public sale of \$297,000 Pooled Special Sidewalk, Curb, Gutter, and Alley Approach Bonds (the “Bonds”) to finance the costs of certain local improvements to be undertaken in or for the benefit of certain property owners. Notice of the sale has been duly published in accordance with Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106. Pursuant to the notice of sale, _____ (_____) sealed bids for the purchase of the Bonds were received at or before the time specified for receipt of bids. The bids have been opened and publicly read and considered, and the purchase price, interest rates and net interest cost under the terms of each bid have been determined.

2. The bid of _____ of _____, _____ (the “Purchaser”), attached as Exhibit A, to purchase the Bonds of the City, is hereby determined to comply with the notice of sale, and to be the lowest, most reasonable bid for the purchase of the Bonds. The bid of the Purchaser is hereby accepted by the Council and the sale of the Bonds is hereby awarded to the Purchaser. The bid security of the Purchaser shall be retained pending delivery of the payment for the Bonds and the bid security of all other bidders shall be promptly returned.

3. The Mayor and City Clerk are hereby authorized and directed to execute a purchase contract with the Purchaser with respect to the Bonds.

4. This Council shall prescribe the form and security for the Bonds in a subsequent resolution.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 24th day of August, 2009.

Mayor

Attest: _____
City Clerk

EXHIBIT A
Copy of Signed Winning Bid



3

CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, AUGUST 24, 2009

SUBJECT: Public Hearing and Approval of Re-spread Resolutions for Properties being Split or Combined in Various Special Improvement Districts

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The following assessments have been completed by the Finance Division and are ready to be spread on the tax rolls. Various parcels with an SID are being split and combined as requested by the property owners.

FINANCIAL IMPACT: The original assessment is re-spread over the new parcel for the same cost and interest rate.

RECOMMENDATION

Staff recommends that a public hearing be held and that Council passes the proposed resolution on August 24, 2009.

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

ATTACHMENT

A-Tax Code List
B-Assessment Resolution
C-Assessment Resolution

Attachment A

Split

Billings Original Townsite SID 1346

Original tax code A00636A

New tax codes	A34212A	A34212M
	A34212B	A34212N
	A34212C	A34212O
	A34212D	A34212P
	A34212E	A34212Q
	A34212F	A34212R
	A34212G	A34212S
	A34212F	A34212T
	A34212H	A34212U
	A34212I	A34212V
	A34212J	A34212W
	A34212K	A34212X
	A34212L	A34212Y

Combines

SID 9904
Original tax code D04831
Combined with D04831A

Broadwater Subdivision SID 2001
Original tax code A03439
Combined with A03440

State Realty Add SID 2301
Original tax code A14670
Combined with A14669

Attachment B

RESOLUTION 09-

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 1346, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, the City created improvements and

WHEREAS, it is necessary to re-levy and re-assess a tax to defray a portion of the cost and expenses of said district, now therefore, be it resolved by the City Council of the City of Billings, Montana as follows:

1. RE-LEVY AND RE-ASSESSMENT That for the purpose of defraying a portion of the cost and expense of making improvements in SID 1346 of the City of Billings, Montana, there is hereby levied and assessed upon each lot or parcel of land described below, owned by persons respectively indicated a tax or special assessment payable in semi-annual installments with interest.

Each lot and parcel assessed and the owner thereof is hereinafter described:

Lot 17 Blk 92 Billings Original Townsite

2. DISPOSITION OF COLLECTION All monies collected from the tax shall be paid into SID 1346.

3. NOTICE AND HEARING That on Monday, the 24th day of August, 2009, at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the City Hall, Billings, Montana, the Council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on August 6, and August 13, 2009, in the Billings Times.

4. EFFECTIVE DATE This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 24th day of August, 2009.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

Attachment C

RESOLUTION 09-

A RESOLUTION RE-LEVYING AND RE-ASSESSING A TAX UPON A PORTION OF THE PROPERTY IN SID 9904, 2001 & 2301, IN THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF RE-LEVYING AND RE-ASSESSING A PORTION OF THE COST AND EXPENSE OF MAKING IMPROVEMENTS THEREIN.

