

# CITY OF BILLINGS

## CITY OF BILLINGS' VISION STATEMENT:

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

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## AGENDA

COUNCIL CHAMBERS

July 14, 2008

6:30 P.M.

CALL TO ORDER – Mayor Tussing  
PLEDGE OF ALLEGIANCE – Mayor Tussing  
INVOCATION – Councilmember Astle  
ROLL CALL  
MINUTES – June 23, 2008  
COURTESIES –  
PROCLAMATIONS - none  
ADMINISTRATOR REPORTS – Tina Volek

### **PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 2 ONLY.**

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

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

### **CONSENT AGENDA:**

#### **1. A. Bid Awards:**

**(1) W.O. 03-07, Alkali Creek Multi-Use Path – Segment 1B (Main Street Tunnel).** No recommendation for contract award due to no bids received by the bid deadline.

[\(Corresponding Staff Memo A1\)](#)

**(2) W.O. 04-36, Briarwood Sewer Main Extension.** (Opened June 24, 2008). Recommend COP Construction, \$5,089,781.00 plus 10% contingency (\$508,978.10) for a total of \$5,598,759.10.

[\(Corresponding Staff Memo A2\)](#)

**(3) W.O. 07-22, King Avenue East road construction.** (Opened July 1, 2008). Recommend delay of award to July 28, 2008.  
[\(Corresponding Staff Memo A3\)](#)

**(4) Waukesha Engine Generator Control Upgrade for Wastewater Division.** (Opened June 24, 2008). Recommend Winn-Marion Barber, LLP, \$134,911.00.  
[\(Corresponding Staff Memo A4\)](#)

**B. Agreement** with Billings Housing Authority to fund one Police Officer, July 1, 2008, through December 31, 2008.  
[\(Corresponding Staff Memo B\)](#)

**C. Approval** of Commercial Aviation Ground Lease with Edwards Jet Center for the Airport's Commercial Lot 2 parcel. Five-year term, annual revenue, \$12,220.44.  
[\(Corresponding Staff Memo C\)](#)

**D. Amendment #1** to Non-Commercial Aviation Ground Lease with Williams Enterprises to correct and update the legal description. Annual revenue increase, \$221.52.  
[\(Corresponding Staff Memo D\)](#)

**E. Assignment and Transfer** of the Non-Commercial Aviation Ground Lease from Williams Enterprises to B&J Properties Limited, LLC.  
[\(Corresponding Staff Memo E\)](#)

**F. Amendment #1** to Limited Commercial Aviation Ground Lease with Corporate Jet, LLC to correct and update the legal description. Annual revenue increase, \$208.80.  
[\(Corresponding Staff Memo F\)](#)

**G. Amendment #2,** W.O. 07-22, King Avenue East, Professional Services Contract, HDR Engineering, \$175,360.00.  
[\(Corresponding Staff Memo G\)](#)

**H. Amendment** to Certified Local Government Program Grant Contract with the State of Montana Historic Preservation Office to send a Yellowstone Historic Preservation Board member to the Montana History Conference in October, 2008, \$500.  
[\(Corresponding Staff Memo H\)](#)

**I. W.O. 05-20 Aronson Avenue,** amendments to the plat of Sahara Sands Park and certificate of survey for Swords Park to add road tracts and right-of-way.  
[\(Corresponding Staff Memo I\)](#)

**J. Street Closures:**

(1) Billings Clinic's Classic Street Party; N. Broadway between 3<sup>rd</sup> Avenue N. and 4<sup>th</sup> Avenue N. from midnight August 22, 2008, through 5:00 p.m. August 24, 2008; and the alley between 3<sup>rd</sup> and 4<sup>th</sup> Avenues North from 9:00 p.m. August 22, 2008, through 5:00 a.m. August 24, 2008.

[\(Corresponding Staff Memo J1\)](#)

(2) Viva La Fiesta; South 28<sup>th</sup> and South 29<sup>th</sup> on 6<sup>th</sup> Avenue South on July 25, 26, and 27, 2008, from 4:00 p.m. on July 25 until 6:00 p.m. July 27, 2008. Delayed from June 23, 2008.

[\(Corresponding Staff Memo J2\)](#)

**K. Acceptance of donation** from The Rotary Club of Billings to provide trees for Dehler Park, \$3,000.00.

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

**L. Acceptance of Homeland Security Grant** for the purchase of confined space/rescue equipment for the Fire Department, \$20,248.00.

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

**M. Approval of grant application** to the Montana Tourism Infrastructure Investment Program to provide a bridge connection over the Montana Rail Link tracks in the downtown historic district, \$50,000.00.

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

**N. Approval of grant application and acceptance** of the 2008 Justice Assistance Grant (JAG) for replacement of lightbars on police vehicles, \$11,390.00.

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

**O. Resolution** acknowledging approval of the Department of Natural Resources and Conservation (DNRC) for the sale and delivery of revenue bonds for the Briarwood sanitary sewer extension, \$7,400,000.00.

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

**P. Preliminary Plat** of Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended Lots 4, 5, and 7 through 11, Block 46.

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

**Q. Final Plat** of Miller Crossing Subdivision, 2<sup>nd</sup> Filing.

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

**R. Final Plat** of Shiloh Crossing Subdivision, Amended Lot 4, Block 1.

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

**S. Bills and Payroll**

(1) June 6, 2008

[\(Corresponding Staff Memo S1\)](#)

(2) June 13, 2008  
([Corresponding Staff Memo S2](#))

(3) June 20, 2008  
([Corresponding Staff Memo S3](#))

(**Action:** approval or disapproval of Consent Agenda.)

## **REGULAR AGENDA:**

2. **RESOLUTION APPROVING AND ADOPTING FOURTH QUARTER BUDGET AMENDMENTS FOR FISCAL YEAR 2007/2008** (item #3 delayed from June 23, 2008). Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo 2](#))
3. **PUBLIC HEARING AND RESOLUTION AUTHORIZING THE SALE OF PORTIONS OF OLYMPIC PARK AND THE SHILOH DRAIN ACCESS PROPERTY.** A transfer of City-owned property, located in the right-of-way along Shiloh Road, to Montana Department of Transportation for the Shiloh Road Project. Subject property is generally described as Parcels 22, 25, 31 and 83 on Montana Department of Transportation Project MT 1031(4). Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo 3](#))
4. **PUBLIC HEARING AND RESOLUTION VACATING THE ALLEY WITHIN BLOCK 260 OF BILLINGS ORIGINAL TOWN,** Aaron Sparboe, petitioner. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)  
([Corresponding Staff Memo 4](#))
5. **PUBLIC HEARING FOR SPECIAL REVIEW #862:** A special review to remove a condition of approval from Special Review #836 and Special Review #841 restricting vehicle access across the west property line to adjacent property on a 2.303 acre parcel of land in a Controlled Industrial (CI) zone, on Lot 11A-1, CBH Industrial Park Subdivision at 1911 King Avenue West. KRP, LLC, owner, Blueline Engineering, agent. Delayed from June 23, 2008, at applicant's request. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation)  
([Corresponding Staff Memo 5](#))
6. **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**

### **7. EXECUTIVE SESSION - Litigation**

## **ADJOURN**

*Additional information on any of these items is available in the City Clerk's Office.*

*Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.*

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

## AGENDA ITEM:



## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 14, 2008

**TITLE:** W.O. 03-07, Alkali Creek Multi-Use Path—Segment 1B (Main Street Tunnel), Construction Contract Award

**DEPARTMENT:** Public Works

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

**PROBLEM/ISSUE STATEMENT:** This project provides another segment to the city-wide trail system and will feature a grade separated crossing of Main Street. It includes construction of approximately 610 lineal feet of concrete path, a tunnel approximately 15 feet in diameter under Main Street, and all associated site work (grading, drainage, lighting, signing, planting, etc.). The project location is near the crossing point of Alkali Creek and Main Street. Ultimately, this segment of path will allow the existing paths along Alkali Creek, through Sword's Park, and by METRA Park to be tied together, thus greatly enhancing the City's network of pedestrian/bike trails. The project was designed by HKM Engineering, with whom the City has a contract for these professional services. The bid opening was held July 1, 2008, meaning Council would have to act on the bid opening at this meeting. However, no bids were received by the bid opening deadline. Staff will contact contractor plan holders and gather information to try to determine why no bids were submitted. The project will then rebid at a later date.

**FINANCIAL IMPACT:** The project is being funded by CTEP, TCSP, and some local grants. There are adequate funds available to cover the entire costs of construction.

No bids were received by the July 1, 2008, deadline.

Firm(s)				Engineer's Estimate
BASE BID				\$861,483.40
ALTERNATE 1 (more lighting)				\$ 25,000.00

## **RECOMMENDATION**

Staff recommends that Council not award a construction contract at this time for W.O. 03-07, Alkali Creek Multi-Use Path—Segment 1B (Main Street Tunnel) due to no bids being received by the bid deadline.

**Approved By:**        **City Administrator** \_\_\_\_\_ **City Attorney** \_\_\_\_\_

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

## AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

**TITLE:** W.O. 04-36 Briarwood Sewer Main Extension, Contract Award  
**DEPARTMENT:** Public Works - Engineering  
**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** The subject project will construct gravity and forced sanitary sewer mains and a lift station to replace the failing Briarwood Wastewater Treatment Facility. Other project features include gravel and concrete access roads for maintaining sewer facilities, an access bridge, demolition and restoration work, and a new 12-inch water main.

Existing sanitary sewer flow will be intercepted just north of the existing Briarwood WWTF, and approximately 1.71 miles of 15 and 18-inch gravity sewer main will be installed to convey flow north and west across the Briarwood golf course to Colleen Drive. From Colleen Dr., the gravity sewer will run north along Blue Creek Rd. to the proposed lift station. The lift station will be sited off the east side of Blue Creek Rd. north of Jellison Road. About 1,600 feet of 8-inch gravity sewer main laterals will be installed to serve adjoining properties.

From the lift station site, nearly 1.36 miles of dual 12-inch sewer force main will be installed north along Blue Creek Rd., across the Yellowstone River Bridge, and along the South Frontage Road to connect to the City's existing 48-inch gravity sewer main.

Other major work to be awarded under this contract includes constructing about 2,000 linear feet of gravel and concrete access road, building a 70-foot long access bridge, demolishing the existing Briarwood WWTF, restoring areas disturbed by the project including portions of the Briarwood golf course, and installing about 1,120 feet of 12-inch water main in Coleen Drive.

**FINANCIAL IMPACT:** Bids were opened on June 24, 2008 for W.O. 04-36 with the results listed below:

**BRIARWOOD SEWER MAIN EXTENSION**

	<b>Combined Bid of Schedules I and II</b>	<b>Schedule III Bid (Water)</b>	<b>Combined Bid of Schedule I, II and III</b>
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	<b>(Sanitary Sewer)</b>		
<b>Western Municipal</b>	<b>\$5,293,895.00</b>	<b>\$135,088.00</b>	<b>\$5,428,983.00</b>
<b>COP Construction</b>	<b>\$4,937,015.00</b>	<b>\$152,766.00</b>	<b>\$5,089,781.00</b>
<b>Williams Civil Division</b>	<b>\$5,683,412.26</b>	<b>\$211,109.07</b>	<b>\$5,894,521.33</b>
<b>Engineer's Estimate</b>	<b>\$5,972,409.00</b>	<b>\$186,044.00</b>	<b>\$6,158,453.00</b>

This sanitary sewer portion of this construction project will be backed in its entirety by a State Revolving Fund loan. The water portion of the project will be paid for with water funds.

### **RECOMMENDATION**

Staff recommends that Council award a construction contract for W.O. 04-36 to COP Construction in the amount of \$5,089,781.00 plus 10% contingency (\$508,978.10) for a total of \$5,598,759.10.

Approved By: City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
Monday, July 14, 2008

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**TITLE:** WO 07-22 King Avenue East Delaying Bid Award  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:** WO 07-22 King Avenue East was bid on Tuesday, July 1, 2008. This project will construct King Avenue East to a five-lane section from Orchard Lane to South Billings Boulevard. Included in the construction will be the conversion of South Billings Boulevard from two lanes to four lanes south of King Avenue East and the installation of traffic signals at the intersection of Calhoun Lane and King Avenue East and Orchard Lane and King Avenue East. This construction becomes necessary due to the development along King Avenue East, including construction of a new Cabelas. The widening of King Avenue East will be complete by November 15, 2008, with the signals and ditch crossings being completed in the Spring of 2009.

