

CITY OF BILLINGS

CITY OF BILLINGS' VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

March 10, 2008

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Gaghen

ROLL CALL

MINUTES – February 25, 2008

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 ONLY.

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

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

CONSENT AGENDA:

1. A. Bid Awards:

(1) 2008 Airport Miscellaneous Improvement Projects. (Opened 2/12/08). Delayed from 2/25/08. Recommend Knife River, \$381,023.50.
[\(Corresponding Staff Memo A1\)](#)

(2) Central Park Playground Project Safety Surfacing. (Opened 2/26/08). Recommend Great Western Park and Play Equipment, Inc., \$57,333.00.
[\(Corresponding Staff Memo A2\)](#)

B. CTEP Project Specific Agreement – Lampman Strip Park Trail-Billings (CN 6635), Montana Department of Transportation, CTEP Grant - \$301,762.00; Local Match - \$46,773.00; Additional Contribution from Recreational Trails Grant - \$20,000.00.

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

C. CTEP Project Specific Agreement – Swords Park Trail II (CN 6632), Montana Department of Transportation, CTEP Grant - \$62,120.00; Local Match - \$9,629.00.

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

D. Approval of one-year Limited Commercial Aviation Building and Ground Lease with Big Sky Ground Support Industries (3/1/08 – 2/28/09), \$12,001.44 annual revenue.

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

E. Lease Extension Acknowledgement with United Properties, Inc. and Billings 401 Joint Venture for Park 4 Garage, 10-year term, \$300,000.00 annual revenue.

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

F. Lease Extension with Yellowstone County for Uda Mae Parking Lot.

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

G. Amendment to Federal Aviation Administration Lease #DTFANM-07-L-00039 for second floor office and operation space in the Airport Terminal Building, \$1,439.98 monthly revenue.

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

H. Amendment #1 to Airport Business Park Building and Ground Lease with Yellowstone County Museum Foundation, \$798.60 initial annual revenue; adjusted annually according to the CPI – Urban.

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

I. Amendment #9, W.O. 08-06 King Avenue Lift Station. HDR Engineering, Inc., not to exceed \$44,800.00.

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

J. Amendment to Phases IV and V of the Subdivision Improvements Agreement for Uinta Park Subdivision.

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

K. Airline Operating Permit with 3D Aviation, LLC, \$2,000 annual revenue.

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

L. Approval of closing documents for Sage Tower renovations.

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

M. Approval of Downtown Revolving Loan Committee's recommendation of loans to J & P Realty, LLC – lesser of \$86,000.00 or 20% of total project costs for remodel of office condominium space in the Historic Montana Power Building; and to Randy and Janna Hafer – lesser of \$75,000.00 or 20% of total project costs for redevelopment of the

Klos Building located at 2720 Minnesota Avenue.

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

N. Quarterly Report for Pledged Collateral on Certificates of Deposit, US Bank Repurchase Account, and US Bank Municipal Investor Accounts.

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

O. Semi Annual Investment Report.

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

P. Proposed Adjustment of Water and Wastewater Rates and Fees, setting a public hearing date of April 14, 2008.

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

Q. Proposed Fee Increase for Mountview Cemetery.

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

R. Proposed Fee Increase for PRPL Aquatics, Rentals, and Permits.

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

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

(1) Parcel 43: Portion of Tract 1A of C/S 2121 Amended, Brush Meadow Apartments, LP. \$16,250.00.

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

T. Street Closure: Shrine Circus “Elephants on Broadway”, April 1, 2008, 5:00 p.m. to 9:00 p.m., between the 2700 and 2800 blocks of Second Avenue North and the 100 and 200 blocks of 28th Street North.

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

U. Acceptance of \$8,824.24 bequest from the Estate of Ms. Betty Ryniker to MET Special Transit.

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

V. Acceptance of \$4,412.14 donation from the Estate of Ms. Betty Ryniker to the Billings Animal Shelter General Donation Fund.

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

W. Resolution amending Resolution 07-18627 correcting the legal description of the South Billings Boulevard Urban Renewal District.

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

X. Resolution repealing Resolution of Intent #05-18325 creating SID 1372 and setting a public hearing date of 4/14/08. Resolution Exhibits A-F are available for viewing in City Clerk’s Office.

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

Y. Zone Change #826, Neighborhood Convenience Stores: A zone change allowing small retail services to be developed by special review approval within

existing residential zoning districts. Action delayed from 11/26/07. Recommend review of proposed amendments to the ordinance at the March 17, 2008, Work Session; and table until April 14, 2008.

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

Z. Second/Final Reading Ordinance for Zone Change #832: A zone change from Residential 9600 to Residential 7000, and located on the southeast corner of the intersection of Hilltop Road and Agate Avenue in Billings Heights; Steve Zimmerer, owner and applicant.

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

AA. Second/Final Reading Ordinance for Zone Change #833: A zone change from Residential 7000 to Residential 6000 on the southern half of Tract 2, C/S 3303, located at 927 Bench Boulevard; Gene and Joy Culver, owners; Engineering, Inc., agent.

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

BB. Second/Final Reading Ordinance for Zone Change #834: A zone change from Residential 7000 to Residential 6000 on Tract 1, C/S 1531, located at 1442 Bench Boulevard. Gene and Joy Culver, owners; Engineering, Inc. agent.

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

CC. Second/Final Reading Ordinance for Zone Change #835: A zone change from Entryway Light Industrial to Controlled Industrial on Tract 1, C/S 2560, located on the southeast corner of King Avenue West and Shiloh Road.

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

DD. Second/Final Reading Ordinance expanding the boundaries of Ward II to include recently annexed property in Annex #08-05: property described as Lot 1, Sylvia Subdivision, 1094 Lincoln Lane, generally located on the west side of Lincoln Lane, north of the Target Shopping Center in Billings Heights, First Citizens Bank, owner and petitioner.

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

EE. Final plat of Copper Ridge Subdivision, 2nd Filing.

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

FF Bills and Payroll

(1) February 8, 2008

[\(Corresponding Staff Memo FF1\)](#)

(2) February 15, 2008

[\(Corresponding Staff Memo FF2\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** adopting the North Park Neighborhood Plan. Yellowstone County Board of Planning recommends approval. (**Action:** approval or disapproval of Yellowstone County Board of Planning recommendation.)
[\(Corresponding Staff Memo 2\)](#)
3. **PUBLIC HEARING AND RESOLUTION** creating SILMD 304 – Downtown Area. Staff recommends tabling indefinitely. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 3\)](#)
4. **PUBLIC HEARING AND RESOLUTION** accepting the Urban Planning Study and expanding the boundaries of the Billings Urban Planning Area to include properties within six study areas generally known as Bitterroot-Mary; Blue Creek; Muldowney; Northwest Billings; Riverside; and Zoo and Shiloh. Yellowstone County Board of Planning recommends approval. (**Action:** approval or disapproval of Yellowstone County Board of Planning recommendation.) Urban Planning Study (Attachment C) is available for viewing in City Clerk's Office.
[\(Corresponding Staff Memo 4\)](#)
5. **PUBLIC HEARING AND RESOLUTION** revising the 2007 Limits of Annexation Map. Annexation Committee recommends approval. (**Action:** approval or disapproval of Annexation Committee recommendation.)
[\(Corresponding Staff Memo 5\)](#)
6. **PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #OP-08-01:** A variance from the Site Development Ordinance, Section 6-1203(j), concerning the required number of off-street parking stalls on Lots 11-18, Block 262, Billings Original Town, generally located at 2016 6th Avenue North. Staff recommends denial of the variance request. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 6\)](#)
7. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

Council Initiatives

ADJOURN

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Approval of Award of the 2008 Miscellaneous Improvement Projects
DEPARTMENT: Aviation and Transit
PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: The 2008 Miscellaneous Improvement Projects consist of four schedules:

Schedule 1 – Overlook Drive (2" Mill and Overlay, 1,000 LF Sanitary Sewer)

The pavement on Overlook Drive is over 20 years old, is badly cracked, beginning to break apart, and needs to be replaced. This project will remove the top two inches of pavement and replace it with new asphalt surfacing. The project also includes the extension of the sanitary sewer 1,000 feet to the west to accommodate anticipated future development. Staff would like to get this project completed ahead of the State's Airport Road Project, which will impact the Airport's main entrance. This road will become the main entrance to the Airport from the west during the highway project.

Schedule 2 – General Aviation Area Fire Safety Upgrades (Five Hydrants)

See description below.

Schedule 3 – General Aviation Area Storm Drain

See description below.

Schedule 4 – Taxilane "D" Construction

See description below.

The T-hangar area has been developed to a point where the Airport needs to provide a new taxilane, storm drainage, and fire protection, in the form of more hydrants, in order to provide additional sites for hangar development. This project will provide a new taxilane for the next two rows of hangar sites, additional hydrants to comply with fire codes, and improved storm

water drainage. This project was advertised in the *Billings Times* on January 24, 31 and February 7, 2008, and was listed on the City's Web site. On February 12, 2008, the following bids were received:

| <u>CONTRACTOR</u> | <u>BID</u> |
|---------------------------|---------------------|
| Knife River | \$381,023.50 |
| Ostermiller Construction | \$470,716.75 |
| Riverside Sand and Gravel | \$499,485.00 |
| JEM Construction | \$701,519.71 |
| Western Municipal | \$787,195.40 |
| ESTIMATE | \$700,000.00 |

FINANCIAL IMPACT: The total cost of this project is \$381,023.50. The source of funding for this project is the Department's Capital Budget.

RECOMMENDATION

Staff recommends that Council approve the award of the 2008 Miscellaneous Improvement Projects to the low bidder Knife River, for the amount of \$381,023.50.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 10, 2008

TITLE: Central Park Playground Poured In Place Safety Surfacing Bid Award Recommendation

DEPARTMENT: Parks, Recreation, and Public Lands Department

PRESENTED BY: Mike Whitaker, Director, PRPL Department

PROBLEM/ISSUE STATEMENT: The City Of Billings has budgeted \$123,000 to be used to reconstruct the playground at Central Park. Bids were opened on Tuesday, February 26, 2008, at City Hall, to provide and install a manufactured poured in place rubber playground safety surface. There were 2 bids received. The low bid was submitted by Great Western Park and Play Equipment, Wellsville, Utah, for \$57,333.30

FINANCIAL IMPACT: The Central Park Playground Replacement project was approved in the FY 2007 budget for \$95,000. Additional funding from the Park Acquisition and Development Fund has been approved for \$28,000. The bid received from Great Western Park and Play Equipment for the Poured in Place Surfacing is below the estimated cost

Location of Work: Central Park, at 9th Street West and Central Avenue.

Funding Sources: Funding for the project is \$123,000 and is a combination of \$45,000 from Community Development Block Grant funding, \$4,300 from the General Fund, \$47,700 from G.O. Bond funding for playgrounds remaining from FY2000, and \$28,000 from the Park Acquisition and Development Fund.

ALTERNATIVES ANALYZED:

- Award contract to the low bidder, Great Western Park and Play Equipment, Inc. for the amount of \$57,333.30, which is the staff recommendation.
- Reject all bids.

RECOMMENDATION

Staff recommends that Council award the bid for the amount of \$57,333.30 for the Central Park Safety Surfacing Contract to Great Western Park and Play Equipment, Inc.

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

ATTACHMENTS:

- A: Bid Tabulation Summary
- B: Bid Proposal
- C: Non-Collusion Form
- D: Liquidated Damages Acknowledgment

3/4/2008

ITEM A2 ATTACH A -- Central Playground

ATTACHMENT A

| CENTRAL PARK PLAYGROUND SAFETY SURFACING PROJ BID SUMMARY | | | | | | | |
|---|------------------|----------------------------------|---|---|---|---|--|
| PROJECT # PKCEPL | | | | | | | |
| DATE: FEBRUARY 26, 2008 | | | | | | | |
| BY: _____ | | | | | | | |
| LOCATION: CITY HALL CONF ROOM | | | | | | | |
| ENG. EST: \$69,804 | | | | | | | |
| | | BIDDING FIRMS | | | | | |
| | 1 | 2 | 3 | 4 | 5 | 6 | |
| | DAKOTA FENCE CO. | GREAT WESTERN PARK AND EQUIPMENT | | | | | |
| BID BOND | YES | C. CHECK | | | | | |
| ADDENDUM 1 | YES | YES | | | | | |
| NON-COLLUSION INCL. | YES | YES | | | | | |
| LIQ DAMAGES AKNOWL. | NO | YES | | | | | |
| PIP SURF. BID AMOUNT | \$ 85,011.30 | \$ 57,333.30 | | | | | |
| L. S. PREP AMOUNT | \$ 3,000.00 | INCL. | | | | | |
| TOTAL BID | \$ 88,011.30 | \$ 57,333.30 | | | | | |
| LOWEST AND BEST BID | | \$ 57,333.30 | | | | | |

Gene Blackwell
Superintendent of Parks

3:37 PM



ATTACHMENT B

D. Bid Proposal

**BASE BID, POURED IN PLACE RECYCLED RUBBER PLAYGROUND
SAFETY SURFACING SYSTEM, AS SPECIFIED:**

| ITEM NO. | ITEM DESCRIPTION | QUANTITY | UNIT | UNIT PRICE | TOTAL PRICE |
|----------|----------------------------------|----------|-------|------------|------------------------------------|
| 1 | Poured in Place Safety Surfacing | ±4,986 | S. F. | | \$55,103.30 \$57,333.30 |
| 2 | Final Subsurface Preparation | ±4,986 | S. F. | L. S. | Included in above price |
| | TOTAL | | | | \$55,103.30 \$57,333.30 |

Name of Surfacing System and Manufacturer Bid: GameTime / Great WesternTOTAL BID \$ ~~55,103.30~~ 57,333.30
(Figures)TOTAL BID ~~Fifty five thousand six hundred sixty three dollars 30/100~~
(Words)
Fifty seven thousand three hundred thirty three dollars 30/100

The undersigned bidder acknowledges receipt of the following addenda, which have been considered in preparation of this bid:

No. 1 Dated February 22, 2008

No. _____ Dated _____

No. _____ Dated _____

No. _____ Dated _____



H. Conditions and Non-Collusion Agreement

To receive consideration, this form must be signed in full by a responsible, authorized agent, officer, employee or representative of your firm.

CONDITIONS AND NON-COLLUSION AGREEMENT

We have read and agree to the conditions and stipulations contained herein and to the Standard Terms and Conditions contained on the attached.

We further agree to furnish the services specified at the prices stated herein, to be delivered to the location and on that date set forth herein.

In signing this bid, you also certify that you have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a bid; that this bid has been independently arrived at without collusion with any other bidder, competitor or potential competitor; that this bid has not been knowingly disclosed prior to the opening of bids to any other bidder or competitor; that the above statement is accurate under penalty of perjury.

Submitted this 25th day of February, 2008.

SIGNATURE OF BIDDER

Great Western Park & Playground
Legal Name of Firm/Corporation

2598 West 5700 South
Address

Wellsville, UT 84339
City/State/Zip

02-25-2008
Date

Kristine Jenkins
Authorized Signature

Kristine Jenkins
Printed Name

Chief Operating Officer
Title

800-453-2735
Telephone Number

I. LIQUIDATED DAMAGES ACKNOWLEDGEMENT

This acknowledgement, dated this _____ day of _____, 2008, by
_____ (CONTRACTOR) wherein _____
(CONTRACTOR) acknowledges and agrees that the public improvement
contract, which is the subject of this submitted bid, contains a liquidated
damages clause.

_____ (CONTRACTOR) acknowledges and agrees
that because the project involves the construction of public improvements, said
liquidated damages clause is necessary. _____
(CONTRACTOR) acknowledges and agrees that the City of Billings is damaged
in the amount of \$50.00 for each day past the contract's
completion date that this project is not completed.

_____ (CONTRACTOR) acknowledges and agrees
that because this is a public improvement project, it is extremely difficult to
calculate the City of Billings' actual damages for delay in completing the project,
but that this mutually agreed upon figure for liquidated damages of
\$50.00 per day is the best approximation possible, is reasonable,
and is not a penalty. This mutually agreed upon liquidated damages amount has
been specifically taken into account in arriving at the dollar amount of
\$50.00 per day (CONTRACTOR'S) submitted
bid. This liquidated damages amount shall be included in the public improvement
project contract and _____ (CONTRACTOR)
acknowledges and agrees to be bound by this amount should _____
_____ (CONTRACTOR) be awarded the public
improvement contract.

This mutually agreed upon amount may be deducted from money due or to
become due _____ (CONTRACTOR) should
_____ (CONTRACTOR)
be awarded the public improvement contract and should _____
(CONTRACTOR) fail to complete the work within the time specified in this
contract.

By: _____
(CONTRACTOR)

Its: _____

(NOTARY PUBLIC SEAL AND SIGNATURE)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: CTEP Project Specific Agreement – Lampman Strip Park Trail
DEPARTMENT: Planning and Community Development
PRESENTED BY: Candi Beaudry, AICP, Director/CTEP Administrator

PROBLEM/ISSUE STATEMENT: The City of Billings submitted a Montana Department of Transportation (MDT) Community Transportation Enhancement Project (CTEP) grant application for the Lampman Strip Park Trail project in November, 2007. This phase of the Lampman Strip Park Trail project will consist of design and construction of a ten foot-wide by half mile-long hard-surfaced bicycle and pedestrian path. The trail will connect with the existing trail at Famous Dave's with Monad Road. This trail project was approved through a local selection process and approved by MDT. The Project Specific Agreement represents the formal agreement between the City and MDT for the project's scope, funding and federal aid compliance. Council must authorize the Mayor to execute a Project Specific Agreement for the Lampman Park Trail to begin project development.

ALTERNATIVES ANALYZED:

- Approve the CTEP Project Specific Agreement.
- Do not approve the CTEP Project Specific Agreement. This would result in the loss of CTEP funding for this project.

FINANCIAL IMPACT: The funding breakdown for this project is as follows:

| | |
|--------------------------------|-----------------|
| CTEP Grant | \$301,762 |
| Local Match | \$46,773 |
| <u>Additional Contribution</u> | <u>\$20,000</u> |

| | |
|------------------------------|------------------|
| Total Funds Available | \$368,535 |
|------------------------------|------------------|

The General Obligation Bond, approved in 1999, will provide the local match. The additional contribution will come from a Montana Fish, Wildlife and Parks' Recreational Trail Grant. Both the CTEP grant and local match figures include the Montana Department of Transportation's

Indirect Cost Accounting Procedures (ICAP). State law requires MDT to charge for indirect or overhead expenses for all projects it administers. This charge is referred to in item 14 of the attached agreement and amounts to 12.25% of the total CTEP and local match amount. The ICAP charge for this project, which will be billed to the City, is \$5,729.69.

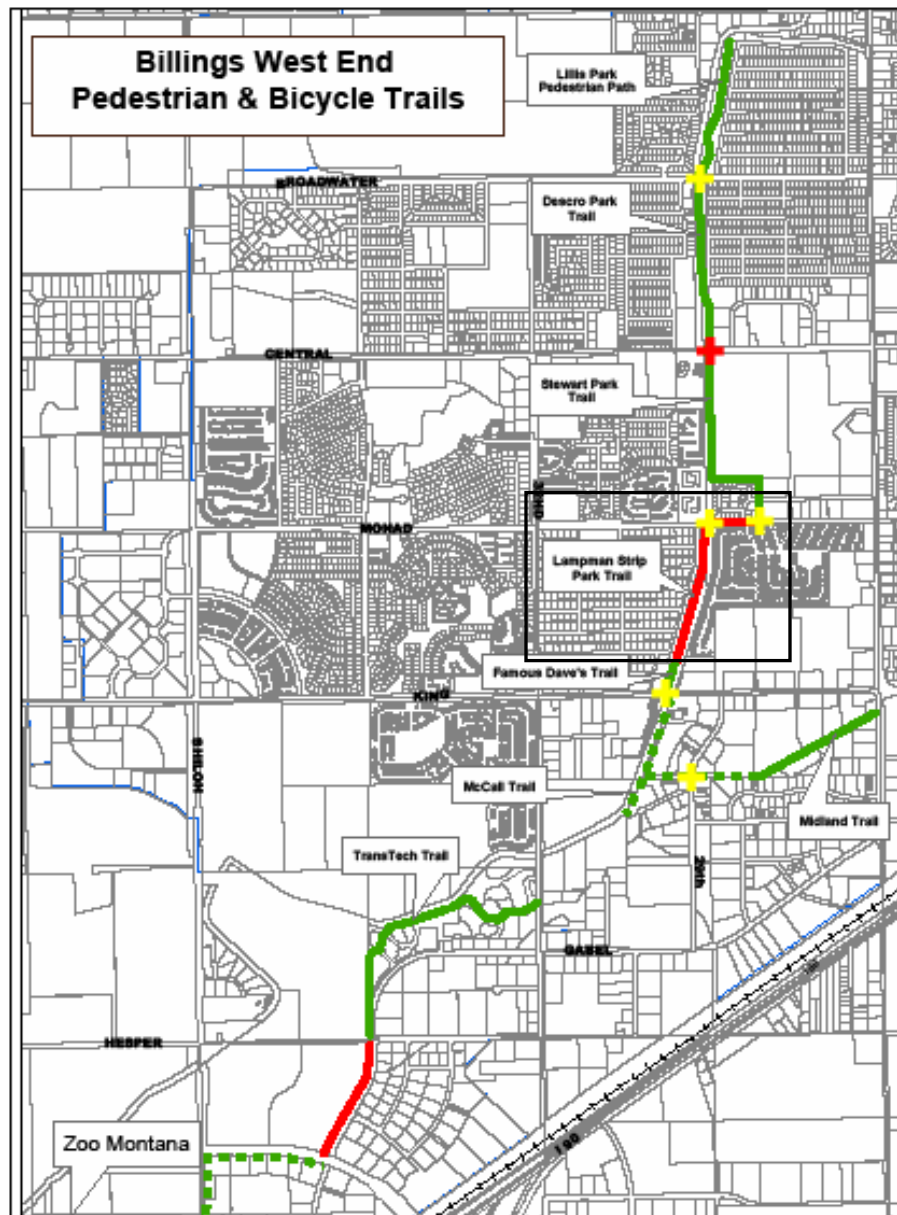
RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the CTEP Project Specific Agreement for the Lampman Strip Park Trail.

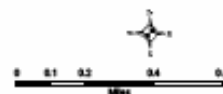
Approved By: **City Administrator** _____ **City Attorney** _____

ATTACHMENTS

- A. Map
- B. Project Specific Agreement



- Trail Crossings**
- Constructed crossing
 - Crossing to be constructed
- Trails**
- Constructed
 - Needs funding
 - To be constructed
- Legend**
- Tax Parcels
 - City Limits



GIS on P:\s\m3\Planning_covers\Trails\West End Bike.mxd
Planning and Community Services Department, 6/2008

CTEP PROJECT AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Billings, hereinafter called the "City".

WITNESSETH THAT:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, Control Number 6635, titled LAMPMAN STRIP PARK TRAIL-BLGS (hereinafter the "project"); and,

WHEREAS, the State and the City recognize the need to develop and construct the project, and are willing to share in its costs in accordance with this agreement; and,

WHEREAS, the State and Federal Highway Administration (FHWA) will not participate in the development and construction of the project unless the City agrees to the conditions set forth; and,

WHEREAS, the estimated cost of the project's development and construction is \$368,535; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal-aid funds made available in federal fiscal year 2008; and,

WHEREAS, the federal-aid funds provided are described in the Catalog of Federal Domestic Assistance (CFDA), number 20.205, Highway Planning and Construction; and,

WHEREAS, it is understood that all costs associated with the project in excess of these federal-aid funds will be financed by the City; and,

WHEREAS, this document must be executed and submitted to the State before the project development and construction process will be authorized to start; and,

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree that:

1. The City will develop a CTEP project described as: the design and construction of a ten foot-wide by half mile-long hard-surfaced bicycle and pedestrian path.
2. The project will be located in Billings, at the Lampman Strip Park, between Famous Dave's Trail and Monad Road.
3. The purpose of this project is to provide a safe and convenient bicycle and pedestrian path.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

Federal-Aid Program Account By Project Phase (Maximum CTEP Share)

| | | |
|--|-----------|----------------|
| [9102] Preliminary Engineering (86.58%) | \$ | 20,485 |
| [9202] Right-of-Way/Easement Acquisition (86.58%) | \$ | -0- |
| [9302] Incidental Construction (64.93%) (utility relocation involvement) | \$ | -0- |
| [9402] Construction Engineering (86.58%)(including contract administration and inspections) | \$ | 20,485 |
| [9502] Construction (86.58%) | \$ | 307,565 |
| [9702] Other (86.58%) | \$ | -0- |
| Total | \$ | 348,535 |

| | Project | CTEP Funds | Local Match | Additional Contribution |
|------------------|-------------------|-------------------|------------------|----------------------------|
| City of Billings | \$ 368,535 | \$ 301,762 | \$ 46,773 | \$ 20,000 |
| TOTAL | \$ 368,535 | \$ 301,762 | \$ 46,773 | \$ 20,000 |

5. The general method of development includes: The City will engage a project engineer for preliminary engineering, contract bid document preparation, and construction engineering. Construction must be by competitive bid. The State will perform a final inspection to ensure substantial compliance with project plans, specifications, and estimates.
6. The City and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
7. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.
8. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Guidelines.
9. The City will allow inspection of all work and project-related records by the personnel or agents of the State and FHWA.
10. Cities subject to the authority of the Montana Single Audit Act will secure an independent audit in compliance with OMB Circular A-133 and submit a copy to the Montana Department of Administration, Local Government Services Bureau, P O Box 200547, Helena, MT, 59620-0547.
11. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use or maintenance.

12. The City will retain project-related records and documents for a period of three years after the closing of the project.
13. The City will be responsible for \$66,773 and Federal participation will be \$301,762 of the estimated total project cost of \$368,535. The City will be responsible for 100% of all costs exceeding the proposed \$368,535 that may be required to complete the project.
14. **It is understood and agreed between the parties that:** Section 17-1-106. MCA, requires any state agency, including MDT, that receives non-general funds to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as defined by OMB Circular A-87. MDT's current indirect cost rate is 12.25% for fiscal year 2008 (July 1, 2007 to June 30, 2008).

For this project, indirect costs will be charged to the federal CTEP funding and the required local match. MDT will bill the City the indirect costs applicable to the local match. [Note: If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rates may change during the life of the project.]

15. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Office for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
16. This agreement shall become effective upon execution by both parties. It may be modified only by prior written agreement of both parties.
17. The City will service, maintain, and pay the cost of operating the project described in this agreement.
18. During the performance of this Agreement the City, for itself, its assignees and successors in interest, agrees as follows:

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

- (1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City of the City's obligations under this Agreement and the Regulations relative to nondiscrimination.

- (4) Information and Reports: The City will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, the State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the City under the Agreement until the City complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: The City will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The City will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

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

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

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

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

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

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

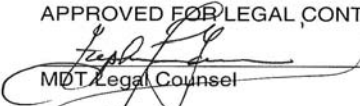
The City, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City to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

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

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

BY _____, 2008
Chief Engineer, Engineering Division

APPROVED FOR LEGAL CONTENT


MDT Legal Counsel

CITY OF BILLINGS

ATTEST-CITY CLERK

MAYOR

By _____

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2008, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: CTEP Project Specific Agreement – Swords Park Trail II
DEPARTMENT: Planning and Community Development
PRESENTED BY: Candi Beaudry, AICP, Director/CTEP Administrator

PROBLEM/ISSUE STATEMENT: The City of Billings submitted a Montana Department of Transportation (MDT) Community Transportation Enhancement Project (CTEP) grant application for the Swords Park Trail project in November, 2007. This phase of the Swords Park Trail project will consists of design engineering for a ten foot-wide by one mile-long hard-surfaced bicycle and pedestrian path. The trail will connect with the existing Swords Park Trail and terminate at Airport Road. This trail project was approved through a local selection process and approved by MDT. The Project Specific Agreement represents the formal agreement between the City and MDT for the project's scope, funding and federal aid compliance. Council must authorize the Mayor to execute a Project Specific Agreement for the Swords Park Trail to begin project development.

ALTERNATIVES ANALYZED:

- Approve the CTEP Project Specific Agreement.
- Do not approve the CTEP Project Specific Agreement. This would result in the loss of CTEP funding for this project.

FINANCIAL IMPACT: The funding breakdown for this project is as follows:

| | |
|--------------------|----------------|
| CTEP Grant | \$62,120 |
| <u>Local Match</u> | <u>\$9,629</u> |

| | |
|------------------------------|-----------------|
| Total Funds Available | \$71,749 |
|------------------------------|-----------------|

The General Obligation Bond, approved in 1999, will provide the local match. The CTEP grant and local match figures include the Montana Department of Transportation's Indirect Cost Accounting Procedures (ICAP). State law requires MDT to charge for indirect or overhead expenses for all projects it administers. This charge is referred to in item 14 of the attached

agreement and amounts to 12.25% of the total CTEP and local match amount. The ICAP charge for this project, which will be billed to the City, is \$1,179.55.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the CTEP Project Specific Agreement for the Swords Park Trail II.

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

ATTACHMENTS

- C. Map
- D. Project Specific Agreement



CTEP PROJECT AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Billings, hereinafter called the "City".