WHEREAS, the City created improvements and

WHEREAS, it is necessary to re-levy and re-assess a tax to defray a portion of the cost and expenses of said district, now therefore, be it resolved by the City Council of the City of Billings, Montana as follows:

1. RE-LEVY AND RE-ASSESSMENT That for the purpose of defraying a portion of the cost and expense of making improvements in SID 9904, 2001 & 2301 of the City of Billings, Montana, there is hereby levied and assessed upon each lot or parcel of land described below, owned by persons respectively indicated a tax or special assessment payable in semi-annual installments with interest.

Each lot and parcel assessed and the owner thereof is hereinafter described:

Lot 39 Blk 9 Broadwater Subd
Lot 17 Blk 4 State Realty Add
Lot 0 Blk 0 S36 T01 N R25 E

2. DISPOSITION OF COLLECTION All monies collected from the tax shall be paid into SID 9904, 2001 & 2301.

3. NOTICE AND HEARING That on Monday, the 24th day of August, 2009, at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the City Hall, Billings, Montana, the Council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on August 6 and August 13, 2009, in the Billings Times.

4. EFFECTIVE DATE This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 24th day of August, 2009.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

SUBJECT: Public Hearing and Approval of Resolution Approving and Adopting an Amendment for Fiscal Year 2008/2009

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: A budget amendment is requested for the Health Insurance Fund (627). This request is to increase the budget for health insurance prescriptions expense for \$300,000. This will require the use of Health Insurance Fund reserves. The Health Insurance Fund reserves were \$2.1 million on June 30, 2009. The recommended level of reserves is \$2.2 million. There is also an anticipated change in an accrued liability by \$600,000 in order to be in accordance with accounting standards and State budgetary laws. The City is required to report a liability for incurred but not reported claims (IBNR) in the annual financial report. This is calculated using June 2009 paid claims and tracking how much was paid in July through September. This increase in the expense does not result in cash outlay and therefore does not need to be funded by reserves.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the budget amendment for Fiscal Year 2008/2009 per attached.

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

ATTACHMENT

A-Resolution to Make Fiscal Year 2008/2009 Adjustment Appropriation (with Exhibit A)

Attachment A

RESOLUTION 08-

**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 24th day of August, 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A

<u>Revenue</u>	<u>Expenditure</u>
----------------	--------------------

627– Internal Service-Health Insurance

The Health Insurance fund is requesting an increase in health insurance expense-change in accrued liability for \$600,000. In order to be in accordance with accounting standards, the City is required to increase its FY09 Claims Incurred But Not Reported Liability and Expense. This increase is not a cash outlay for FY09, but is requiring an increase in expense. The increase is due to an increase in claims in FY09 compared to FY08. The increase does not require to be funded by a revenue source since it is a noncash expenditure. The budget increase is required in order to be in compliance with state law. The Health Insurance fund is also requesting an increase in prescription expense budget due to an increase in prescription claims for \$300,000. The additional expenses will be funded by the Health Insurance Fund reserves.

627-1752-417	1439	600,000
627-1752-417	1441	300,000

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Zone Change #856 Public Hearing and 1st Reading of Ordinance – 2215 6th Avenue North

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change request from Residential 6,000 (R-60) to Community Commercial (CC) on the East ½ of Lots 22-24, Block 272, Billings Original Town located at 2215 6th Avenue North. This is the current location of a small residential home that is rented. The applicants are George & Dorothy Wetstein and Joyce Lunder is the agent. A pre-application neighborhood meeting was held at the North Park Picnic Shelter on June 29, 2009. The Zoning Commission conducted a public hearing on August 4, 2009, and is forwarding a recommendation of approval on a 3-0 vote.

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

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

FINANCIAL IMPACT: The proposed zone change should have little effect on the City's tax base.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #856 and adoption of the 12 Zoning Commission Determinations on a 3-0 vote.

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

ATTACHMENTS:

- A: Surrounding Zoning
- B: Site photographs
- C: Ordinance

INTRODUCTION

The applicant is requesting to rezone a 5,250 square foot parcel on the north side of 6th Avenue North from R-60 to CC. The land includes a small home that is currently rented. The owner and agent are proposing to convert the residence for use of a small business, a wholesale pizza assembly operation. This business currently operates out of Ms. Lunder's home in Shepherd. The address of the property is 2215 6th Avenue North.