**ALTERNATIVES ANALYZED:**

1. Delay Awarding WO 07-22 King Avenue East until the July 28, 2008, City Council Meeting.

**FINANCIAL IMPACT:** The total estimated costs of the Improvements are \$3,068,058.05 which will be paid for utilizing TIFD (Tax Increment Finance District) financing and water replacement funds. Alternate #1 was to replace the oil in the asphalt mix with PG 64-22. We received two bids for the project as follows:

	Base Bid	Alternate #1	Total Bid
Engineer's Estimate	\$3,278,045.05	-\$234,000.00	\$3,044,045.05
Knife River-Billings	\$3,250,058.05	-\$182,000.00	\$3,068,058.05
Riverside Sand & Gravel	\$3,837,604.10	-\$321,880.00	\$3,515,724.10

**RECOMMENDATION**

Staff recommends that Council delay awarding WO 07-22 King Avenue East until the July 28, 2008, City Council Meeting.

**Approved By:**      **City Administrator** \_\_\_\_      **City Attorney** \_\_\_\_

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Award for Waukesha Engine Generator Control Upgrade  
for Public Works Department – Wastewater Division

**DEPARTMENT:** Public Works Department

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

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**PROBLEM/ISSUE STATEMENT:** The controls for the engine generator that produces electricity from the methane gas at the Wastewater Plant are over 25 years old and require nearly constant repairs due to parts failures and difficulty of finding parts. This control device has been identified as being in need of replacement to ensure uninterrupted ability to generate electricity at the Wastewater Plant.

**FINANCIAL IMPACT:** Bids were publicly advertised for the engine generator control upgrades on June 11 and 18, 2008. While other suppliers were contacted, the successful bidder was the only one who submitted a bid. Bids were opened on June 24, 2008. There is adequate funding in the Wastewater Plant Capital budget for this expenditure. The bid results are:

Winn-Marion Barber, LLP.....\$134,911.00

The bidder is able to supply the controls, installation and programming necessary to successfully complete the upgrade.

**RECOMMENDATION**

Staff recommends that Council award the bid for the Waukesha Engine Generator Control Upgrade to Winn-Marion Barber, LLP in the amount of \$134,911.00.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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



## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Agreement with Billings Housing Authority to Fund One Officer  
 From July 1, 2008, through December 31, 2008

**DEPARTMENT:** Police Department

**PRESENTED BY:** Rich St. John, Chief of Police

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**PROBLEM/ISSUE STATEMENT:** Since 1991, the Billings Housing Authority has funded one police officer under an agreement with the City of Billings. The funding consists of salary, benefits, and maximum of four (4) hours of overtime per month. Due to the loss of a grant, the Housing Authority is now funding this position from their office budget for a six month period. Staff is recommending City Council approve this agreement for the funding of the officer through from January 1, 2008, through June 30, 2008.

**FINANCIAL IMPACT:** The City provides a vehicle and necessary equipment. The Billings Housing Authority pays the salary and benefits for the officer, to a maximum amount of \$39,437.76, for the 6 month period of July 1 through December 31, 2008. This amount is budgeted in the current budget. If the Housing Authority is unable to fund the officer position after December 31, 2008, the position will be absorbed through attrition.

**RECOMMENDATION**

Staff recommends Council approve the agreement with Billings Housing Authority to fund one Police Officer for the period of July 1, 2008, through December 31, 2008.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

## AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

**TITLE:** Renewal of Commercial Aviation Ground Lease with Edwards Jet Center Lot 2

**DEPARTMENT:** Aviation and Transit

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

**PROBLEM/ISSUE STATEMENT:** The lease term for the Commercial Aviation Ground Lease with Edwards Jet Center for the use of Commercial Lot 2 at the Billings Logan International Airport expires July 31, 2008. The original ten-year Lease expired in 2005, and the Lease was extended three times, each time for one (1) additional year. This parcel sits directly east of the Airport Terminal Building, and extends from the taxiway system on the north end of the parcel to the Airport's frontage road on the south. Since this parcel is adjacent to the Airport frontage road, the potential existed that some portion of this parcel may have been impacted by the design for the new Airport Road Improvements that will rebuild secondary Highway 318 from the Airport down to Alkali Creek and the Airport's entrance. Since the design of the highway project is now complete, it has been determined that this parcel will not be impacted by the highway project. Consequently, staff has negotiated a new five (5) year lease term for this 64,899 square foot parcel, which Edwards Jet Center uses in its Fixed Base Operator (FBO) business.

**FINANCIAL IMPACT:** This five-year Lease will generate \$12,220.44 over the next year for the City's Airport Operation. This rate was calculated by adjusting the old lease rate by the increase in the Consumer Price Index for All Urban Consumers (CPI-U). The adjusted rate of \$0.1883 per square foot is similar to the other lease rates in place for commercial aviation property.

**RECOMMENDATION**

Staff recommends that Council approve the five-year renewal of the Commercial Aviation Ground Lease with Edwards Jet Center for the Airport's Commercial Lot 2 parcel.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Amendment One to Non-Commercial Aviation Ground Lease with Williams Enterprises

**DEPARTMENT:** Aviation and Transit

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

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**PROBLEM/ISSUE STATEMENT:** Williams Enterprises entered into a twenty (20) year Non-Commercial Aviation Ground Lease with the City on March 27, 2000, and subsequently constructed a 70 foot by 140 foot hangar on the leased parcel. Later in 2000, it was discovered that the leasehold was smaller than needed for this 9,800 square foot hangar. On October 23, 2000, the parcel to the south of the Williams Enterprises leasehold, which was leased to Fenske Companies, was amended to reduce its leasehold by 960 square feet. It was the intent at that time to add the 960 square feet from the Fenske Companies leasehold to the Williams Enterprises leasehold to accommodate the larger sized hangar. This Amendment is the corrective action that formalizes the addition of the 960 square feet to the Williams Enterprises leasehold and updates the description using section lines as reference points. A related, but separate action will follow, whereby Williams Enterprises will assign its amended leasehold interest to B & J Properties Limited, LLC. The documentation for this item is available for viewing at the office of the City Clerk.

**FINANCIAL COMMENT:** The Amendment will add 960 square feet to the Williams Enterprises leasehold and increase its annual ground rental by \$221.52.

**RECOMMENDATION**

Staff recommends that Council approve Amendment One to the Williams Enterprises Non-Commercial Aviation Ground Lease. This Amendment corrects the legal description by adding 960 square feet to the leasehold to accommodate the size of the hangar constructed on the leasehold and to update the legal description using section lines as reference points.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Assignment and Transfer of Non-Commercial Aviation Ground Lease from Williams Enterprises to B & J Properties Limited, LLC

**DEPARTMENT:** Aviation and Transit

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

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**PROBLEM/ISSUE STATEMENT:** On March 27, 2000, Williams Enterprises entered into a 20-year Non-Commercial Aviation Ground Lease with the City of Billings and subsequently built a 9,800 square foot hangar on the leased parcel. Williams Enterprises desires to assign its leasehold interest to B & J Properties Limited, LLC. Williams Enterprises and B & J Properties are both owned by J. E. Williams and Bobby Williams. This Assignment and Transfer will formally transfer the Ground Lease from Williams Enterprises to B & J Properties Limited, LLC. The documentation for this item is available for viewing at the office of the City Clerk.

**FINANCIAL IMPACT:** There is no financial impact from this action. The name on the Lease is all that changes with this Assignment and Transfer, all other terms and conditions remain in full force and effect.

**RECOMMENDATION**

Staff recommends that Council approve the Assignment and Transfer of the Non-Commercial Aviation Ground Lease from Williams Enterprises to B & J Properties Limited, LLC.

**Approved By:**      **City Administrator** \_\_\_\_      **City Attorney** \_\_\_\_

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

## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Amendment One to Limited Commercial Aviation Ground Lease with Corporate Jet, LLC

**DEPARTMENT:** Aviation and Transit

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

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**PROBLEM/ISSUE STATEMENT:** On December 18, 2006, Corporate Air entered into a ten (10) year Limited Commercial Aviation Ground Lease with the City of Billings, on a parcel located at the west end of the Airport on which Corporate Air owned a large hangar. On April 14, 2008, the Council approved Corporate Air's Assignment of this Lease to Corporate Jet, LLC. Corporate Jet is utilizing this leasehold for its startup operation as a second Fixed Base Operator (FBO) at the Airport. Additionally, on December 10, 2007, Corporate Jet entered into a Commercial Aviation Ground Lease with the City for a fuel farm site. The fuel farm installation is nearing completion and Corporate Jet will soon begin dispensing fuel as part of its FBO operation. Corporate Jet desires to construct and place a fuel sale sign on the airfield near its hangar leasehold. However, the hangar leasehold does not provide a preferred location for a sign. This Amendment adds 1,200 square feet to the leasehold, providing preferred space on which Corporate Jet may place its fuel sale sign.

**FINANCIAL COMMENT:** The Amendment will add 1,200 square feet to the Corporate Jet leasehold and increase its annual ground rental by \$208.80 for the first year.

**RECOMMENDATION**

Staff recommends that Council approve Amendment One to the Corporate Jet, LLC Limited Commercial Aviation Ground Lease. This Amendment amends the legal description by adding 1,200 square feet to the leasehold to accommodate the placement of a fuel sale sign on the airfield near its present hangar location.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

## AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

**TITLE:** Amendment to Professional Services Contract for WO 07-22 King Avenue East

**DEPARTMENT:** Public Works/Engineering

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

**PROBLEM/ISSUE STATEMENT:** The professional services contract for Work Order 07-22 with HDR Engineering, Inc. was approved at the January 14, 2008, City Council Meeting. WO 07-22 will construct King Avenue East to a five-lane section from Orchard Lane to South Billings Boulevard. Included in the construction will be installation of a traffic signal at the intersection of Calhoun Lane and King Avenue East. This construction becomes necessary due to the development along King Avenue East, including construction of a new Cabelas. WO 07-22 was bid on July 1, 2008. With the professional services contract, the city reserved to the right to amend the contract to add construction administration. Amendment #1 was approved by the City Administrator, which included some appraisal work and utility mapping not originally scoped in the contract. Amendment #2 includes the necessary contract administration to complete the project.

**FINANCIAL IMPACT:** The professional services contract with HDR Engineering will be paid for utilizing TIFD (Tax Increment Finance District) financing.

Original Contract Amount	\$350,975.00
Amendment #1	\$ 9,018.00
Amendment #2	<u>\$175,360.00</u>
Total Amount	\$535,353.00

**RECOMMENDATION**

Staff recommends that Council approve amendment #2 of the professional services contract for WO 07-22 with HDR Engineering in the amount of \$175,360.00.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

A. Amendment #2 to WO 07-22 Professional Services Contract

**Amendment Number Two to the  
Contract for Professional Architectural and Engineering Services  
Project Work Order 07-22 King Avenue East**

**By and Between the City of Billings, Montana  
and HDR Engineering, Inc.**

This Amendment Number TWO, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2008, modifies the Contract for Professional Services by and between the City of Billings, Montana, and HDR Engineering, Inc., dated 14 January 2008.

The Agreement is modified as follows:

Item 1: Page 2, Section 4, Part A, increase the total payment for services by \$175,360 to \$535,353.

Item 2: Exhibit A – Consultant's Scope of Services: Page 12, Detailed Scope of Services. ADD the following detailed scope items to **Task 6 – Plans, Specifications, and Estimate Development**:

The CONSULTANT, at the request of the CITY, will develop improvements to South Billings Boulevard from the eastbound I-90 ramps to King Avenue East, including widening, signing and striping, and electrical work to be included in the bid package. This work will also involve plans, specifications, and estimate development and internal quality control reviews for the South Billings Boulevard improvements.

The CONSULTANT, at the request of the CITY, will design a retaining wall with privacy fence at the Rennich parcel and wing walls for the proposed box culverts at Access 1 and Orchard Lane. This work will also involve plans, specifications, and estimate development and internal quality control reviews for the retaining and wing walls.

Item 3: Exhibit A – Consultant's Scope of Services: Page 12, Detailed Scope of Services. ADD the following detailed scope items to **Task 8 – Construction Engineering**:

The CONSULTANT will perform the following work, which is based on an assumed construction timeline of 45 weeks:

- Provide Issue for Construction Documents
- Attend Pre-Construction Meeting
- Attend weekly construction meetings
- Review shop drawings
- Provide construction staking
- Assist the City in contractor coordination and interpretation of drawings and specifications

- Provide change order preparation assistance
- Assist the City in developing a punch list and follow up to the punch list
- Prepare record drawings

**This Scope of Work does not include providing any resident project representative services.**

The construction staking services for this task will be provided by Morrison-Maierle, Inc. (MMI), a SUBCONSULTANT to the CONSULTANT. A detailed scope of services for this task is as follows:

Subgrade Staking:

Provide reference hubs and stakes at 50 ft. Intervals 2 ft. offset to back of curb for subgrade cut or fill.