WITNESSETH THAT:

WHEREAS, the City proposes to develop and construct a Community Transportation Enhancement Program (CTEP) project, Control Number 6632, titled SWORDS PARK TRAIL II-BILLINGS (hereinafter the "project"); and,

WHEREAS, the State and the City recognize the need to develop and construct the project, and are willing to share in its costs in accordance with this agreement; and,

WHEREAS, the State and Federal Highway Administration (FHWA) will not participate in the development and construction of the project unless the City agrees to the conditions set forth; and,

WHEREAS, the estimated cost of the project's design engineering is \$71,749; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal-aid funds made available in federal fiscal year 2008; and,

WHEREAS, the federal-aid funds provided are described in the Catalog of Federal Domestic Assistance (CFDA), number 20.205, Highway Planning and Construction; and,

WHEREAS, it is understood that all costs associated with the project in excess of these federal-aid funds will be financed by the City; and,

WHEREAS, this document must be executed and submitted to the State before the project development and construction process will be authorized to start; and,

NOW, THEREFORE, in consideration of the covenants herein contained, the parties agree that:

1. The City will develop a CTEP project described as: the design engineering for a ten foot-wide by one mile-long hard-surfaced bicycle and pedestrian path.
2. The project will be located south of Airport Road beginning at the fork of Black Otter Trail Road extending eastward approximately one mile to the Swords Park Bypass.
3. The purpose of this project is to develop design plans for a safe and convenient bicycle and pedestrian path.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

Federal-Aid Program Account By Project Phase (Maximum CTEP Share)

| | | |
|--|-----------|---------------|
| [9102] Preliminary Engineering (86.58%) | \$ | 71,749 |
| [9202] Right-of-Way/Easement Acquisition (86.58%) | \$ | -0- |
| [9302] Incidental Construction (64.93%) (utility relocation involvement) | \$ | -0- |
| [9402] Construction Engineering (86.58%)(including contract administration and inspections) | \$ | -0- |
| [9502] Construction (86.58%) | \$ | -0- |
| [9702] Other (86.58%) | \$ | -0- |
| Total | \$ | 71,749 |

| | Project | CTEP Funds | Local Match | Additional Contribution |
|------------------|------------------|------------------|-----------------|----------------------------|
| City of Billings | \$ 71,749 | \$ 62,120 | \$ 9,629 | \$ -0- |
| TOTAL | \$ 71,749 | \$ 62,120 | \$ 9,629 | \$ -0- |

5. The general method of development includes: The City will engage a consulting engineer for preliminary engineering and environmental clearances.
6. The City and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
7. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.
8. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Guidelines.
9. The City will allow inspection of all work and project-related records by the personnel or agents of the State and FHWA.
10. Cities subject to the authority of the Montana Single Audit Act will secure an independent audit in compliance with OMB Circular A-133 and submit a copy to the Montana Department of Administration, Local Government Services Bureau, P O Box 200547, Helena, MT, 59620-0547.
11. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use or maintenance.
12. The City will retain project-related records and documents for a period of three years after the closing of the project.

13. The City will be responsible for \$9,629 and Federal participation will be \$62,120 of the estimated total project cost of \$71,749. The City will be responsible for 100% of all costs exceeding the proposed \$71,749 that may be required to complete the project.
14. **It is understood and agreed between the parties that:** Section 17-1-106. MCA, requires any state agency, including MDT, that receives non-general funds to identify and recover its indirect costs. These costs are in addition to direct project costs. MDT's indirect cost rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's indirect costs as defined by OMB Circular A-87. MDT's current indirect cost rate is 12.25% for fiscal year 2008 (July 1, 2007 to June 30, 2008).

For this project, indirect costs will be charged to the federal CTEP funding and the required local match. MDT will bill the City the indirect costs applicable to the local match. [Note: If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rates may change during the life of the project.]

15. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Office for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
16. This agreement shall become effective upon execution by both parties. It may be modified only by prior written agreement of both parties.
17. The City will service, maintain, and pay the cost of operating the project described in this agreement.
18. During the performance of this Agreement the City, for itself, its assignees and successors in interest, agrees as follows:

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

- (1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.
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books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

- (5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this Agreement, the State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the City under the Agreement until the City complies, and/or
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- (6) Incorporation of Provisions: The City will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The City will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the City is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City may request the State to enter into the litigation to protect the interests of the State, and, in addition, the City or the State may request the United States to enter into such litigation to protect the interests of the United States.

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

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

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

- (1) The City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
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- (3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

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

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

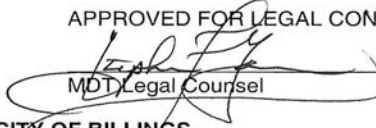
The City, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City to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

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

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION

BY _____, 2008
Chief Engineer, Engineering Division

APPROVED FOR LEGAL CONTENT


MDT Legal Counsel

CITY OF BILLINGS

ATTEST-CITY CLERK

MAYOR

By _____

I, _____, Billings City Clerk, hereby certify that this agreement was regularly adopted by the Billings City Council at a meeting held on the _____ day of _____, 2008, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Limited Commercial Aviation Building and Ground Lease with Big Sky Ground Support Industries

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: Big Sky Ground Support Industries (Big Sky Ground Support), wishes to lease building and ground space at Billings Logan International Airport. Staff negotiated with Big Sky Ground Support for a one (1) year Limited Commercial Aviation Building and Ground Lease, with a one-year option to renew, for the Airport facility commonly known as the former Operations/ARFF building, a warehouse located on the east end of the airfield. The 3,429 square foot warehouse comprises the north one-half of the building with the south one-half currently housing the rental car wash facilities. Big Sky Ground Support is a local ground support equipment maintenance service provider that proposes to use this warehouse space to perform maintenance on aircraft tugs and baggage ground handling equipment owned by the airlines. The warehouse was formerly leased by DHL Express and has been vacant since DHL moved out in November 2006. The location of this space is ideal for Big Sky Ground Support's operations in that it will provide close proximity to the airline equipment that it services via contract with several of the airlines.

FINANCIAL IMPACT: The first year of this Lease will generate \$12,001.44 of revenue for the Airport. Should the renewal option be exercised, the subsequent year will be adjusted using the Consumer Price Index for Urban Consumers (CPI-U) to keep pace with annual inflation.

RECOMMENDATION

Staff recommends that Council approve the one (1) year Limited Commercial Aviation Building and Ground Lease with Big Sky Ground Support Industries for the term beginning March 1, 2008, and ending February 28, 2009.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: United Properties Lease Extension Acknowledgement for the Park 4 garage.

DEPARTMENT: Administrative Services – Parking Division

PRESENTED BY: Chris Mallow, Parking Supervisor

PROBLEM/ISSUE STATEMENT: Billings 401 Joint Venture and United Properties, Inc. (UPI), entered into two separate leases for the use and benefit of the tenants of the TransWestern office complex and the First Interstate Center that are near to the Park IV parking garage. The original lease term for both contracts expired on August 31st, 2005, with an option to extend the original term another 10 years if the Tenant desired. UPI and Billings 401 Joint Venture submitted a joint letter to the Parking Division, dated April 18, 2005, expressing their desire to extend the lease an additional ten years as stated in the lease agreements. The Council is being asked to sign an extension agreement that would acknowledge that the original lease is in effect until August 31, 2015.

ALTERNATIVES ANALYZED: The Council may:

- Approve the Lease Extensions
- Disapprove the Lease Extension
- Modify the Lease Extension and return it to UPI and Billings 401 Joint Venture for its consideration

FINANCIAL IMPACT: The estimated annual revenue for the present number of spaces is \$300,000.

RECOMMENDATION

Staff recommends that Council approve the parking lease with United Properties, Inc.

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

ATTACHMENTS

- A: “Extension of Park IV Parking Lease”
- B: Letter from Dick Kosmicki
- C: Copies of original leases

INTRODUCTION

United Properties, Inc. (UPI) manages the TransWestern office complex and First Interstate Center that are near the Park IV parking garage. The company has leased parking spaces from the City for many years and the leases' original term expired in 2005. The Council is being asked to sign an extension agreement that would acknowledge that the original lease is in effect until August 31, 2015.

BACKGROUND

UPI owns and manages the TransWestern office complex on N. 31st Street and Billings 401 Joint Venture owns the First Interstate Center on 4th Ave North. The City has leased parking spaces to UPI, who manages the tenant parking for these buildings, for many years. The most recent lease was executed on September 1, 1995, for an initial term of ten (10) years with a tenant initiated renewal option.

In 2006, the Parking Division and Dick Kosmicki, Vice-President of UPI and Manager of Billings 401 Joint Venture, drafted a new lease that is similar to the previous one. The draft reflects the 2006 parking rate structure and more clearly identifies each party's obligations. Staff and Mr. Kosmicki agreed to work under the terms of the original lease until new parking rates went into effect so that those rate changes could be included in the new lease. Staff brought the new lease before City Council on January 8, 2007, for execution.

In January 2007, the City Council indefinitely tabled the proposed lease because it wants staff to explore the possibility of selling the Park IV garage. After Mr. Kosmicki was made aware of this, he provided a copy of a letter dated April 18, 2005 that requests the 10 year extension that is allowed under the 1995 lease. Mr. Kosmicki provided the attached "Extension of Park IV Parking Lease" documents to insure that the original lease terms will remain in effect until 2015. Mr. Kosmicki is asking these documents to be signed so, if Park IV is sold and the lease is assigned to a new property owner, his parking rates will not be raised above "the market rate for similar parking spaces in Billings, Montana." and so his tenants can continue to park in the Park IV parking garage.

RECOMMENDATION

Staff recommends that Council approve the attached "Extension of Park IV Parking Lease" with UPI and Billings 401 Joint Venture.

ATTACHMENTS

- A: "Extension of Park IV Parking Lease"
- B: Letter from Dick Kosmicki
- C: Copies of original leases

EXTENSION OF PARK IV
PARKING LEASE

THIS EXTENSION AGREEMENT, made and entered into the _____ day of _____, 2008, by and between UNITED INDUSTRY, INC., successor in interest to UNITED PROPERTIES INC., a Montana Corporation, hereinafter called "Tenant" and the CITY OF BILLINGS, a Montana municipality, hereinafter called "Landlord."

WITNESSETH:

WHEREAS, the parties have previously made and entered into a Park IV PARKING LEASE, hereinafter called "THE LEASE," on September 1, 1995, a copy of which is attached; and

WHEREAS, the parties desire to memorialize an extension of the terms of THE LEASE in its entirety for the period September 1, 2005 through August 31, 2015;

NOW, THEREFORE, in consideration of the above, the parties agree as follows:

All terms and conditions of THE LEASE are, and shall be, in full force and effect from and after September 1, 2005 with the rental rate to be adjusted on September 1, of each year of the extended term to be the market rate for similar parking spaces in Billings, Montana.

THIS AGREEMENT is duly executed the date and year above written.

LANDLORD:

CITY OF BILLINGS

ATTEST:

City Clerk

By _____ Title

TENANT:

UNITED INDUSTRY, INC.

ATTEST:

Dana Syzwell
Secretary

By Richard Kosmicki
Richard Kosmicki, Vice-President

united properties

April 18, 2005

Liz Kampa-Weatherwax
City of Billings Parking Division
P.O. Box 1178
Billings, Montana 59103

RE: PARKING LEASES

Dear Liz:

United Properties and Billings 401 Joint Venture would like to exercise our right to extend the two parking leases with the City of Billings. The parking leases mature on October 31, 2005.

If you need any other information or have any questions please let me know.

Sincerely,



Dick Kosmicki
Property Manager

p.o. box 30238 • billings, montana 59107 • 404 north 31st street • suite 100 • phone 406 255 7100 • fax 406 255 7125

**PARK IV
PARKING LEASE**

THIS AGREEMENT, made and entered into this 1st day of September, 1995, by and between BILLINGS 401 JOINT VENTURE, a Montana Partnership, hereinafter called "Tenant" and the CITY OF BILLINGS, a Montana municipality, hereinafter called "Landlord."

WITNESSETH:

WHEREAS, the parties hereto entered into a Final Development Agreement dated March 26, 1984, and;

WHEREAS, the 18-story building and parking garage referred to therein are completed.

NOW, THEREFORE, in consideration of the above, the parties agree as follows:

1. Tenant hereby agrees to lease and Landlord hereby lets 350 spaces in the parking garage, and such additional spaces on a month-to-month basis, as requested by Tenant and are available, for the use and benefit of tenants of the First Interstate Center, 401 North 31st Street.

2. The term of this lease will be for ten (10) years.

3. The rental rate for the first five (5) years, per parking space, per month shall be:

| | |
|----------|---------|
| Basement | \$35.00 |
| Covered | \$32.50 |
| Roof | \$15.00 |

4. The rental rate for the second five (5) years, per parking space, per month shall be the market rate for similar parking spaces in Billings, Montana. Tenant shall be required to collect all rents and remit them by the tenth (10th) of each month.

5. Tenant will provide a monthly report listing parkers from the 1st Interstate Center, 401 N. 31st Street.

6. Tenant shall have the further right to extend this lease for an additional ten (10) year term upon the same terms and conditions except the rental rate shall be the then prevailing rate for similar parking within the City of Billings.

7. In addition to the foregoing, the parties are providing a validation system for use of the short-term parking by tenants and visitors to the First Interstate Center.
8. Tenant agrees to provide a control system to identify those vehicles parked in the facility who are deriving their parking through this Lease Agreement.
9. This Agreement may not be assigned without consent of the other party, which consent shall not be unreasonably withheld. Any assignee shall be bound by the terms and conditions of this Agreement. It may, however, be assigned by Tenant as security for a first mortgage indebtedness without consent of Landlord.

THIS AGREEMENT is duly executed the date and year above written.

LANDLORD:

CITY OF BILLINGS

ATTEST:

Marita Herold
City Clerk

By: [Signature]
Mayor Title

TENANT:

BILLINGS 401 JOINT VENTURE

ATTEST:

Dak Kambh
Secretary manager

By: Paul M. Foster
Title

**PARK IV
PARKING LEASE**

THIS AGREEMENT, made and entered into this 1st day of September, 1995, by and between UNITED PROPERTIES INC., a Montana Corporation, hereinafter called "Tenant" and the CITY OF BILLINGS, a Montana municipality, hereinafter called "Landlord."

WITNESSETH:

WHEREAS, the parties hereto entered into a Final Development Agreement dated March 26, 1984, and;

WHEREAS, the 18-story building and parking garage referred to therein are completed.

NOW, THEREFORE, in consideration of the above, the parties agree as follows:

1. Tenant hereby agrees to lease and Landlord hereby lets 150 spaces in the parking garage, and such additional spaces on a month-to-month basis, as requested by Tenant and are available, for the use and benefit of tenants of Transwestern 1, 2 and 3.
2. The term of this lease will be for ten (10) years.
3. The rental rate for the first five (5) years, per parking space, per month shall be:

| | |
|----------|---------|
| Basement | \$35.00 |
| Covered | \$32.50 |
| Roof | \$15.00 |
4. The rental rate for the second five (5) years, per parking space, per month shall be the market rate for similar parking spaces in Billings, Montana. Tenant shall be required to collect all rents and remit them by the tenth (10th) of each month.
5. Tenant will provide a monthly report listing parkers from the Transwestern 1, 2, & 3 Buildings.
6. Tenant shall have the further right to extend this lease for an additional ten (10) year term upon the same terms and conditions except the rental rate shall be the then prevailing rate for similar parking within the City of Billings.

7. In addition to the foregoing, the parties are providing a validation system for use of the short-term parking by tenants and visitors to the First Interstate Center.
8. Tenant agrees to provide a control system to identify those vehicles parked in the facility who are deriving their parking through this Lease Agreement.
9. This Agreement may not be assigned without consent of the other party, which consent shall not be unreasonably withheld. Any assignee shall be bound by the terms and conditions of this Agreement. It may, however, be assigned by Tenant as security for a first mortgage indebtedness without consent of Landlord.

THIS AGREEMENT is duly executed the date and year above written.

LANDLORD:

CITY OF BILLINGS

ATTEST:

Marita Herald
City Clerk

By: [Signature]
Mayor Title

TENANT:

UNITED PROPERTIES INC.

ATTEST:

James A. Swenson
Secretary

By: Paul W. Forta
President Title

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Parking Lot Agreement Extension

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: The Uda Mae parking lot on 3rd Avenue North has been acquired by MET Transit from the County for the Transfer Center. However, the County has been allowed to continue to occupy the lot until construction of the Transfer Center begins around May. The current agreement expired in February, and it is necessary that it be renewed so the County can provide liability insurance to the City during the County's period of use.

ALTERNATIVES ANALYZED: The City Council may:

- Approve the agreement.
- Postpone action on the agreement.
- Deny the agreement, forcing the County to abandon the parking lot immediately.

FINANCIAL IMPACT: The City is expected to receive nothing for this agreement, but does not have the fiscal responsibility for fencing or guarding the lot while vacant.

RECOMMENDATION

Approve the agreement.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS:

A – Agreement (Coming from County Attorney's Office)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, March 10, 2008**

TITLE: Amendment of the Federal Aviation Administration (FAA) Office Lease at the Airport Terminal Building

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The Federal Aviation Administration (FAA) currently leases office and operation space on the second floor of the Terminal. The FAA entered into a new Lease, DTFANM-07-L-00039, for approximately 1,678 square feet of space on April 9, 2007. The term of the new Lease commenced January 1, 2007, and continues through September 30, 2012, inclusive. The FAA relinquished Room 201 from its leased space, effective August 1, 2007. On September 24, 2007, the Council approved Supplement #1 to the Lease, which modified the description of the leased premises to exclude Room 201 and revised the rental amount due, effective August 1, 2007. The FAA now wishes to further decrease its leased space by relinquishing Room 206, and again revising the rental amount, effective May 1, 2008. Room 206 was the equipment room that supported the old Air Traffic Control Tower. The equipment removal has been completed and the room is now vacant.

FINANCIAL IMPACT: The existing lease rate was adjusted for inflation and would have generated \$3,494.72 monthly for the use of 1,678 square feet. Supplement #1 reduced the square footage to 1,436 square feet. This adjusted Lease generated \$2,961.24 per month. Supplement #2 will reduce the total square footage to 660.49 square feet and will reduce the monthly rent to \$1,439.98 per month for the term of the Lease. No other terms and conditions of the original Lease have been changed. The \$1,521.26 monthly reduction of Lease revenue does not have a significant impact on the Airport's total revenues. It is anticipated that this space will be re-leased in the near future.

RECOMMENDATION

Staff recommends that Council approve Supplement #2 to Lease #DTFANM-07-L-00039 with the FAA for office and operation space on the second floor of the Airport's Terminal Building.

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

ATTACHMENT

A. Supplement #2 to FAA Lease No. DTFANM-07-L-00039

| | | |
|--|---|---------------------------------|
| U.S. Department of Transportation Federal Aviation Administration SUPPLEMENTAL LEASE AGREEMENT | SUPPLEMENTAL AGREEMENT NO. 2 TO LEASE NO. DTFANM-07-L-00039 | DATE May 01, 2008 |
| ADDRESS OF PREMISES Rooms 203, 205, and 207 located on the second floor of the Billings Logan International Airport Terminal Building, Billings, Montana. | | |
| THIS AGREEMENT, made and entered into this date by and between City of Billings, Aviation and Transit Department whose address is 1901 Terminal Circle, Room 216, Billing Logan International Airport, Billings, Montana 59105-1996 hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government: | | |
| WHEREAS, the parties hereto desire to amend the above Lease. | | |
| NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, as follows: | | |
| Article 2 is amended to read as follows: | | |
| 2. DESCRIPTION - The LESSOR hereby leases to the GOVERNMENT the following described premises: Rooms 203, 205, and 207 consisting of approximately 660.49 square feet located on the second floor of the Billings Logan International Airport Terminal Building, Billings, Montana. | | |
| (See Exhibit A attached) | | |
| Article 5 is amended to read as follows: | | |
| 5. RENTAL, - Rental in the amount of \$1,439.98 per month (as shown on Exhibit A, Adjusted Rate Summary of FAA Leased Square Footage, as amended in this Supplement to remove Room 206) will be payable to the LESSOR in arrears and will be due on the first workday of each month, without the submission of invoices or vouchers. Subject to available appropriations. Rent will be considered paid on the date a check is dated or an electronic funds transfer is made. Rent for a period of less than a month will be prorated. Checks will be made payable to: City of Billings, Aviation and Transit Department. | | |
| All other terms and conditions of the lease shall remain in force and effect. | | |
| <u>Important:</u> Lessor is required to sign this document and return it to the issuing office. Return receipt requested. | | |
| | | |

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

LESSOR: CITY OF BILLINGS

BY _____
(Signature) (Date)

(Title)

IN THE PRESENCE OF (witnessed by:)

(Signature)

(Address)

UNITED STATES OF AMERICA

BY _____
(Signature)

Contracting Officer
(Official Title)

EXHIBIT A
ADJUSTED RATE SUMMARY OF FAA LEASED SQUARE FOOTAGE--REVISED FOR SUPPLEMENT #2
For

Airway Facilities Sector Field Office

March 1, 2008

A. AIRWAY FACILITIES SECTOR FIELD OFFICE

| ROOM # | | | | | TOTAL SQ FT | | RATE 1 | | TOTAL \$ | |
|-----------------------------------|-----|-------|---|-------|---------------|---------------|---------|---------|----------|--|
| | 201 | 12.83 | X | 18.00 | = | 242.40 | | | | 2nd Floor Office Space |
| ROOM 201 TOTAL | | | | | | 242.49 | X | \$26.40 | = | \$6,401.74 DELETED VIA SUPP #1 |
| | 203 | 12.90 | X | 18.90 | = | 243.81 | | | | 2nd Floor Office Space |
| ROOM 203 TOTAL | | | | | | 243.81 | X | \$26.40 | = | \$6,436.58 |
| | 205 | 12.88 | X | 13.57 | = | 174.78 | | \$26.40 | | 2nd Floor Office Space |
| | 205 | 7.83 | X | 4.67 | = | 36.55 | | \$22.10 | | 2nd Floor System Support Storage Space |
| ROOM 205 TOTAL | | | | | | 211.33 | X | | = | \$5,421.95 |
| | 206 | 6.94 | X | 13.50 | = | 93.20 | | \$26.40 | | 2nd Floor Office Space |
| | 206 | 12.50 | X | 13.50 | = | 168.75 | | \$26.40 | | 2nd Floor Office Space |
| | 206 | 20.00 | X | 26.65 | = | 513.00 | | \$22.10 | | 2nd Floor Office Equipment Space |
| ROOM 206 TOTAL | | | | | | 775.04 | X | | = | \$18,255.16 DELETED VIA SUPP #2 |
| | 207 | 9.88 | X | 9.25 | = | 91.39 | | \$26.40 | | 2nd Floor Office Space |
| | 207 | 9.88 | X | 9.21 | = | 90.99 | | \$26.40 | | 2nd Floor Office Space |
| | 207 | 3.03 | X | 7.58 | = | 22.97 | | \$26.40 | | 2nd Floor Office Space |
| ROOM 207 TOTAL | | | | | | 205.35 | X | | = | \$5,421.24 |
| TOTAL OF ALL AFS SPACE | | | | | 660.49 | | | | | \$17,279.77 |
| Total All Office Space | | | | | 623.94 | X | \$26.40 | | | \$16,472.02 |
| Total All Storage Space | | | | | 36.55 | X | \$22.10 | | | \$807.76 |
| Annual Lease Space Rental | | | | | | | | | | \$17,279.77 |
| Monthly Lease Space Rental | | | | | | | | | | \$1,439.98 |

Page 3 of 3
Supplement No. 2
Lease No. DTFANM-07-L-00039

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

H

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Amendment One to Airport Business Park Building and Ground Lease with Yellowstone County Museum

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: The Yellowstone County Museum currently leases 378.65 square feet of storage space in the basement of the building known as IP-9 in the Airport Business Park. The Yellowstone County Museum wishes to lease 230.42 square feet of additional storage space for storage of items currently on display in the Museum. The Yellowstone County Museum will need to temporarily vacate its cabin location at the Airport during the Montana Department of Transportation Highway project at the Airport intersection, which will be bid later this year. The additional space will accommodate some of its more fragile collections in a climate controlled environment. The current Lease, dated January 9, 2006, is for a five-year term, which commenced on July 1, 2005, and expires on June 30, 2010.

FINANCIAL COMMENT: The additional space will generate \$798.60 per year initially. Rent will be adjusted annually by the Consumer Price Index – Urban (CPI-U) on the anniversary date of the Lease.

K. RECOMMENDATION

- L.** Staff recommends that Council approve Amendment One to the Airport Business Park Building and Ground Lease with the Yellowstone County Museum. This Amendment adds 230.42 square feet of space to the Lease for a revised total of 609.07 square feet.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A.** Amendment One

1 AMENDMENT ONE

2
3 CITY OF BILLINGS

4 AND

5 PETER YEGEN JR. YELLOWSTONE COUNTY MUSEUM FOUNDATION

6 BUSINESS PARK BUILDING AND GROUND LEASE

7
8
9 WITNESSETH

10 WHEREAS, the City of Billings, Montana and Peter Yegen Jr. Yellowstone
11 County Museum Foundation entered into the Business Park Building and Ground Lease (the
12 Lease) on January 9, 2006, for the term commencing July 1, 2005 and terminating on June 30,
13 2010, and

14 WHEREAS, said premises consists of 378.65 square feet of storage space in the
15 basement of Building IP-9, and

16 WHEREAS, both parties desire to amend the Lease by adding space to the leased
17 premises to include an additional storage room consisting of 230.42 square feet and reflected as
18 Item C on the revised Exhibit A attached hereto and by this reference made a part hereof.

19 NOW THEREFORE, this Amendment serves to amend Article I, Paragraph A.,
20 Description of Premises, as follows:
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ARTICLE I

PREMISES AND PRIVILEGES

A. Description of the Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that certain parcel of real property, together with appurtenances (hereinafter designated premises), for its use, specifically described as follows:

In Building IP-9, storage space in the basement, consisting of three rooms and totaling 609.07 square feet. The location and dimensions of these premises are set forth on Exhibit A attached hereto and by this reference made a part hereof.

All other terms and conditions of the original Lease remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hand this ____ day of _____ 2008.

ATTEST:

CITY OF BILLINGS

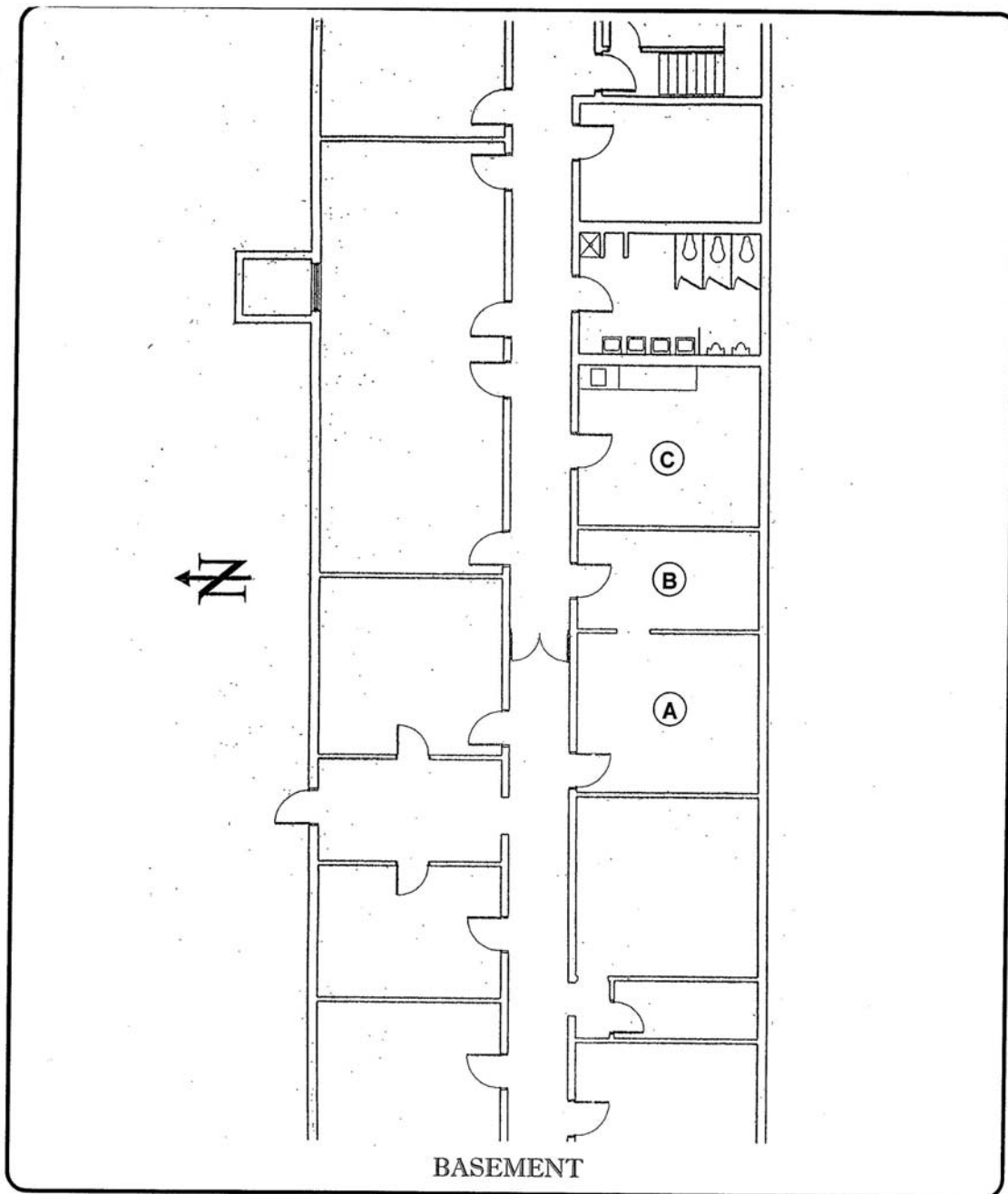
BY _____
CITY CLERK

BY _____
MAYOR

APPROVED AS TO FORM

BY _____
CITY ATTORNEY

BY _____
PETER YEGEN JR.
YELLOWSTONE COUNTY
MUSEUM FOUNDATION



AIRPORT BUSINESS PARK
BUILDING IP-9

CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT
AVIATION AND TRANSIT DEPARTMENT

EXHIBIT A – Page 1 of 2



February 2008

AIRPORT BUSINESS PARK
BUILDING IP-9
BASEMENT STORAGE

PETER YEGEN JR. MUSEUM

| | <u>DIMENSIONS</u> | <u>SQUARE FEET</u> |
|--------------------------|-------------------|--------------------|
| A STORAGE ROOM | 16.17 X 14.25 = | 230.42 |
| B STORAGE ROOM | 16.17 X 9.17 = | 148.23 |
| C STORAGE ROOM | 16.17 X 14.25 = | <u>230.42</u> |
| TOTAL SQUARE FEET | | 609.07 |

AIRPORT BUSINESS PARK
BUILDING IP-9

CITY OF BILLINGS LOGAN INTERNATIONAL AIRPORT
AVIATION AND TRANSIT DEPARTMENT

EXHIBIT A – Page 2 of 2



February 2008

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Work Order 08-06 – King Avenue Lift Station; HDR Professional Engineering Services Contract Amendment

DEPARTMENT: Public Works - Engineering Division

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

PROBLEM/ISSUE STATEMENT: Mayor and Council are asked to consider authorizing Amendment No. 9 to the professional services contract with HDR Engineering in the amount of \$44,800.00 to provide additional design services for the King Avenue Lift Station project. A contract amendment is recommended to complete the remainder design after several lift station components required the original design scope to be significantly expanded.