PROCEDURAL HISTORY

- On June 29, 2009, the pre-application neighborhood meeting for the proposed zoning application was conducted at the North Park Picnic Shelter on 6th Avenue North.
- On July 6, 2009, a zone change application was submitted to the Planning Division.
- On August 4, 2009, the City Zoning Commission conducted a public hearing on the proposed zone change and forwarded a recommendation of approval to the City Council on a 3-0 vote.
- On August 24, 2009, the City Council will conduct the public hearing for the the zone change.
- On September 14, 2009, if the zone change is approved on first reading, the second reading of the zone change will be conducted.

BACKGROUND

6th Avenue North is a principal arterial street that carries approximately 13,000 vehicle trips per day as a 4-lane one way street. There is on street parking as well as off-street parking for 2 or 3 vehicles in the driveway and garage. This location is just north of the East Billings Urban Renewal District and is in the North Park neighborhood. The neighborhood plan was updated in 2008 and including recommendations to allow some commercial zoning and land uses along 6th Avenue North. The applicant held a pre-application neighborhood meeting that was attended by a representative of the North Park Task Force. The Task Force expressed no objection to the proposed zone change or intended land use.

The lots to the north, east and west are zoned R-60 and have been fully developed for residential uses. The lots to the south are zoned CI but are also residential. The proposed wholesale pizza manufacturing is similar to a small catering operation. There is no cooking on site, but pizzas are assembled and frozen. The size of the lot and its location on a principal arterial street, will limit the number of potential uses available in the proposed CC zoning district. For example, most retail uses including restaurants and bars could not be allowed based on off-street parking requirements. Small professional offices, limited and specialized services could be accommodated on this 5,250 square foot lot.

The 2008 Growth Policy and the North Park Neighborhood Plan support predictable land uses in existing neighborhoods and encourages compact commercial development where arterial streets exist to handle traffic. The North Park Neighborhood Plan has adopted a goal of limiting the encroachment of commercial uses into the established residential areas of North Park. The plan does recognize the ability to allow some limited commercial uses along 6th Avenue North that

would not be incompatible with the existing residences. The Planning Division has not received any comments from the surrounding property owners. Mr. Richard Rohrer of 610 N 22nd Street requested a valid protest petition form. This was sent to Mr. Rohrer the week of July 20th. A signed petition has not been returned to the Planning Division. Mr. Rohrer did not attend or submitted testimony to the Zoning Commission on August 4, 2009.

The Planning Division reviewed this application and recommended approval to the Zoning Commission based on the attached twelve (12) criteria for zone changes. The subject property is adjacent to an arterial street and the property is appropriate for CC uses and re-use. The zone change will not alter the character of the North Park neighborhood because the lot is small and the number of potential uses is limited. The proposed zoning is compatible with the surrounding zoning and neighborhood character. The Zoning Commission concurred with this recommendation.

ALTERNATIVES ANALYSIS

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

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

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

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*
The proposed zoning would allow an adaptive re-use of an older residential home for a limited and specialized service provider. 6th Avenue North provides arterial street access to accommodate any traffic generated without impact to surrounding residences.
- *New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites. (Land Use Element Goal, page 6)*
The proposed zoning is consistent with the surrounding character of 6th Avenue North.
- *Contiguous developed focused in and around existing population centers. (Land Use Element, page 6)*
The proposed zoning will provide a good in-fill and re-use of the property that has limited quality for residential uses.

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

6th Avenue North is a principal arterial that carries approximately 13,000 vehicle trips per day. No significant increase in traffic load is anticipated from this zone change although the nature of the traffic will change from daily residential traffic to limited commercial traffic during business hours.

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

The subject property is currently serviced by City Fire and Police. The proposed zoning will not affect the ability of these services to access the property.

4. *Will the new zoning promote health and general welfare?*
The current R-60 zoning allows residential uses and limited home-based businesses. Catering and wholesale production of frozen pizza is not an allowable home-based business. The proposed zoning of CC would allow this type of use as well as other limited uses for office space or specialized services.
5. *Will the new zoning provide adequate light and air?*
The proposed zoning requires building setbacks and limits building height. Zoning, building and fire codes should provide assurance of adequate light and air for the property and surrounding neighborhood.
6. *Will the new zoning prevent overcrowding of land?*
The proposed zoning limits maximum lot coverage to 50% of the lot area. The current R-60 zoning allows up to 40% lot coverage. Lot coverage only includes the area of the lot covered by structures and does not include pavement. The proposed increase in lot coverage should not overcrowd the property.
7. *Will the new zoning avoid undue concentration of population?*
The proposed zoning allows the same amount of lot area if it were used for residential purposes. The existing zoning of R-60 and the proposed CC zoning requires a minimum of 6,000 square feet for a single family home and 7,000 square feet for a two-family dwelling. The proposed zoning would not unduly concentrate population.
8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