Provide Centerline reference hubs and stakes at 50 ft. Intervals for subgrade cut or fill at King Ave., Orchard lane, and Calhoun Lane.

Finish Grade Blue Top Staking: Provide Centerline grade stakes for finish grade at 2ft. intervals

Slope Staking: Provide one set of slope stakes on South Billings Blvd. to control the widening sections.

Curb and Gutter Staking: Provide one set of reference hubs and stakes at 25 ft. intervals 2 ft. offset to back of curb Also beginning and end of curb turns.

Storm Drain Staking: Provide reference stakes for the placement of catch basins, manholes, and alignment grade stakes at 50 ft. intervals

Water Line Staking: Provide reference stakes for approximately 200 ft. of 16" water line in Orchard north of King Ave.

Sidewalk/Multi-Use Trail Staking

Concrete Median

Box Culverts

Lights

Pavement Markings/Rumble Strips

Street Monuments

Item 4: Exhibit B, Section 1, Part A, increase the total payment for services by \$175,360 to \$535,353.



All provisions of the Contract dated 14 January 2008, shall remain in full force and effect except as amended herein.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Number One (1) as of the day and year first above written.

City of Billings

Consultant

\_\_\_\_\_  
City Council or Designee

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Cari Martin  
City Clerk

Date: \_\_\_\_\_

\_\_\_\_\_  
Name: William E Barnhart II  
Title: Vice President  
Date: \_\_\_\_\_

IRS Tax ID # 47-0680568

**SUPPLEMENT TO EXHIBIT B  
PROJECT TASK ADDITIONS  
ESTIMATED FEES**

<b><u>Project Task Additions</u></b>	<b><u>Estimated Fee</u></b>
Task 6 – Plans, Specifications, and Estimate Development	\$ 47,117.00
Task 8 – Construction Engineering	<u>\$ 128,243.00</u>
Construction Support / Shop Drawing Review	75,943.00
Construction Staking	52,300.00

EXHIBIT B														
Client: City of Billings Project Name: Work Order 07-02 King Avenue East Contract Amendment 2												G. Parkins G. Parkins 06/25/2008 B. Barmhart		
Description	TOTAL HOURS	TOTAL DOLLARS	Project Mgr/Engr G. Parkins	Design Engineer I B. Shea	Design Engineer II L. Ragan	Design Engineer III E. Ingraham	Transportation Designer B. Parks	Traffic Engineer II F. Lin	Sr. Bridge Engineer B. Miller	Bridge Engineer J. Grove	Sr. Bridge Engineer O. Horne	QC/QA Reviewer D. Skonier	Project Assistant A. Connors	Project Controller D. Overton
WORK ORDER 07-02 KING AVENUE EAST IMPROVEMENTS ENGINEER'S ESTIMATE														
1.00 Administration - Project Management			0	0										
1.1 Project Management/Progress Reporting-Invoicing			0	0										
1.2 Meetings			0	0										
1.3 Public Involvement (2 - 2-hour Task Force meetings)			0	0										
2.00 Geotechnical Analysis			0	0										
Meeting w/City Staff - Geotechnical Results			0	0										
3.00 Surveying			0	0										
Coordination/Data Transfer			0	0										
4.00 Preliminary Design			0	0										
4.1 Traffic Analysis			0	0										
4.2 80% Preliminary Design Level			0	0										
4.3 80% QA/QC Review			0	0										
5.00 Right-of-Way Procurement			0	0										
Coordination/Data Transfer			0	0										
6.00 Plans, Specifications, and Estimate Development			430	\$45,528										
6.1 90% PS&E			0	0										
6.2 90% QA/QC Review			0	0										
6.3 100% PS&E			260	\$27,213	38	22	20	2	98		82	40	18	
6.4 100% QA/QC Review			66	\$8,891	27									
6.5 Contract Specifications			84	\$8,422	34						33		4	2
6.6 Structural Shop Drawing Review/Tech. Construction Assistance			0	0				11						
7.00 Contract Ad Support			0	0										
7.1 Bidding Assistance			0	0										
7.2 Post-Bid Assistance			0	0										
8.00 Construction Engineering			568	\$71,228										
8.1 Construction Support			496	\$62,263	360			90	4	4	4		22	12
8.2 Shop Drawing Review			72	\$8,965					24	24	24			
Total HDR Labor Hours			998	\$116,732	\$45,584	\$2,861	\$1,884	\$173	\$16,234	\$5,029	\$5,189	\$8,679	\$7,814	\$3,064
Total Labor Costs, Allocated Overhead Costs and Fees				\$116,732										
HDR Direct Expenses														
HDR Outside Expenses				\$2,815										
Technology Charge (per hour)			\$3.70	\$3,893										
Total Direct Expenses				\$6,388										
Subconsultants and other services														
Subconsultants and/or Vendors				\$52,308										
Wormon-Maxette, Inc. (SURVEYING SERVICES)				\$0										
Total Subconsultant Expenses and/or Other Services				\$52,308										
Total Anticipated Contract Amount				\$175,368										

**CONSTRUCTION**

**KING AVE EAST**

TASK	SURVEY	2/MAN	PLS	INST	CAD	PLS 1	
DESCRIPTION	MGR	CREW		TECH	TECH		
	\$ 113.50	\$ 150.00	\$ 85.00	\$ 64.25	\$ 75.50	\$70	
KING SG	2	24	4		4		
CALHOUN SG		8	2		2		
ORCHARD SG	2	8	2		2		
KING FG		16	1				
CALHOUN FG		8					
ORCHARD FG		8					
CURB AND GUTTER	2	30	8		4		
MULTI-USE TRAIL	2	8	2		2		
SIDEWALK	2	12	2		2		
STORM DRAIN/Catch basins	2	16	4				
SIGNS		8	2		2		
FENCE		4					
CONCRETE MEDIAN	2	16	2		2		
SLOPE STAKE	4	16	4		2		
MARKINGS		8					
BOX CULVERTS	2	8			2		
LIGHTS		10					
MONUMENTS	2	8	2				
ORCHARD WATERLINE	0.5	2	0.5		2		
Q & A	16	16	8		8		
TRAVEL							
MOBILIZATION							
							MAN HRS
TOTAL LABOR HOURS	38.5	234	43.5	0	34	0	584
TOTAL LABOR COST	4369.75	35100	3697.5	0	2567	0	\$45,734
<b><u>DIRECT COSTS</u></b>							
PER DIEM	0 DAYS	\$ 30.00	DAY				\$0
PER DIEM 2 MAN CREW	0 DAYS	\$ 30.00	DAY				\$0
PER DIEM 3MAN CREW	DAYS	\$ 30.00	DAY				\$0
MOTEL	0 DAYS	\$ 65.00	DAY				\$0
SUPPLIES	35 UNITS	\$10	UNIT				\$350
TRUCK ROUND TRIP	0 MILES	\$ 0.67	MILE				\$0
TRUCK	40 DAYS	\$ 32.00	DAY				\$1,280
TECHNOLOGY CHARGE	584 HRS	\$ 4.00	HR				\$2,336
ATV	0 DAYS	\$ 25.00	DAY				\$0
TRAVEL ALLOWANCE	MILES	\$ 0.70	MILE				\$0
GPS	5 DAYS	\$ 280.00	DAY				\$1,400
TOTAL STATION	10 DAYS	\$ 120.00	DAY				\$1,200
							\$6,566
TOTAL PROJECT EST.							\$52,300

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Certified Local Government Program Contract Amendment  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Lora Mattox, AICP, Planner II

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**PROBLEM/ISSUE STATEMENT:** The State of Montana Historic Preservation Office (SHPO) has designated the City of Billings as a Certified Local Government (CLG) for historic preservation activities. As a CLG, the City is eligible to receive state funding to coordinate historic preservation efforts in our area. On March 31, 2008, the City received approval for this grant and 2 executed contracts were signed and returned to SHPO. On June 25, 2008, the Planning Division was notified of an addition \$500 to provide travel to a Yellowstone Historic Preservation board member to attend the Montana History Conference in October. This additional funding requires an amendment to the Contract with SHPO. Included are the 2 original contract amendments for the Authorized Representative (Mayor) to sign.

**ALTERNATIVES ANALYZED:** Agree or decline to amend the contract with SHPO.

**FINANCIAL IMPACT:** The amendment would provide an additional \$500 to the Certified Local Government Grant. The additional \$500 does not require additional local match.

**RECOMMENDATION**

Staff recommends that the City Council authorize the Mayor to sign the amended Certified Local Government Grant Contract for an additional \$500.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS**

- A. Certified Local Government Agreement Amendment

Amendment A.  
Agreement Number: **MT-08-012**

STATE OF MONTANA AGREEMENT

This is an amendment to agreement MT-08-012 made between City of Billings, PO Box 1178, Billings, Montana 59103 (The "Sub-grantee") and the Montana Historic Preservation Office, Montana Historical Society, 1410 8th Ave, PO Box 201202 Helena, Montana 59620-1202 (The "Grantee"). The two parties, in consideration of mutual covenants and stipulations described below, agree as follows:

SECTION I: SERVICES

In addition to the services specified in the contract, the Sub-grantee shall:

Send at least one (1) person from the Certified Local Government to attend the Montana Historical Society History Conference in Glasgow, Montana, October 16-18, 2008. The attendee shall attend the entire history conference and not just the CLG training session.

All work completed under this funding agreement must meet the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation as interpreted by the Grantee. Final products or services that do not fulfill the requirements of this Agreement and do not comply with the appropriate Secretary of the Interior's Standards will not be reimbursed and any advance payments made in connection with such products or services must be repaid to the Grantee.

SECTION II: EFFECTIVE DATE, DURATION, AND REMUNERATION

The Amendment shall take effect as of July 1, 2008 and shall terminate March 31, 2009 unless a new termination date is set or the agreement is terminated pursuant to SECTION IV. Total payments by the "Grantee" for all purposes under this contract shall not exceed: \$6,000.00. Payment shall be made on a reimbursement basis by request of Sub-grantee to the SHPO.

To express the parties' intent to be bound by the terms of this Amendment, they have executed this document on the date set out below:

\_\_\_\_\_  
Sub-grantee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator, Centralized Services Division  
Montana Historical Society

\_\_\_\_\_  
Date

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



**AGENDA ITEM:**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** W.O. 05-20 Aronson Avenue - Right-of-Way for Sahara Park and Swords Park

**DEPARTMENT:** Public Works/Engineering

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

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**PROBLEM/ISSUE STATEMENT:** Work Order 05-20 Aronson Avenue will construct Aronson Avenue from near its current terminus to Alkali Creek Road. The extension of Aronson Avenue goes thru two City owned parcels. Road Tracts and Right-of-Way need to be platted on these parcels.

**ALTERNATIVES ANALYZED:**

1. Authorize the Mayor to sign the Amended Plat and Certificate of Survey for Sahara Sands Park and Swords Park.
2. Do not authorize the Mayor to sign the Amended Plat and Certificate of Survey for Sahara Sands Park and Swords Park

**FINANCIAL IMPACT:** There is no cost to the City since the already owns the property.

**RECOMMENDATION**

Staff requests that Council authorize the Mayor to sign the Amended Plat and Certificate of Survey.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

- A. Amended Plat of Sahara Sands Park
- B. Certificate of Survey for Swords Park

## **INTRODUCTION**

Work Order 05-20 Aronson Avenue will construct Aronson from near its current terminus to Alkali Creek Road. The extension of Aronson Avenue will include streets, curb and gutter, sidewalks, multi-use path, a Bridge over the BBWA Canal and a Bridge over Alkali Creek. The extended portion of Aronson Avenue goes through two City parcels, Sahara Sands Park and Swords Park. As such, the City already owns this property, but Road Tracts and Right-of-Way need to be created.

## **PROCEDURAL HISTORY**

The City Engineer's Office has prepared the amended Plat for Sahara Sands Park and the Certificate of Survey for Swords Park.

## **BACKGROUND**

The City Engineer's Office has already secured right-of-way for all the other necessary properties along the Aronson Avenue Extension.

## **ALTERNATIVES ANALYSIS**

Authorize the Mayor to sign the Amended Plat and Certificate of Survey. Under this option, the City Engineer's Office will complete the amended plat and certificate of survey and they will be recorded with the Clerk and Recorder's Office.

Do not authorize the Mayor to sign the Amended Plat and Certificate of Survey. Under this option, the necessary right-of-way will not be acquired.

## **RECOMMENDATION**

Staff requests that Council authorize the Mayor to sign the Amended Plat and Certificate of Survey.