ALTERNATIVES ANALYZED:

1. Authorize the Mayor to sign an amendment to the contract with HDR Engineering as set forth in this staff memorandum.
2. Do not authorize the Mayor to sign an amendment to the contract with HDR Engineering as set forth in this staff memorandum.

FINANCIAL IMPACT: Funding for this project has been approved in the CIP projects – Water Main Replacement and Sanitary Sewer Replacement. Funding is sufficient for the engineering services, which are now under consideration, as well as for construction and construction administration of the lift station which is planned for bidding in March 2008.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to sign a contract amendment for professional services to provide additional design services for lift station improvements of W.O. 08-06 in the amount not to exceed \$44,800.00.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

- A. Amendment No. 9 to the HDR Engineering, Inc. Agreement (4 pages)

INTRODUCTION

HDR Engineering would be enabled by this services agreement amendment to complete design services for W.O. 08-06, the King Avenue Lift Station project.

PROCEDURAL HISTORY

Completed Items:

- HDR Engineering was previously retained to design and provide construction administration services on King Avenue water and sewer utility improvements under W.O. 04-27, but that project was not bid or constructed. Since that time, changing demand conditions and an alternatives analysis indicated that the sewer design should incorporate a lift station rather than extend about 4000 feet of deep sewer. Major portions of this original water and sewer design as well as new lift station design features have already been incorporated into the project using funds left over from W.O. 04-27.

At the time lift station design began in the spring of 2007, it was not known whether the funds left over from W.O. 04-27 would be sufficient to complete the lift station design; but, it was determined most appropriate at that time to not request additional funding unless it was actually needed. Some unforeseen lift station design challenges now require that additional funding be provided to complete the design. These challenges include relocating the lift station numerous times to accommodate the changing desires of Shiloh Crossing Subdivision, coordinating with and accommodating Shiloh Crossing for the architectural design of the lift station building, and designing an H-pile support system for the valve vault.

Amendment No. 8 to HDR's professional services contract has already provided construction administration services to the City for the construction of the lift station as well as for the water and sewer utilities in King Avenue West.

Items to be Completed:

- HDR can provide final design services to the City prior to bidding of the lift station project.
- Council authorizing the Mayor to sign the Amendment to HDR's Agreement.

BACKGROUND

Sewer in this area consists of 27-inch main that extends about from about 250 feet east of Shiloh Rd. to about 1,750 feet west of Shiloh Rd. Flow through the 27-inch main currently feeds into a temporary private lift station in Montana Sapphire Subdivision. Wastewater from the lift station is pumped through a force main that discharges into an 8-inch sewer in Olympic Boulevard.

SID 1379 is currently extending the 27-inch sewer main approximately 700 feet further east in King Ave. W.; this main will empty into the new lift station. SID 1379 is also extending force mains east from the new lift station location approximately 3,100 feet to feed a new 24-inch gravity sewer which is being extended approximately 2,000 feet further east to tie into a 42-inch sewer at 32nd St. W.

Lift station construction in this area will provide sewer service to areas south of King Av. W. between 36th St. W. and Shiloh Rd. as well as to a large area both north and south of King Av. W. west of Shiloh Rd. Development as far north as Central Avenue to about 2,000 feet south of King Av. W. to 72nd Street West could be served as a result of this project.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to sign a contract amendment for professional services to provide additional design services for lift station improvements of W.O. 08-06 in the amount not to exceed \$44,800.00.

ATTACHMENT

- A. Amendment No. 9 to the HDR Engineering, Inc. Agreement (4 pages)

**AMENDMENT NUMBER NINE
TO THE
AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
THE CITY OF BILLINGS, MONTANA
AND
HDR ENGINEERING, INC.**

THIS AMENDMENT NUMBER NINE, made and entered into this ____ day of _____, 2008, modifies the Agreement for Professional Services by and between the City of Billings, Montana, and HDR Engineering, Inc., dated May 10, 1999.

Amendment Five provided design, bidding and construction services for construction of a gravity sewer line and waterlines along King Ave. West from 32nd Street to Shiloh Road. The design was completed including expanded scope for geotechnical and dewatering related services. The project was stopped and cancelled during bidding. Recently the project was restarted with the forthcoming Shiloh Crossing development. The project was changed to include short stretches of gravity sewer, a lift station, forcemains and waterlines from 31st Street to Shiloh Road with the Lift Station being incorporated into the layout of the Shiloh Crossing development. Remaining budget from Amendment Five was used to design gravity sewers, forcemains, waterlines and service connections associated with the King Avenue SID 1379 Roadway and Utilities Project which required a complete redesign of the water and sewer utilities. There was still remaining budget and this was applied towards design of the Lift Station. Amendment Nine adds scope for designing the Lift Station and additional fee beyond the remaining budget. Amendment Eight provided Bidding and Construction Services for the SID 1379 Roadway and Utilities project and the Lift Station Project.

The Agreement is modified as follows:

Item 1: Page 8, paragraph 12.1.4.1.4, increase the total payment for services by \$44,800.00.

Item 2: Exhibit A – Consultant’s Scope of Services; Page 2 – Add the following to the summary of Phase VIII – Water Mains and Sewer Mains major work tasks.

◆ Task 301 – King Avenue West Lift Station Design Services.

Item 4: Exhibit A – Consultant’s Scope of Services: Page 2, DETAILED SCOPE OF SERVICES. ADD the following task and detailed scope items for Phase VIII:

Task 301 King Avenue West Lift Station Design Services

◆ Review preliminary work completed by the City evaluating feasibility of a lift station.

- ◆ Develop flow design criteria from the information developed in the Master Plan.
- ◆ Coordinate with Collaborative Architects, Engineering Inc. and the City for locating the lift station.
- ◆ Develop preliminary layout for a small initial pump station, build-out lift station, valve vault, initial and final backup power generator and building to house electrical gear and generator.
- ◆ Coordinate with Collaborative Architects on architectural style of building.
- ◆ Review preliminary design with the City and incorporate comments.
- ◆ Develop 50% level drawings or 3D model.
- ◆ Review 50% level design with the City and incorporate comments.
- ◆ Develop final design.
- ◆ Review final design with the City and incorporate comments.
- ◆ Produce Bid Documents.
- ◆ Provide internal QA/QC.

All provisions of the Agreement dated May 10, 1999, shall remain in full force and effect except as amended herein.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number Nine (9) as of the day and year first above written.

CONSULTANT

HDR Engineering, Inc.

BY: _____
R. Bradley Martin, VP

TITLE: Vice President

DATE: _____

ATTEST:

CITY

City of Billings

BY: _____
Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
City Attorney

SUPPLEMENT TO EXHIBIT B

PHASE VIII PROJECT TASK ADDITIONS ESTIMATED FEES

| Project Task Additions | <u>Estimated Fee</u> |
|--|-----------------------------|
| Task 301 – King Avenue West Lift Station Design Services | \$ 44,800.00 |

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: An Amendment to Phases IV and V of the Subdivision Improvements Agreement for Uinta Park Subdivision

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On February 1, 2008, the subdivider, Clyde Larsen and Sons Construction, Inc, of Uinta Park Subdivision, requested an amendment to the approved Subdivision Improvements Agreement (SIA) for Phases IV and V of Uinta Park Subdivision. The subject property is located between Uinta Park Drive and Butterfly Lake Lane in the Heights. Pursuant to Section 23-1103(B), BMCC, corrections to recorded SIA's may be submitted for review and approval by the City Council provided that the corrections do not significantly alter the original approval. A public hearing for these corrections is not required unless deemed necessary by the City Council. The subdivider is Clyde Larsen and Sons Construction, Inc. and the representing agent is Engineering, Inc.

The SIA for Uinta Park Subdivision was entered between the subdivider and the City of Billings on June 11, 2003. The requested amendment would affect Section 3.A. Streets, of the SIA, which specifies that the back to back pavement width of the internal streets shall be 37-feet. The previous subdivision regulations required 60-foot rights-of-way with 37-feet of back to back pavement width for local subdivision streets. The proposed amendment would not affect the right-of-way width of 60-feet for Watson Peak Drive and Twin Lakes Road; however the pavement width would be revised to reflect the current subdivision regulations with 34-feet of pavement width. These streets provide a connection to the proposed Twin Oaks Subdivision to the north, which was approved with 50-foot wide rights-of-way and 34-feet back to back of curb width and boulevard sidewalks. In order to maintain continuity for the proposed subdivision to the north, the SIA amendment to Phases IV and V of Uinta Park Subdivision are being requested. In addition, the subdivider is proposing boulevard style 5-foot wide sidewalks, which is required by the current regulations, as well.

ALTERNATIVES ANALYZED: Approval or denial of the requested amendment.

FINANCIAL IMPACT: There will be no financial impact as a result of this request.

RECOMMENDATION

Staff recommends that the City Council approve the request for an amendment to Section 3.A. Streets in the Subdivision Improvements Agreement for Phases IV and V of Uinta Park Subdivision.

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

ATTACHMENTS

- A. Final Plat for Uinta Park Subdivision
- B. Proposed Amendments to the SIA

INTRODUCTION

On February 1, 2008, the subdivider, Clyde Larsen and Sons Construction, Inc, of Uinta Park Subdivision, requested an amendment to the approved SIA for Phases IV and V of Uinta Park Subdivision. The subject property is located between Uinta Park Drive and Butterfly Lake Lane in the Heights. The SIA for Uinta Park Subdivision was entered between the subdivider and the City of Billings on June 11, 2003. The requested amendment would affect Section 3.A. Streets, of the SIA, which specifies that the back to back pavement width of the internal streets shall be 37-feet. The previous subdivision regulations required 60-foot rights-of-way with 37-feet of back to back pavement width for local subdivision streets. The proposed amendment would not affect the right-of-way width of 60-feet for Watson Peak Drive and Twin Lakes Road; however the pavement width would be revised to reflect the current subdivision regulations with 34-feet of pavement width. These streets provide a connection to the proposed Twin Oaks Subdivision to the north, which was approved with 50-foot wide rights-of-way and 34-feet back to back of curb width and boulevard sidewalks. In order to maintain continuity for the proposed subdivision to the north, the SIA amendment to Phases IV and V of Uinta Park Subdivision are being requested. In addition, the subdivider is proposing boulevard style 5-foot wide sidewalks, which is required by the current regulations, as well.

PROCEDURAL HISTORY

- On June 11, 2000, the City Council approved the final plat for Uinta Park Subdivision. The final plat was recorded on June 11, 2003.
- On July 24, 2006, the City Council approved the preliminary plat of Twin Oaks Subdivision located to the north of Uinta Park Subdivision. The final plat for Twin Oaks Subdivision is currently in process.
- On February 1, 2008, Engineering, Inc. on behalf of the subdivider submitted an amendment request for the recorded SIA.
- On March 10, 2008, the City Council will vote to approve or deny the subdivider's request to amend the SIA.

BACKGROUND

On June 11, 2000, the City Council granted preliminary plat approval for Uinta Park Subdivision, which contains 169 lots on approximately 52 acres of land. According to the approved SIA, the subdivision was to be constructed in five phases. Phases IV and V would include the construction of Twin Lakes Drive and Watson Peak Road located on the western portion of the subdivision. These streets also provide a connection to the proposed Twin Oaks Subdivision to the north, which was approved with 50-foot wide rights-of-way and 34-feet back to back of curb width and boulevard sidewalks. In order to maintain continuity for the proposed subdivision to the north, the SIA amendment to Phases IV and V of Uinta Park Subdivision are being requested.

Engineering staff has reviewed the proposed amendment and finds that the request for the pavement width and the boulevard sidewalks is justified. The revised pavement width and boulevard sidewalks will create continuity in street widths and sidewalk types between the two subdivisions, as Twin Oaks Subdivision connects to Watson Peak Drive north of Uinta Park Subdivision.

STAKEHOLDERS

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

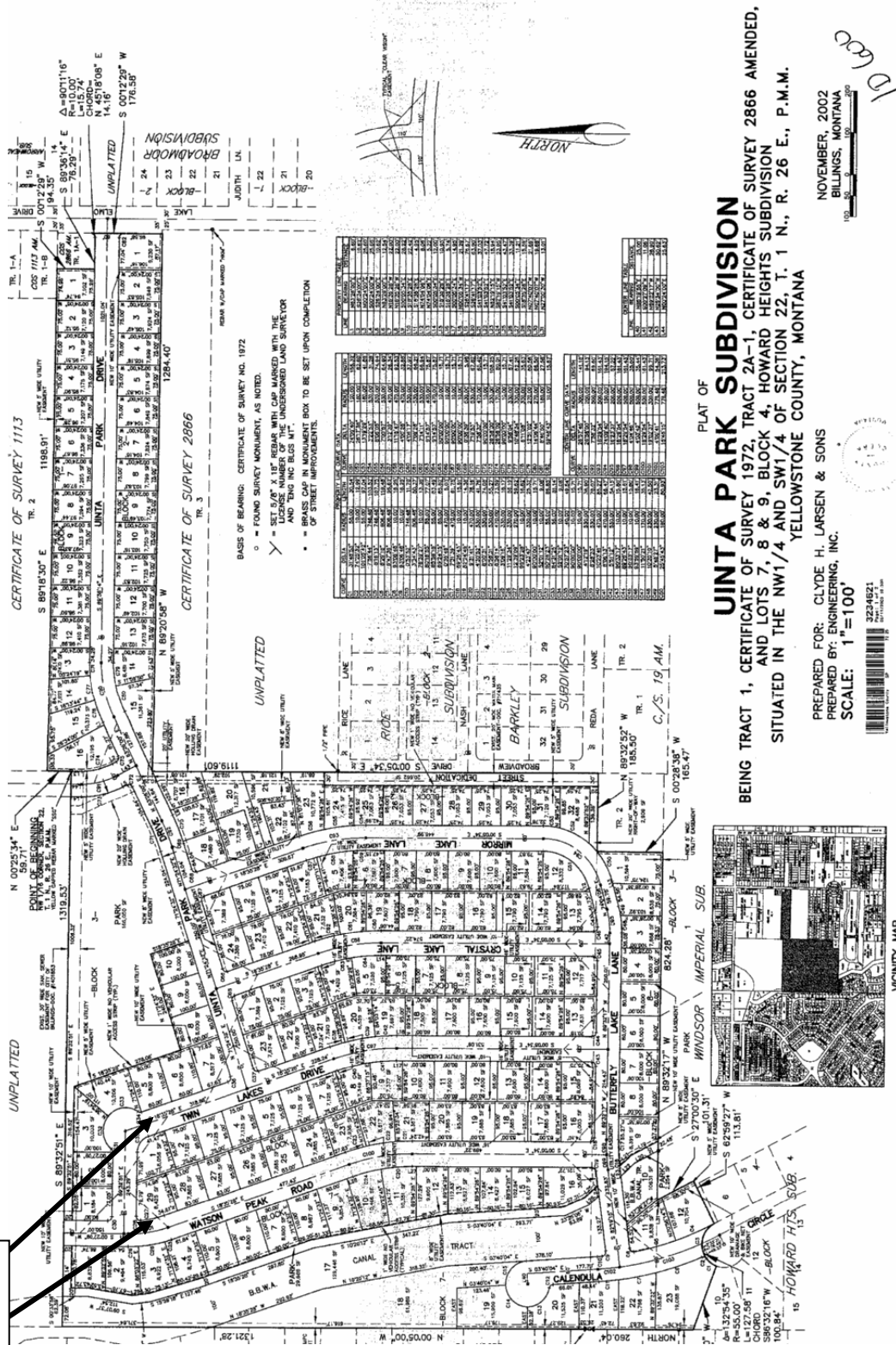
RECOMMENDATION

Staff recommends that the City Council approve the request for an amendment to Section 3.A. Streets in the Subdivision Improvements Agreement for Phases IV and V of Uinta Park Subdivision.

ATTACHMENTS

- A. Final Plat for Uinta Park Subdivision
- B. Proposed Amendments to the SIA

Uinta Park Subdivision Recorded Plat



Streets within Phases IV and V

ATTACHMENT B
Proposed SIA Amendments

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

**AMENDED SUBDIVISION IMPROVEMENTS AGREEMENT
PHASE IV AND V OF
UINTA PARK SUBDIVISION**

THIS AGREEMENT is made and entered into this ____ day of _____, 20____, by and between **CLYDE H. LARSEN & SONS CONSTRUCTION, INC.**, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the real property affected by the plat is covered by and subject to the terms and conditions of the Subdivision Improvements Agreement of Uinta Park Subdivision, dated the 15th day of November, 2002, under Document No. 3234622, records of Yellowstone County, Montana; and

WHEREAS, the real property affected by the plat is covered by and subject to the terms and conditions of a waiver for Uinta Park Subdivision and was filed the 11th day of June, 2003, under Document No. 3234622, records of Yellowstone County, Montana; and

WHEREAS, the City has adopted new subdivision regulations since the time of execution of the Subdivision Improvements Agreement dated November 15, 2002, that materially affect the improvement standards required, and the Subdivider and the City desire to require remaining improvements be in accordance with the current adopted subdivision regulations (2006).

WHEREAS, The provisions of this agreement shall be effective and applicable to Phase IV, being Lots 14 through 23, inclusive, in Block 5; Lots 2 through 7, inclusive, in Block 3; and Lots 1 through 14, inclusive, in Block 6; and Phase V, being Lot 1, inclusive, in Block 3; Lots 17 through 29, inclusive, in Block 6; and Lots 1 through 15, inclusive, in Block 7 of Uinta Park Subdivision upon filing of this amended agreement thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises contained above, and for other good and valuable consideration, do hereby agree to amend the agreement as follows:

Section 3. A. STREETS shall be revised as follows:

- (1) Twin Lakes Drive and Watson Peak Road within the subdivision shall be built as 34 feet wide from back of curb to back of curb and to grade with a satisfactory sub-base, base course, curb and gutter, and asphalt surface. The design cross-section of said streets shall be submitted to and approved by the city engineer.
- (3) Interior Sidewalks. Sidewalks within Phase IV and V shall be installed as a 5-foot wide boulevard walk; lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.

CITY OF BILLINGS, MONTANA

By _____
Mayor

By _____
City Clerk

STATE OF MONTANA)
 : ss.
County of Yellowstone)

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Airline Operating Permit with 3D Aviation, LLC

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: 3D Aviation, LLC (3D), is a wholly owned subsidiary of Ameriflight, and provides air transportation for bank checks. 3D has two aircraft based at Billings Logan International Airport. To ensure that specific operating requirements are met, a Scheduled Airline Operating Permit between the City of Billings and 3D is required. The Operating Permit ensures that the airline follows certain operating parameters and procedures, including providing proof that the proper insurance coverage is in place.

FINANCIAL IMPACT: The financial impact in revenues will be minimal at approximately \$2,000 annually, since 3D flies only two (2) trips daily, Monday through Friday.

RECOMMENDATION

Staff recommends that Council approve the Scheduled Airline Operating Permit with 3D Aviation, LLC.

Approved By: City Administrator ____ City Attorney ____

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

L

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Closing Documents for Sage Tower Renovation by Menola Land Sage Tower, LLC, and Sage Tower Partners, RLLLP

DEPARTMENT: Community Development

PRESENTED BY: Brent Brooks, City Attorney
Sarah McNamara, Community Development Program Coordinator

PROBLEM/ISSUE STATEMENT: The Community Development Division has a signed Development Agreement with Menola Land, Sage Tower, LLC, to assist them with acquisition and substantial rehabilitation of the Sage Tower building. The renovation of the Sage Tower building combines a number of the efficiency units into 1-bedroom, 2-bath units, for a total of 81 units of affordable rental housing. Rehabilitation activities include new appliances, interior painting, new floor coverings, and the updating of the emergency call system and the central kitchen, as well as additional accessibility features. There will be no reduction in the number of Section 8 units.

ALTERNATIVES ANALYZED:

1. Approve signing of the closing documents; or
2. Disapprove signing of the closing documents

FINANCIAL IMPACT: There has been no request for additional funding for this project. HOME funds in the amount \$175,000 have already been committed to the project as a 1% interest loan, payable during the term of 20 years.

RECOMMENDATION

Staff recommends Council approve the request to sign the closing documents.

ATTACHMENT:

A. Closing Documents

Approved By: City Administrator_____ City Attorney_____

INTRODUCTION

The closing documents support the Development Agreement and assist in securing the eventual repayment of HOME funds, as allowed for by current HUD HOME regulations.

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

- Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located.
- Promote the preservation of the existing supply of affordable housing in the community.

PROCEDURAL HISTORY

- June 6, 2005 – Staff presented the Sage Tower project to the CD Board
- July 11, 2006 -- Staff recommendation is made to the CD Board
- August 14, 2006 -- CD Board recommendation will be made to City Council.
- April 2007 – Developers request a further reduction in the number of units.
- May 2007 – Reduction in units is presented to CD Board for approval.
- November 2007 – Commitment of funds with signed development agreement
- March 2008 – Approval of closing documents in addition to the signed development agreement.

BACKGROUND

The Sage Tower acquisition and renovation project received approval from Council on May 29, 2007. The acquisition and renovation of Sage Towers will begin sometime after closing tentatively set for March 12, 2008.

ALTERNATIVES ANALYZED:

1. Approve signing of the closing documents; or
2. Disapprove signing of the closing documents

RECOMMENDATION

Staff recommends Council approve the request to sign the closing documents.

ATTACHMENT:

- A. Closing Documents (Currently not available)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Downtown Revolving Loan Fund Recommendations for J & P Realty, LLC, and Randy and Janna Hafer

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The Downtown Revolving Loan Committee met on February 15, 2008, and approved loans to J & P Realty, LLC, and to Randy and Janna Hafer.

J & P Realty, LLC, is requesting a loan from the Downtown Revolving Loan Fund for the purpose of remodeling office condominium space in the Historic Montana Power Building. J & P Realty, LLC, purchased the entire 4th floor of the Montana Power Building and will occupy two offices and intends to lease two offices to professional type tenants. Total project costs will be approximately \$430,000, on which the Downtown Revolving Loan Fund will loan the lesser of \$86,000 or 20% of total costs. The Downtown Revolving Loan will be subordinate to a bank loan of approximately \$249,000.

Randy and Janna Hafer are requesting a loan from the Downtown Revolving Loan Fund for the purpose of redeveloping the Klos Building located at 2720 Minnesota Avenue. The Hafers purchased the building and will relocate their firm, High Plains Architects, to the site when construction is complete. Total project costs will be approximately \$395,000 on which the Downtown Revolving Loan Fund will loan the lesser of \$75,000 or 20% of total costs.

FINANCIAL IMPACT: Subsequent to approval of this loan, the loan fund will have a balance available of approximately \$2,000,000.

RECOMMENDATION

The Downtown Revolving Loan Committee recommends that council approve the loan to J & P Realty, LLC, for the lesser amount of \$86,000 or 20% of total project costs and the loan to Randy and Janna Hafer for the lesser amount of \$75,000 or 20% of total project costs.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT
A-Loan Description

Revolving Loan Fund Loan

Monday, March 10, 2008

The J & P Realty, LLC, loan terms are as follows:

| | |
|---------------|--|
| Loan | Not to exceed \$86,000. |
| Interest Rate | 5.75% Adjusted annually. |
| Term | Amortized over ten years with a balloon payment at maturity. |
| Payments | Minimum Payments calculated at a rate of 5.75% over a fifteen year term. |
| Collateral | Second mortgage on the real property and personal guarantees of LLC members Raymond Pearson and Jennifer Jaspar. |
| Disbursement | The City will disburse funds after it receives documentation supporting the actual project costs. |

This loan is for the purpose of remodeling office condominium space in the Historic Montana Power Building.

The Randy and Janna Hafer loan terms are as follows:

| | |
|---------------|---|
| Loan | Not to exceed \$75,000. |
| Interest Rate | 5.75% Adjusted annually. |
| Term | Amortized over ten years with a balloon payment at maturity. |
| Payments | Minimum Payments calculated at a rate of 5.75% over a fifteen year term. |
| Collateral | Third mortgage on the real property and personal guarantees of Randy and Janna Hafer. |
| Disbursement | The City will disburse funds to the mortgage escrow company upon receipt of the final pay request from the contractor and supporting documentation of construction costs. |

This loan is for the purpose of redeveloping the Klos Building located at 2720 Minnesota Avenue.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE Quarterly Report for Pledged Collateral for Well Fargo Certificate of Deposit, First Interstate Bank Certificate of Deposit, US Bank Municipal Investor Accounts, US Bank Repurchase Account, and US Bank Certificates of Deposit

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

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

On December 31, 2007, the City had a certificate of deposit at Wells Fargo Bank, Billings and First Interstate Bank each for \$1,500,000; \$31,197,872.33 invested in the U.S. Bank Municipal Investor Accounts; and \$11,322,582.31 in the US Bank Repurchase Account. The City has \$3,500,000 in two certificates of deposit at US Bank, Billings.

Because Well Fargo Bank, First Interstate Bank and US Bank's net worth ratio to total assets ratio is over 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. Well Fargo Bank has collateralized the City's deposits with 106% in pledged securities. First Interstate Bank has collateralized the City's deposits with 100% in pledged securities. US Bank has collateralized the City's Municipal Investor Account and two certificates of deposit with 100% in pledged securities. The Repurchase Account is collateralized with 102 % in pledged securities.

RECOMMENDATION

Staff recommends that Council approve securities pledged by Wells Fargo Bank, First Interstate Bank and US Bank as collateral for their respective certificates of deposit , MIA, and repurchase account.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2007

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

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

On December 31, 2007 the City had the following amounts invested:

| | |
|---|-------------------|
| US Bank Municipal Investor | \$ 31,197,872.33 |
| Montana State Short Term Investment Pool | \$ 6,028.60 |
| U.S. government and U.S. agency obligations | \$ 67,545,000.00 |
| Certificates of deposit | \$ 6,500,000.00 |
| Non compensating certificates of deposit | \$ 1,100,000.00 |
| Repurchase Agreements | \$ 11,322,582.31 |
| Total Investments | \$ 117,671,483.24 |

Funds Average Days to Maturity 303 Days

Effective Rate of Return 4.76%

The portfolio summary does not include the US Bank repurchase account and the US Bank non compensating certificate of deposit. Last cash reserve summary was done for the FY 07 budget. The summary showed that reserves/investments were distributed as follows:

| | |
|----------------------------------|-------|
| Recommended Minimum Balance | 39.2% |
| Legally Required | 23.9% |
| Committed for Specific Uses | 29.9% |
| Available in Area of Restriction | 7.0% |
| Unrestricted Amount | -2.9% |

RECOMMENDATION

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

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

ATTACHMENT- Portfolio Summary



City of Billings, MT
Portfolio Management
Portfolio Summary
December 31, 2007

| Investments | Par Value | Market Value | Book Value | % of Portfolio | Term | Days to Maturity | YTM 365 Equiv. |
|----------------------------------|-----------------------|-----------------------|-----------------------|----------------|------------|------------------|----------------|
| Certificates of Deposit - Bank | 6,500,000.00 | 6,500,000.00 | 6,500,000.00 | 6.18 | 450 | 368 | 4.788 |
| Federal Agency Coupon Securities | 59,825,000.00 | 59,701,257.40 | 59,805,083.86 | 56.67 | 640 | 486 | 4.879 |
| Federal Agency Discount Notes | 7,885,000.00 | 7,851,203.45 | 7,843,009.47 | 7.46 | 88 | 58 | 4.282 |
| Treasury Coupon Securities | 25,000.00 | 25,829.30 | 25,000.00 | 0.02 | 2,252 | 410 | 5.898 |
| STIP | 6,028.60 | 6,028.60 | 6,028.60 | 0.01 | 1 | 1 | 4.830 |
| MIA | 31,197,872.33 | 31,197,872.33 | 31,197,872.33 | 29.66 | 1 | 1 | 4.307 |
| | 105,248,900.93 | 105,282,191.08 | 105,177,004.06 | 100.00% | 398 | 303 | 4.660 |
| Investments | | | | | | | |
| Cash and Accrued Interest | | | | | | | |
| Accrued Interest at Purchase | | 63,386.80 | 63,386.80 | | | | |
| Ending Accrued Interest | | 713,036.86 | 713,036.86 | | | | |
| Subtotal | | 776,423.66 | 776,423.66 | | | | |
| | 105,248,900.93 | 106,058,614.74 | 105,953,427.72 | | 398 | 303 | 4.660 |
| Total Cash and Investments Value | | | | | | | |
| Total Earnings | December 31 | Month Ending | | | | | |
| Current Year | | | | | | | |
| Average Daily Balance | 95,582,110.92 | | | | | | |
| Effective Rate of Return | 4.76% | | | | | | |

This is in accordance with the City Investment Policy

Patrick M Weber, Financial Services Manager

2/14/08

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Water/Wastewater Rate & Fee Adjustment – Designate Public Hearing Date

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: The current water and wastewater rates are no longer adequate to fund ongoing operation and maintenance costs and planned capital improvements. In addition, both system development fees and miscellaneous fees need to be adjusted. The last adjustment of a multi-year rate schedule was effective July 1, 2007, with no further adjustments scheduled. A rate study is currently underway to determine the amount of rate adjustments that will be necessary to provide adequate revenue. To comply with the statutory rate adjustment process as outlined in the state statutes, the Council and staff must follow the steps shown in the attached Schedule of Events with the first step being to designate a public hearing date for April 14, 2008. Staff is scheduled to provide the Council with detailed information regarding the recommended rate adjustments at the March 3 work session.