Transportation:	The proposed zoning should have no impact on the arterial street.
Water and Sewer:	The City provides water and sewer to the property through existing lines on the applicant's property.
Schools and Parks:	There should be no impact on schools or parks from this rezoning.
Fire and Police:	The subject property is currently served by the City of Billings Fire Department and Police Department.
9. *Does the new zoning give reasonable consideration to the character of the district?*
The proposed zoning will allow a commercial re-use of the property along a principal arterial street. The quality of residential use of the building is lower because of the speed and volume of the traffic on 6th Avenue North. The proposed zoning will be more compatible with the adjacent arterial but will maintain compatibility with surrounding uses that include residential homes. The new zoning gives reasonable consideration to the existing character of the district.
10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The subject property is suitable for the requested zoning district. Properties east and west of the subject property along 6th Avenue North are zoned CC and properties to the south across 6th Avenue North are zoned CI. A CC zone is suitable for this location.

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

Staff cannot determine whether the proposed zoning would appreciably alter the value of structures within the area. As re-development occurs in the East Billings Urban Renewal District south of the subject property, building values should increase as properties are improved.

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

The proposed zoning will encourage the most appropriate use of this land on a principal arterial street in the downtown area of Billings.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy Plan and discussed within the Alternatives Analysis section of this report.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on August 4, 2009, and forwarded a recommendation of approval to the City Council on a 3-0 vote. The agent, Joyce Lunder, provided testimony on the application. There was no further public comment at the meeting and no discussion by the Zoning Commission.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #856 and adoption of the 12 Zoning Commission Determinations on a 3-0 vote.

ATTACHMENTS:

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

Attachment A



Attachment B

Site Photographs - Zone Change #856 – 2215 6th Avenue North



Subject Property



Driveway and one-car garage on subject property

Attachment C
Zone Change #856

ORDINANCE NO. 09-

AN ORDINANCE AMENDING THE ZONE
CLASSIFICATION FOR the East ½ of Lots 22-
24, Block 272, Billings Original Town containing
5,250 square feet

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

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

2. **DESCRIPTION.** A tract of land known as the East ½ of Lots 22-24, Block 272, Billings Original Town containing 5,250 square feet and is presently zoned **Residential 6,000 (R-60)** and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 6,000 (R-60)** to **Community Commercial (CC)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial (CC)** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading August 24, 2009.

PASSED, ADOPTED AND APPROVED on second reading September 14, 2009.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #856- 2215 6th Avenue North

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, August 24, 2009

TITLE: Public Hearing for Special Review #878 – 3839 Grand Avenue

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: This is a special review request to locate an all beverage liquor license with gaming within an existing multi-tenant building, Grand Plaza, at 3839 Grand Avenue. The parcel is approximately 1 acre and known as Lot 6D, Block 2, Circle Fifty Subdivision in a Community Commercial (CC) zone. The parcel is not within 600 feet of a church, school or public park with playing fields or playground equipment. The property owner is Stock-Naughton, LLP and James Healow is the agent. The Zoning Commission held a public hearing on this request on August 4, 2009, and is forwarding a recommendation of conditional approval to the City Council on a 3-0 vote.

ALTERNATIVES ANALYZED: Before taking any action on an application for a Special Review use, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The Council shall take one of the following actions:

- Approve the application;
- Conditionally approve the application;
- Deny the application;
- Allow withdrawal of the application; or
- Delay the application for a period not to exceed thirty (30) days.

FINANCIAL IMPACT: The special review should may have a limited positive no impact on the City's tax base.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #878 on a 3-0 vote.