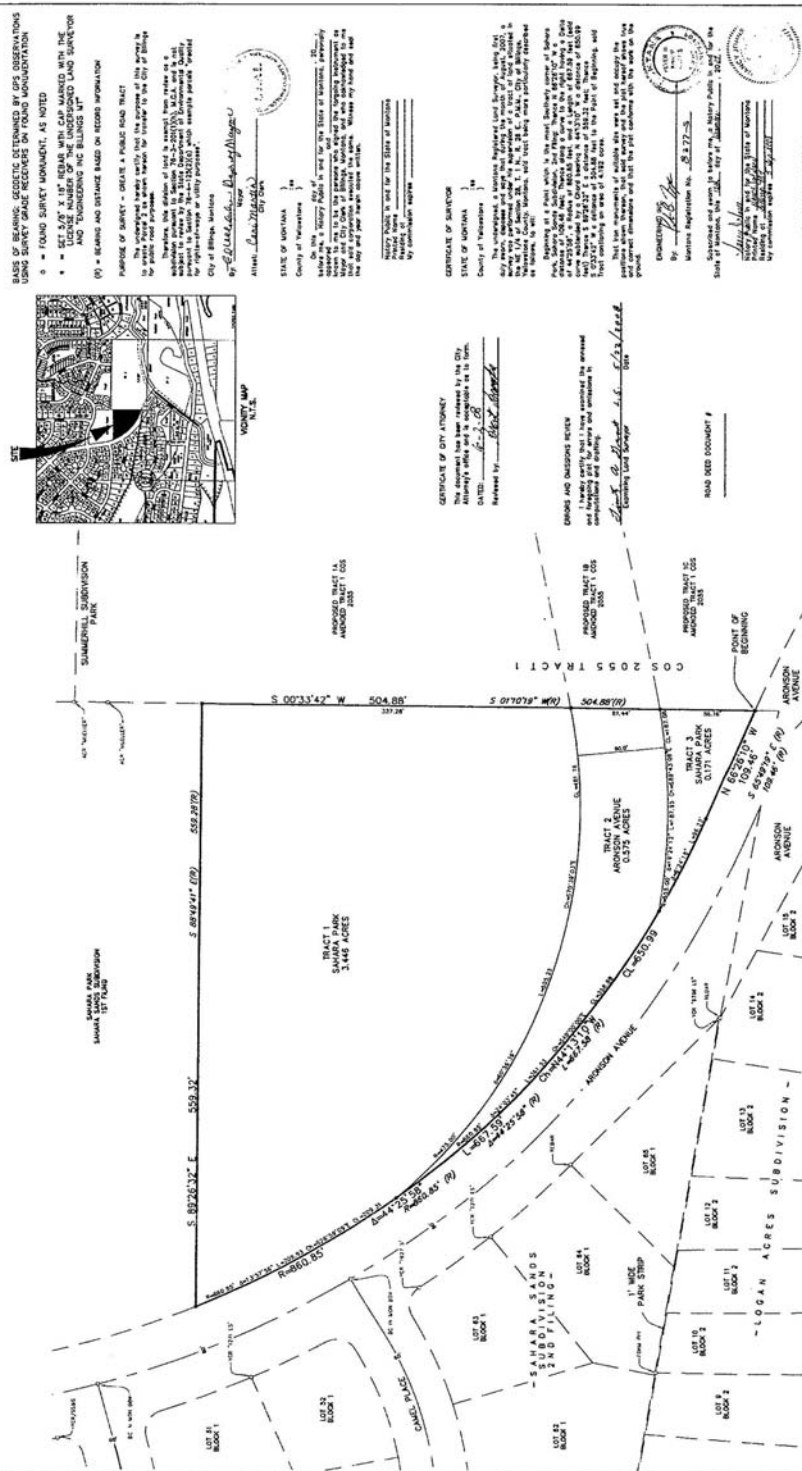
## **ATTACHMENTS**

- A. Amended Plat of Sahara Sands Park
- B. Certificate of Survey for Swords Park



AMENDED PLAT OF SAHARA PARK  
**SAHARA SANDS SUBDIVISION 2ND FILING**  
SITUATED IN SAHARA SANDS SUBDIVISION, 2ND FILING  
SITUATED IN THE NE 1/4 OF SECTION 28, T. 1 N., R. 26 E., P.M.M.  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : CITY OF BILLINGS  
PREPARED BY : ENGINEERING, INC.  
SCALE : 1" = 40'





**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Billings Clinic's Classic Street Party Street Closure  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

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**PROBLEM/ISSUE STATEMENT:**

Billings Clinic requests the temporary closure of N. Broadway between 3<sup>rd</sup> Ave. N. and 4<sup>th</sup> Ave. N. from Friday, August 22, from 12:00 midnight until Sunday, August 24, at 5:00 pm; as well as the alley between that runs between 3<sup>rd</sup> Ave. N. and 4<sup>th</sup> Ave. N. from Friday, August 22, 2008 at 9:00 pm through Sunday, August 24, 2008 at 5:00 am for the annual Classic Street Party.

Recommended conditions of approval include Billings Clinic:

- Obtain proper permit for alcohol consumption in the right of way
- Obtain proper open container and noise permits from Police Department
- Contact all businesses and make them aware of the event 30 days in advance
- Provide security for event
- Clean area to be used and provide and empty waste cans after the event
- Notify all emergency facilities, bus lines, and media at least two weeks in advance of the event
- Provide a certificate of insurance with required liability amounts naming City of Billings as additional insured
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a 20' emergency vehicle access lane on either side of the street which is free of kiosks or anything other than pedestrians
- Pedestrian access to adjacent businesses be maintained

**ALTERNATIVES ANALYZED:**

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

**FINANCIAL IMPACT:**

There are no costs to the City of Billings other than administrative time to process application. Police, traffic control and litter removal are to be paid for the by the Billings Clinic.

**RECOMMENDATION**

Staff recommends that Council approve the temporary closures named above for the annual Billings Clinic Classic Street Party.

**Approved By:**            **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENTS**

- A. Letter from Billings Clinic outlining events
- B. Right of Way Permit Application
- C. Course map
- D. Certificate of insurance
- E. BID Event Kit Packet
- F. Open Container Form
- G. Traffic Control Plan

June 4, 2008

Downtown Billings Association, Inc.  
2815 2<sup>nd</sup> Avenue North  
Billings, Mt. 59101

Subject: Street Closure, Billings Clinic Foundation Classic

Billings Clinic is underway with our planning for the 2008 Classic Street Party. As you may know, over the last several years Billings Clinic has utilized north Broadway between 3<sup>rd</sup> & 4<sup>th</sup> Avenues North, together with US bank parking lot, to host this event. And, it would be our desire to do so again this year. This year's event is scheduled for Saturday August 23<sup>rd</sup>.

As with the last five(5) years, we would like to be able to close the street late Thursday night (i.e. midnight) and leave it closed through Sunday afternoon. To be clear, the request is then for all day Friday, all day Saturday and through 5:00 p.m. Sunday (8/22, 8/23 and 8/24). This allows adequate time to fully set up tents, stages, chairs, etc. and then to remove them after the party.

Also, as we did the last four (4) years, we would also request the ability to close North 27<sup>th</sup> / north 28<sup>th</sup> Alley between 3<sup>rd</sup> and 4<sup>th</sup> Avenue North (i.e. alley east of / behind the US Bank building). We would request that we be allowed to close this alley beginning at 9:00 p.m. Friday, August 22<sup>nd</sup> through 5:00 a.m. Sunday, August 24<sup>th</sup>. This closure provides for alley access through the business day on Friday. But, for Saturday, this closure provides for use and use by our beverage and ice trucks, additional solid waste dumpsters, site access by our outdoor bands, etc.

And, as we have done over the last four(4) years, we would also request the ability to close the N.28<sup>th</sup> / N.29<sup>th</sup> Alley between 3<sup>rd</sup> and 4<sup>th</sup> Avenue North (i.e. the alley west of/behind the Alberta Bair Theater). We would request that we be allowed to close this alley beginning at 6:00 a.m. Saturday, August 23<sup>rd</sup> through 2:00 a.m. Sunday, August 24<sup>th</sup>. This closure provides for alley access though the business day on Friday. For Saturday, this closure provides for use of the alley by refrigerated food service truck as well as tour bus associated with the Saturday night performance in the Alberta Bair Theater.

In past years, I know that the Fire Department has reviewed the layout of the party and the features(i.e. tents, tables, stages, etc.) that are placed in the street and the bank parking lot. After that review, they felt that the adjoining building could be accessed by emergency response personnel in the case of a fire or other emergency event.

Attached you will find a Right-of-Way Activity Permit Application, a copy of our certificate of insurance, and a map of the party area.

Billings Clinic has made initial contact with each of the fronting property owners (US Bank, Travel Café, Alberta Bair Theatre and 1<sup>st</sup> United Methodist Church) and discussed our plans with them. All are supportive of the plans, including the all-day closure on Friday. As with past years, we will make arrangements with them to accommodate any special needs that they have during this closure.

We have traditionally made provisions for patrons of the Farmer's Market to be able to access the market through our party set-up, and would continue to do so this year.

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As with past years, we would also contact the City Engineer's office directly to coordinate the street closure and to process a traffic control plan. Billings Construction Supply will once again be our traffic control contractor.

And, as with past years, we would be intending to serve beer and wine as part of the event. We do provide security personnel to insure that only ticketed guest are allowed inside the party venue and to limit removal of alcoholic beverages. We will contact the State of Montana for the necessary beverage license and the Billings Police Department to process the necessary Open Container Form.

In regards to clean-up: Billings Clinic uses a cadre of volunteers from the organization and the community at large to stage this event. A specific team will be assigned to the post-party clean-up. Initial clean-up is done immediately following the party. This includes garbage/litter patrol, removal of some tents, and removal of most decorative elements. At least one tent remains in place for use by First united Methodist Church to conduct an outdoor morning worship service. Following their services, we complete the removal of tents, decorative items, tables, chairs, etc. This is followed by another round of detailed garbage/litter patrol. Our food waste is removed in a volunteer provided trash trailer. We also coordinate with the Solid Waste Division to manage dumpsters before and after the event.

For your information, the beneficiary of this year's classic funds will be "Excellence in Health Care Education," a program dedicated to advancing the education needs and opportunities of our caregivers for the benefit of our patients and community.

I believe that this should provide you with the basic information that you need to begin processing our block party/street closure request. However, should you need further information, please contact me at 657-4035 or [canderson3@billingsclinic.org](mailto:canderson3@billingsclinic.org)

Please advise of the date of the City council meeting on this item so that a Billings Clinic representative can plan to attend.

Sincerely,



Cody Anderson  
Billings Clinic

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City of Billings  
RIGHT-OF-WAY ACTIVITY  
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Cody Anderson

ORGANIZATION MAKING APPLICATION Billings Clinic

PHONE 406-65-4035

ADDRESS 2800 10th Ave N Billings MT 59107

EMAIL ADDRESS Canderson3@billingsclinic.org

APPROXIMATE TIME EVENT WILL:

Assemble See Below Start \_\_\_\_\_ Disband \_\_\_\_\_

DATE OF EVENT August 23, 2008

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

2008 Billings Clinic Classic Street Party

• Street Closure Request - 12:00 a.m./midnight, 8/22/08 → 5:00 p.m. 8/24/08.

• Alley Closure Request - 9:00 p.m. 8/23/07 → 5:00 a.m. 8/24/08

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

• Closure of N. Broadway between 3rd & 4th Ave N.

• N. 27th N. 28th Alley between 3rd & 4th Ave N.

• N. 28th/29th Alley between 3rd & 4th Ave N.