FINANCIAL IMPACT: There is no financial impact associated with the action of setting a public hearing date.

RECOMMENDATION

Staff recommends that Council designate a public hearing date of April 14, 2008, for the purpose of receiving public input on the proposed adjustment of the water and wastewater rates and fees.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

Attachment A – Schedule of Events

SCHEDULE OF EVENTS

ADOPTION OF WATER & WASTEWATER RATES ON MUNICIPAL UTILITY CUSTOMERS

| <u>DATE OF EVENT</u> | <u>EVENT</u> |
|------------------------------|--|
| 1. March 10, 2008 – Monday | City Council to designate date, time and location of Public Hearing. (6:30 p.m., 04/14/08) |
| 2. March 27, 2008 – Thursday | Public Works Department to submit fee documentation to City Council, etc. |
| 3. March 17, 2008 – Monday | Public Works Department to begin mailing of utility bills with notice of hearing, etc. |
| 4. March 24, 2008 – Monday | Publish 1 st Notice of Public Hearing in newspaper. |
| 5. March 31, 2008 – Monday | Publish 2 nd Notice of Public Hearing in newspaper. |
| 6. April 7, 2008 – Monday | Final day for mailing notices with utility bills. |
| 7. April 7, 2008 – Monday | Publish 3 rd and final Notice of Public Hearing in newspaper. |
| 8. April 14, 2008 – Monday | Public Hearing at 6:30 p.m. in the Council Chambers at City Hall. |
| 9. May 14, 2008 – Wednesday | City Council's decision to be filed with City Clerk. |
| 10. May 27, 2008 – Tuesday | City Council's decision concerning fees is final. File new fees with Montana Public Service Commission. |

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: City of Billings Mountview Cemetery Fee increase

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Lee Stadtmiller, Cemetery Superintendent

PROBLEM/ISSUE STATEMENT: A fee increase of approximately 10% in the Cemetery will raise approximately \$9,500 in additional funds generated per year based on the 2005 Cemetery use. Cemetery fees were last increased on July 14, 2004.

ALTERNATIVES ANALYZED: This is the first reading of this resolution. Council approval will increase Mountview Cemetery fees.

1. Approve the Resolution (Recommended)
2. Disapprove the Resolution

FINANCIAL IMPACT: This proposal will raise general fund revenue approximately \$9,500.

RECOMMENDATION

Staff recommends that Council approve the proposed fee increase.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A: Cemetery Fee Revision – (3 pages)

RESOLUTION NO.

A RESOLUTION DIRECTING REVISION OF FEES FOR PURCHASE OF GRAVESITES, NICHEs AND SETUP OF SERVICES AND EXPLANATION OF FEES IN THE CITY OF BILLINGS MOUNTVIEW CEMETERY. REPEALS RESOLUTIONS NO. 04-18158, NO. 01-17729 AND NO. 97-17192.

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

WHEREAS, all graves and niches sale price shall include a thirty per cent (30%) perpetual care cost. The prices for graves and niches in the Cemetery are:

| | | |
|-----------------------------------|----------------------|------------------|
| a. Full size traditional grave | \$600.00 | <u>\$660.00</u> |
| b. Cremation section grave | \$330.00 | <u>\$365.00</u> |
| c. Baby section grave | \$220.00 | <u>\$240.00</u> |
| d. Landmark Columbarium | | |
| (1) Row D single niche | \$700.00 | <u>\$950.00</u> |
| (2) Row C single niche | \$700.00 | <u>\$900.00</u> |
| (3) Row B single niche | \$600.00 | <u>\$850.00</u> |
| (4) Row A single niche | \$600.00 | <u>\$800.00</u> |
| e. Urn Columbaria North and South | | |
| (1) Rows A & N single niche | \$425.00 | <u>\$465.00</u> |
| (2) Rows B & M single niche | \$435.00 | <u>\$480.00</u> |
| (3) Rows C & L single niche | \$450.00 | <u>\$495.00</u> |
| (4) Rows D & K single niche | \$470.00 | <u>\$515.00</u> |
| (5) Rows E thru J single niche | \$500.00 | <u>\$550.00</u> |
| (6) Rows B & M companion | \$670.00 | <u>\$735.00</u> |
| (7) Rows C & L companion | \$720.00 | <u>\$790.00</u> |
| (8) Rows D & K companion | \$750.00 | <u>\$850.00</u> |
| (9) Rows E thru J companion | \$800.00 | <u>\$880.00</u> |
| f. Simplicity Columbarium | | |
| (1) Row A single niche | \$825.00 | <u>\$905.00</u> |
| (2) Row A companion niche | \$1000.00 | <u>\$1100.00</u> |
| (3) Row B single niche | \$800.00 | <u>\$880.00</u> |
| (4) Row B companion niche | \$900.00 | <u>\$990.00</u> |
| (5) Row C single niche | \$800.00 | <u>\$880.00</u> |
| (6) Row D single niche | \$725.00 | <u>\$795.00</u> |
| (7) Row E single niche | \$700.00 | <u>\$770.00</u> |

WHEREAS, opening, closing and setup for a full size traditional grave shall include a lowering device and tent. A discount shall be issued, except in the mausoleum, when a tent is impractical to set up for ~~a traditional full size burial~~ all ground burials. The opening, closing and setup for cremations and infant ~~burial burials~~ do not include a lowering device ~~or a tent~~, but do include artificial turf, tent and a stand for either the baby casket or urn. ~~An additional fee will be charged when a tent is requested for a cremation or infant burial service.~~ The fees for opening, closing and setups during normal business hours are:

| | | |
|--------------------------------|---------------------|-----------------|
| a. Full size traditional setup | \$385.00 | <u>\$425.00</u> |
| b. Cremation burial setup | \$240.00 | <u>\$310.00</u> |
| c. Infant burial setup | \$190.00 | <u>\$255.00</u> |
| d. Columbarium setup | \$110.00 | <u>\$120.00</u> |

WHEREAS, the normal cemetery business hours for burial services are from 9:00 AM to 4:00 PM, Monday through Friday. For burial services that start after 4:00 PM on Monday through Friday or after 11:00 AM on Saturday, a late overtime fee will be charged. The late overtime fee will be charged in ten (10) minute intervals at the rate of \$50.00 per ten-minute interval. The minimum late overtime charge is \$50.00 and the maximum late overtime charge is \$300.00. A Saturday morning overtime fee will be charged for burials scheduled between 9:00 AM and 11:00 AM and they are:

| | | |
|------------------------------------|---------------------|-----------------|
| a. Saturday traditional setup | \$570.00 | <u>\$630.00</u> |
| b. Saturday cremation burial setup | \$350.00 | <u>\$430.00</u> |
| c. Saturday infant burial setup | \$275.00 | <u>\$350.00</u> |
| d. Saturday columbarium setup | \$140.00 | <u>\$155.00</u> |

WHEREAS, the Veteran Sections of the cemetery are special purpose areas. For that reason the city does not make a charge for the grave or niche space, but other charges are issued to compensate for opening, closing, setup, tent, curbing, engraving of the columbarium and flower container. A veteran's cremains may not be buried in a traditional full size veteran grave unless that said grave could not be used for a traditional burial with casket. The fees for burial or inurnment in the veteran section are:

| | | |
|--|---------------------|-----------------|
| a. Traditional veteran burial setup | \$595.00 | <u>\$640.00</u> |
| b. Saturday traditional veteran burial | \$780.00 | <u>\$845.00</u> |
| c. Veteran Columbarium setup | \$475.00 | <u>\$480.00</u> |
| d. Saturday Veteran Columbarium setup | \$515.00 | <u>\$520.00</u> |

WHEREAS, other charges made for services provided by the cemetery are:

| | | |
|---|---------------------|-------------------|
| a. Requested tent setup | \$120.00 | |
| b. Discount of tent for traditional setup | \$45.00 | |
| c. Flower Container | \$25.00 | <u>\$30.00</u> |
| d. Disinterment of casket and vault | \$950.00 | <u>\$1,000.00</u> |
| e. Disinterment from mausoleum | \$450.00 | <u>\$500.00</u> |
| f. Disinterment of buried urn | \$385.00 | <u>\$425.00</u> |
| g. Disinterment of infant grave | \$385.00 | <u>\$425.00</u> |

APPROVED this _____ day of _____, 2008

THE CITY OF BILLINGS

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA

 Monday, March 10, 2008

TITLE: Proposed Fee Increases for Aquatics, Rentals and Permits

DEPARTMENT: Parks, Recreation and Public Lands

PRESENTED BY: Joe Fedin, Recreation Superintendent

PROBLEM/ISSUE STATEMENT: Most of the recommended fee increases have not been changed since 2001 and others have not been increased for longer periods of time. These increases are nominal considering the timeline and are necessary to keep pace with increasing costs of operation.

ALTERNATIVES ANALYZED:

3. Approve the Resolution as written (Recommended)
4. Make adjustments to the fee schedule before approving
5. Do not approve the resolution thereby increasing annual General Fund subsidy
6. Eliminate specific public services

FINANCIAL IMPACT: These proposed new fees will generate approximately \$39,000 of additional revenue for the General Fund in a complete fiscal year cycle.

RECOMMENDATION

Staff and the PRC Advisory Board recommend that Council approve the proposed fee increases.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A: Proposed Resolution

B: Administrative Order #60

RESOLUTION NO.

A RESOLUTION OF THE CITY OF BILLINGS ESTABLISHING NEW FEES TO BE CHARGED BY THE CITY FOR SERVICES PROVIDED BY THE PARKS, RECREATION AND PUBLIC LANDS DEPARTMENT WITHIN THE RECREATION DIVISION, AND ESTABLISHING AN EFFECTIVE DATE. REPEALS RESOLUTION NO. 00-17644

WHEREAS, The City of Billings provides certain services to the public within the Recreation Division through the Department of Parks, Recreation and Public Lands; and

WHEREAS, it is in the best interest of the citizens of the City that the City continue to be able to provide said services in a prudent fiscal manner and that the City Council establish new fee schedules to provide for said services;

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

1. Fees for Recreation Division Aquatic Services The new fees to be charged by the City for Recreation Division aquatic services provided by the Department of Parks, Recreation and Public Lands, are hereby established as set forth below:

DAILY POOL ADMISSION FEES

| | | |
|------------------------|--------------------------|---------------|
| South Park Pool | Youth 7-17 | \$1.50 |
| | Adult 18 & Up | \$3.00 |
| Rose Park Pool | Youth 7-17 | \$2.00 |
| | Adult 18 & Up | \$4.00 |

Ages 6 & Under admitted free when accompanied by an adult

POOL SEASON PASSES (Non-Transferable)

| | | |
|------------------------|-------------------------------|-----------------|
| South Park Pool | Youth 7-17 Pass | \$22.50 |
| | Adult 18 & Up Pass | \$45.00 |
| | Family (Up to 5) Pass | \$63.00 |
| Rose Park Pool | Youth 7-17 Pass | \$40.00 |
| | Adult 18 & Up Pass | \$80.00 |
| | Family (Up to 5) Pass | \$120.00 |

**Family Pass for more than 5 members in same household add
\$10 for each additional member**

ROSE PARK POOL WATERSLIDE FEES (In addition to admission fee)

| | |
|--|---------|
| Single Slide | \$1.00 |
| All Day Youth (17 & Under) | \$3.00 |
| All Day Adult (18 & Up) | \$4.00 |
| Waterslide Punch Card (25 punches) | \$55.00 |
| For ages 17 & Under non-replaceable/non-refundable | |

SWIMMING POOL RENTAL FEES (Limited hours available)

| | |
|---------------------------------|------------|
| Swim Team Pool Rentals | \$ 35/Day |
| Rose Pool Rental | \$175/Hour |
| Rose Waterslide Rental | \$120/Hour |
| Entire Rose Pool Complex Rental | \$240/Hour |
| South Park Pool Rental | \$ 90/Hour |

2. Fees for Park Shelter Rentals The new fees to be charged by the City for Park Shelter rentals, are hereby established as set forth below:

Rental Times are from 8:00AM – 10:00PM Daily

| | |
|---|-----------|
| All Park Shelters without electricity available | \$30/Day |
| All Park Shelters with electricity available | \$40/Day |
| All Park Shelters with enclosed service kitchen areas | \$100/Day |
| All Park Crafthouses | \$75/Day |

3. Fees for Picnic and Volleyball Kit Rentals The new fees to be charged by the City for Picnic and Volleyball Kit Rentals are hereby established as set forth below:

| | |
|------------------------|---------|
| Picnic Kit Rentals | \$25.00 |
| Volleyball Kit Rentals | \$30.00 |

4. Fees for Recreation Center Building Rentals The new fees to be charged by the City for Recreation Center Building Rentals are hereby established as set forth below:

| | |
|---------------------------------------|-------|
| North Park Recreation Center - Hourly | \$ 30 |
| North Park Recreation Center - ½ Day | \$100 |

| | |
|---|--------------|
| North Park Recreation Center - All Day | \$200 |
| Zimmerman Recreation Center - Hourly | \$ 25 |
| Zimmerman Recreation Center - ½ Day | \$ 75 |
| Zimmerman Recreation Center - All Day | \$150 |
| All Rentals – Damage Deposit Required (Refundable) | \$200 |

5. Fees for Portable Community Soundstage Rentals The new fees to be charged by the City for Portable Community Soundstage Rentals are hereby established as set forth below:

| | | |
|---|------------------|----------------------|
| Basic Soundstage Rental | \$300/Day | \$400/2 Days* |
| Sound System Rental (additional) | \$ 50/Day | \$ 75/2 Days* |
| Nighttime Colored Can Spot | | |
| Lighting Rental (additional) | \$100/Day | \$150/2 Days* |

*Same Location

6. Fees for the Issuance of Alcohol Permits (possession/serving only – no sales) and general Park Use Permits These fees are set by Administrative Order (currently AO#60). The new fees to be charged by the City for Permit fees are hereby established as set forth below:

| | |
|---|-----------------|
| City Park Alcohol Permits* for possession/serving | \$50/Day |
| City general Park Use Permits for non-profit organizations | \$50 |

*Not available for all parks

7. **Term of Fees** Said fees shall take effect immediately and continue in full force and effect until changed by the City Council by subsequent resolution.
8. **Repealer of Previous Fees** Any fees previously established which are inconsistent herewith are hereby repealed.

APPROVED this ____ day of _____, 2008

THE CITY OF BILLINGS

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

ADMINISTRATIVE ORDER NO. **60**

An Administrative Order amending Administrative Order #59:

Pursuant to Billings Municipal City Code (BMCC) Sections 3-203 and 19-202(3), There is hereby imposed an application fee of Twenty-five Dollars (\$25,00) for all Permits required for: (1) public display and drinking of alcoholic beverages; (2) city park shelter reservations; non-profit use permits, and (3) any special event using city property, effective July 17, 2000.

Dated this 5th day of March, 2001.

DENNIS M. TAYLOR CITY
ADMINISTRATOR

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: W.O. 04-33, Lake Elmo Drive (Hilltop Road to Wicks Lane) - Right-of-Way Acquisition, Approval of Right-of-Way Agreement and Warranty Deed for Parcel #43, a Portion of Tract 1A of Certificate of Survey No. 2121 Amended With Brush Meadow Apartments, LP

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Lake Elmo Drive improvements from Hilltop Road to Wicks Lane are Phases III & IV (combined) of a five-phase plan to complete street improvements of Lake Elmo Drive between Main Street and Pemberton Lane. The existing right-of-way between Hilltop and Wicks is too narrow to allow the needed street improvements, and it will be necessary to acquire right-of-way from approximately 78 parcels along this one-mile length of street. This memo represents Parcel #43 of the parcels to be acquired (there are some numbered parcels within the project limits from whom right-of-way does not need to be acquired). The appraisal for this acquisition made a conclusion of value for the land, any appurtenant features, and the construction permit at a value of \$15,750.00. The City's Land Acquisition Policy allows staff or consultants the latitude to offer up to five percent (5%) above the appraisal amount for property acquisitions. This property owner needed an updated title report and additional documentation to satisfy the lending agency; the cost of these two items totaled \$500.00 (3.2% above the appraisal amount for the acquisition). A copy of the right-of-way agreement; deed; appraisal; tax and land transfer documents; file memoranda; and negotiation history for this property is on file with the City Clerk.

FINANCIAL IMPACT: The total payment for this acquisition is \$16,250.00. The cost of this acquisition is equal to three point two percent (3.2%) above the sum of the appraised value of the land, any appurtenant features, and the construction permit. Funding is available for this acquisition from project funds.

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #43, a Portion of Tract 1A of Certificate of Survey No. 2121 Amended With Brush Meadow Apartments, LP in the amount of \$16,250.00, and authorize the

Mayor to execute these documents.

ATTACHMENT

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

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

INTRODUCTION

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

PROCEDURAL HISTORY

Completed Items

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

Future Items

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

BACKGROUND

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

| <u>Phase</u> | <u>Status</u> |
|---|---|
| Phase I – Wicks Lane to Angel Drive | Completed in 1999. |
| Phase II – Main Street to Hansen Lane | Project opened bids in Sept 2005. Bids exceeded the budget. Re-scoping to re-bid in 2008. |
| Phase III – Sioux Lane to Wicks Lane | Right-of-way acquisition (this memo) |
| Phase IV – Hilltop Road to Rice Lane | Right-of-way acquisition (this memo) |
| Phase V – Angel Drive to Pemberton Lane | Not scheduled in the 2006-2011 CIP |

Current traffic counts along the section of Lake Elmo Drive between Hilltop and Wicks show

approximately 6,200 vehicles per day. By 2015, 7,500 vehicles per day are expected to use this stretch of Lake Elmo; and by 2025, 9,950 vehicles per day are expected to use this stretch.

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

RECOMMENDATION

Staff recommends that Council approve the Right-of-Way Agreement and the Warranty Deed for right-of-way acquisition for Parcel #43, a Portion of Tract 1A of Certificate of Survey No. 2121 Amended With Brush Meadow Apartments, LP in the amount of \$16,250.00, and authorize the Mayor to execute these documents.

ATTACHMENT

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

CITY OF BILLINGS

(hereinafter referred to as City)

RIGHT-OF-WAY AGREEMENT

Lake Elmo Road Hilltop Road to Wicks Lane
DESIGNATION

Work Order: 04-33
Project No. 05153

Yellowstone
COUNTY

| Parcel No. | Parcel Description | Section | Township | Range |
|------------|----------------------------|---------|----------|-------|
| 43 | Tract 1A, COS 2121 Amended | 22 | 1N | 26E |

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

BRUSH MEADOW APARTMENTS LIMITED PARTNERSHIP
1800 SW 1ST AVE, SUITE 180
PORTLAND, OR. 97201
503 684-1123

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

| | |
|--|------------|
| 4,058 square feet by deed | \$8,116.00 |
| Improvements (trees, sidewalk, asphalt, sod) | \$6,214.00 |
- OTHER COMPENSATION:

| | |
|---|------------|
| 1,790 square feet Temporary Construction Permit | \$ 358.00 |
| Relocate on-premise sign and light pole out side the right-of-way | \$1,040.00 |
| Administrative Settlement | \$ 500.00 |
- TOTAL COMPENSATION PER THE APPRAISAL ROUNDED (includes all damages to the remainder): \$16,250.00
- IT IS UNDERSTOOD AND AGREED THE CITY SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$16,250.00, to be made payable to Bayview Loan Servicing, LLC and mailed to 4425 Ponce De Leon Blvd., Suite 500, Coral Gables, FL 33146
- IT IS UNDERSTOOD that the City is acquiring this right-of-way in order to improve Lake Elmo Road. The improvements will include, but not be limited to, street widening, curb & gutter, sidewalks, storm drain improvements, drive approaches, a multi-use path and related features. Some of these improvements may be constructed with property assessments to the adjoining properties in accordance with the City's policies in effect at the time of project creation.
- The Grantor hereby grants the City of Billings a Temporary Construction Permit, as shown on Exhibit A of the Warranty Deed, and made for the period of the street improvements construction project plus the one-year warranty period. City agrees to restore the line and grade and re-seed disturbed areas, if any, within the construction permit area. The permit area will be left in a workmanlike condition.
- This agreement, upon execution by an agent of the City and presentation to the Grantors so designated, constitutes a written offer of compensation in the full amount of the appraised value, a summary of the property and property rights being acquired and notice that possession need not be given until payment has been received by the Grantors
- At no expense to the Grantors and at the time of street construction, permission is hereby granted the City to enter upon the Grantors' land, where necessary, at the location and for the purpose described as:

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

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

(Continued from Previous Page)

10. It is understood and agreed by and between the parties hereto that included in the amount payable under "Other Compensation" herein is payment in full to compensate the Grantor for the expense of performing the following work: Relocate the on-premise sign and light pole outside the right-of-way on or before ~~August 1, 2007~~

JUNE 1ST, 2008

MB
1/30/08

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DAY

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

of Billings
are our

X *[Signature]* 1-21-08
Signature: (Date)

Id.

Signature: (Date)

Tax ID No.

Signature: (Date)

Tax ID No.

RECOMMENDED FOR APPROVAL:

[Signature] 2-5-08
Ronald E. Olson, Olson Land Services (Date)

APPROVED FOR AND ON BEHALF OF CITY OF BILLINGS:

Mayor, City of Billings (Date)

ATTEST:

[Signature] 2/8/08
City of Billings, Public Works Department (Date)

City Clerk (Date)

LER-043.200 Brush Meadow

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

Project No. W.O. 04-33 Parcel No. 43 County of YELLOWSTONE
Designation LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

WARRANTY DEED

THIS INDENTURE, made this 21st day of January, 2008.

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

BRUSH MEADOW APARTMENTS LIMITED PARTNERSHIP
12570 SW 69th AVENUE, SUITE 200
TIGARD, OR. 97223

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

Parcel No. 43 on the City of Billings Lake Elmo Road - Hilltop Road to Wicks Lane Project. Said parcel is also described as a tract of land within Tract 1A of Certificate of Survey Number 2121 Amended, on file under Document No. 1662884, Yellowstone County, Montana, as shown by the shaded area on Exhibit A, consisting of one sheet, attached hereto and made a part hereof, containing an area of 4,058 sq. ft..

Together with a temporary construction permit for the period of construction plus a one-year construction warranty period as shown by the hatched area on said Exhibit A, containing an area of 1,790 sq. ft..

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

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

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

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

Project No. : W.O. 04-33

Parcel No. 43

Designation : LAKE ELMO ROAD - HILLTOP ROAD TO WICKS LANE

_____ Walter C. Bowen _____

State of Oregon)

County of Washington)

This instrument was acknowledged before me on January 21, 2008
(date)

by Walter C. Bowen
(names)



Sara Bronleewe
Notary Signature Line

Sara Bronleewe
Notary Printed Name

Notary Public for State of Oregon

Residing at: _____

My Commission Expires: 11-22-2011

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings Date

ATTEST: _____

City Clerk

STATE OF MONTANA)

:ss

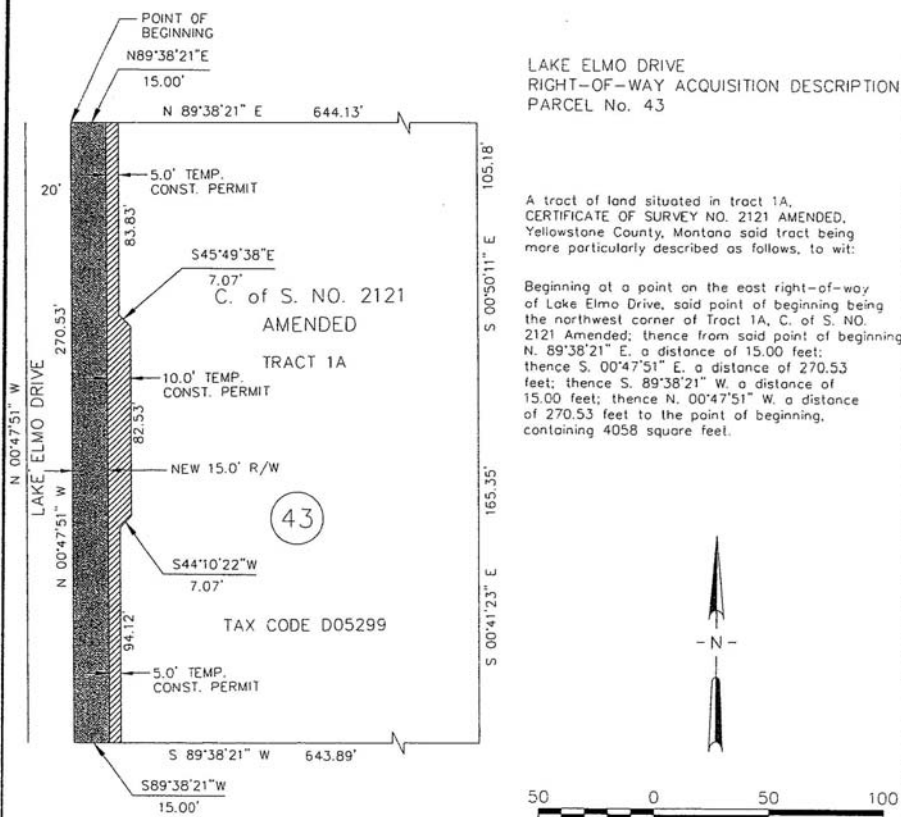
County of Yellowstone)

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

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

Print Name

EXHIBIT A RIGHT-OF-WAY ACQUISITION AND TEMPORARY CONSTRUCTION PERMIT SITUATED IN TRACT 1A, CERTIFICATE OF SURVEY NO. 2121 AMENDED, YELLOWSTONE COUNTY, MONTANA



LAKE ELMO DRIVE
RIGHT-OF-WAY ACQUISITION DESCRIPTION
PARCEL No. 43

A tract of land situated in tract 1A,
CERTIFICATE OF SURVEY NO. 2121 AMENDED,
Yellowstone County, Montana said tract being
more particularly described as follows, to wit:

Beginning at a point on the east right-of-way
of Lake Elmo Drive, said point of beginning being
the northwest corner of Tract 1A, C. of S. NO.
2121 Amended; thence from said point of beginning
N. 89°38'21" E. a distance of 15.00 feet;
thence S. 00°47'51" E. a distance of 270.53
feet; thence S. 89°38'21" W. a distance of
15.00 feet; thence N. 00°47'51" W. a distance
of 270.53 feet to the point of beginning,
containing 4058 square feet.

AREA TO BE ACQUIRED: 4058 S.F.
AREA OF TEMPORARY CONSTRUCTION
PERMIT: 1790 S.F.

LEGEND

- RIGHT-OF-WAY ACQUISITION
- CONSTRUCTION PERMIT



ENGINEERING, INC.
Consulting Engineers and Land Surveyors

1300 North Truxtun Way
Billings, Montana 59102
Phone (406) 656-5255
www.enginc.com

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

CITY W.O. 04-33 PARCEL 43

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

PARCEL 43.DWG

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

T

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

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

PROBLEM/ISSUE STATEMENT: The Shrine Circus request street closures from 5:00 pm to 9:00 pm from 2700 and 2800 blocks of 2nd Avenue North and the 100 and 200 blocks of 28th Street North for its “Elephants on Broadway” Tuesday, April 1st.

Recommended conditions of approval include the Shrine Circus:

1. Contact all businesses and make them aware of the event 30 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate traffic barricades and signs directing motorists around closure
5. Provide certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends that Council approve the closure named above for the Shrine Circus “Elephants on Broadway” Tuesday, April 1st from 5:00 pm to 9:00 pm.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

- A. Right of Way Special Activity Permit (2 pages)
- B. Event map (1 page)

- C. Certificate of insurance (1 page)
- D. Support Signatures from area business (3 pages)



City of Billings
RIGHT-OF-WAY ACTIVITY PERMIT
APPLICATION

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: Parks, Recreation and Public Lands office, 390 North 23rd Street, Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Tim Goodridge - 670-2329

ORGANIZATION MAKING APPLICATION Al Bedoo Shrine

PHONE 259-4384

ADDRESS 1125 Broadwater Ave Billings 59102
CITY STATE ZIP

EMAIL ADDRESS _____

APPROXIMATE TIME EVENT WILL:

Assemble 5:00 pm Start 5:30 Disband 9 pm

DATE OF EVENT April 1

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

"Elephants on Broadway"
Event to promote Shrine circus - Acrobats
clowns and circus performers will assemble
under sky point to meet and greet the public

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

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

Under sky point, one block each way out.