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

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs
- C. Site Plan

INTRODUCTION

This is a special review request to locate an existing all beverage liquor license with gaming from the Moosebreath Saloon (4242 State Avenue) to a vacant tenant space in the Grand Plaza at 3839 Grand Avenue. Special Review #829 to locate an all beverage liquor license for the Silver City Casino in 2006 was denied by the City Council. At that time, the property was vacant as well as the properties to the north and east. The Planning Staff recommended denial of the application in 2006 because of a concern about the concentration of gaming establishments in this area of Grand Avenue. Since 2006, a variety of new businesses have been established in the area including health and fitness-related services, real estate and professional offices, banking and finance, small restaurants, and other personal services. Planning staff recommended conditional approval of this application based on the establishment of new businesses and current development of the surrounding properties since 2006. The current zoning is CC and the surrounding city lots are zoned CC as well. Property south across Grand Avenue remains in the county and is zoned and used for agricultural purposes. The Grand Plaza currently has 4 of its 5 tenant spaces occupied including 2 restaurants, a shoe store and beauty salon.

PROCEDURAL HISTORY

- A special review application to allow a drive through adjacent to residential zoning was received on July 6, 2009.
- The City Zoning Commission held a public hearing on August 4, 2009, and is forwarding a recommendation of conditional approval on a 3-0 vote.
- The City Council will conduct a public hearing and consider this application on August 24, 2009.

BACKGROUND

There are no churches, schools or public parks within 600 feet of this location. Grand Avenue is a principal arterial street that handles approximately 11,000 vehicle trips per day. Since 1998, the City Council has approved the location of 4 liquor licenses within the immediate area. The City Council did initiate an amendment to the zoning regulations to provide additional requirements for gambling establishments (casinos). On August 4, 2008, the City Council asked the City Attorney to seek a letter of advice from the Attorney General regarding the city's ability to regulate the number and location of casinos through its zoning regulations. The letter of advice has not yet been issued.

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2003 Growth Policy, and 3) the application is

compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is within a zoning district where on premise consumption of alcoholic beverages may be allowed by special review approval.

The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated several zoning districts where on premise consumption of alcoholic beverages may be allowed. The CC zone is intended to *“to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community, and is commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands (thirty (30) acres) centrally located in the trade area rather than a strip development along arterials.”* Statistics provided by the Police Department indicate no perceptible change in driving under the influence or minor in possession of alcohol citations issued in this area since the first special review was granted by the City Council in 1998.

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
DUI	0	0	1	0	1	2	0	2	2	1
MIP	0	8	3	0	2	0	2	0	0	0

The Police Department has also conducted compliance checks of several businesses in this area to insure that persons under 21 cannot purchase alcohol at restaurants, bars or retail stores. Statistics indicate no change in compliance ratings for these area businesses since the first special review was approved by the City Council in 1998. It appears the proposed use will fit within an established multi-tenant building and the neighborhood of mixed commercial uses has sufficiently developed to accommodate this use among many other types of uses.

The proposed use is in a zoning district that allows this use with a special review. The City Council has granted 4 of the 5 previous requests for alcoholic beverage licenses within a few blocks of this location. The proposal is consistent with goals of the 2008 Growth Policy as updated, specifically the goal of encouraging uses that are compatible with the character of the adjacent land use patterns. This site is now surrounded by a mix of commercial businesses and will use an existing building.

ALTERNATIVES ANALYSIS

Section 27-1503(D) specifies that all Special Reviews shall comply with the following three (3) criteria:

1. Complies with all requirements of this Article (27-1500).
This application does comply with the requirements of the zoning regulations.
2. Is consistent with the objectives and purposes of Chapter 27 BMCC and the Growth Policy.
This application is consistent with the purposes of Chapter 27- Unified Zoning Regulations and the 2003 Growth Policy. The application is appropriate in this

particular district based on all the circumstances of the location. The application does encourage predictable land use decisions that are consistent with the neighborhood character and land use patterns. The application does encourage new developments that are sensitive to and compatible with the character of the adjacent neighborhood.

3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

The proposed location for the 1,673 square foot casino is appropriate and conditions of approval are recommended to mitigate any potential adverse impacts to the neighborhood.

Further, the City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval of Special Review #878 on a 3-0 vote.

CONDITIONS OF APPROVAL

1. The special review approval shall be limited to Lot 6D, Block 2, Circle Fifty Subdivision generally located at 3839 Grand Avenue.
2. Development of the site shall consist of the existing building, landscaping and parking area. Modifications to the existing building or site that show additional square footage greater than 10% of the existing floor area in Suite #3 (1,673 square feet), increase parking spaces greater than 10%, or the addition of an outdoor patio will require additional special review approval.
3. There will be no outdoor events or music of any kind whether on a continuous or recurring basis or as a special occurrence.
4. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
5. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special

Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

STAKEHOLDERS

A public hearing before the City Zoning Commission was held on August 4, 2009. Staff forwarded a recommendation of conditional approval. James Heallow, agent for the applicant, appeared before the Zoning Commission and explained the proposed development. Aaron Swainson of 3898 Mt. Rushmore testified in favor of the application. No other persons testified in favor or in opposition to the application.