• See Attached map & cover letter

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

• As with past years, street

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

• As w/ past years, street and R/W clean up will be conducted by Billings Clinic volunteers

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE  DATE 6-24-09

APPLICATION APPROVED \_\_\_\_\_ DATE \_\_\_\_\_

APPLICATION DENIED \_\_\_\_\_ DATE \_\_\_\_\_

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

**FOR CITY USE ONLY**

FEE: \_\_\_\_\_

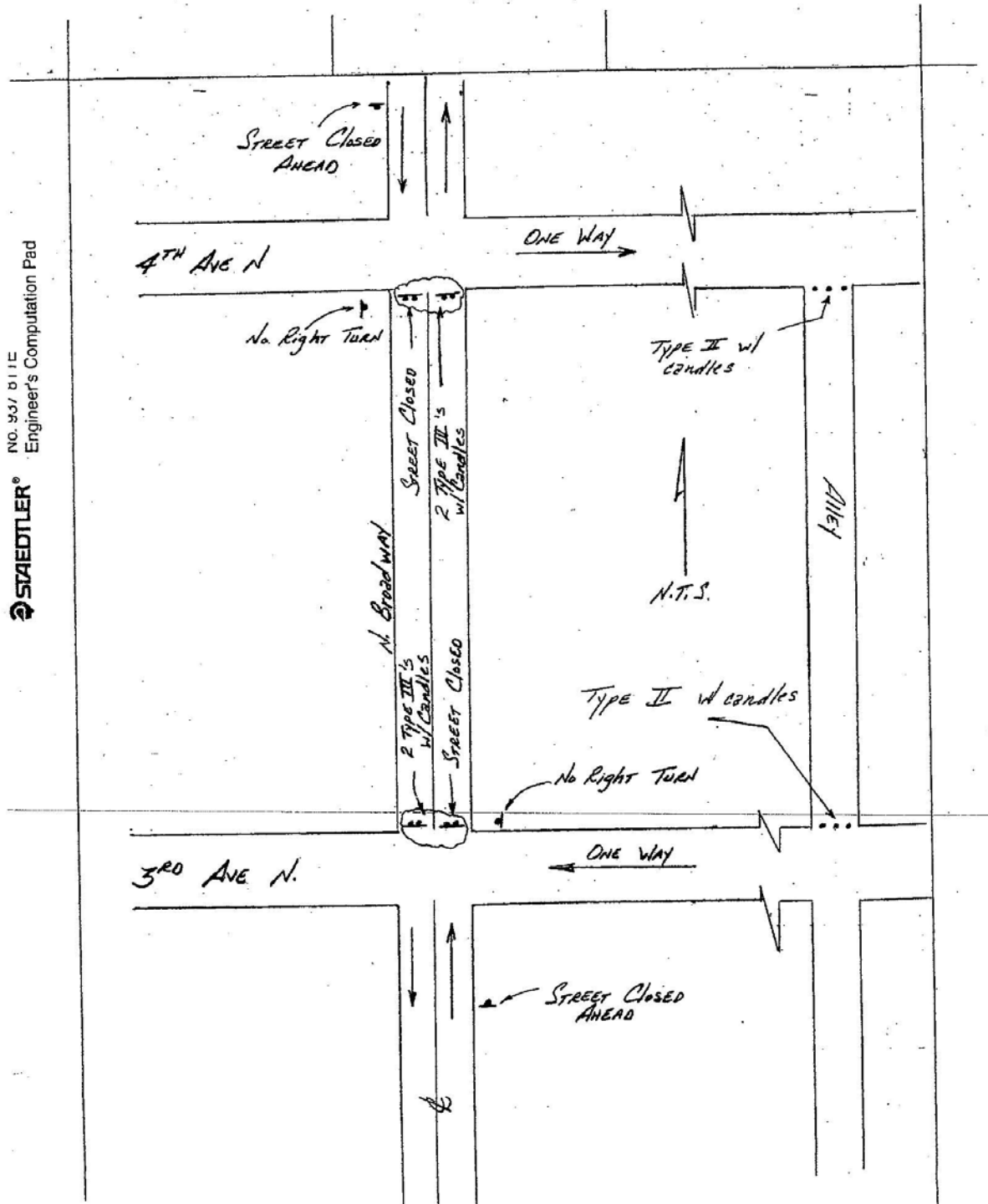
APPLICANT NOTIFIED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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



4. The construction of pedestrian walkways will not block existing traffic control devices.
5. General contractors will make parking provisions for all subcontractors.





# **CERTIFICATE OF LIABILITY INSURANCE**

 DATE (MM/DD/YYYY)  
 06/23/2008

**PRODUCER**

 Montana Healthcare Indemnity LLC  
 P.O. Box 610  
 Bigfork, MT 59911

THIS CERTIFICATION 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**

 Billings Clinic/Billings Clinic Foundation  
 P.O. Box 37000  
 Billings, MT 59107

**INSURERS AFFORDING COVERAGE**
**NAIC #**

INSURER A: Montana Healthcare Indemnity LLC

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.

INSURANCE TYPE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC	2008-01 MHIPLGL	6/01/2008	1/1/2009	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (See description) \$ 1,000,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$1
	<b>DAMAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/DIRECTOR/EMPLOYEE If yes, describe under SPECIAL PROVISIONS below OTHER				WTD STATE - TORY LIMITS \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	Liquor Liability				\$1,000,000 occur/\$1,000,000 aggregate

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

The City of Billings is added as an Additional Insured to this policy for the Billings Clinic Classic on the dates of August 21/22/23, 2008 this includes Liquor Liability as listed above.

**CERTIFICATE HOLDER**

 City of Billings  
 Department of Parks, Rec, and Public Lands  
 390 North 23rd Street  
 Billings, MT 59103

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 0 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

**AUTHORIZED REPRESENTATIVE**

ACORD - CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 06/23/2008		
<b>PRODUCER</b> Aon Risk Services Central, Inc. fka Aon Risk Services, Inc. of Illinois 200 East Randolph Chicago IL 60601 USA  <b>PHONE - (866) 283-7122</b> <b>FAX - (847) 953-5390</b>				<b>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.</b>		
<b>INSURED</b> Billings Clinic 2800 10th Avenue North Billings MT 59101 USA				<b>INSURERS AFFORDING COVERAGE</b> <b>INSURER A:</b> Columbia Casualty Company <b>NAIC #</b> 31127 <b>INSURER B:</b> _____ <b>INSURER C:</b> _____ <b>INSURER D:</b> _____ <b>INSURER E:</b> _____		
<b>COVERAGE</b> 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.						
<b>LIMITS SHOWN ARE AS REQUESTED</b>						
INSR	ADDITIONAL	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
		<b>GENERAL LIABILITY</b> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES FOR: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE DAMAGE TO RENTED PREMISES (EA occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMPOF AGG
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG
A		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$25,000	HMU10644020235	01/01/08	01/01/09	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT
		OTHER				
<b>DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS</b> Certificate Holder is named as additional insured with respect to the Billings Clinic Foundation Classic being held on August 21-23, 2008.						
<b>CERTIFICATE HOLDER</b> City of Billings Dept. of Parks, Rec. and Public Lands 390 N. 23rd Street Billings MT 59103 USA				<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Central Inc</i>		
ACORD 25 (2001/08)				ACORD CORPORATION 1988		

Holder Identifier :

Certificate No : 370029185989

## BID Event Kit of Parts Usage Packet

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

**STEP 1:** Make sure you have a PLAN AND that your block neighbors are "on board" with the idea...or, at least, do no object to your plan.

-Date(s) of Event: Saturday August 23 Setup is August 22<sup>nd</sup>, @ Cleanup is August

-Does this event require any Street Closure? ☒ Yes ☐ No

-Do you have Liability Insurance that will cover this event? ☒ Yes ☐ No

(You will be required to provide a "Binder" to the City of Billings showing coverage)

-Will you be serving alcoholic beverages? ☒ Yes ☐ No

(A permit may be required from the Billings Police Department)

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

List all:

Briefly Describe Your Event Activity/Participants:

Please ~~see~~ Letter See the Cover Letter

-Specify the exact date and TIME the blocks noted above will be CLOSED: August 22<sup>nd</sup> 12:00 A.M.

-Specify the exact date and TIME the blocks noted above will be REOPENED: August 28<sup>th</sup> 5:00 p.m.

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

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

please see traffic control plan that is attached

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

BUSINESS NAME:

ADDRESS:

SIGNATURE:

1. U.S. Bank

303 N. Broadway

Michael Zwick

2. Travel Cafe

313 No. Broadway

Ronald Egeland

3. Alberta Bair Theater

2801 3<sup>rd</sup> Ave. North

Willie Wood

4. Drug Enforcement Administration

303 N. Broadway #302

Kris Peters

5. FIRST UNITED METHODIST CHURCH

2800 4<sup>th</sup> AVE N.

David Heston

6.

7.

8.

9.

10.

11.

Use an additional sheet if needed

**OPEN CONTAINER/NOISE ORDINANCE**  
**REQUEST FORM**

**Event Information:**

Date: August 23, 2008

Time: 6:00 pm - 12:00 a.m.

Place: Broadway block between 3rd + 4th Ave North

Contact: Cody Anderson 696-6692  
(Name and phone number)

Agency: Billings Clinic 2800 10th Ave North 59107  
(Include mailing address)

**Description of event. (Please list the reasons for an open container/noise ordinance relief permit. Include the name of any live music/band that will be amplified.)**

For the last 5 years we have had a street party to raise funds  
for our hospital. This event is known as the Classic.  
The names of the bands are the mid life crisis and Bucky  
Beaver.

Cody Anderson  
(please print name)

Cody M  
(please sign name)

6-13-08  
(Date)

You will be contacted within 24 hours to let you know if the request was approved or disapproved.

I approve/disapprove this request. SA Lawrence Date 6.13.08  
9:4444415.per

**CITY OF BILLINGS**  
**TRAFFIC CONTROL PLAN**

R.O.W. # \_\_\_\_\_

TCP # 6278

<b>LOCATION:</b> <u>300 Block N. Prosser</u>	
<b>Specific work to be done:</b> <u>Street Closure for Billings Clinic Closure</u>	
<b>Firm Name:</b> <u>Billings Clinic</u>	
<b>Address:</b> <u>2000 10th Avenue S.</u>	
<b>Phone:</b> <u>657-4075</u>	
<b>Office Contact:</b> <u>Andy Anderson</u>	
<b>Job Foreman:</b> <u>B.C.S.</u>	<b>Phones:</b> _____
<b>Subcontractor for Traffic Control:</b> <u>B.C.S.</u>	
<b>Starting Date:</b> <u>6/22/08</u>	<b>Time:</b> <u>12:01 a.m.</u>
<b>Ending Date:</b> <u>6/24/08</u>	<b>Time:</b> <u>9:00 p.m.</u>
<input checked="" type="checkbox"/> Daylight hours only <input type="checkbox"/> Daylight and darkness hours <input type="checkbox"/> Darkness hours only	
<b>NOTE:</b> Dawn and dusk are considered darkness hours.	
<b>Exact R.O. W. use requested:</b> <input type="checkbox"/> Full intersection closure <input checked="" type="checkbox"/> Full street closure <input type="checkbox"/> Lane Closure - affected travel direction (Circle) (NB SB EB WB) Side of street (Circle) (N S E W) Driving lane closure, how many? _____ Parking lane and driving lane, how many? _____ Parking lane only <input type="checkbox"/> Alley <input type="checkbox"/> Shoulder <input type="checkbox"/> Sidewalk provisions for pedestrians will be as follows: _____	
<b>NOTE:</b> There will be <u>NO</u> encroachments on adjacent lanes or R.O.W. than what is indicated above. Deviations from this plan must be approved.	
<b>SPECIAL PROVISIONS</b>	
1. Contractor will comply with OSHA and MUTCD standards. 2. Contractor is required to carry liability insurance per Section 22-222 of Billings Municipal Code. 3. Notifications: a. City Communication Center will be notified of ALL alley, street/intersection and complete direction of travel closures and openings. b. MET Transit and District No. 2 Transportation (during school times) will be notified of ALL street/intersection and complete direction of travel closures and openings. c. Sanitation Department or BFI, as appropriate, will be notified of all alley closures. d. News releases/handouts and personal contact requirements will be determined by the City. (News media list is available through the Traffic Engineer's Office) Telephone numbers are: Central Communications Center = 657-8200, MET = 657-8221, School District No. 2 = 255-3575. 4. Work will be put on hold during adverse weather conditions, unless special approval has been granted. 5. All existing nonconflicting traffic control devices will remain visible to the public, unless special approval has been granted. (All damages to existing traffic control devices will be reported.) 6. The use of metered parking spaces will be shown on the TCP with the meter numbers indicated. Meter bags may be obtained from the Police Department. Waiver of meter bags will be determined by the Traffic Engineer's office. 7. All traffic control devices will comply to MUTCD standards, in good condition and monitored throughout their use. 8. Legal sandbags should be kept on the site. 9. High level signage is required on all heavily congested roadways, and where otherwise deemed necessary. 10. Traffic control devices and equipment will be placed in a way that they do not cause vision obstructions/hazards for drivers or pedestrians. 11. Work time allowed by city noise ordinance = 8:00 A.M. - 8:00 P.M. (Deviations must have prior approval.)	