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

Shrine will be responsible to clean

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 [Signature] DATE 2/12/08

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

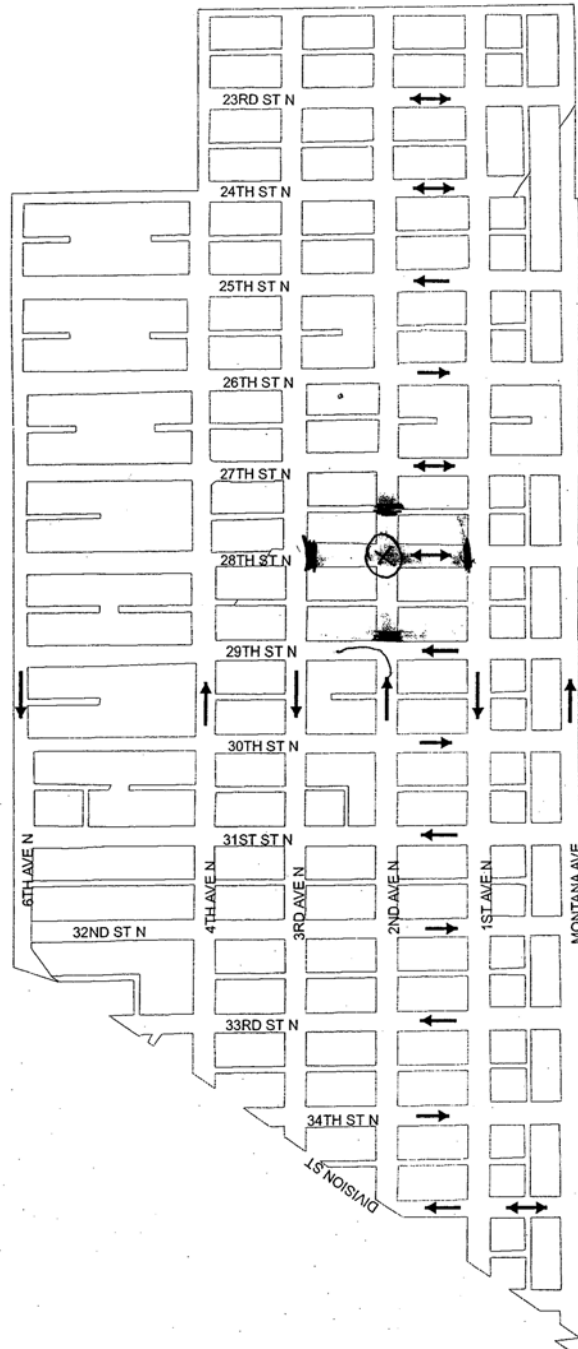
FEE: _____

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

Downtown Billings Street Direction Map



| ACORD <small>TM</small> CERTIFICATE OF LIABILITY INSURANCE | | Attachment C DATE (MM/DD/YYYY) 11/27/2007 | | | | |
|---|-----------------------------|---|---------------|---|--------------------------------------|--|
| PRODUCER Phone: (406) 256-5838 Fax: (406) 254-8906 BURNS INSURANCE AGENCY INC 711 NORTH 27TH BILLINGS MT 59101 | | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. | | | | |
| INSURED AL BEDOO SHRINE TEMPLE A.A.O.N.M.S. C/O IT'S CLUBS AND UNITS 1125 BROADWATER AVENUE BILLINGS MT 59102 | | INSURERS AFFORDING COVERAGE NAIC # INSURER A: Praetorian Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: | | | | |
| COVERAGES | | | | | | |
| THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. | | | | | | |
| INSR LTR | ACORD INSRD | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
| A | GENERAL LIABILITY | COMMERCIAL GENERAL LIABILITY | H981000342-00 | 05/01/07 | 05/01/08 | EACH OCCURRENCE \$ 1,000,000 |
| | | <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 |
| | | | | | | MED. EXP (Any one person) \$ 5,000 |
| | | | | | | PERSONAL & ADV INJURY \$ 1,000,000 |
| | | | | | | GENERAL AGGREGATE \$ 5,000,000 |
| | | GENTL AGGREGATE LIMIT APPLIES PER: | | | | PRODUCTS-COMP/OP AGG. \$ 2,000,000 |
| | | <input type="checkbox"/> POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC | | | | |
| A | AUTOMOBILE LIABILITY | <input checked="" type="checkbox"/> ANY AUTO | H981000342-00 | 05/01/07 | 05/01/08 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 |
| | | <input type="checkbox"/> ALL OWNED AUTOS | | | | BODILY INJURY (Per person) \$ |
| | | <input type="checkbox"/> SCHEDULED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | | <input type="checkbox"/> HIRED AUTOS | | | | PROPERTY DAMAGE (Per accident) \$ |
| | | <input type="checkbox"/> NON-OWNED AUTOS | | | | |
| | | GARAGE LIABILITY | | | | AUTO ONLY - EA ACCIDENT \$ |
| | | ANY AUTO | | | | OTHER THAN EA ACC \$ |
| | | | | | | AUTO ONLY: AGG \$ |
| A | EXCESS / UMBRELLA LIABILITY | <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE | h983000122-00 | 05/01/07 | 05/01/08 | EACH OCCURRENCE \$ 1,000,000 |
| | | | | | | AGGREGATE \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | | | | | \$ |
| | | DEDUCTIBLE RETENTION \$ | | | | |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | WC STATUS: <input type="checkbox"/> TORY LIMITS <input type="checkbox"/> OTHER |
| | | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? | | | | E.L. EACH ACCIDENT \$ |
| | | If yes, describe under SPECIAL PROVISIONS below | | | | E.L. DISEASE-EA EMPLOYEE \$ |
| | | OTHER: | | | | E.L. DISEASE-POLICY LIMIT \$ |
| DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS | | | | | | |
| April 1st, 2008 Shrine Parade Above Coverage subject to all conditions and exclusions City of Billings to be listed as additional insured | | | | | | |
| CERTIFICATE HOLDER | | | | CANCELLATION | | |
| City Of Billings 210 North 27th Street Billings, MT 59101 | | | | 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. | | |
| Attention: <i>Sharon</i> | | | | AUTHORIZED REPRESENTATIVE <i>Michelle R. Evans</i> | | |
| ACORD 25 (2001/08) | | | | Certificate # 21830 | | © ACORD CORPORATION 1988 |

Attachment D

The Billings Al Bedoo Shrine welcomes the 57th annual Shrine Circus to town on April Fools Day with "Elephants on Broadway". On April 1, 2008 Elephants, Clowns, Bands and other Circus performers will be under Skypoint to meet and greet the folks of Billings in the traditional circus arrival from years gone by. Area merchants are encouraged to participate in the circus theme to make the day fun and memorable

I support the closure of 2700 & 2800 blocks of 2nd Ave. North and the 100 & 200 blocks of 28th St. North on April 1, 2008 from 5pm-9pm for "Elephants on Broadway".

| Address | Property Owner | Business Name | Signature |
|--------------------------------|----------------------------|-----------------------------|---------------|
| 101 Broadway | Larry Davidson | Crystal Lounge | Shirley West |
| 103 N. Broadway | Rod Swedberg | The Kitchen Bakery | John J. J. |
| 109-113 N Broadway | P. Kennedy M. Schneider | Hosking Montana Brewings | Dawn M. Hagen |
| 117 & 119 N. Broadway | D. Roberts | Home Site | Donna Roberts |
| 277 N. BROADWAY | Matthew | DESIGNER'S BOLLEASIAN | Matthew |
| 2712 2nd Ave. N. | Robert Ferro | Paula's Edibles | Sarah Ferro |
| 2708 & 2 nd Ave N. | click take | click Intl. | click take |
| 2704 2nd Ave N | Paula | G.R.P. | Paula |
| 124 N. Broadway | P. Hagan | Rock Creek Cofee | Peggy Hagan |
| 2821 2 nd Ave N. | Valde Jones | Snow County | Valde Jones |

The Billings Al Bedoo Shrine welcomes the 57th annual Shrine Circus to town on April Fools Day with "Elephants on Broadway". On April 1, 2008 Elephants, Clowns, Bands and other Circus performers will be under Skypoint to meet and greet the folks of Billings in the traditional circus arrival from years gone by. Area merchants are encouraged to participate in the circus theme to make the day fun and memorable

I support the closure of 2700 & 2800 blocks of 2nd Ave. North and the 100 & 200 blocks of 28th St. North on April 1, 2008 from 5pm-9pm for "Elephants on Broadway".

| Address | Property Owner | Business Name | Signature |
|--------------------|---------------------|----------------|-------------|
| 2810 2nd Avenue N | | Montezuma Park | [Signature] |
| 214 North Broadway | AS | MSU Bunch | [Signature] |
| 219 N. Broadway | Joe Rees | 6th mo's knots | [Signature] |
| 207 N Broadway | VALLEY CREDIT UNION | - same | [Signature] |
| 201 N. Broadway | Bachman Capital | Same | [Signature] |
| 123 N. Broadway | Don Robert Rinaldi | Auto Detail | [Signature] |
| 106 N. Broadway | The Soap Place | The Soap Place | [Signature] |
| 108 N. Broadway | IN STEP | IN STEP SHOES | [Signature] |
| 102 N. Broadway | Rocke Gese | Rocke Gese | [Signature] |
| 100 N. Broadway | | Mareisa | [Signature] |

On April 1, 2008, the annual Elephant Circus will be under Skypoint to meet and greet the folks of Billings. On April 1, 2008 Elephants, Clowns, Bands and other Circus performers will be under Skypoint to meet and greet the folks of Billings. Area merchants are encouraged to participate in the circus theme to make the day fun and memorable.

I support the closure of 2700 & 2800 blocks of 2nd Ave. North and the 100 & 200 blocks of 28th St. North on April 1, 2008 from 5pm-9pm for "Elephants on Broadway".

[illegible]

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Acceptance of Bequest to MET Special Transit from the Estate of Ms. Betty Ann Ryniker

DEPARTMENT: Aviation and Transit Department

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

PROBLEM/ISSUE STATEMENT: MET Special Transit (MST), a division of the Aviation and Transit Department, provides paratransit service to the elderly and disabled residents of the City of Billings. Ms. Betty Ryniker, a former client of MST, recently passed away and bequeathed \$8,824.24, one-tenth of her estate, to MET Special Transit in hopes of helping people less fortunate in the community. Ms. Ryniker was 83 years old and a resident of Prairie Towers in Billings for many years. She utilized MET Special Transit for her transportation needs.

FINANCIAL IMPACT: Upon acceptance of this bequest to the City of Billings, MET Special Transit will recognize \$8,824.24 in revenue to help offset operating expenses incurred while providing paratransit service to the residents of Billings.

RECOMMENDATION

Staff recommends that Council accept the bequest of \$8,824.24 from the estate of Ms. Betty Ryniker to MET Special Transit.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

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

PROBLEM/ISSUE STATEMENT: On February 5, 2008 the Billings Animal Shelter received a \$4,412.14 donation from the Estate of Betty L. Ryniker. The attached letter from the Yellowstone County Administrator summarizes the circumstances surrounding this donation. Since no one is available to specifically designate where the funds are to be placed, the Animal Shelter General Donation Account is the logical conclusion. The donation has been placed in the Animal Shelter General Donation Fund and will be used to benefit our Community's animals. City Council is now asked to accept and deposit this donation into the City of Billings, Animal Shelter General Donation Account.

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

Staff recommends City Council's approval and acceptance of this \$4,412.14 donation to the Billings Animal Shelter Donation account.

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

Attachment

- A – Copy of CR deposit slip
- B – Copy of letter from Yellowstone County Administrator
- C – Copy of check received

COPY

RECEIVED

DEC 20 2007

YELLOWSTONE COUNTY ATTORNEY

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

IN THE MATTER OF THE ESTATE OF

BETTY RYNIKER,

Deceased.

Cause No. DP07-057
Judge Ingrid Gustafson
ORDER

Upon reading the Motion and Affidavit of Dennis Paxinos, Public Administrator of Yellowstone County, Montana, and for good cause shown therefore;

IT IS HEREBY ORDERED:

1. That Terry L. Seiffert shall be paid the amount of \$3,525.47 for attorney fees and costs from the funds being held for the decedent in the Public Administrator Fund.

2. That Dennis Paxinos shall be paid the amount of \$2,280.98 for Public Administrator fee from the funds being held for the decedent in the Public Administrator Fund.

3. That the remaining monies on deposit, after payment of attorney fees and costs and Public Administrator Fee, with the Yellowstone County Treasurer in the amount of \$88,242.44 belonging to the decedent shall be distributed by the Yellowstone County Treasurer as follows:

| | |
|----------------------------------|-------------|
| To Parmly Billings Library - 20% | \$17,648.48 |
| To Montana Rescue Mission - 10% | \$ 8,824.24 |
| To The Salvation Army - 10% | \$ 8,824.24 |
| To Family Service, Inc. - 10% | \$ 8,824.24 |

| | | |
|---|---|-------------|
| 1 | To Billings Food Bank - 10% | \$ 8,824.24 |
| 2 | To Al Bedoo Shrine Temple | |
| 3 | Crippled Children's Fund - 10% | \$ 8,824.24 |
| 4 | To Billings Senior Citizen Center - 10% | \$ 8,824.24 |
| 5 | To Special Transportation, Inc. - 10% | \$ 8,824.24 |
| 6 | To The Humane Society - 5% | \$ 4,412.14 |
| 7 | To Billings Animal Shelter - 5% | \$ 4,412.14 |

8 4. That upon the payment of attorney fees and costs and public administrator fee and upon
9 distribution of the remaining monies in the estate, the appointment of Dennis Paxinos shall be
10 terminated and this estate shall be closed.

11 DATED this 18 day of December, 2007.

12
13 INGRID GUSTAFSON
14 _____
15 DISTRICT JUDGE

16
17
18 **CERTIFICATE OF SERVICE**
19 This is to certify that the foregoing
20 was duly served by mail upon the
21 parties or their attorneys of record
22 at their last known address this
23 18 day of Dec, 2007
24 By Mardelle J. Considine
25 Honorable Ingrid Gustafson



YELLOWSTONE COUNTY ATTORNEY

217 North 27th Street
P.O. Box 35025
Billings, MT 59107-5025
(406) 256-2870
(406) 256-6931 - Fax

Kevin Gillen
Deputy Yellowstone County Attorney

February 1, 2008

Billings Animal Shelter
Attn: David Klein
P.O. Box 1178
Billings, MT 59103

Re: Betty Ann Ryniker – Bequest to Billings Animal Shelter

Dear Mr. Klein:

Dennis Paxinos is the Public Administrator for Yellowstone County, in addition to his duty as Yellowstone County Attorney. The Public Administrator acts as Personal Representative of estates for individuals who die in Yellowstone County without family or other persons who would ordinarily look after the estate and put affairs in order.

Betty Ryniker was one such person. Betty was born in the Mid-West in the early 20's and moved in and out of Montana during her long life. She was a resident of Prairie Towers in Billings for many years prior to her death. Betty was 83 when she died. She never married, never had children. She had one sister who married but had no children. Betty survived everyone who by operation of law or by her own request would have stepped in upon her death to look after her estate.

While in the process of winding down her estate, we came across Betty's Will, written in 1983. We discovered that the Billings Animal Shelter was listed in her will. We have collected all assets wherever and however situated and made an accounting of these activities. The District Court then ordered the Estate closed and granted permission to make allocations pursuant to Betty's Last Will. *See the enclosed copy of the Order.* In her Will, Betty bequeathed one-twentieth (5%) of her estate to the Billings Animal Shelter. After costs and creditor claims, the total of the Estate was \$88,242.44. The enclosed Yellowstone County Warrant (#375537) represents 5% of her Estate. By accepting this gift, you are realizing Ms. Ryniker's hope that this money would be put towards helping those less fortunate in this community.

Sincerely,

Kevin Gillen
Deputy Yellowstone County Attorney

Enclosures

cc: Dennis Paxinos, Yellowstone County Attorney/Public Administrator
Terry Seiffert, Attorney for Public Administrator

Yellowstone County Treasurer

P.O. Box 35003
Billings, MT 59107
406-256-2718

Clerks Warrant



This check contains the following security features:
Security paper with invisible fluorescent Security Fibers.
Chemical Sensitivity, Toner Retention,
Value Guard void pantograph.

THIS CHECK PROTECTED BY POSITIVE PAY

No.

93-527
829

375537

Wells Fargo Bank Montana - Billings

| AMOUNT | DATE |
|------------|------------|
| \$4,412.14 | 01/15/2008 |

Payment Amount ****Four Thousand Four Hundred Twelve and 14/100** Dollars

Pay To The Order Of
BILLINGS ANIMAL SHELTER
ATTN: DAVID KLEIN
P.O. BOX 1178
BILLINGS, MT 59103

CHAIRPERSON, BOARD OF COUNTY COMMISSIONERS

CLERK & RECORDER

⑈99375537⑈ ⑆092905278⑆ 5883054925⑈

| | | | | | |
|--------|-------------------------|---------|------------|--|--------------|
| 13431 | BILLINGS ANIMAL SHELTER | 1134 | 01/15/2008 | | 375537 |
| Vendor | Vendor Name | Voucher | Date | | Check Number |

| PO Number | Invoice | Amount | Description |
|-----------|----------|----------|--|
| 342388 | 01/08/08 | 4,412.14 | In the Matter of the Estate of Betty L. Ryniker, Deceased; DP 07-057; Donation |

TOTAL:

\$4,412.14

CR N° 21789

RECEIPT
When validated this is your receipt. All deposits accepted subject to verification. Checks, warrants and department receipts must be accompanied with adding machine tape.

VALIDATION (FINANCE) _____ BATCH # _____

[illegible]

Billings Times

W

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Resolution Correcting the South Billings Boulevard Urban Renewal District, Declaring Blight, Intent to Create the District, and Setting a Public Hearing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Lora Mattox, AICP, Neighborhood Planner

PROBLEM/ISSUE STATEMENT: At the November 13, 2007, City Council meeting, the council adopted a resolution that declared blight, stated the intent to create an urban renewal district and set a date for a public hearing. As part of the adopted resolution, a legal description of the South Billings Boulevard Urban Renewal District was included. After a review of the legal description by the County GIS Department, a few discrepancies were identified. The attached resolution corrects those discrepancies. A new resolution has been prepared amending the previous resolution.

ALTERNATIVES ANALYZED: The City Council may:

- Approve the amended resolution correcting the legal description of the South Billings Boulevard Urban Renewal District.
- Deny the amended resolution correcting the legal description of the South Billings Boulevard Urban Renewal District.

FINANCIAL IMPACT: None.

RECOMMENDATION

Staff recommends that Council adopt the resolution that corrects the legal description of the South Billings Boulevard Urban Renewal District.

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

ATTACHMENTS:

A: Amended Resolution

ATTACHMENT A

RESOLUTION NO: 08-

A RESOLUTION AMENDING RESOLUTION 07-18627 DECLARING THE CITY COUNCIL INTENT TO CREATE A SOUTH BILLINGS BOULEVARD URBAN RENEWAL DISTRICT WITH TAX INCREMENT AUTHORITY; DECLARING THE EXISTENCE OF BLIGHT WITHIN THE SOUTH BILLINGS BOULEVARD URBAN RENEWAL AREA; SETTING A PUBLIC HEARING DATE; AND REQUIRING PUBLICATION AND MAILING OF THE NOTICE OF HEARING

WHEREAS, at the November 13, 2007, City Council meeting, the council adopted Resolution 07-18627 that declared blight, stated the intent to create an urban renewal district and set a date of a public hearing;

WHEREAS, Resolution 07-18627 contained a legal description of the proposed district that was incorrect and this resolution will correct that legal description;

WHEREAS, under the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), the City of Billings, Montana (the "City") is authorized, among other things, to identify and declare an area as containing blight with the intention of eliminating it through urban renewal; and

WHEREAS, the City is authorized by the Act to create urban renewal areas with tax increment provisions by adopting an urban renewal plan by ordinance; and

WHEREAS, an urban renewal plan has been prepared for the proposed South Billings Boulevard Urban Renewal District; and

WHEREAS, the City Council desires to conduct a public hearing on the draft urban renewal plan for the proposed South Billings Boulevard Urban Renewal District to determine if it is desirable to create the district.

NOW, THEREFORE, the City Council of the City of Billings, Montana, declares and resolves as follows:

1. Description of Proposed District The area being considered for inclusion in the proposed urban renewal area is described as:

Starting at the intersection of State Avenue and Van Buren Street, extending south down the centerline of Van Buren Street to the intersection of Van Buren Street and Roosevelt Avenue, extending east down the centerline of Roosevelt Avenue to the intersection of Roosevelt Avenue and Jackson Street, extending

south down the centerline of Jackson Street to the intersection of Jackson Street and Madison Avenue, extending east down the centerline of Madison Avenue to the intersection of Madison Avenue and Washington Street, extending south down the centerline of Washington Street to the intersection of the centerline of Washington Street and the existing City of Billings city limit boundary, extending south along the existing city limit boundary to the intersection of Jackson Street and King Avenue East, extending east along the centerline of King Avenue East to the intersection of King Avenue East and Washington Street, extending south along the centerline of Washington Street and its projection across the Interstate 90 right-of-way, to a point intersecting the said existing city limits, thence in a westerly and southerly direction following along the said existing city limit boundary to a point which intersects with the extension of the southern boundary of Tract 1, C/S 2834, then west along said southern boundary of Tract 1, C/S 2834 and southern boundary of, Block 4 of Weil Subdivision to the intersection with the centerline of Mallowney Lane, extending north along the centerline of Mallowney Lane and its projection to the centerline of Laurel Road, extending northeast along the centerline of Laurel Road to the intersection with the centerline of Underpass Avenue, extending northeast along said centerline to its intersection with State Avenue, extending east along the centerline of State Avenue to the ending point at the intersection of State Avenue and Van Buren Street. Excluding all nonincorporated land within the boundary and Tract 2A of C/S 741.

2. Determination of blight. A requirement of Montana Annotated Code 2005 is to justify an urban renewal plan through the determination of *blight*. Blight is defined as an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodation; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;

- inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
- inappropriate or mixed uses of land or buildings;
- defective or inadequate street layout;
- faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- unsanitary or unsafe conditions;
- deterioration of site;
- improper subdivision or obsolete platting;
- the existence of conditions that endanger life or property by fire or other causes;

The area in the proposed district contains a great deal of blight. Within the district there is substantial structural deterioration, long-term land vacancy, and significant infrastructure needs. Several of the commercial buildings in the district are vacant or deteriorated and need demolition. Many of the sidewalks are cracked or nonexistent, alleys are deteriorated, and, in general, much of the area is below city standards. In contrast to the above, there are certain properties within the district in good repair but included in the district to allow for a contiguous block of land within the district; and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without continued managed urban renewal, even these success stories will once again decline in taxable value. Portions of the district fall into the blighted, neglected and under-utilized categories. Maps 4 and 5 in the urban renewal plan show the current infrastructure conditions within the district.

3. Intent to Create an Urban Renewal Area with Tax Increment Authority. Pursuant to the Act and considering the blighted conditions cited above, the City Council declares its intention to create a South Billings Boulevard Urban Renewal Area and that public improvements that will stimulate private investment in the area may be financed in part through tax increment generated from the District, subject to a public hearing and adoption of the draft urban renewal plan by ordinance.

4. Public Hearing. A public hearing is hereby called and shall be held on November 26, 2007 at 6:30 p.m. in the Council Chambers at 220 N. 27th Street, on whether to adopt the draft urban renewal plan for the proposed South Billings Boulevard Urban Renewal Area.

5. Publication and Mailing of Notice. The City Clerk is hereby authorized and directed to cause notice of the public hearing to be published in the *Billings Times* at least once a week for two consecutive weeks prior to the date set for the hearing and to mail notice of such hearing not less than 10 days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owners, reputed owners, or purchasers under contract for the deed of the Property, at the addresses shown on the tax roll.

APPROVED AND PASSED by the City Council of the City of Billings this 10th day of March, 2008.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

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

X

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: SID 1372 Summerhill Subdivision
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Jeff Essman, owner of 13 of the 23 lots proposed in the SID district boundary, has the desire to construct public improvements on Winter Green Drive, West Antelope Trail, and Antelope Place within Summerhill Subdivision. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, and street improvements within Summerhill Subdivision as shown on the attached exhibit. At the August 22, 2005, City Council Meeting, Council approved Resolution No. 05-18325, declaring it to be the City's intent to create SID 1372. The city has bid this project twice and each time the bid was too high to award. Changes have been made to the cost estimate of the Resolution of Intent of SID 1372.

ALTERNATIVES ANALYZED:

1. Approve the Resolution of Intent to Create SID 1372 and set a public hearing for April 14, 2008, City Council Meeting; or
2. Do not approve the Resolution of Intent to Create SID 1372.

FINANCIAL IMPACT: The total estimated costs of the Improvements are \$755,004.89. The costs of the Improvements are to be paid from the following sources: (1) \$358,000.00 of Special Improvement District bonds hereinafter described; and (2) \$397,004.89 of cash contribution by Jeff Essman, the owner of 13 of the 23 lots in the District.

RECOMMENDATION

Staff recommends that Council repeal Resolution No. 05-18325 and approve a new Resolution of Intent to Create SID 1372 and set a public hearing date for April 14, 2008.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Boundary of Proposed Special Improvement District
- B. Resolution of Intent to Create SID 1372 (Exhibits A-F available for viewing in City Clerk's Office)

INTRODUCTION

Jeff Essman, owner of 13 of the 23 lots within the proposed boundary of the SID, has a desire to develop lots within Summerhill Subdivision. In order to develop these lots, all the necessary street improvements need to be constructed on Winter Green Drive, West Antelope Trail, and Antelope Place. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, and street improvements. To complete the project, it is necessary to create a Special Improvement District.

PROCEDURAL HISTORY

- August 22, 2005 – Original Resolution of Intent to Create SID 1372 approved.
- September 12, 2005 – Original Resolution Creating SID 1372 approved.
- February 28, 2006 – Bid SID 1372, bids too high to award
- February 13, 2007 – Bid SID 1372 for a second time, bids too high to award
- March 10, 2008 – New Resolution of Intent to Create SID 1372
- April 14, 2008 – New Resolution to Create SID 1372

BACKGROUND

The boundary of this proposed special improvement district is as indicated on the attached map. The public improvements contemplated under the terms of this project include water, sanitary sewer, storm drain, curb and gutter, street improvements to Winter Green Drive, West Antelope Trail, and Antelope Place. Jeff Essman, owner of 13 of the 23 lots in the District will pay a cash contribution to the project. The total cost of the project including bond costs is \$755,004.89. The total cash contribution is equal to \$397,004.89 and represents 52.58 percent of the total costs. This is necessary to meet the requirements of the city's raw land policy. The total cost of the project was estimated to be \$467,315.67 in 2005 when this project was originally created and Jeff Essman's cash contribution was estimated to be \$225,315.67. The increase in cost is due to two factors. This project was created August 2005 before the huge increase in oil prices and there is a large amount of sandrock within the subdivision that was not expected in 2005. Jeff Essman has completed a geotechnical study that has assisted our office in updating the cost estimate. The public hearing will be held at the April 14, 2008 Council Meeting. If approved, it is anticipated that construction of SID 1372 will begin in the spring of 2008 and be completed by the summer of 2008.

RECOMMENDATION

Staff recommends that Council repeal Resolution No. 05-18325 and approve a new Resolution of Intent to Create SID 1372 and set a public hearing date for April 14, 2008.

ATTACHMENTS

- A. Boundary of Proposed Special Improvement District
- B. Resolution of Intent to Create SID 1372

EXHIBIT A



CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. _____, entitled: **RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1372; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND** (the Resolution" was duly adopted by the City Council of the City at a meeting on March 10, 2008 that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.)

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: _____;
voted against the same: _____;
or were absent: _____.

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

Cari Martin City Clerk

RESOLUTION NO. 08-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1372; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

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

Section 1. Recitals; Repeal of Resolution No. 05-18325. On August 22, 2005, the City Council of the City of Billings approved Resolution No. 05-18325, declaring it to be the City's intention to create Special Improvement District No. 1372. Changes have occurred within the District that make it necessary and desirable to repeal Resolution No. 05-18325, and to proceed anew with the creation of Special Improvement District No. 1372.

Section 2. Proposed Improvements; Intention To Create District. The City proposes to undertake certain local Improvements (the "Improvements") to benefit certain property located in the City. The Improvements consist of the construction of Winter Green Drive, West Antelope Trail, and Antelope Place within Summerhill Subdivision, as more particularly described in Section 6. The total estimated costs of the Improvements are \$755,004.89. The costs of the Improvements are to be paid from the following sources: (1) \$358,000.00 of Special Improvement District bonds hereinafter described; and (2) \$397,004.89 of cash contribution by Jeff Essman, the owner of 13 of the 23 lots in the District, as more particularly described in Sections 7 and 10(f). It is the intention of this Council to create and establish in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, a Special Improvement District (the "District") for the purpose of financing costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of Special Improvement District bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Bonds are \$358,000.00. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements.

Section 3. Number of District. The District, if the same shall be created and established, shall be known and designated as Special Improvement District No. 1372 of the City of Billings, Montana.

Section 4. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as Exhibit A hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on Exhibit B hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing of each of the properties in the District is shown on Exhibit F hereto (which are hereby incorporated herein and made a part hereof).

Section 5. Benefited Property. The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits A, B, and F are hereby declared to be the Special Improvement District and the territory which will benefit and be benefited by the Improvements and will be assessed for the costs of the Improvements as described in Section 8.

Section 6. General Character of the Improvements. The general character of the Improvements, as shown in Exhibit E, is the construction of curb and gutter, sanitary sewer mains, sanitary sewer services, water mains, water services, and necessary street improvements fronting Lots on Winter Green Drive, West Antelope Trail, and Antelope Place within Summerhill Subdivision.

Section 7. Engineer and Estimated Cost. The Engineer is Interstate Engineering, Inc., 1505 Avenue D, Suite 210, Billings, MT 59104. The Engineer has estimated that the costs of the Improvements, including all incidental costs, are \$755,004.89.

Section 8. Assessment Methods.

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

8.1.1 Equal Amount Method.

Assessment #1 will include street and utility improvements to be constructed on Winter Green Drive, West Antelope Trail, and Antelope Place within Summerhill Subdivision. The properties to be assessed for these improvements include Summerhill Subdivision, Block 7, Lots 4, 6-9; Summerhill Subdivision, Block 9, Lots 20 and 21; Summerhill Subdivision Block 10, Lots 3-5. For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving street and utility improvements, shall equally bear the costs of the street and utility improvements as set forth in Part III hereto to arrive at an equal cost for the street and utility improvements. The total estimated cost of Assessment #1 is \$358,000.00 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving street and utility improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$35,800.00.

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

Section 9. Payment of Assessments. The special assessments for the costs of the Improvements shall be payable over a term not exceeding 15 years, each in equal semiannual installments of principal, plus interest, or equal semiannual payments of principal and interest, as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Property Owners have the right to prepay assessments as provided by law. Further, all owners shall have the opportunity to prepay their assessments prior to sale of the SID bonds.

Section 10. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The City will issue the Bonds in an aggregate principal amount not to exceed \$358,000.00 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the properties in the District. This Council further finds it is in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the city to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

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

(a) **Estimated Market Value of Parcels.** The estimated market value of the lots, parcels, or tracts in the District as of the date of adoption of this resolution, as estimated, by the County Assessor for property tax purposes ranges from \$1,890 to \$2,529, and is set forth in Exhibit F. The average market value is \$2,094.71 with the median being \$2,062. The special assessments to be levied under Section 7 against each lot, parcel, or tract in the District is less than the increase in estimated value of the lot, parcel, or tract as a result of the construction of the Improvements.