The Zoning Commission considered the testimony and the staff recommendation of conditional approval. The Zoning Commission moved to recommend conditional approval of the special review request and voted 3-0 to forward this recommendation to the City Council.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

Consistency with plans and policies is discussed in the Alternatives Analysis section above.

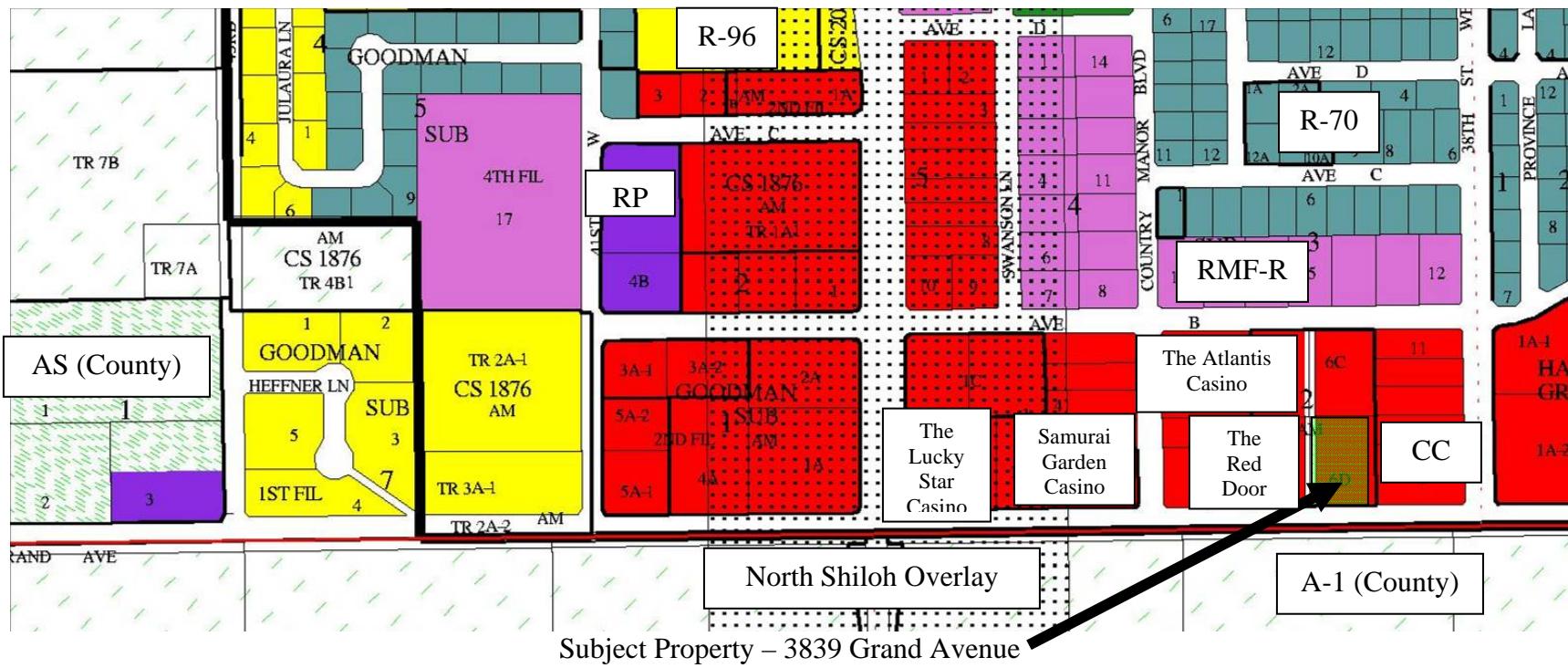
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #878 on a 3-0 vote.

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs
- C. Site Plan

ATTACHMENT A



ATTACHMENT B
Site photos –Special Review #878



Subject Property – 3839 Grand Avenue



ATTACHMENT C
Site plan –Special Review #878