**NOTE:** The person signing the submittal will be held responsible for the traffic control.

Submitted by [Signature]  
Reviewed by [Signature]

Date 6-13-08  
Date 6/13/08

(C:\WP61\WPDATA\MASTERFORMS\TRAFFIC.TCP)

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

AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

Monday, July 14, 2008

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TITLE: Viva La Fiesta Street Closure  
DEPARTMENT: Public Works/Engineering  
PRESENTED BY: Dave Mumford, P.E., Public Works Director

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**PROBLEM/ISSUE STATEMENT:** On June 23, 2008, Council delayed action on this item until July 14, 2008. Council requested that the sponsor contact Our Lady Guadalupe Church within this time and resolve the issues with them.

Recommended conditions of approval include Viva La Fiesta:

1. No alcohol consumption in the public right of way
2. There must be a 15' wide lane where no kiosks/booths or other objects are located so the emergency vehicles can access the area.
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate traffic barricades and signs directing motorists around closure
5. Provide certificate of insurance naming City of Billings as additional insured
6. Obtain a Park Use permit from the Recreation Division for the use of South Park
7. Notify residences and businesses within a 1 block area

**ALTERNATIVES ANALYZED:**

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

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

**RECOMMENDATION**

Staff recommends that Council approve the closure named above.

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENTS**

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

**SW/6.4.08**





City of Billings  
RIGHT-OF-WAY ACTIVITY  
PERMIT

APR 29 2008

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Bobin Nawa

ORGANIZATION MAKING APPLICATION Viva la Fiesta

PHONE 248-4612

ADDRESS 31 Monroe Blvd MT 59101

EMAIL ADDRESS nawafamily4@aol.com

APPROXIMATE TIME EVENT WILL:

Assemble July 25 - 4 PM Start Disband July 27 - 6 PM

DATE OF EVENT July 25 - 26 - 27 - 2008

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

Hispanic Cultural event which includes vendors, food, crafts - game booths - live music - dance performances

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

Block off South 28 & South 29th off 6th Ave South

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

Viva la Fiesta will be responsible for all cleanup

**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 Rolin Nava DATE 4-8-08

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

**MAPQUEST**

**Master of Arts  
in Education**

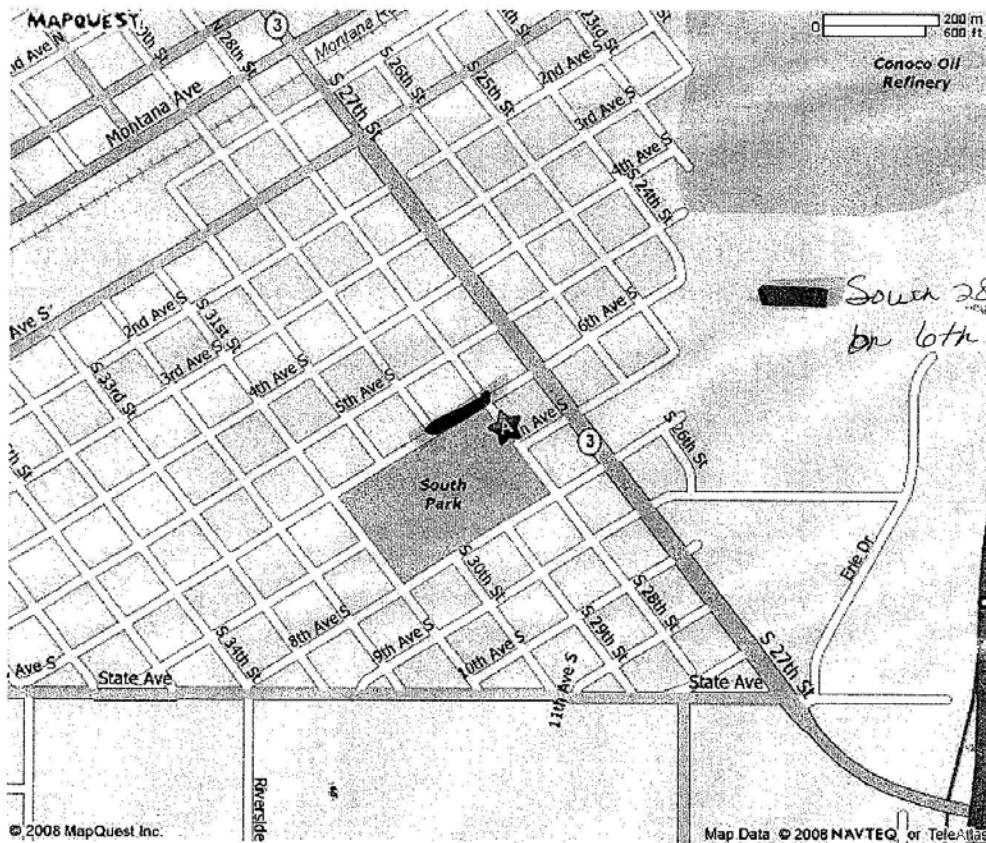
- Curriculum and Instruction - Computer Education
- Curriculum and Instruction - English as a Second Language
- Early Childhood Education
- Elementary Teacher Education
- Secondary Teacher Education
- Cross-Categorical Special Education

**University of Phoenix**  
Thinking ahead.

ONLINE



A: [600-699] S 28th St, Billings, MT 59101



<b>ACORD</b> <small>TM</small> <b>CERTIFICATE OF LIABILITY INSURANCE</b>		DATE(MM/DD/YYYY) <b>4/1/2008</b>
PRODUCER <b>MELCHER INSURANCE AGENCY</b> <b>PO Box 20275</b> <b>Billings, MT 59104</b> <b>(406) 651-9244</b>		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 <b>Viva La Feiata</b>  <b>2961 Providence Pl.</b> <b>Billings, MT 59102</b> <b>406-248-6795</b>		
INSURERS AFFORDING COVERAGE		NAIC#
INSURER A: <b>Scottsdale Insurance</b>		
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	ADOL	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YY)	POLICY EXPIRATION DATE(MM/DD/YY)	LIMITS
A			GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Pending	07-25-08	07-27-08	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>5,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
			AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
			GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A			EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE RETENTION \$	Pending	07-25-08	07-27-08	EACH OCCURRENCE \$ <b>1,000,000</b> AGGREGATE \$ \$ \$ \$
			WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				WC/STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

The City of Billings is listed as an Additional Insured.

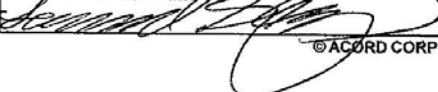
#### CERTIFICATE HOLDER

City of Billings  
P.O. Box 1178  
Billings, MT. 59103

#### CANCELLATION

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

AUTHORIZED REPRESENTATIVE



## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 14, 2008**

---

**TITLE:** A donation to provide additional trees at the stadium by the Downtown Rotary Club.

**DEPARTMENT:** Park, Recreation, and Public Lands

**PRESENTED BY:** Michael Whitaker, Director, PRPL Department

---

**PROBLEM/ISSUE STATEMENT:**

The Downtown Rotary Club has generously contributed funding to provide for additional trees at Dehler Park to enhance the landscape around the stadium. The Rotary will also provided the workers necessary to plant the trees. The total contribution from the Downtown Rotary Club is \$3,000.00.

**ALTERNATIVES ANALYZED:**

- Accept the donation from the Downtown Rotary Club or,
- Decline the donation.

**FINANCIAL IMPACT:**

There will be no financial impact to the City.

**RECOMMENDATION**

Staff recommends that Council graciously accept this generous donation to provide the trees for Dehler Park by the Downtown Rotary Club and publicly acknowledge this gift to the community.

**Approved By:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENTS:**

Attachment A: Letter from Downtown Rotary Club

# BILLINGS ROTARY CLUB

No. 209

*Service Above Self*  
"He Profits Most  Who Serves Best"

June 23, 2008

P.O. BOX 1094  
BILLINGS, MONTANA 59103

Dehler Park

Billings, MT

CONGRATULATIONS! It is with great pleasure The Rotary Club of Billings #999 awards a \$3,000 Special Project Award to Dehler Park.

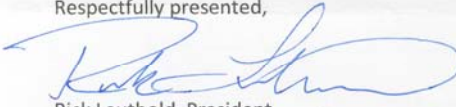
These funds are to be used by the Billings Parks & Recreation Department of the City of Billings to provide trees at the new Dehler Park. *CONSTRUCTION FUND*

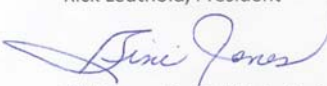
The Special Projects committee is designed to search out local projects that they feel deserve special interest to our community. The new Dehler Park will stand out not only in our City but in our State as the newest ballpark to provide a venue for safe fun for our families and visitors to the Magic City.

It is the wish of The Rotary Club of Billings #999 that you be given this gift as a show of our dedication to our community and to say thank you to all of you who worked so hard to bring this beautiful venue to our City.

PLAY BALL!

Respectfully presented,

  
Rick Leuthold, President

  
Gini Jones, Special Projects Committee Chair

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



L

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Acceptance and Approval of Homeland Security Grant in the amount of \$20,248.00

**DEPARTMENT:** Fire Department

**PRESENTED BY:** Paul Dextras, Fire Chief

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**PROBLEM/ISSUE STATEMENT:** The Department of Homeland Security (DHS) approved the Fire Department's grant application for the purchase of confined space/rescue equipment as submitted under the FY2007 Assistance to Firefighters Grant program. The approved project costs total \$25,310.00. The grant period is January 4, 2008 through January 3, 2009. Council is being asked to accept this grant award in the amount of \$20,248.00.

**FINANCIAL IMPACT:** The Federal share is 80% or \$20,248.00 of the approved amount and the Fire Department's share of the costs is 20% or \$5,062.00. The electronic transfer from the Department of Homeland Security has been received. The City portion is an Interfund transfer from 150-2229-422-8225.

**RECOMMENDATION**

Staff recommends that Council accept the \$20,248.00 Homeland Security Grant.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**  
A-Award Letter

U.S. Department of Homeland Security  
Washington, D.C. 20472



**FEMA**

Mr. Alan Lohof  
Billings Fire Department  
2305 8th Avenue North  
Billings, Montana 59101-1018

Re: Grant No EMW-2007-FO-06993

Dear Mr. Lohof:

On behalf of the Department of Homeland Security (DHS), I am pleased to inform you that your grant application submitted under the FY 2007 Assistance to Firefighters Grant has been approved. The DHS Federal Emergency Management Agency's National Preparedness Directorate, in consultation with the U.S. Fire Administration, carry out the Federal responsibilities of administering your grant. The approved project costs total to \$25,310.00. The Federal share is 80 percent or \$20,248.00 of the approved amount and your share of the costs is 20 percent or \$5,062.00.

As part of your award package, you will find Grant Agreement Articles. Please make sure you read and understand the Articles as they outline the terms and conditions of your Grant award. Maintain a copy of these documents for your official file. **You establish acceptance of the Grant and Grant Agreement Articles when you request and receive any of the Federal Grant funds awarded to you.** By accepting the grant, you agree not to deviate from the approved scope of work without prior written approval from DHS.

The first step in requesting your grant funds is to confirm your correct Direct Deposit Information. Please go online to the AFG eGrants system at [www.firegrantsupport.com](http://www.firegrantsupport.com) and if you have not done so, complete and submit your SF 1199A, Direct Deposit Sign-up Form. Please forward the original, completed SF 1199A, Direct Deposit Sign-up Form, signed by your organization and the banking institution to the address below:

Department of Homeland Security  
FEMA, National Preparedness Directorate  
Grants Management Branch  
500 C Street, SW, Room 334  
Washington, DC 20472

Attn: Assistance to Firefighters Grant Program

After your SF 1199A is reviewed and you receive an email indicating the form is approved, you will be able to request payments online. Remember, you should basically request funds when you have an immediate cash need (i.e. you have a bill in-hand that is due within 30 days).

If you have any questions or concerns regarding the awards process, donations, or how to request your grant funds, please call the helpdesk at 1-866-274-0960.

Sincerely,



R. David Paulison

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



# M

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, July 14, 2008**

**TITLE:** Tourism Infrastructure Investment Program Application for Pedestrian Bridge over Montana Rail Link Tracks in Historic Downtown

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** Darlene Tussing, Alternate Modes Coordinator DT

**PROBLEM/ISSUE STATEMENT:** The City of Billings is seeking grant funds of \$50,000 from the Tourism Infrastructure Investment Program to provide a bridge connection over the Montana Rail Link tracks in the downtown historic district in line with So. 25<sup>th</sup> Street. This bridge would provide a bike/pedestrian link between Montana Avenue and Minnesota Avenue and connect to the bike lanes that have been striped on So. 25<sup>th</sup> Street. Eventually, the corridor will connect further south with the existing trail that was built through Coulson Park and over to Public Works Belknap facility along the Yellowstone River. In the interim, the bridge will also provide an opportunity to access a larger parking lot on the south side of the railroad tracks. This City owned parking lot located on land leased by Montana Rail Link will be large enough to accommodate large recreational vehicles for visitors that would like to visit the downtown core. Currently, there is no place available for tourists with these larger recreational vehicles to park and visit the area. This bridge has been identified in the Heritage Trail Plan, is also a part of the adopted Downtown Framework Plan, and the Minnesota Avenue Streetscape Improvement Plan. The deadline for the Tourism Grant is August 1, 2008.