(b) **Diversity of Property Ownership.** There are a total of 23 parcels within the district boundaries. No improvements, public or private, are located on any of the parcels within the District. Thirteen (13) of these parcels are owned by Jeff Essman. The remaining 10 parcels are owned by separate owners.

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

delinquent property taxes, and current assessments and is set forth in Exhibit F.

(d) **Delinquencies**. An analysis of the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against the properties in the District shows that of 23 properties, zero (0) properties were delinquent, and is set forth in Exhibit F.

(e) **The Public Benefit of the Improvements**. The total estimated costs of the Improvements plus bond costs are \$755,004.89. The costs of the Improvements are to be paid from the following sources: (1) \$358,000.00 of Special Improvement District bonds hereinafter described; and (2) \$397,004.89 of cash contribution by Jeff Essman, the owner of 13 of the 23 lots in the District. The properties within the District are zoned for Planned Unit Development. The public improvements contemplated under the terms of this proposed District are required by the City Subdivision, Site Development and Zoning Ordinances in order for the parcels to develop.

(f) **Other Factors**. As previously noted, Jeff Essman, owner of 13 of the 23 lots in the District, and the City of Billings will pay a cash contribution to the project. The total cash contribution is equal to \$397,004.89 and represents 52.58 percent of the construction and administrative costs of the Improvements. This condition is necessary to satisfy the City's Special Improvement District Policy regarding raw land subdivision.

Section 11. Reimbursement Expenditures

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

11.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have

been paid by the City before the date 60 days before the date of adoption of this resolution.

11.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$358,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

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

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

Section 12. Public Hearing Protests. At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the City Clerk until 5:00 p.m., M.T., on the expiration date of said 15-day period (April 4, 2008), written protest against the proposed Improvements, or against the extension or creation of the District or both, and this Council will at its next regular meeting after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said, regular meeting will be held on Monday the 14th day of April 2008, at 6:30 p.m., in the Council Chambers, at 220 North 27th Street, in Billings, Montana.

Section 13. Notice of Passage of Resolution of Intention. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the Billings Times, a newspaper of general circulation in the county on March 20 and March 27, 2008, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana,
this 10th day of March 2008.

Mayor

Attest:

City Clerk

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

Y

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Zone Change #826, Neighborhood Convenience Stores
Amending Section 27-201, 27-305 and 27-612

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: Section 27-305 of the Unified Zoning Regulations defines and regulates the types of uses allowed within residential zoning districts in the City of Billings and the jurisdictional zoning area in Yellowstone County. The proposed amendment would allow small retail services to be developed by special review approval within existing residential zoning districts. The Billings City Council and Board of County Commissioners agreed to initiate this amendment to Sections 27-201, 27-305 and 27-612. The City Zoning Commission held a public hearing on the amendment to the zoning regulation on November 6, 2007, and voted 4-0 to recommend approval to the City Council. The City Council held a public hearing on November 26, 2007, and recommended the Planning Division make several changes to the ordinance including a list of prohibited types of neighborhood convenience stores and limitations on the sale of alcoholic beverages. The Council requested the item be returned for the first meeting in March, 2008.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on the proposed text amendment on November 6, 2007. One person testified in favor of the amendment and three persons testified in opposition. The City Zoning Commission is forwarding a recommendation of approval on 4-0 vote. The Planning Division has developed amendments to the proposed ordinance that address the concerns noted above.

FINANCIAL IMPACT: There should be no direct financial impact to the City as a result of the new zoning regulation.

RECOMMENDATION

The Planning Division recommends the City Council review the proposed amendments to the ordinance at the March 17, 2008, Work Session and table the item to April 14, 2008.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Zone Change #832, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting a zone change from Residential 9,600 (R-96) to Residential 7,000 (R-70) on a 14,000 square foot parcel of land containing an existing duplex. The subject property is legally described as Lot 15, Block 3, Hilltop Subdivision, 1st Filing, and is located on the southeast corner of the intersection of Hilltop Road and Agate Avenue in the Heights. The applicant is proposing the zone change in order to bring the previously constructed duplex into compliance with zoning. The owner and applicant is Steve Zimmerer. The City Council held a public hearing and approved the first reading of the zone change on February 25, 2008.

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

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

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

RECOMMENDATION

The Zoning Commission, on a 5-0 vote, recommends that the City Council approve Zone Change #832 and adopt the determinations of the 12 criteria.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENT:

A: Ordinance

ATTACHMENT A

ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lot 15, Block 3, Hilltop Subdivision, 1st Filing, containing
approximately 14,000 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 Lot 15, Block 3, Hilltop Subdivision, 1st Filing, containing approximately 14,000 square feet and is presently zoned Residential 9600 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9600** to **Residential 7000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 7000** 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 February 25, 2008.

PASSED, ADOPTED AND APPROVED on second reading March 10, 2008.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST: City Clerk

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

AA

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Zone Change #833, 2nd Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Nicole Cromwell, AICP, Zoning Coordinator, Planner II

PROBLEM/ISSUE STATEMENT: This is a zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on the southern half of Tract 2, Certificate of Survey 3303 located at 927 Bench Boulevard. The property is owned by Gene and Joy Culver and the agent for the property is Engineering, Inc. The applicant is proposing to construct 10 four-plex multifamily dwellings on the subject property. A concurrent Special Review (SR #855) has been submitted and will be considered by the Council if this re-zoning request is granted. A pre-application neighborhood meeting was held at the offices of Engineering, Inc. on December 4, 2007. The Zoning Commission conducted a public hearing on February 5, 2008, and voted 5-0 to recommend approval to the City Council. A second neighborhood meeting was held at Bitterroot Elementary School on Tuesday, February 19, 2008. The City Council held a public hearing and approved the first reading of the zone change on February 25, 2008.

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 will increase the City's tax base when the property is developed.

RECOMMENDATION

The Zoning Commission recommends by a 5-0 vote that the City Council approve Zone Change #833 and adopt the determinations of the 12 criteria.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

A: Ordinance

ATTACHMENT A
ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR THE SOUTH HALF OF TRACT 2 OF CERTIFICATE OF
SURVEY 3303

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 south one-half of Tract 2 of Certificate of Survey 3303 is presently zoned Residential 7,000 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning on the **south half of Tract 2 of Certificate of Survey 3303** is hereby changed from **Residential 7,000** to **Residential 6,000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 6,000** 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 February 25, 2008.

PASSED, ADOPTED AND APPROVED on second reading March 10, 2008.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

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BB

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Zone Change #834, 2nd Reading of Ordinance
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 7,000 (R-70) to Residential 6,000 (R-60) on Tract 1, Certificate of Survey 1531 located at 1442 Bench Boulevard, a 2.11 acre parcel of land. The parcel is located on the west side of Bench Boulevard just south of the intersection with Wicks Lane. The applicant is proposing to construct 7 four-plex multifamily dwellings on the subject property. A concurrent Special Review (SR #856) has been submitted and will be considered by the Council if this re-zoning request is granted. The applicants are Gene and Joy Culver and the agent is Engineering, Inc. A pre-application neighborhood meeting was held at the offices of Engineering, Inc. on December 4, 2007. The Zoning Commission conducted a public hearing on February 5, 2008, and forwarded a recommendation of approval on 5-0 vote. A second neighborhood meeting was held at Bitterroot Elementary School on Tuesday, February 19, 2008. The City Council held a public hearing and approved the first reading of the zone change on February 25, 2008.

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 will increase the City's tax base when the property is developed.

RECOMMENDATION

The Zoning Commission recommends by a 5-0 vote that the City Council approve Zone Change #834 and adopt the determinations of the 12 criteria.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

A: Ordinance

ATTACHMENT A
ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR
Tract 1 of Certificate of Survey 1531, containing approximately 2.11 acres

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

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

2. **DESCRIPTION.** A tract of land known as Tract1 of Certificate of Survey 1531, containing approximately 2.11 acres and is presently zoned Residential 7000 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 7000** to **Residential 6000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 6000** 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 February 25, 2008.

PASSED, ADOPTED AND APPROVED on second reading March 10, 2008.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
City Clerk

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CC

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Zone Change #835, 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone Tract 1, Certificate of Survey (COS) 2560, from Entryway Light Industrial (ELI) to Controlled Industrial (CI). The subject property is generally located on the southeast corner of King Avenue West and Shiloh Road and is currently being developed as a commercial development called Shiloh Crossing. The owner and applicant is Shiloh Crossing, LLC, and Collaborative Design is the agent. The Zoning Commission conducted a public hearing on February 5, 2008, and is forwarding a recommendation of approval on a 5-0 vote. The City Council held a public hearing on February 25, 2008, and approved the first reading of this zone change

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

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

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

RECOMMENDATION

The Zoning Commission recommends by a 5-0 vote that the City Council approve Zone Change #835 and adopt the determinations of the 12 criteria.

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

ATTACHMENTS:

A: Ordinance

ATTACHMENT A: Zone Change #835

ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR TRACT 1, CERTIFICATE OF SURVEY 2560, Section
14, T.1S, R.25E, containing approximately 74.341 acres

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

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

2. **DESCRIPTION.** A tract of land known as Tract 1, Certificate of Survey 2560, Section 14, T.1S, R.25E, containing approximately 74.341 acres and is presently zoned Entryway Light Industrial 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 **Entryway Light Industrial to Controlled Industrial** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Controlled Industrial** 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 February 25, 2008.

PASSED, ADOPTED AND APPROVED on second reading March 10, 2008.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

ZC#835 – TRACT 1, CERTIFICATE OF SURVEY 2560, Section 14, T.1S, R.25E

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DD

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Second Reading of an Ordinance Expanding Ward II: Annexation #08-05
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: On February 11, 2008, the City Council approved the annexation of a 0.89-acre parcel legally described as Lot 1, Sylvia Subdivision. The request for annexation was submitted by First Citizens Bank of Billings, the owners of the property. Upon annexation, the property must be added to one of the City's election wards. The first reading and public hearing on the ordinance to add the property to Ward II was conducted at the February 25, 2008, meeting. The second reading of the ordinance will be conducted at this meeting.

FINANCIAL IMPACT: There are no direct financial impacts if this ordinance is approved.

RECOMMENDATION

Staff recommends that the City Council approve the second reading of this ordinance that adds property to City Ward II.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

A. Ward Ordinance and Exhibit A

ATTACHMENT A

ORDINANCE NO. 08-_____

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD II PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to the following designated Ward the following described real property:

A tract of land situated in the NE1/4 of Section 27, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Lot 1, Sylvia Subdivision, Recorded January 5, 1960, under Document No. 634167, Records of Yellowstone County.
Including all adjacent right-of-way of Lincoln Lane.
Containing 1.047 gross acres, and 0.891 net acres.
(# 08-05) See Exhibit "A" Attached

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 25th day of February, 2008.

PASSED by the City Council on the second reading this 10th day of March, 2008.

THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY:_____
Cari Martin, CITY CLERK

(AN 08-05)

[illegible]

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EE

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Final Plat of Copper Ridge Subdivision, 2nd Filing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: The final plat for Copper Ridge Subdivision, 2nd Filing is being presented to Council for approval. On December 12, 2005, the City Council conditionally approved the preliminary plat of this 80-lot subdivision on approximately 73 acres for single family residential development. Copper Ridge Development Corporation is the owner and the representing agent is Engineering, Inc. The subject property is located north and west of Copper Ridge Subdivision, 1st Filing and accesses off of Rimrock Road. The subject property is zoned Residential 7000 Restricted. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

FINANCIAL IMPACT: The filing of this final plat may result in development of the property and added tax revenue to the City.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Copper Ridge Subdivision, 2nd Filing.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A: Plat

ATTACHMENT A



FF1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$2,716,898.10 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 8, 2008, are on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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

FF2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,145,479.44 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 15, 2008, are on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM**

CITY OF BILLINGS, MONTANA

Monday, March 10, 2008

TITLE: Public Hearing and Resolution to Adopt the North Park Neighborhood Plan

DEPARTMENT: Planning & Community Services

PRESENTED BY: Lora Mattox, AICP, Neighborhood Planner

PROBLEM/ISSUE STATEMENT: The North Park Neighborhood Plan is a guide for land use and community development and will serve as a guiding document for making decisions that will affect the future of the North Park Neighborhood. Extensive research, public input and local government review ensures that this Neighborhood Plan sets forth attainable goals based on current public values. The strategies to achieve these goals rely on commonly-accepted planning, engineering and organizational practices, as well as, state-of-the-art approaches to contemporary issues.

The Billings City Council at a work session on February 19, 2008, heard a report from the Planning Division discussing the North Park Neighborhood Plan. At the February 25, 2008, council meeting, the Council passed a Resolution of Intent to Adopt the North Park Neighborhood Plan and a public hearing date to receive public comment on the plan was set for March 10, 2008. The action to be taken today is to adopt the Neighborhood Plan by resolution.

ALTERNATIVES ANALYZED: The City Council may:

1. Adopt
2. Modify
3. Do not adopt
4. Delay action for up to thirty (30) days

FINANCIAL IMPACT: A primary objective of community planning is to reduce the cost of services by assessing future public needs and establishing cost-effective methods to address those needs. This Neighborhood Plan sets out a rational course for managing City resources wisely. Examples of cost-effective policies and strategies include:

- Promote sustainable economic development within the newly formed East End TIF District

- Encourage infill development of affordable housing

RECOMMENDATION

The Yellowstone County Board of Planning recommends on a 9-0 vote that City Council approve the Resolution to Adopt the North Park Neighborhood Plan as part of the Yellowstone County and City of Billings 2003 Growth Policy. A copy of the plan is on file in the City Clerk's Office.

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

ATTACHMENTS

- A. Resolution to Adopt the North Park Neighborhood Plan

ATTACHMENT A

RESOLUTION NO. 08-_____

RESOLUTION TO ADOPT THE NORTH PARK NEIGHBORHOOD PLAN AS PART OF THE YELLOWSTONE COUNTY - CITY OF BILLINGS 2003 GROWTH POLICY.

WHEREAS, pursuant to Title 76, Chapter 1, PART 601, Montana Codes Annotated, the Billings City Council, desire to adopt a Neighborhood Plan consistent with the 2003 Growth Policy covering the entire Yellowstone County Board of Planning jurisdiction:

WHEREAS, on the 22nd day of January, 2008, a public hearing was held by the Yellowstone County Board of Planning for the purpose of receiving public comments on the proposed Neighborhood Plan:

WHEREAS, The Yellowstone County Board of Planning by Resolution 08-01, recommends the Billings City Council adopt the proposed Neighborhood Plan and any ordinances and resolution for its implementation:

WHEREAS, on the 25th day of February, 2008, the Billings City Council passed a Resolution of Intent to Adopt the North Park Neighborhood Plan and to set a public hearing date of March 10, 2008 to receive comment on the neighborhood plan:

NOW, THEREFORE, BE IT HEREBY RESOLVED that it is the intent of the Billings City Council to adopt the North Park Neighborhood Plan as part of the Yellowstone County – City of Billings 2003 Growth Policy.

APPROVED AND PASSED by the City Council of the City of Billings this 10th day of March, 2008.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
MONDAY, MARCH 10, 2008

TITLE: Public Hearing and Resolution to Create SILMD 304 – Downtown Area
 (Will Replace SILMD 97)

DEPARTMENT: Public Works Department

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

PROBLEM/ISSUE STATEMENT: On February 11, 2008, the City Council passed Resolution 08- 18673, a Resolution of Intent to Create Special Improvement Lighting Maintenance District (SILMD) 304 and established a public hearing for February 25, 2008. Legal notices and a letter explaining the district and the protest procedure were mailed to each property owner within the proposed district on February 14, 2008. Full background information and details were included in the staff memo submitted with the Resolution of Intent approved on February 11, 2008. Letters were sent to property owners on March 4, 2008. Information on the number and percentage of property owner protests received will be presented at the public hearing.

ALTERNATIVES ANALYZED:

1. Create SILMD 304 to provide a source of funding for design, construction, operation, and maintenance of the street lights. Funding will be provided through the creation of a Special Improvement District and bonds will be sold.
2. Do not create the SILMD and do not install street lighting.

FINANCIAL IMPACT: Design and construction costs are estimated to be \$2.4 million. The Downtown Billings Property Owners Committee (DBPOC) has secured \$900,000 from the Downtown Tax Increment District to offset design and construction costs for SILMD 304. Financing costs are estimated to be \$244,100 and interest over 15 years is \$862,900 making total estimated costs \$2,607,000. The property owners in the proposed district have requested the creation of a Special Improvement District to finance the project. Design, construction, energy, and maintenance costs for the proposed light district will be paid for by assessments against properties within the district. City properties within light districts are assessed their proportionate share of the costs for that particular district.

RECOMMENDATION

Staff recommends that Council table indefinitely the action on the Resolution Creating SILMD 304 to allow the DBPOC to explore Tax Increment Financing District funding available for the project.

Approved By:

City Administrator ____

City Attorney ____

ATTACHMENTS:

A. Resolution Creating SILMD 304

INTRODUCTION: On February 11, 2008, the City Council passed Resolution 08- 18673, a Resolution of Intent to Create Special Improvement Lighting Maintenance District (SILMD) 304 and established a public hearing for February 25, 2008. Legal notices and a letter explaining the district and the protest procedure were mailed to each property owner within the proposed district on February 14, 2008. Full background information and details were included in the staff memo submitted with the Resolution of Intent approved on February 11, 2008. Letters were sent to property owners on March 4, 2008. Information on the number and percentage of property owner protests received will be presented at the public hearing.

BACKGROUND: Property owners within existing SILMD 97 contacted City staff to discuss lighting options within the downtown area. City staff met with property owners several times and subsequently contracted with Marvin & Associates to conduct a New Lighting District Study. Upon receipt of the study, City staff met with downtown property owners and discussed options. Property owners decided to pursue replacement of the existing NorthWestern Energy-owned district with a new City-owned district. They chose a complete change out of all street lights and traffic signals within the current SILMD 97 boundary. This would include replacement of 80 traffic signal poles with new poles that would support the required 250 watt streetlights. Mid-block lighting would be provided with three pedestrian scale lights per block. This option will provide safer intersection lighting and mid-block pedestrian lighting. The City would be responsible for the energy and maintenance of the street lights attached to the traffic signal poles.

The City has traditionally created SILMDs to assess design, construction, energy and maintenance costs for street lighting to abutting property owners. SILMD 304 design and construction costs are estimated to be \$2.4 million. The Downtown Billings Property Owners Committee (DBPOC) has secured \$900,000 from the Downtown Tax Increment District to offset design and construction costs for SILMD 304. Financing costs are estimated to be \$244,100 and interest over 15 years \$862,900 making total estimated costs \$2,607,000. The property owners in the proposed district have requested the creation of a Special Improvement District to finance the project over 15 years. Design and construction costs for the proposed light district will be paid for by assessments against properties within the district, less any funding the DBPOC is able to secure before the district is created. City properties within light districts are assessed their proportionate share of the costs for that particular district.

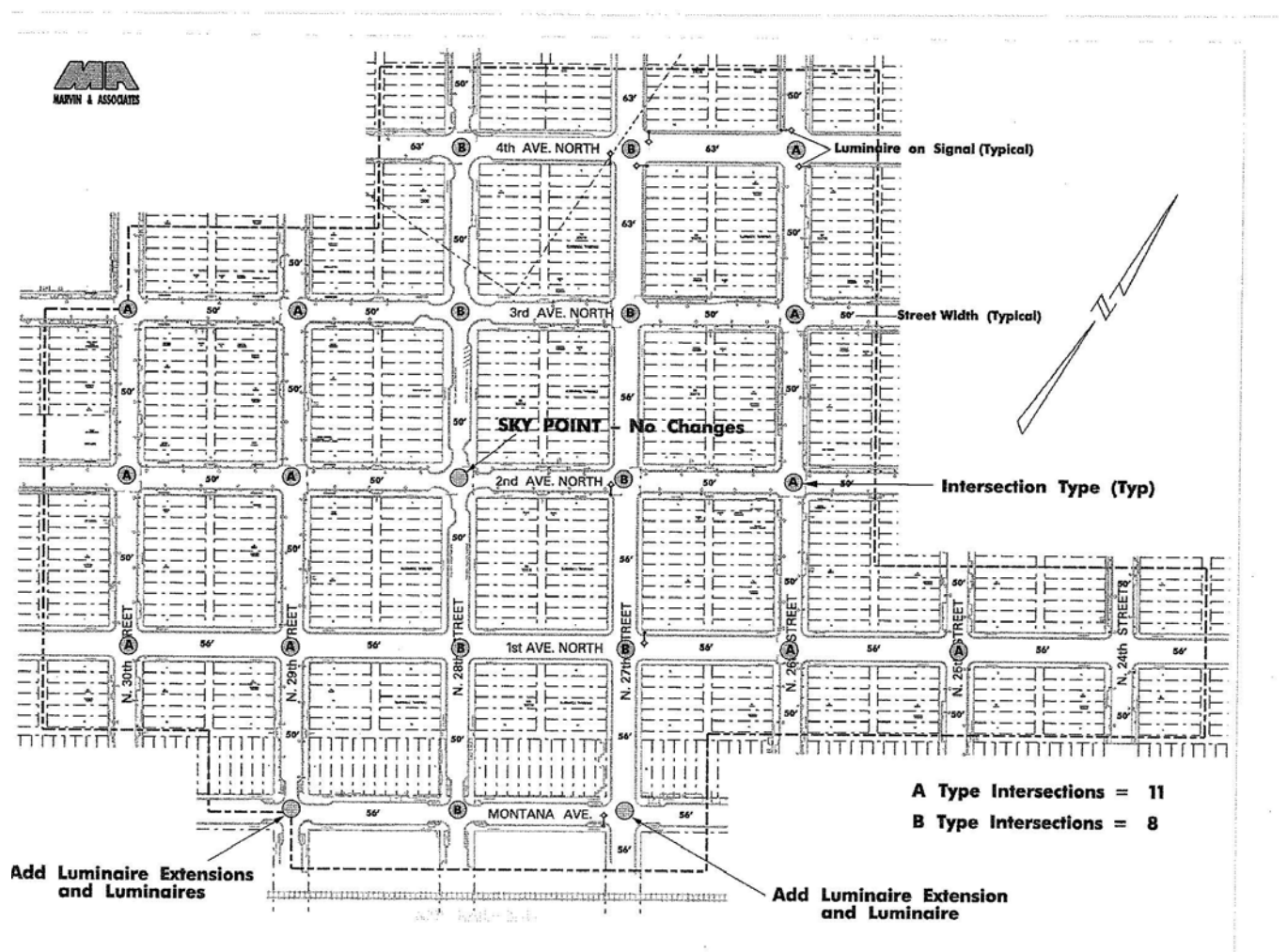
Because SILMD 97 is a NorthWestern Energy-owned district, property owners within the district have been paying for the lights well beyond their initial cost. These pass through costs from NorthWestern Energy will only continue to increase. If the proposed City-owned SILMD 304 is created, property owner assessments will drop dramatically after the design and construction costs are paid off in 15 years. From that point forward, property owners will only be assessed energy and maintenance costs.

The estimated annual energy and maintenance costs are \$50,600 for the proposed district, including a 10% administrative fee and a 5% delinquency reserve. This entire cost shall be paid by the owners of the property within said District, with each lot, parcel or piece of land within the district to be assessed for that portion of the whole cost which its assessable area bears to the

assessable area of the entire district. The estimated cost of energy and maintenance is .028694 per square foot per year.

RECOMMENDATION

Staff recommends that Council table indefinitely the action on the Resolution Creating SILMD 304 to allow the DBPOC to explore Tax Increment Financing District funding available for the project.



Proposed SILMD 304 District Boundary Map

RESOLUTION NO. 08-_____

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 304 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF PROVIDING DESIGN, CONSTRUCTION, ENERGY AND MAINTENANCE FOR STREET LIGHTS, DESIGNATING THE NUMBER OF SAID DISTRICT, DESCRIBING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATE OF THE COST OF DESIGN, CONSTRUCTION, ADMINISTRATION, ENERGY AND MAINTENANCE OF SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFOR FOR THE FIRST YEAR, THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COST.

WHEREAS, the City Council of the City of Billings, Montana, on the 11th day of February 2008, passed Resolution 08-18673, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 304, setting the hearing on the creation of said District and hearing of protests against the extent and creation of said District, or any matter pertaining thereto, and thereafter gave notice by publication and mailing, all as required by law, and at said hearing which was held at the time and place specified in said Notice, all protests were heard and considered; and;

WHEREAS, the City Council finds that the protests are insufficient to stop the creation of said district, and the protests are overruled and denied.

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

SECTION 1:

That the City Council of the City of Billings, Montana does hereby create a District, to be known and designated as Special Improvement Lighting Maintenance

District No. 304, hereinafter called the District, for the purpose of providing design, construction, energy and maintenance for new street lights for lighting said District.

SECTION 2:

That the boundaries of the District are as set forth in Resolution of Intention No. 08-18673, hereinafter called the Resolution, on file in the office of the City Clerk of Billings, Montana, and by this reference is incorporated herein and made a part hereof.

SECTION 3:

That the City of Billings, Montana, hereby finds, determines and declares that each of the lots, blocks, pieces and parcels of land situated along and within the boundaries of the District, will be especially benefited and affected by said improvements, and that each and all of the lots, blocks, pieces and parcels, more particularly described in the Resolution are hereby declared to be the property to be assessed for the costs and expense of designing and constructing the street lights and obtaining the streets lights, electrical energy, and maintenance of said street lights.

SECTION 4:

That the general character of the improvements to be made in the District is hereby declared to be as described in the Resolution and is by this reference incorporated herein and made a part hereof.

SECTION 5:

That the City of Billings intends to construct the new lighting facilities and sell bonds in the amount of Two Million Six Hundred Seven Thousand (\$2,607,000) to pay for the design, construction and administration costs of the District. The bonds will be

issued in accordance with 7-12-4342 MCA and will be paid off over a period of fifteen (15) years through annual assessments to property owners within the district. Each lot, parcel, or piece of land within the district shall be assessed for that portion of the bond retirement costs which its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places. The assessment rate, exclusive of interest charges, is estimated at \$1.39 per square foot of assessable area.

SECTION 6:

That the entire cost of maintenance and electrical energy for the District shall be paid by an annual assessment against the property in the District; that annually, pursuant to MCA 7-12-4332, the City Council shall adopt a resolution estimating the cost of maintaining said lights including a reserve, and furnishing electrical current and assessing all of said property within said District for the annual costs; that all monies derived from the collection of such assessments shall be paid into a fund to be known as "Special Lighting Maintenance District No. 304 Maintenance Fund," and warrants shall be drawn on said fund for the payment of such costs of maintaining such lights and supplying electrical current therefore.

SECTION 7:

That the City of Billings intends to establish the approximate contract rate for supplying electrical energy and maintenance as follows: \$230 per luminaries unit per year.

The estimate of the cost of energy and maintenance for the District per year, including a 10% administrative fee and a 5% delinquency reserve, is the sum of

\$50,600 that the entire cost shall be paid by the owners of the property within said District, with each lot, parcel or piece of land within the District to be assessed for that portion of the whole cost which its assessable area bears to the assessable area of the entire District, exclusive of streets, avenues, alleys, and public places. Due to the difference in the time the lighting service starts and the time assessments can be levied, the first assessment may cover a period of operation of the District shorter or greater than one year.

SECTION 8:

That reference is hereby made to the Resolution, the maps, specifications, boundaries, perimeter and data pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

Passed by the CITY Council and APPROVED this 10th day of March, 2008.

CITY OF BILLINGS

By: _____
Ron Tussing, Mayor

ATTEST:

By: _____
Cari Martin, City Clerk

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Urban Planning Area Review—Proposed Expansion of the UPA to include 6 Areas Adjacent to the City Limits—Public Hearing

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: Growth is often seen as an indicator of community vitality and economic prosperity. Recent census data indicates that the City of Billings population has grown by 9% between 2000 and 2005. This statistic takes into account births, immigration, and City limit expansion into existing County populations during that time (i.e. Briarwood, Cedar Park and Yellowstone Club Estates Subdivisions). One of the challenges that all growing cities face is ensuring that new populations can be provided municipal services without sacrificing the interests and service levels of its existing citizens. With that in mind, all pending annexations to the City of Billings are analyzed using two guiding tools to help the City Council decide when and where the City should expand its service boundaries. These two tools are the Urban Planning Area (UPA) and the Annexation Policy. Both have associated boundary maps that one can use to get a quick picture of where the City has determined it can support new growth.

In late 2006, during the annexation policy review, it became apparent that the two growth tools did not have consistent boundaries. Planning staff has proposed to coordinate the two tools and their associated maps in order to provide a consistent message to potential developers and the community as a whole, regarding when and where the City limits can expand. Staff has prepared six Urban Planning Studies (UPS) for areas adjacent to the city limits that are identified in the Annexation Policy as immediately supportable for annexation (the red area), but are not within the UPA. The Planning Board reviewed the UPS on January 22, 2008 and recommends approval of the UPS and expansion of the UPA in the six study areas. City Council shall hold a public hearing and act on the proposed amendments to the UPA at this meeting.

ALTERNATIVES ANALYZED: The City Council may approve or deny the proposed amendments to the UPA boundary to include the six areas identified in the attached UPS. If the amendments are approved, the UPA will become consistent with the red area on the Limits of

Annexation Map. If the amendments are not approved, the areas will remain in the red area, but not within the UPA.

FINANCIAL IMPACT: There are no direct financial impacts foreseen for amending the Urban Planning Area in the recommended areas. A financial analysis will be reviewed in the future, if and when the owners of affected properties were to petition the City for annexation and provision of services.

RECOMMENDATION

The Yellowstone County Board of Planning on a 7-0 vote recommends that the City Council accept the Urban Planning Studies for the six study areas, and approve the proposed amendments to the Urban Planning Area.