**ALTERNATIVES ANALYZED:** If the City does not submit this application for the Montana Tourism Infrastructure Investment Program, it will need to seek funds from other sources such as CTEP and private foundations and individuals. While the City will need to seek additional funding from other grants or private sources to complete this project, this grant would reduce the amount of funding needed from other sources.

**FINANCIAL IMPACT:** It is estimated that the total cost for the bridge purchase, placement, and construction of the parking lot on the south side would be approximately \$800,000. Originally, a preliminary agreement for access with Montana Rail Link for the crossing and parking lot was established. The City is requesting \$50,000 from the Montana Tourism Infrastructure Investment Program that does not require a local match. Additional funding from other grants would need to be secured to complete the project to reduce or eliminate the financial impact to the City of Billings. The City of Billings would be responsible for the maintenance of the bridge, but revenue from the parking lot could be used for maintenance of the bridge and parking lot.

**RECOMMENDATION**

Staff recommends that Council approve the application submittal to the Montana Tourism Infrastructure Investment Program

**Approved By:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

1

1 of 2

**ATTACHMENT**

**A. Application Certification Signature Section**

A

**CERTIFICATION**

On behalf of the organization identified on this application, I certify that the submitted application meets all the eligibility requirements for the Tourism Infrastructure Investment Program (TIIP).

I understand that that no funds will be awarded to a project prior to written approval notification by Travel Montana, Montana Department of Commerce.

The applicant hereby certifies:

- A. That the applicant will comply with all applicable laws and regulations prohibiting discrimination on the basis of race, sex, religion, national origin, age, or handicap.
- B. The applicant is aware the Department must comply with certain state requirements which may impact proposed projects. Department funded projects must comply with all federal, state and community licenses, permits, laws and regulations.
- C. To the best of my knowledge and belief the information contained in this application is true and correct and the documentation has been duly authorized by the governing body of the applicant.

\_\_\_\_\_  
Signature (required)

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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

## AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 14, 2008**

**TITLE:** Request to Submit 2008 Justice Assistance Grant (JAG) Application and Acceptance of Award in the amount of \$11,390

**DEPARTMENT:** Billings Police Department

**PRESENTED BY:** Rich St. John, Chief of Police

**PROBLEM/ISSUE STATEMENT:** On June 4, 2008, the City was notified that funding for the 2008 JAG grant was posted on line. This grant is a joint application between the Billings Police Department and Yellowstone County Sheriff's Office, with the Billings Police Department acting as administrator of the grant. Based on the amount of appropriated funds, there were approximately one-half the number of local JAG grants awarded, compared to 2007. The City will continue the project of installing new LED lightbars on the police vehicles. With the \$10,390 funding awarded, 5 old lightbars will be replaced. The City will share the grant funding in the amount of \$1,000 with Yellowstone County Sheriff's Office. The Sheriff's office will use those funds towards the purchase of a lightbar for one of their Sheriff's cruiser. The Interlocal Agreement has been approved by the County Commissioners and is attached for the Mayor to approve. The Interlocal Agreement is part of the application submittal. Staff is requesting Council approval for submission of the application, acceptance of the \$11,390 grant award, and authorize the Mayor to sign the award documents when they are received.

**FINANCIAL IMPACT:** There will be no cost to the City. No match is required.

**RECOMMENDATION**

Staff recommends that Council approve the 2008 JAG application submission in the amount of \$11,390, acceptance of the grant award, and authorize the Mayor to sign the award documents when they are received.

**Approved By:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_

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

O

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, July 14, 2008**

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**SUBJECT:** Resolution Authorizing The Commitment Agreement with the Department of Natural Resources and Conservation Regarding the Sale of the Wastewater Revenue Bonds

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The Department of Natural Resources and Conservation (DNRC) has provided the City with a letter of approval regarding the sale and delivery of revenue bonds to pay the cost of extending the Briarwood sanitary sewer main to the City's wastewater plant. The letter establishes the amount of funds the City is borrowing, description of the project, and estimated loan terms and closing date. Upon approval, the City will proceed with the issuance of the Bonds.

**FINANCIAL IMPACT:**

Wastewater System Revenue Bond \$ 7,400,000

**RECOMMENDATION**

Staff recommends that the City Council approve the attached resolution.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

A - Resolution prepared by Dorsey & Whitney

***DRAFT 06/25/08***

**CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE**

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "A RESOLUTION OF CITY OF BILLINGS, MONTANA, ACKNOWLEDGING RECEIPT OF A LETTER OF APPROVAL FOR WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM IN LIEU OF COMMITMENT AGREEMENT WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION REGARDING THE SALE AND DELIVERY OF THE CITY'S \$7,400,000 SEWER SYSTEM REVENUE BOND (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), SERIES 2008" (the "Resolution"), is on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on July 14, 2008 and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meetings 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, the following Council Members voted in favor thereof: \_\_\_\_\_

\_\_\_\_\_; voted against  
the same: \_\_\_\_\_; abstained from  
voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand and seal officially this \_\_\_\_ day of July, 2008.

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF CITY OF BILLINGS, MONTANA,  
ACKNOWLEDGING RECEIPT OF A LETTER OF APPROVAL FOR  
WATER POLLUTION CONTROL STATE REVOLVING LOAN  
PROGRAM IN LIEU OF COMMITMENT AGREEMENT WITH THE  
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
REGARDING THE SALE AND DELIVERY OF THE CITY'S  
\$7,400,000 SEWER SYSTEM REVENUE BOND (DNRC WATER  
POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM),  
SERIES 2008

WHEREAS, pursuant to Montana Code Annotated Title 7, Chapter 7, Parts 44, the City Council (the "Council") of City of Billings, Montana (the "City") is authorized to issue its revenue bonds to pay the costs of designing, constructing and installing certain improvements to the City's Sewer System (the "System"); and

WHEREAS, the Department of Natural Resources and Conservation (the "DNRC") has provided to the City a form of a Letter of Approval for Water Pollution Control State Revolving Fund Loan Program in Lieu of Commitment Agreement between the City and the DNRC, a copy of which is attached as Exhibit A (the "Letter of Approval") and pursuant to which the DNRC will loan the City \$7,400,000 to pay the costs of financing certain improvements to the System (the "Project") and the City will evidence its obligation for the Loan by the issuance of its Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program) in the same amount (the "Bond"); and

WHEREAS, the City has reviewed the Letter of Approval; and

WHEREAS, it is the judgment and determination of the Council that it is in the best interest of the City to accept the terms and provisions set forth in the Letter of Approval and proceed with the issuance of the Bond.

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

1. Acceptance of Terms of Letter of Approval. The City Council hereby accepts the terms and provisions of the Letter of Approval.
2. Authority to Proceed. The Mayor and Director of Financial Services of the City are hereby authorized to take all actions necessary and desirable to proceed with the issuance of the Bond to the DNRC in accordance with the provisions of the Letter of Approval and other applicable provisions of Montana law, subject to the final bond resolution being presented to the Council for approval before the Bond is issued.

PASSED by the City Council of the City of Billings, Montana, on this 14th day of July,  
2008.

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Mayor

Attest:

---

City Clerk

## EXHIBIT A

[Copy of Letter of Approval]



DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION



BRIAN SCHWERTZBERG, GOVERNOR

STATE OF MONTANA

GOVERNOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2099

1000 ELEVENTH AVENUE, S.E.

PO BOX 201801  
HELENA, MONTANA 59620-1801

LETTER OF APPROVAL FOR STATE REVOLVING FUND LOAN PROGRAM IN LIEU OF COMMITMENT  
AGREEMENT - REVISED LOAN AMOUNT

June 26, 2008

City of Billings

Dear Pat Weber:

The State of Montana, through its State Revolving Fund Program, has been approved by the Environmental Protection Agency (the EPA) to make loans for wastewater projects.

The purpose of this letter is to formally apprise you that the state has approved a loan to the City of Billings in the original amount of \$4,208,000, with an increase to \$4,784,000 on January 11, 2006. Now that you have final information, you have asked to increase the loan amount. The loan amount is increased to \$7,400,000 at 3.75% for 20 years.

The Bond shall be issued pursuant to a Bond Resolution adopted by the City Council in substantially the form of the Bond Resolution used by the City's Bond Counsel in previous revolving fund loans, subject to appropriate references and changes for any currently outstanding Revenue Bonds.

The city has notified DNRC of its desired closing date, before September 1, 2008, on the loan and DNRC will work with the City and its Bond Counsel to have the loan properly closed. We have included the sample loan payment schedule.

Please do not hesitate to call if there are any questions or comments.

Very Truly Yours,

Anna M. Miller

Financial Advisor

Conservation and Resource Development Division

cc: Mae Nan Ellington - Dorsey & Whitney w/  
Billings Briarwood - SRF file w/  
Paul LaVigne - DEQ w/  
Randy Straus - Billings w/  
Janice Yeary - DNRC w/  
Cassy Hansen - M&M w/

Jerry Padlock - DEQ w/  
Diana Hoy - DNRC w/  
Debbie Kuykendall - US Bank w/  
Teri Walker - Billings w/  
Jenny Dunsy - Billings w/

AMBL

CENTRALIZED SERVICES  
DIVISION  
(406) 444-2074

CONSERVATION & RESOURCE  
DIVISION  
(406) 444-2074

RESERVED WATER RIGHTS  
CONTACT COMMISSION  
(406) 444-2074

OIL & GAS  
DIVISION  
(406) 444-2074

THOIST LAND MANAGEMENT  
DIVISION  
(406) 444-2074

GOVERNMENT - WWW.LOAN.SRF-Approval.Letters.html for Billings.doc

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Preliminary Plat of Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Juliet Spalding, AICP, Planner II

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**PROBLEM/ISSUE STATEMENT:** On May 1, 2008, the subdivider, Specialized Construction, applied for preliminary major plat approval for Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended Lots 4, 5, and 7 through 11, Block 46. The proposed subdivision re-plats 7 lots originally platted in the Lake Hills Subdivision, 14<sup>th</sup> Filing into 10 lots. The subject property is located on the north side of Cherry Hills Road, south of Annandale Road, at the north end of Lake Hills Subdivision in the Heights. The property is zoned Residential-9600 (R-96). One variance from the Subdivision Regulations has been requested to permit curb-style sidewalks in lieu of boulevard-style sidewalks. The Planning Board held a public hearing on June 24, 2008. The City Council will review the preliminary plat and variance request, and approve, conditionally approve, or deny the proposed subdivision at the July 14, 2008, meeting. The representing agent is Engineering, Inc.

**ALTERNATIVES ANALYZED:** State and City subdivision regulations require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated.

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

**RECOMMENDATION**

The Planning Board on a 7-0 vote recommends approval of the requested variance from Section 23.406.B.13, BMCC, conditional approval of the preliminary plat of Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by:           City Administrator \_\_\_\_\_           City Attorney \_\_\_\_\_

## **ATTACHMENTS**

- A. Preliminary Plat
- B. Site Photographs
- C. Findings of Fact
- D. Variance Review Criteria
- E. Mayor's Approval Letter

## **INTRODUCTION**

On May 1, 2008, the subdivider, Ron Hill with Specialized Construction, Inc., applied for preliminary major plat approval for Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended Lots 4, 5, and 7 through 11, Block 46. The proposed subdivision re-plats 7 lots originally platted in the Lake Hills Subdivision, 14<sup>th</sup> Filing into 10 lots. The subject property is located on the north side of Cherry Hills Road, south of Annandale Road, at the north end of Lake Hills Subdivision in the Heights. One variance from the Subdivision Regulations has been requested to permit curb-style sidewalks in lieu of boulevard-style sidewalks.

## **PROCEDURAL HISTORY**

- A pre-application meeting was held on April 10, 2008, to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on May 1, 2008.
- A departmental review meeting was conducted on May 15, 2008.
- The preliminary plat was resubmitted with revisions based on department reviews on May 23, 2008.
- The Planning Board reviewed the plat on June 10, 2008.
- The Planning Board conducted a public hearing on June 24, 2008, and forwarded a recommendation to the City Council.
- The City Council will consider the preliminary plat on July 14, 2008.