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

ATTACHMENT

A: Urban Planning Area Map

B: Resolution

C: Urban Planning Study – AVAILABLE FOR VIEWING IN CITY CLERK’S OFFICE

INTRODUCTION

The Urban Planning Area is an area surrounding the City of Billings established for the purpose of planning for its future growth within a 10-year horizon. The UPA was initially created in 1967 under Article 20-300, BMCC, and has historically been the City's growth boundary. The UPA policy states that no City services shall be provided outside of the UPA; however, to quote a 1980 study, "the UPA is not designed to limit growth, merely limit the amount of land that is consumed and reduce the cost of services needed when this growth occurs." Expansion of the UPA requires the completion of an Urban Planning Study so that the City can determine the impacts of annexing and serving the property. City departments review UPS documents for conformance with operating policies, capital improvement plans, the Growth Policy, and other plans.

Since 2002, the City has also maintained an Annexation Policy and map. The Annexation Policy and associated map were derived as additional tools to help the City promote orderly growth and establish required improvement guidelines. The policy and map is reviewed and updated annually based on adjustments to the Capital Improvements Plan (CIP) and developer requests.

Both the UPA and the Annexation Policy and map are valuable resources that the City relies upon when evaluating its growth. However, the boundaries established by these tools are not entirely consistent (see Attachment A). Providing a consistent growth message and boundary to the community and future developers can build trust and cooperation and benefit the City's long term planning efforts.

BACKGROUND

Planning staff first proposed coordinating the growth planning tools in the spring of 2007, and the City Council, at its April 2, 2007 work session, agreed that this would be a positive planning effort. The coordination of the growth maps will be done in two ways. First, the limits of annexation map associated with the Annexation Policy can be adjusted. This map is updated annually by City Council in response to landowner requests and amendments to the CIP. This year, some of the red areas have been re-evaluated based on funding and service availability and will actually shrink inward toward the existing City limits. These proposed changes are the subject of a separate memo and Council action.

The other way to coordinate the two growth boundaries is to expand the UPA boundary to match the red area of the Limits of Annexation map. Expansion of the UPA requires the review and approval of a UPS to provide evidence that the City can efficiently and equitably serve the study area in the event that annexation is requested. Planning staff has prepared a UPS for six areas surrounding the City limits that are within the red area of the annexation map, but not yet within the UPA. Staff proposes expanding the UPA to encompass those areas.

Article 20-300, BMCC requires that the Planning Board review the UPS in order to evaluate expanding the UPA. The Planning Board did so on January 22, 2008 and has recommended that the City Council accept the UPS and expand the UPA for the six study areas.

PROCEDURAL HISTORY

November 2006: Annexation Committee met to discuss amendments to the Annexation Policy, and review the Urban Planning Area boundaries.

April 2, 2007: Planning staff presented the proposal to align the growth area maps at a City Council Work Session and was directed to proceed.

July 2007-September 2007: Planning held meetings with individual department heads to survey growth impacts on their departments for each of the study areas.

October-December 2007: Planning continued research and preparation of Urban Planning Studies.

January, 2008: City Annexation Committee reviewed the draft UPS and forwarded a recommendation of approval.

January 22, 2008: Planning Board public hearing and review of UPS and proposed amendments to the UPA boundary.

March 3, 2008: City Council work session to discuss findings.

March 10, 2008: City Council to hold public hearing and act on UPA amendments.

ALTERNATIVES ANALYSIS

The City Council may approve or deny the proposed amendments to the UPA boundary to include the six areas identified in the attached UPS. If the amendments are approved, the UPA will become consistent with the red area on the Limits of Annexation Map. If the amendments are not approved, the areas will remain in the red area, but not within the UPA.

CONFORMANCE WITH ADOPTED POLICIES OR PLANS

Amending the UPA as proposed is consistent with several of the goals of the Yellowstone County and City of Billings 2003 Growth Policy as noted below. The amendments are also consistent with goals and policies of the applicable adopted neighborhood plans as noted within the planning studies.

Yellowstone County – City of Billings 2003 Growth Policy

Expansion of the UPA to include the six study areas is consistent with the following goals and policies of the Growth Policy:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns (Land Use Element, Page 5).
- Goal: Contiguous development focused in and around existing population centers separated by open space (Land Use Element, Page 6).
- Goal: More housing and business choices within each neighborhood (Land Use Element, Page 6).
- Goal: Improved public services (Economic Development, Page 7).
- Goal: A healthy river ecosystem that supports multiple uses (Natural Resources, Page 8).
- Goal: Protections of groundwater, surface water, riparian areas, air quality, and productive agricultural land (Natural Resources, Page 8).
- Goal: Rational consideration of neighborhoods for park expenditures (Open Space and Recreation, Page 8).

- Goal: A safe and efficient transportation system characterized by convenient connections and steady traffic flow (Transportation, Page 10).
- Goal: Sanitary and safe properties (Public Services, Page 11).
- Goal: Rational consideration of all City neighborhoods and County townsites for public funds expenditures (Public Services, Page 11).
- Goal: Identification and protection of the historical, archeological, and cultural resources of Yellowstone County (Cultural and Historic Resources, Page 12).

STAKEHOLDERS

A public hearing was conducted at the Yellowstone County Planning Board meeting on January 22 to review the proposed amendments to the Urban Planning Area boundary. Planning staff presented the proposal to expand of the UPA for the six areas subject to the UPS. Staff also presented the proposal to retract the UPA in three general areas not included in the red area of the annexation map. These areas included the area surrounding Highway 312 in the Heights, the area generally west of 42nd Street West, between Broadwater Ave. and King Ave. West, and the area south of I-90 between Goodman Road and East Lane. Eight members of the public spoke in regard to the proposed amendments. There were no comments specific to the expansion of the UPA, but numerous concerns regarding the proposed retraction, specifically on the Westend. The speakers, who were the developers and agents for the Lenhardt Square Property, indicated that the inclusion of properties in the UPA has development value associated with it, and by being removed the properties from the Planning Area, the City is reducing that value. They also expressed concern that the property owners of the lands that were proposed to be removed from the UPA were not informed of the proposal or involved in the process. Legal issues were also raised as to how the City can retract the UPA when Article 20-300, BMCC, only speaks to expansion.

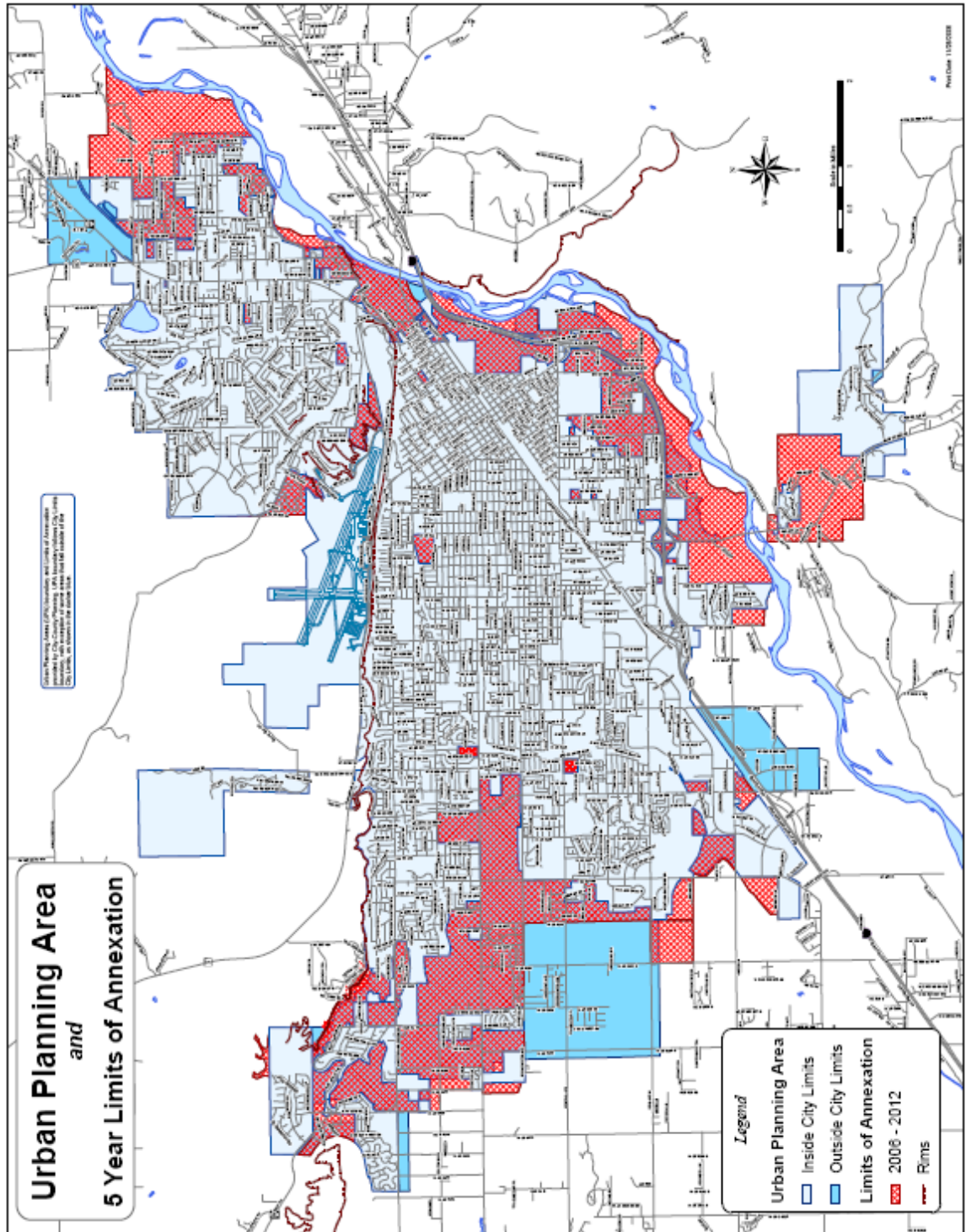
In response to the concerns raised by the public testimony, the Planning Board expressed concern that land values, whether real or perceived, could be reduced by the retraction of the UPA. The Board agreed that the UPA should not be retracted at this time and that additional legal analysis should be completed prior to any potential inward adjustment of the boundary. The Board recommends that the UPA only be expanded at this time, to include the six proposed study areas.

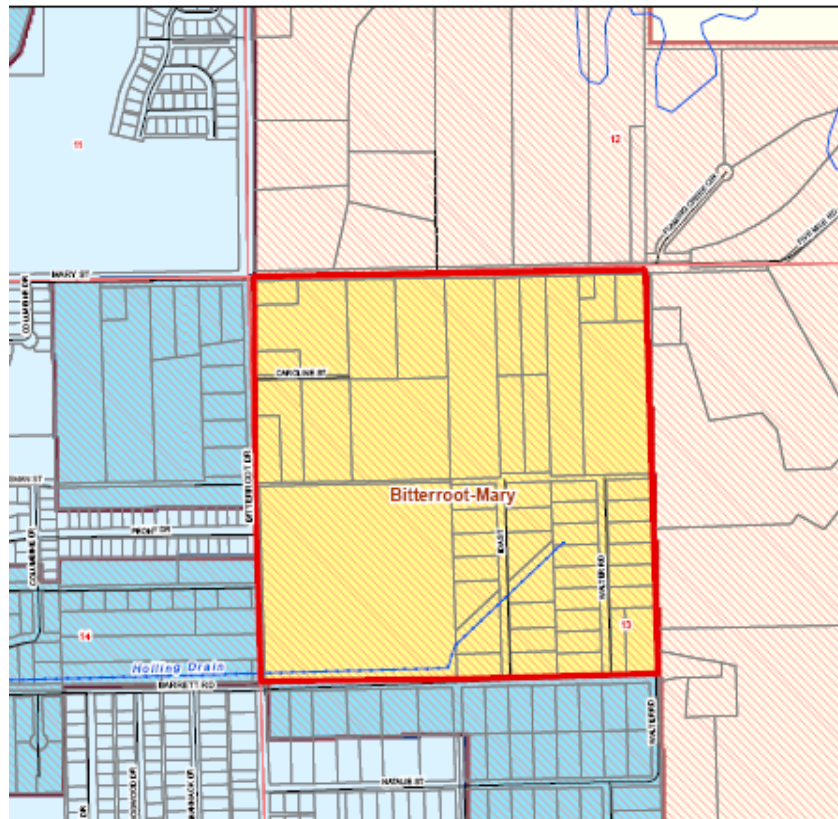
An additional public hearing will be held at this City Council meeting to take testimony on the expansion of the UPA for the six study areas.

RECOMMENDATION

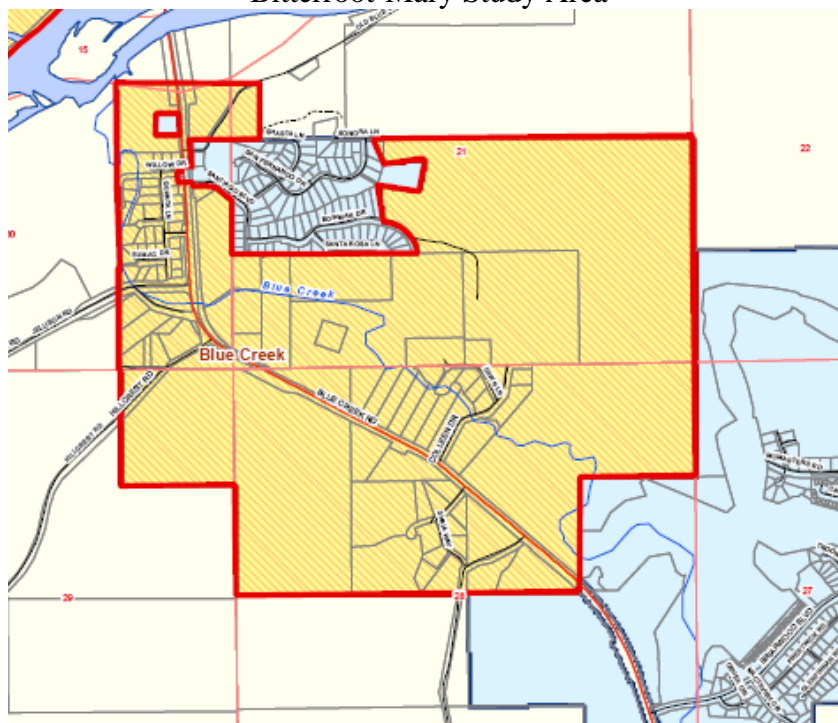
The Yellowstone County Board of Planning on a 7-0 vote recommends that the City Council accept the Urban Planning Studies for the six study areas, and approve the proposed amendments to the Urban Planning Area.

ATTACHMENT A

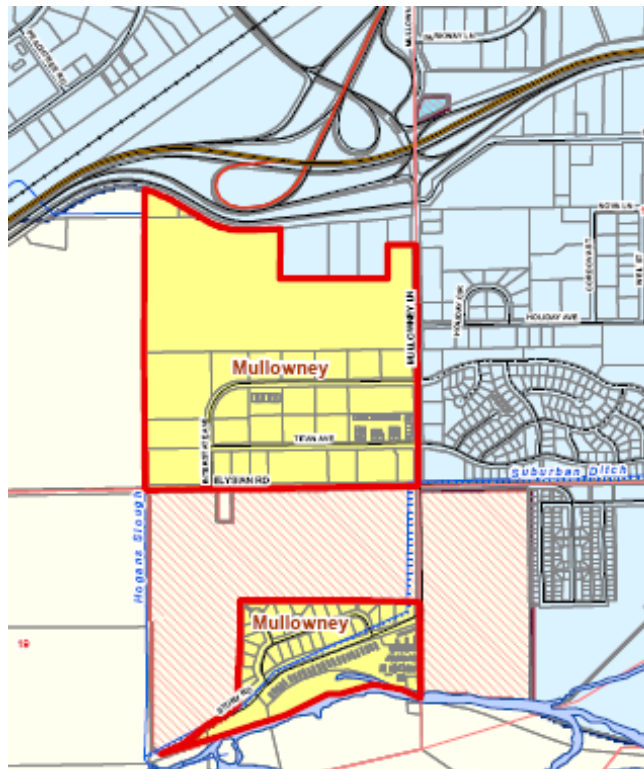




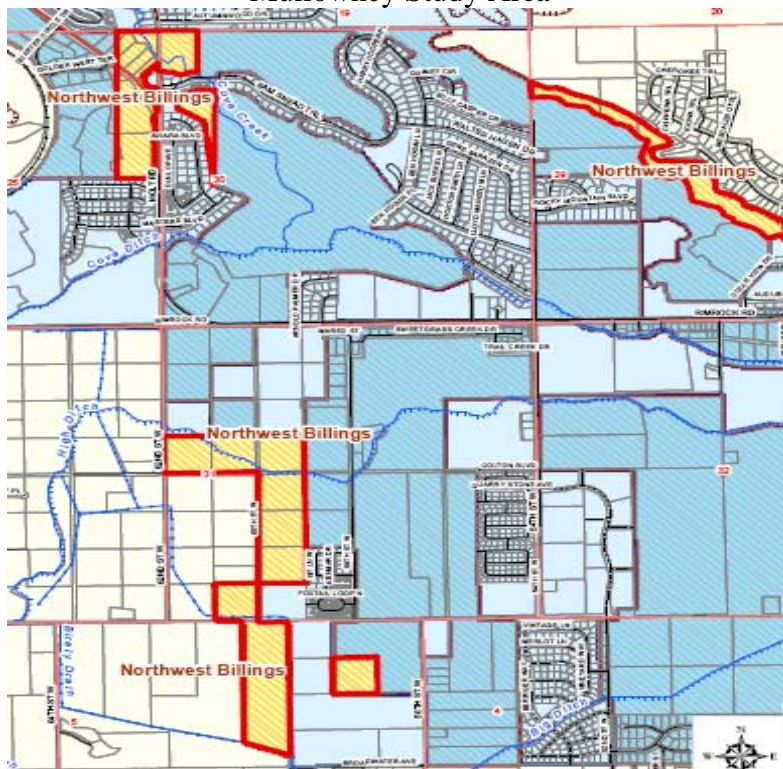
Bitterroot-Mary Study Area



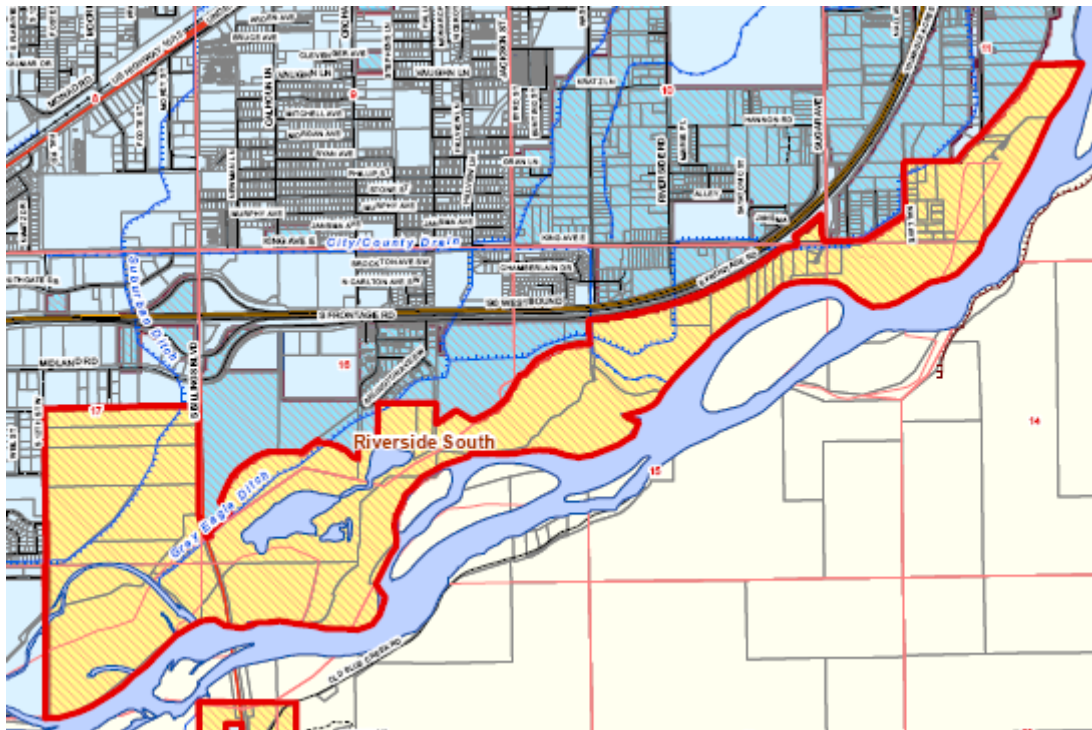
Blue Creek Study Area



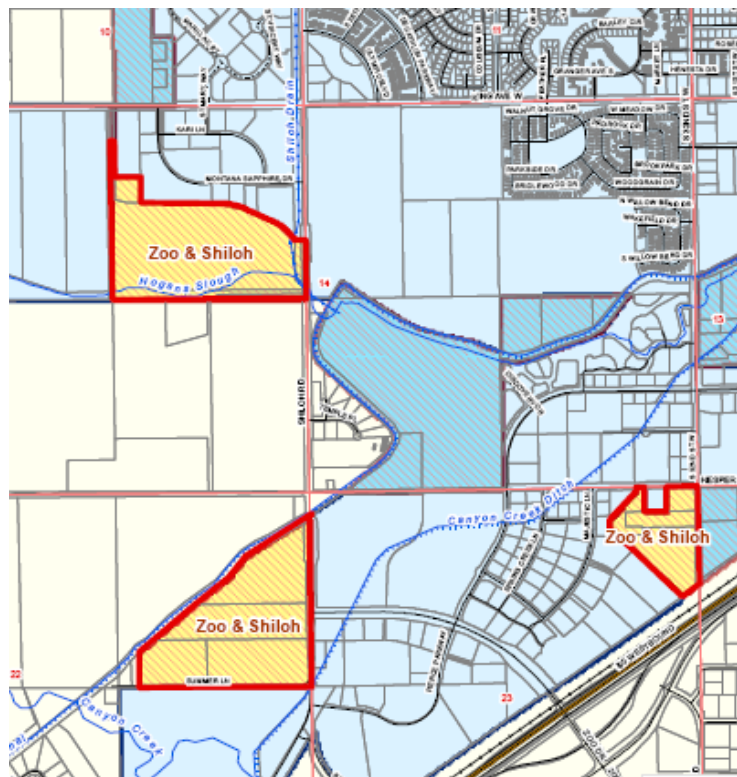
Mallowney Study Area



Northwest Billings Study Area



Riverside Study Area



Zoo-Shiloh Study Area

ATTACHMENT B

RESOLUTION NO. 08-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, ACCEPTING THE URBAN PLANNING STUDY AND EXPANDING THE BOUNDARIES OF THE BILLINGS URBAN PLANNING AREA TO INCLUDE PROPERTIES WITHIN SIX STUDY AREAS GENERALLY KNOWN AS BITTERROOT-MARY, BLUE CREEK, MULLOWNEY, NORTHWEST BILLINGS, RIVERSIDE, AND ZOO AND SHILOH.

WHEREAS, an Urban Planning Study was conducted for six areas generally described as Bitterroot-Mary, Blue Creek, Mullowney, Northwest Billings, Riverside and Zoo and Shiloh for review and approval, and

WHEREAS, the Billings Urban Planning Area is the area established by the City for the purpose of planning for growth of the City within the next 10 years, and

WHEREAS, the purpose of the study is to determine impacts on city services, the natural environment, and the feasibility of extending City services within the proposed area, and

WHEREAS, the Yellowstone County Board of Planning reviewed the Urban Planning Study at its regular meeting on January 22, 2008, and

WHEREAS, the Yellowstone County Board of Planning has recommended acceptance of the Urban Planning Study and approval of expanding the Billings Urban Planning Area to include the properties within the six study areas, finding that municipal services can safely and efficiently be extended to this area and its existing and planned growth and development are consistent with existing and proposed land use and transportation plans, and

WHEREAS, a public hearing was properly noticed and held by the Billings City Council as required by law.

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

1. URBAN PLANNING STUDIES. The Urban Planning Study for the 'Bitterroot-Mary' Study Area found in the NW ¼, Section 13, T1N, R26E; and, the Urban Planning Study for the 'Blue Creek' Study Area found in portions of Sections 20, 21, 28 and 29, T1S, R26E; and the Urban Planning Study for the 'Mullowney' Study Area found in the E ½ of Sections 18 and 19, T1S, R26E; and the Urban Planning Study for the 'Northwest Billings' Study Area found in portions of Section 25, T1N,

R24E, and Sections 29 and 31, T1N, R25E, and Section 5, T1S, R25E; and the Urban Planning Study for the 'Riverside' Study Area found in portions of Sections 2, 11, 14, 15, 16, 17, 20 and 21, T1S, R26E, and Section 34, T1N, R26E; and the Urban Planning Study for the 'Zoo-Shiloh' Study Area found in the NE ¼ of Sections 15, 22, and 23, T1S, R25E; are hereby approved by the Billings City Council.

2. URBAN PLANNING AREA. The boundaries of the Billings Urban Planning Area are hereby amended to include the above mentioned study areas.

PASSED AND APPROVED by the City Council this 10th day of March, 2008.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing Mayor

ATTEST:

BY: _____
Cari Martin City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Public Hearing and Resolution to Revise the 2007 Limits of Annexation Map

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: The City Council adopted the current Annexation Policy and Limits of Annexation Map on February 26, 2007. The Annexation Policy requires the City to update the associated map whenever the Capital Improvements Plan is revised. Council approved revisions to the 2009-2014 Capital Improvements Plan at its February 25, 2008, Council meeting, and approved the revision to the Limits of Annexation Map for the Lenhardt Square Property at the same meeting. Additional recommendations of the Annexation Committee are being presented to the Council at the March 10 meeting to coincide with the proposed changes to the Urban Planning Area boundary that will be considered at the same meeting.

The Annexation Committee, consisting of representatives from the Parks, Recreation and Public Lands, Police, Fire, Public Works, Transit, Administration, and Planning Departments, and Billings School District 2, is recommending these map amendments to the Council for action. The Committee met three times from December 2007 through January 2008 to provide input on the proposed map revisions based on the ability to serve the areas located within the Limits of Annexation area. To develop the proposed map revisions, the committee took into account the 2006 Water and Wastewater Facilities Master Plan, the Draft 2009-2014 Capital Improvements Plan, and an Urban Planning Study of several fringe areas around the City completed by the Planning Division. The Committee is presenting the Council with its recommendations in the form of a resolution to revise the Limits of Annexation Map.

ALTERNATIVES ANALYZED: Staff considered the ability to serve areas outside the existing City limits based on natural and environmental constraints, existing capital and service resources, effects on City residents, and programmed improvements. The proposed revisions to the Limits of Annexation Map reflect these considerations.

FINANCIAL IMPACT: Annexation of properties to the City of Billings increases the City's tax base. At the same time, the City bears the cost of additional service requirements. Although making amendments to the Limits of Annexation Map will not have a direct financial impact, the Annexation Policy and the Limits of Annexation Map are management tools to help balance this cost-benefit ratio.

RECOMMENDATION

The Annexation Committee recommends that Council adopt the resolution to revise the Limits of Annexation Map as presented.

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

ATTACHMENTS

A. Resolution and Limits of Annexation Map

INTRODUCTION

The City Council adopted the current Annexation Policy and Limits of Annexation Map on February 26, 2007. The Annexation Policy requires the City to update the associated map whenever the Capital Improvements Plan is revised. Council approved revisions to the 2009-2014 Capital Improvements Plan at its February 25, 2008, Council meeting, and approved the revision to the Limits of Annexation Map for the Lenhardt Square Property at the same meeting. Additional recommendations of the Annexation Committee are being presented to the Council at the March 10 meeting to coincide with the proposed changes to the Urban Planning Area boundary that will be considered at the same meeting.

An Annexation Committee, consisting of representatives from City Departments and Billings School District 2, reviewed the current Limits of Annexation Map and is forwarding recommended changes to the City Council. To develop the proposed map revisions, the committee took into account the 2006 Water and Wastewater Facilities Master Plan, the Draft 2009-2014 Capital Improvements Plan, and an Urban Planning Study of several fringe areas around the City completed by the Planning Division. The Committee is presenting the Council with its recommendations in the form of a resolution to revise the Limits of Annexation Map.

PROCEDURAL HISTORY

- February 26, 2007, Amendments to the Annexation Policy and Limits of Annexation Map adopted by City Council
- December 2007 and January 2008, City Departments reviewed proposed changes and updates to the CIP to reflect the current status of all CIP projects
- November 2007, Formal property owner requests were accepted to amend the Limits of Annexation Map for 2008. One request was received.
- December 2007 through January 2008, The City Annexation Committee met three times to formulate a recommendation to amending the Limits of Annexation Map
- February 25, 2008, Proposed FY 2009 Modifications to the CIP presented to the City Council
- February 25, 2008, Public Hearing and Resolution revising the Limits of Annexation Map to accommodate one property owner's request was presented to City Council
- March 10, 2008, Public Hearing and Resolution revising the Limits of Annexation Map to address changes to the Urban Planning Area boundary and update the Map to reflect serviceable areas.

BACKGROUND

The City of Billings has annexed more than eight square miles in the past 9 years (32.8 to 41.3 sq. mi.). Many of those annexations required a considerable outlay of City funds to ensure acceptable levels of service to the annexed properties and to maintain the levels of service within the existing City limits. As these properties developed, the cost of providing certain services exceeded the revenue generated by the development. For this reason, the City Council requested staff to draft an Annexation Policy that would recommend limiting annexations to areas that could be served without incurring additional costs. The adopted policy, last amended in

February 2007, establishes three limits of annexation. The red area (2007-2012) coincides with the immediate five years covered by the CIP and defines an area where annexation petitions may be supported in the short term. The second time period, designated as orange (2013-2023), covers the next 10 years for areas where City services may be extended but would require additional funding to support those services. The third area, shown in yellow, is defined as “Unknown” due to lack of information regarding the feasibility and costs of extending services.

ALTERNATIVES ANALYSIS

The City Annexation Committee considered the adopted 2009-2014 Capital Improvements Plan, the 2006 Water and Wastewater Facilities Master Plan, and an Urban Planning Study of several fringe areas around the City completed by the Planning Division, and considered the effects on the quality of life and health of the Billings Community in making its recommendations to the City Council.

The Committee is recommending several updates to the Limits of Annexation Map to ensure it is current with any annexations that have occurred in the last year and to coincide with proposed changes to the Urban Planning Area Boundary around the City. This includes about 695 acres, or about 1.2 square miles of land annexed into the City since February 2007 that is to be shown within the City Limits on the Map. Additional recommended changes beyond approved annexations are described below and are indicated on the Limits of Annexation Map attached with the Resolution to this document.

- Lockwood is recommended for removal from the Yellow “Uncertain” area of the Map based on City Council direction following the Lockwood Annexation Report prepared for the City Council in 2007 and the Council’s indication that the City did not intend to annex Lockwood in the future.
- Property along the Yellowstone River in the Billings Heights from approximately Mary Street on the north to Yellowstone River Road on the south is being recommended to be changed to the Yellow “Uncertain” area. The majority of this property has building limitations based on steep slopes, flood plain areas and limitations for infrastructure and services to be provided.
- Two Moon Park along the Yellowstone River in the Billings Heights is recommended for removal from any of the classifications on the Map. This is a County Park and is not expected to be either developed as anything other than a park or annexed into the City in the future.
- Several portions of Riverfront Park are recommended to be included in the Red Limits of Annexation area on the Map to be consistent with the rest of Riverfront Park that is already within the Red area. The Park also is City owned and might someday be annexed into the City Limits.

- Two areas of land off of Mullooney Lane are recommended for inclusion in the Red Limits of Annexation Map area from the Orange “2014-2024” area they are currently located in. This area is referred to as the Mullooney Study Area in the Urban Planning Study the Council is also reviewing at its March 10 meeting. The area includes the Titan Subdivision, an industrial subdivision with lots ranging in size from one to four acres, some agricultural land to the north of Titan Subdivision encompassing approximately 65 acres, and land within two other subdivisions to the south of Elysian Road. River Grove Estates Subdivision is an industrial subdivision with lots ranging between one half and one acre. South of that is a manufactured home park on 33 acres containing approximately 53 homes.

STAKEHOLDERS

The Annexation Committee met three times from December 2007 to January 2008 to review one property owner request for inclusion within the 2008 – 2013 Limits of Annexation red area. The Committee also reviewed other proposed amendments to the Map at its meetings, including review of proposed changes to the Urban Planning Area boundary. The Planning Board considered the proposed amendments to the Urban Planning Area at its meeting on January 22nd and took public comment. The City Council is conducting public hearings at its meeting on March 10 to consider amendments to the Urban Planning Area and the Limits of Annexation Map. The public may comment at the public hearings before the Council acts on this item.

RECOMMENDATION

The Annexation Committee recommends that Council adopt the resolution to revise the Limits of Annexation Map as presented.

ATTACHMENTS

- A. Resolution and Limits of Annexation Map

ATTACHMENT A

RESOLUTION NO. 08 - _____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA
PURSUANT TO ARTICLE II. CITY BOUNDARIES, MCA 7-1-
114(1)(a); ANNEXATION PROCEDURES, MCA 7-2-4201 ET
SEQ. AND SETTING FORTH AN ANNEXATION POLICY;

WHEREAS, the City Council adopted the City of Billings Annexation Policy and Limits of Annexation Map by Resolution on April 10, 2006; and

WHEREAS, the Policy states that the Map shall be revised whenever the Capital Improvements Plan is revised; and

WHEREAS, the City Council approved the FY 2008 Modifications to the Capital Improvements Plan on February 25, 2008.

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

That the City Council now makes and adopts the following

LIMITS OF ANNEXATION MAP
Revised, March 10, 2008

Map Revised Feb 21, 2008

Revisions

- Landowner Request
- Planning Board and Staff Recommendations

Limits of Annexation

- 2008 - 2013
- 2014 - 2024
- Uncertain

Zoning Jurisdiction

- City Limits

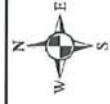
Limits of Annexation

- 2008 - 2013
- 2014- 2024
- Uncertain
- Zoning Jurisdiction
- City Limits

Revised Feb 21, 2008



Map Document: I:\6-gis\1\gis\Map\Planning\LegalLimits_Revised_0208.mxd
2/21/2008



APPROVED AND PASSED by the City Council of the City of Billings, this 10th day of March, 2008.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin, City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 10, 2008

TITLE: Public Hearing for Site Development Ordinance Variance #OP-08-01
DEPARTMENT: Public Works/Engineering
PRESENTED BY: Dave Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Salvation Army desires to construct a new Recreation Center Building consisting of a gymnasium, kitchen, classrooms, staff apartments and temporary overnight sleeping areas. The building will be located at 2016 6th Avenue North, on Lots 11-18, Block 262, Billings Original Town. This property is located between North 20th and North 21st Streets along the south side of 6th Avenue North. The Salvation Army requests variances for Section 6-1203(j) of the Site Development Ordinance. Section 6-1203(j) pertains to the number of off-street parking stalls required. The new Recreation Center will only provide 14 of the 163 required parking stalls. City Ordinance requires that a minimum of 163 parking stalls be constructed with the building.

ALTERNATIVES ANALYZED:

1. Approve the variance. Approval of this variance will allow the Salvation Army to operate the Recreation Center facility without meeting the Site Development Ordinance which covers the requirements for off-street parking needs.
2. Do not approve the variance. Denial of this variance will require redesign or relocation of the facility.

FINANCIAL IMPACT: There is no direct financial impact to the City. Advertising costs for the public hearing are offset by the variance application fee.

RECOMMENDATION

Staff recommends that Council does not approve the variance allowing the reduced number of off-street parking spaces required.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Application for Variance
- B. Proposed Site Plan - showing the 14 parking stalls
- C. Existing Facility Sheet “ A-1 “
- D. Original Program - space requirements
- E. Major Bottjen’s Program - space requirements (updated size)
- F. Salvation Army Recreation Center – Parking Variance Request Calculation
- G. The Salvation Army Solid Rock Youth Center – Projected Flow Chart
- H. CTA Architects Engineers Letter – To Candi Beaudry
- I. CTA Architects Engineers Letter – To Planning & Community Services Department

INTRODUCTION

The Salvation Army desires to construct a new Recreation Center Building consisting of a gymnasium, kitchen, classrooms, staff apartments and temporary overnight sleeping areas. The building will be located at 2016 6th Avenue North, on Lots 11-18, Block 262, Billings Original Town. This property is located between North 20th and North 21st Streets along the south side of 6th Avenue North. The Salvation Army requests variances for Section 6-1203(j) of the Site Development Ordinance. Section 6-1203(j) pertains to the number of off-street parking stalls required.

PROCEDURAL HISTORY

- On July 23, 2007 the City Council approved an initiative to extend the CBD.
- Planning Division held a public meeting on November 15, 2007 inviting members of the neighborhood and surrounding neighborhood to attend.
- The Zoning Commission conducted a public hearing on January 2, 2008, and forwarded a recommendation for denial with a vote of 5-0.
- The City Council held a public hearing for the expansion of the Central Business District Zoning (Zone Change # 831) on January 28, 2008. City Council at that time voted to delay action on the zone change application and directed staff to assist the Salvation Army apply for variances.
- The City Board of Adjustment will hear and act on the zoning variance concerning building setbacks on March 5, 2008.
- The City Council will hear and act on the site development code for off street parking on March 10, 2008.

BACKGROUND

CTA Architects/Engineers is the consultant for the design of the Salvation Army's new Recreation Center and they provided a Site Plan for the variance showing the proposed lay out for the new facility, the off-street parking that will be constructed with the project and the parking that is located on the Salvation Army's property on the west side of North 21st Street (see attachment Exhibit "A").

In accordance with past City practices, the owner is calculating the required parking based on Section 6-1203(1) (e): Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. The total requirements are to be the sum of the area computed. Off-street parking facilities for one (1) use shall not be considered as a substitute for joint use.

The owner is proposing to use the following parking requirements from Section 6-1203(j) for their variance request.

- A. Churches, auditoriums, bingo parlors 1 and similar places of assembly: 1 per 4 seats or 1 per 100 linear inches of pew or 1 per 65 sq. ft. of gross floor area used for assembly.
- B. Stadiums, sports arenas and similar assemblies: 1 per 4 seats or 1 per 100 sq. ft. of assembly space without fixed seats.
- C. Banks, business and professional offices - 1 per 300 sq. ft. of gross floor area.
- D. School, elementary, junior-high public or parochial: 5 spaces plus one (1) per classroom with minimum auditorium requirements.
- E. Boarding houses, lodging homes or similar uses: 1 per dwelling unit or lodging unit
- F. Residential, single family or duplex: 2 per dwelling unit
- G. Residential, multifamily: 1 per one bedroom dwelling unit 1.5 per two or more bedroom dwelling unit.

The Salvation Army came forth earlier this year with the original proposed plan consisting of a project of approximately 26,000 square feet in size. The above criteria was used for calculating the number of off-street parking stalls required. It was determined that approximately 108 stalls of which 5 stalls are to be handicapped accessible, would be required for the project at that time. Since then the Salvation Army has made some additional revisions and increased the size of the new facility to approximately 37,000 square feet and increased the number of required off street parking stalls to approximately 163 stalls, of which 6 are to be handicapped accessible.

The most recent site plan shows that the off street parking that will be provided is 14 of which 4 will be handicapped accessible.

The Salvation Army is therefore requesting a variance for 149 off street parking spaces and is proposing that the needed parking spaces will be provided throughout the surrounding area in on street parking and the Salvation Army's main building's westerly parking lot along North 22nd Street which can accommodate between 20 to 53 off street parking spaces dependent upon time and day of week.

The owner has provided a letter (Attachment " H ") from CTA Architects Engineers detailing the estimated needs usage of the property owner for the new facility. In Attachment " H " the owner references a flow chart showing that peak time occupancy would require an estimated 20 parking stalls (Attachment " G ") and that the Salvation Army's main building located across North 22nd Street has 53 parking spaces available (Attachments " B " and " C ")

- For the requested variance, the Site Development Ordinance reads as follows:
- Section 6-1203(j):
- *Table of minimum standards.* Required parking spaces shall be in conformance with the following table and where alternative standards are indicated, the greater requirement applies in conflicting computation; where the total quota results in a fraction the next highest full unit shall be provided.

ALTERNATIVES ANALYSIS

1. Approve the variance. Approval of this variance will allow the Salvation Army to operate the Recreation Center facility without meeting the Site Development Ordinance which covers the requirements for off-street parking needs.
2. Do not approve the variance. If this variance is denied, the owner has three options to meet the requirements of the Site Development Ordinances. The first option would be to reduce the size and footprint of the Recreation Center facility, thus reducing the number of off street parking requirements and providing more available space for parking. The second option would be to find a different location for this type of facility to accommodate the number of customers using the Recreation Center facility and be in compliance with the site development requirements. The third option would be to continue to pursue the zone change to Central Downtown Business District.

STAKEHOLDERS

Billings Industrial Revitalization District (BIRD) is currently working with the Big Sky Economic Development Authority (BSEDA) and with the City County Planning Department in creating a land use master plan for the area encompassing the Salvation Army property. An Urban Renewal Plan was developed in 2006 for the master planning but was deferred until funding could be obtained. Funding has recently been obtained for the master plan with the help of the U. S. Economic Development Agency as long as the funds meet the matching funds requirement. The matching funds have been met to the amount of \$150,000 which has allowed the master planning to proceed forward this year.

SUMMARY

The New Recreation Center will only provide 14 of the 163 required parking stalls. On street parking is not recognized in this district as meeting part of the off-street parking requirements. The proposed site does not have the adequate space for any additional parking stalls as the site is currently proposed. In the future, if the building is sold to be used as offices and a change in use does not occur, the new tenant would not be able to install or meet the parking requirements. Parking could become an issue if the new tenant is not interested in offering incentives for creating alternative transportation such as carpooling, riding the bus, walking, and riding bikes. The parking that is being proposed or provided is a significant difference than what is required parking by City Ordinance.

RECOMMENDATION

Staff recommends that Council does not approve the variance allowing the reduced number of off-street parking spaces required.

Attachment "A"

Application # OP-08-01

APPLICATION FOR VARIANCE

1. Legal description of property: Lots 11-18, Block 262
2. Address (if unknown, contact the City Engineer's office) or general location: 2016 6th Avenue North
3. Owner(s): Salvation Army, Major Keith C. Bottjen
(Recorded Owner)
2100 6th Avenue North
(Address)
(406) 245-4659
(Phone Number)
4. Agent(s): CTA Architects Engineers, Anya Fiechtl
(Name)
13 North 23rd Street
(Address)
(406) 896-6100 x 6154
(Phone Number)
5. Section of the Site Development Ordinance that this request for variance applies to: Controlled Industrial zone parking requirements
6. Reason for request: The parking requirements according to the Code of Ordinances of the City of Billings, section 6-1203, far exceeds the available space on site. This request is for a parking variance of 146 parking stalls.
7. Covenants for deed restrictions on the property: Yes ☐ No ☒ (if yes, please include a copy)

I understand that the filing fee accompanying this application is not refundable, and that the fee does not constitute a payment for variance requested. Also, that all the information presented is true and correct.

Signature: [Signature] Date: 2-4-8
(Recorded Owner)

Fee: \$160.00

Receipt #: 231885

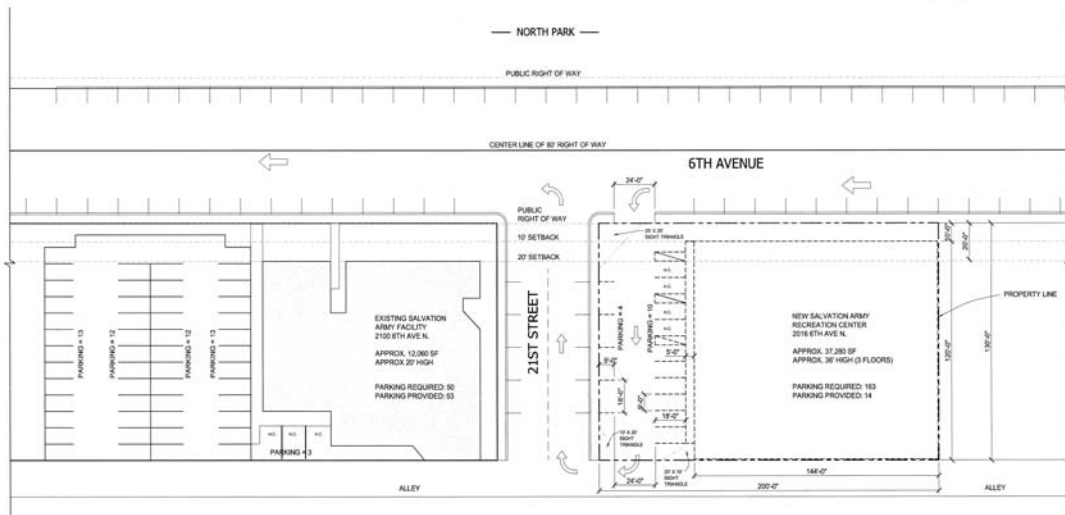
Hearing Date: _____

SALVATION ARMY RECREATION CENTER, BILLINGS, MONTANA

VARIANCE REQUEST SITE PLAN

NOT FOR CONSTRUCTION

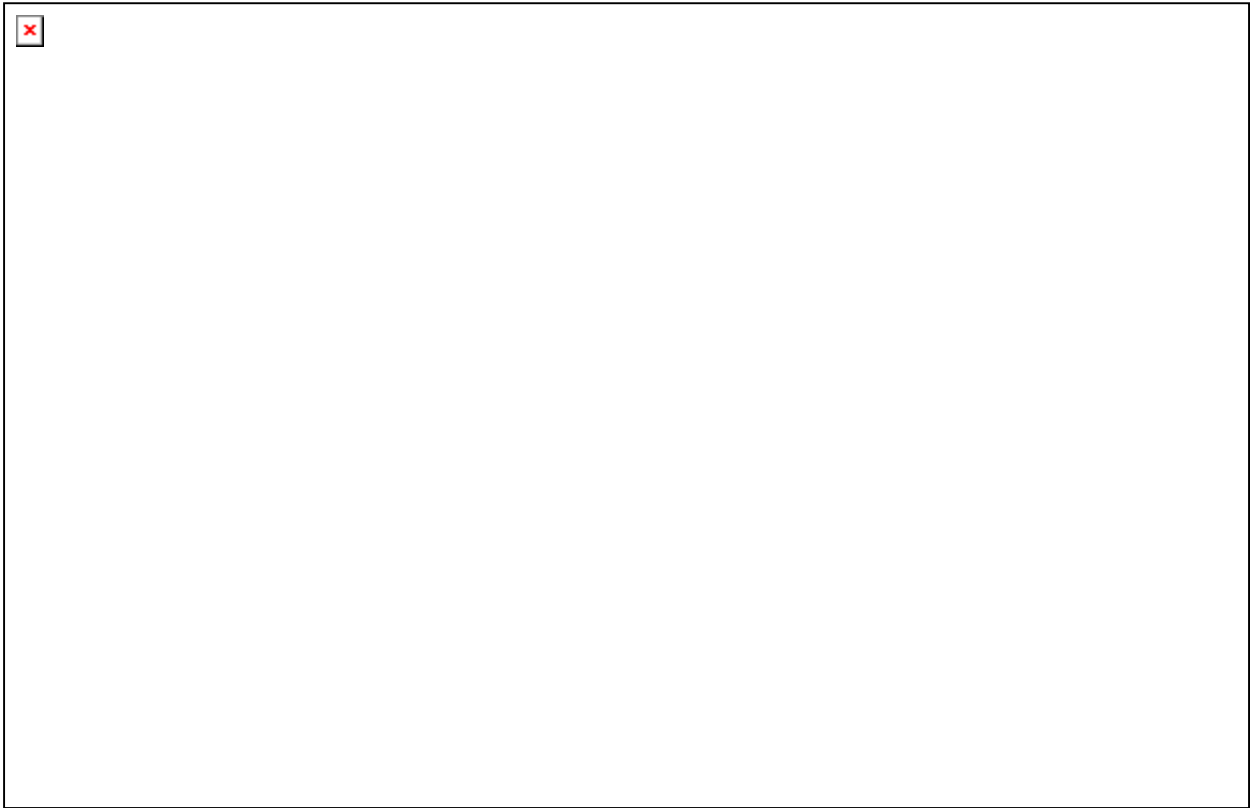
CTA ARCHITECTS ENGINEERS



VARIANCE REQUEST SITE PLAN

SCALE: 1:40





Attachment " D "

ORIGINAL PROGRAM-SPACE REQUIREMENTS

Salvation Army Recreation Center

Total Building Area: 20,933 sf

Parking requirements: 108 parking stalls

First Floor

| | |
|--|----------|
| Reception/Office | 100 sf |
| Lobby / lounge | 200 sf |
| Coffee / Snack Bar | 80 sf |
| Men's Restroom w/shower | 120 sf |
| Women's Restroom w/shower | 120 sf |
| First Aid Room | 100 sf |
| Pet storage: indoor / outdoor? | 80 sf |
| Gymnasium | 7,280 sf |
| Typ (84x50) +10' each side= 104x70 | |
| Rock climbing wall, in gym | n/a |
| 20x15 (10' clear from furthest protrusion) | |
| Stage | n/a |
| Stage and seating in storage room | |
| Storage | 600 sf |
| Weight training room | 200 sf |
| Men's locker room | 300 sf |
| Women's locker room | 300 sf |
| Clothes room with washer/dryer | 100 sf |
| Receiving / Recycling | 120 sf |
| Electrical / controls room | 80 sf |
| Janitor closet | 60 sf |
| Stairs (2 @ 220sf ea.) | 440 sf |
| Elevator | 100 sf |
| Elevator Mech. rm. | 60 sf |
| Non-Assignable Areas (30%, gym not incl.) | 768 sf |

Subtotal 11,208 sf

Second Floor

| | |
|---|--------|
| Men's Restroom | 80 sf |
| Women's Restroom | 80 sf |
| Offices (2 @ 100sf ea.) | 200 sf |
| Counseling | 100 sf |
| Copy / print area | 50 sf |
| General classroom | 200 sf |
| Computer room | 160 sf |
| Visual arts | 250 sf |
| Audio/Visual/Digital media room | 200 sf |
| Acoustic music rooms (2 @ 100sf ea.) | 200 sf |
| Chapel | 300 sf |
| Open instruction room w/ movable partitions | 300 sf |
| Library / Lounge / Study space | 200 sf |
| Kitchen / Culinary classroom | 500 sf |
| Storage | 150 sf |
| Janitor closet | 60 sf |
| Stairs (2 @ 220sf ea.) | 440 sf |
| Elevator | 100 sf |
| Non-Assignable Areas (30%) | 909 sf |

Subtotal 4,479 sf

Attachment "D"

| | | |
|--------------------------------|-----------------|------------------|
| Third floor | | |
| Apartment: 2 bedroom | | 800 sf |
| Apartment: 1 bedroom | | 600 sf |
| Sleeping rooms (6 @ 200sf ea.) | | 1,200 sf |
| Lobby/ common living rm. | | 150 sf |
| Men's shower | | 200 sf |
| Women's shower | | 200 sf |
| Storage | | 150 sf |
| Janitor closet | | 60 sf |
| Electrical room | | 60 sf |
| Mechanical room | | 200 sf |
| Stairs (2 @ 220sf ea.) | | 440 sf |
| Elevator | | 100 sf |
| Non-Assignable Areas (30%) | | 1,086 sf |
| | Subtotal | 5,246 sf |
| TOTAL Building Area | | 20,933 sf |

Attachment " E "

MAJOR BOTTJEN'S PROGRAM-SPACE REQUIREMENTS

Salvation Army Rec. Center

2/1/2008

Total Building Area: 37,280 sf

First Floor

| | |
|------------------------------|----------|
| Gymnasium | 7,280 sf |
| Kitchen | 1,600 sf |
| Boys locker room + bathroom | 800 sf |
| Girls locker room + bathroom | 800 sf |
| Weight room | 640 sf |
| Offices | 660 sf |
| Nurse / first aid | 168 sf |
| Game room + Lounge | 810 sf |
| Washer + Dryer | 195 sf |
| Storage | 176 sf |
| Waiting | 1,196 sf |
| Elevator | 110 sf |
| Stair | 385 sf |
| Circulation | 2,460 sf |

Subtotal 17,280 sf

Second Floor

| | |
|-----------------------------|----------|
| Conference + expanded space | 1,218 sf |
| Audio Visual classroom | 594 sf |
| Boys bathroom | 180 sf |
| Girls bathroom | 180 sf |
| Computer lab | 440 sf |
| Visual Arts classroom | 540 sf |
| Office | 288 sf |
| Counseling office | 288 sf |
| Music classroom | 380 sf |
| Classroom/Lounge | 460 sf |
| Storage | 831 sf |
| Elevator | 110 sf |
| Stair | 515 sf |
| Circulation | 3,976 sf |

Subtotal 10,000 sf

Third floor

| | |
|-----------------------------|----------|
| Manager apartment | 1,224 |
| Assistant Manager apartment | 630 |
| Overnight room 1 | 215 |
| Overnight room 2 | 380 |
| Overnight room 3 | 264 |
| Overnight room 4 | 264 |
| Overnight room 5 | 527 |
| Overnight room 6 | 270 |
| Overnight room 7 | 270 |
| Overnight room 8 | 360 |
| Boys bathroom and shower | 416 |
| Girls bathroom and shower | 440 |
| Storage | 353 sf |
| Elevator | 110 sf |
| Stair | 515 sf |
| Circulation | 3,762 sf |

Subtotal 10,000 sf

TOTAL 37,280 sf

Attachment "F"

Salvation Army Recreation Center Parking Variance Request Calculation

2/2/2008

| | |
|---|------------|
| Conceptual design established parking requirement (20,933 sf facility) | 108 |
| Parking required for area added to facility (16,347 sf x 1stall/300sf) | 55 |
| Total parking required | 163 |

| | |
|--------------------------|----|
| Parking provided on site | 14 |
|--------------------------|----|

| | |
|---|------------|
| Total parking deficit (parking variance requested) | 149 |
|---|------------|

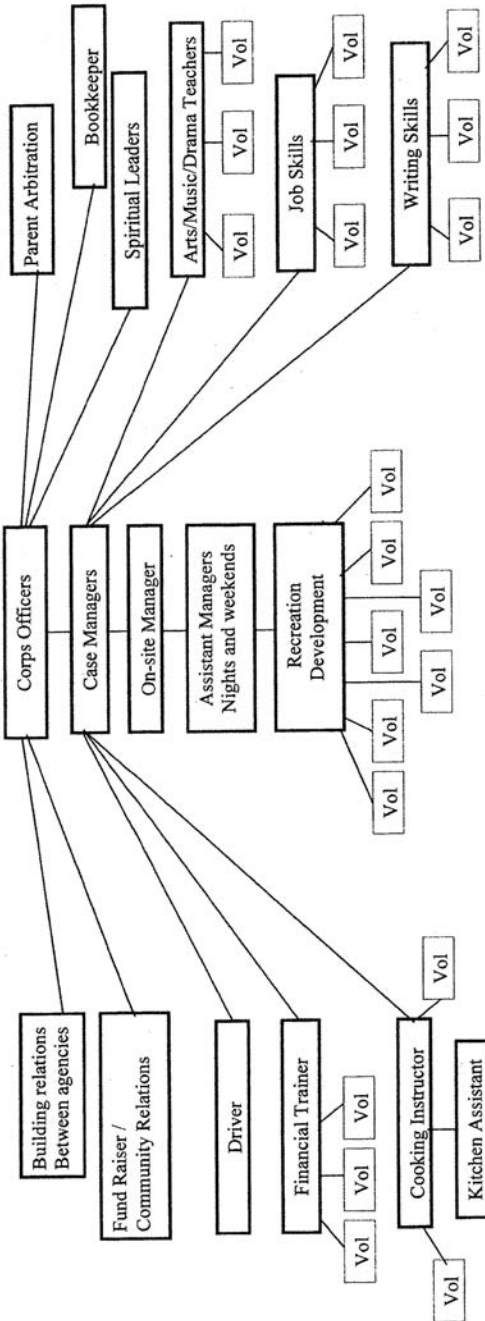
NOTE:

| | |
|--|----------|
| <i>Parking provided on adjacent Salvation Army facility site</i> | <i>3</i> |
| <i>Parking provided: (53) - Parking required (50)</i> | |

**see attachments for program space requirements and site plan*

Attachment " G "

The Salvation Army Solid Rock Youth Center
Projected Flow Chart



Corns Officers offices are at the Administration Offices and will **not** need parking.

Bible Studies, meeting with the parents, agency meetings, etc. will be held at the church where there is ample parking most of the time.

Bookkeeper will be at the Administration Offices and will not need parking

Case Manager will have an office in the building—one parking spot—

On site manager will have living quarters

The Driver will need—one parking spot—

Assistant manager will need—one parking spot—

Cooking instructor and kitchen assistant—two parking spots during program activity

Financial trainer—one parking spot when on premises

Arts/Music/Drama teacher—one parking spot—during program activity—

Job Skills teacher—one parking spot—during program activity-

Writing Skills teacher—one parking spot—during program activity

Volunteers at any given time at the most, ten parking spots, during program times

Because of the different groups meeting on different days, and most of the clients will have no transportation, 20 off street parking spots will be more than sufficient because any overflow can be directed to the church parking lot.

(Pretty much 24/7)

(Pretty much 24/7)

(Pretty much 24/7)

(Pretty much 24/7)

(3 three hour days a week)

(2 two hour days a week)

(3 to 4 three hour days a week)

(3 two hour days a week)

(2 two hour days a week)

(5 eight hour days per week)

Attachment "H"



Anya Fiechl
CTA Architects Engineers
13 N 23rd Street
Billings, MT, 59101

February 19, 2008

Candi Beaudry, AICP Director
City of Billings, Planning Dept.
510 North Broadway, 4th Floor Parmly Library
Billings, Montana 59101

Dear Candi Beaudry:

The Salvation Army requests a variance at their proposed Youth Recreation Center at 2100 6th Ave N. The future three floor, 37,280 square foot facility will serve as a youth recreation center, which includes a gymnasium, kitchen, classrooms, offices, 2 staff apartments, and 8 temporary youth overnight rooms. The Salvation Army hopes to build a facility for Billings youth to learn, grow and play in a safe and inspiring environment.

The owner is requesting to reduce parking requirements by 149 parking stalls. The staff and volunteer parking needs for this building have been estimated by the client to be 20 spaces at peak occupancy. Their adjacent existing Salvation Army Facility at 2100 6th Ave N. has a parking lot with 53 stalls that could be shared. Therefore, we are requesting a parking variance to meet their needs and the site restraints. In addition to the City of Billings Variance Application, we have included the following attachments for review: Facility Program information, Parking estimate calculations, Flow chart of Salvation Army parking needs, and a Site Plan. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Anya Fiechl". The signature is written in a cursive, flowing style.

Anya Fiechl
AIT, LEED AP, CTA Architects Engineers
13 N 23rd Street
Billings, MT, 59101

(406) 896-6154
anyaf@ctagroup.com

Attachment "I"

Anya Fiechtl
CTA Architects Engineers
13 N 23rd Street
Billings, MT, 59101

Planning & Community Services Department
4th Floor Parmly Library
510 North Broadway
Billings, MT, 59101

February 4, 2008

To the Chairperson of the Board of Directors:

The Salvation Army is requesting a setback variance for their future Salvation Army Recreation Center at 2016 6th Ave N. The future three floor, 37,280 square foot building will serve as a youth recreation center, which includes a gymnasium, kitchen, classrooms, offices, 2 staff apartments, and 8 temporary youth overnight rooms. The Salvation Army hopes to build a facility for Billings youth to learn, grow and play in a safe and inspiring environment. In light of a full program, limited space and parking constraints, the owner is requesting to reduce setback requirements on the property as follows: to reduce the 20' setback to a 10' setback at 6th Ave North, and to eliminate any setback at 21st Street. Please find enclosed Variance Application and Site Plan for the proposed facility. Thank you for your time and consideration.

Sincerely,

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