## **BACKGROUND**

The proposed amended plat rearranges 7 lots originally platted in 1957 into 10 lots. The subject property is just north of the Lake Hills Golf Course and is otherwise surrounded by single-family residential lots.

General location:	North side of Cherry Hills Road, south of Annandale Road in the Lake Hills Subdivision.
Legal Description:	Lots 4 and 5, and 7 through 11, Block 46 of Lake Hills Subdivision, 14 <sup>th</sup> Filing located in the NW ¼, Section 16, T1N, R26E
Subdivider/Owner:	Ron Hill, Specialized Construction, Inc.

Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	R-96
Existing land use:	Platted vacant lots
Proposed land use:	Single-family residential
Gross and Net area:	2.27 acres
Proposed number of lots:	10
Lot size:	Max: 12,345 square feet Min.: 9,600 square feet
Parkland requirements:	Parkland dedication was previously met.

### **ALTERNATIVES ANALYSIS**

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

### **RECOMMENDED CONDITIONS OF APPROVAL**

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

1. Sections II.C. and IX. of the Subdivision Improvements Agreement (SIA) should be amended to state: "According to the Geotechnical Investigation Report for the Cherry Hills Development, Portions of Blocks 45 and 46, Lake Hills Subdivision, 14<sup>th</sup> Filing prepared by Geoscience, PLLP, (December 10, 2007) and on file with the City Building Department, building footings shall be placed on sandstone below frost depth, and if that is not possible, excavation observation and implementation of recommendations from a geotechnical engineer will be required."
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

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

### **VARIANCES REQUESTED**

Variance from Section 23.406.B.13 of the City Subdivision Regulations, to allow for standard curb-style sidewalks in lieu of boulevard-style sidewalks.

### **STAKEHOLDERS**

At its June 24, 2008 meeting, the Planning Board held a public hearing to gather public input on the proposal. Certified letters were sent to adjacent property owners regarding the hearing and a legal notice also advertised the public hearing. There was no public testimony in favor or against the proposal.

### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

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

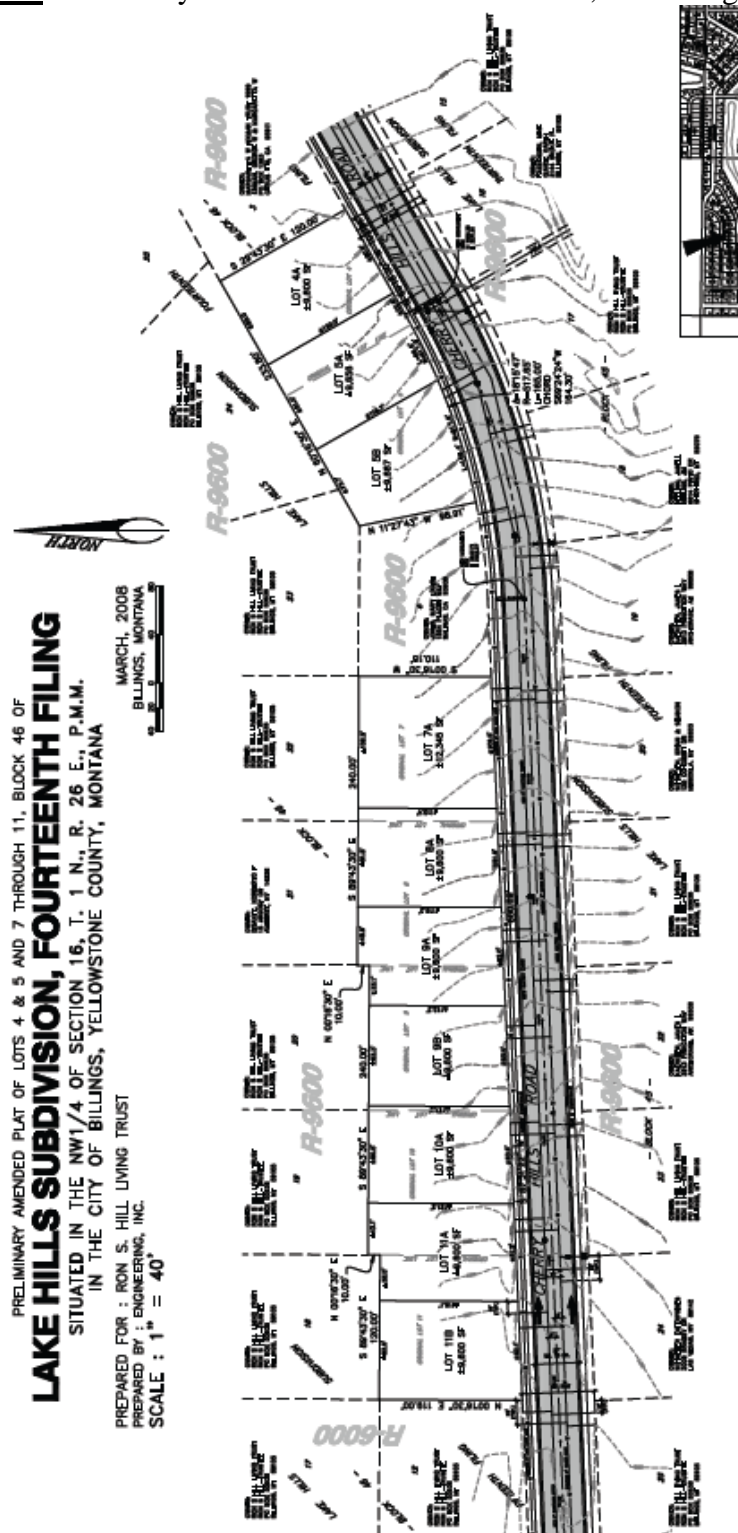
### **RECOMMENDATION**

The Planning Board on a 7-0 vote recommends approval of the requested variance from Section 23.406.B.13, BMCC, conditional approval of the preliminary plat of Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended, and adoption of the Findings of Fact as presented in the staff report to the City Council.

### **ATTACHMENTS**

- A. Preliminary Plat
- B. Site Photographs
- C. Findings of Fact
- D. Variance Review Criteria
- E. Mayor's Approval Letter

**ATTACHMENT A:** Preliminary Plat of Lake Hills Subdivision, 14<sup>th</sup> Filing Amended



**ATTACHMENT B**  
Site Photographs



Figure 1:  
Looking west at  
current end of  
Annandale Road  
toward subject  
property.  
Annandale Rd.  
and Cherry Hills  
Rd. will be  
extended to  
serve the  
proposed  
amended plat.



Figure 2:  
View of Lake  
Hills Golf  
Course to the  
south of the  
proposed  
subdivision area.

## **ATTACHMENT C**

### **Findings of Fact**

The Planning Board is forwarding the recommended Findings of Fact for Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-304 (c) (1)]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is located in the City limits and has been slated for residential development since it was originally platted in 1957. It should not have a negative effect on the agricultural industry.

The BBWA irrigation ditch is located approximately ½ mile northeast of the property. This subdivision does not contain any ditches or water shares, and therefore will not have an effect on agricultural water user facilities.

**2. Effect on local services**

- a. **Utilities** – Water services are provided by the County Water District of Billings Heights. The subdivider will extend an 8-inch water main from the exiting main line within Cherry Hills Road. The improvements will be funded by Special Improvement District (SID) #1383 and are subject to the review and approval of the water district during the time of construction. As proposed, the Heights Water District finds that the water mains are acceptable.

Sanitary sewer service will be provided by connecting to the existing 10-inch sewer main in Annandale Road. The subdivider will install an 8-inch sewer main in Cherry Hills Road. The improvements will be funded by SID #1383. As proposed, the City of Billings Public Works Distribution and Collection Division finds the proposed sewer main extension to be acceptable.

MDU will provide gas services, and Yellowstone Valley Electric Cooperative will provide electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

- b. **Storm water** – The City commissioned a storm water management feasibility study approximately four years ago in order to decipher how to best manage the storm water in the greater Lake Hills area. The resultant plan that was adopted by City Council establishes a series of detention ponds on the golf course connected by channels which



are eventually pumped down to a main pond at the southeastern area of the golf course. This main pond is then used for irrigation of the golf course. For this particular subdivision and the surrounding lots, a retention pond to the south of Cherry Hills Road shall be created under SID #1383. This and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- d. **Streets** – The proposed subdivision fronts Cherry Hills Drive, which is a local residential street. As platted, Cherry Hills has a 60-foot wide dedicated right-of-way and the subdivider has proposed to construct 37-foot wide back-of-curb to back-of-curb paved streets with standard curb, gutter and curb-style sidewalk. The City Subdivision Regulations, recently amended in 2006, require boulevard-style sidewalks to provide streetscape and safety enhancements within subdivisions. The subdivider has requested a variance from the boulevard requirement, and proposed curbwalks to match the existing sidewalks in the area. Further discussion regarding this requested variance is found in Attachment D. City Engineering has reviewed the variance proposal and finds it acceptable.
- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – School District #2 provides educational services to elementary through high school students. Sandstone Elementary School, Castle Rock Middle School, and Skyview High School will serve the children in this subdivision. Responses from these schools were not received at the time this report was written.
- g. **Parks and Recreation** – Parkland dedication requirements for this subdivision were met when this subdivision was originally platted in 1957.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has requested individual mail boxes at each property.

### **3. Effect on the natural environment**

The subject property has been planned for urban development since its original platting in 1957. A geotechnical evaluation was done for the subject area in December of 2007, to investigate soil, rock, and groundwater conditions and provide recommendations to support design and construction of foundation and drainage elements. The study indicated that the lots are characterized by a veneer of fine-grained colluvial soil and relatively shallow sandstone bedrock. “Foundation problems in the vicinity of the project are almost without exception related to the

introduction of water to dry collapsible soils or expansive bedrock below footings or slabs” (page 1, Geotechnical Investigation Report for the Cherry Hills Development, Portions of Blocks 45 and 46, Lake Hills Subdivision, 14<sup>th</sup> Filing prepared by Geoscience, PLLP, December 10, 2007). These characteristics necessitate footings to be placed on the sandstone bedrock below frost level, or if above that level, sub-grade improvements as recommended by a structural engineer should be followed. It is recommended as a condition of approval that these recommendations be added to the ‘Conditions that Run with the Land’ section of the SIA (Condition #1). If these recommendations are followed, the re-platting of these lots should have minimal effects on the natural environment.

#### **4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the presence of deer and antelope in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat, as it is in an urbanized area.

#### **5. Effect on the public health, safety and welfare**

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

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

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

#### **C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 200 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]**

##### **1. Yellowstone County-City of Billings 2003 Growth Policy**

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

- a. **Goal: More housing and business choices within each neighborhood (p. 6).**  
*The proposed subdivision would provide for more housing choices within this portion of the city.*
- b. **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).**  
*The subject property is adjacent to similar sized residential lots.*
- c. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).**

*The subject property is an infill development within the City and its development will help to complete road and utility loops, and create a neighborhood.*

- d. **Goal: Safe and efficient transportation system characterized by convenient connections and steady traffic flow (p. 10).**

*The proposed subdivision will provide public streets improved to city standards that connect with existing streets. Thus, creating more efficient transportation connections and ease of traffic flow.*

## **2. Urban Area 2005 Transportation Plan Update**

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

## **3. Heritage Trail Plan**

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

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

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

### **E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]**

The subdivision will utilize Heights Water District water, and the City's sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

### **F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304 (c) (6)]**

The subject property is located within the R-96 zoning district and shall comply with the standards set forth in Section 27-308, BMCC.

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

The subdivider has provided utility easements as requested by MDU and YVE on the face of the plat.

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

Legal and physical access is provided to all of the proposed lots from Cherry Hills Road.

**CONCLUSIONS OF FINDING OF FACT**

- The preliminary plat of Lake Hills Subdivision, 14<sup>th</sup> Filing Amended does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, July 14, 2008.

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Ron Tussing, Mayor

**ATTACHMENT D**  
Variance Review Criteria

Section 23-1101 of the City Subdivision Regulations states that the City Council may grant reasonable variances from the design and improvement standards of these regulations. In order to do so, the applicant must provide a written statement demonstrating that the request satisfies the following criteria:

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced.
3. The variance will not result in an increase in tax payer burden.
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations.
5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.

**ATTACHMENT D continued**  
Applicant's Written Statement

April 17, 2008

Ms. Juliet Spalding, AICP, Planner II  
City of Billings  
Planning and Community Services Department  
510 North Broadway, 4th Floor  
Billings, MT 59101

Reference: Variance Request  
Amended Lots 4 and 5, and 7 through 11, Block 46  
Lake Hills Subdivision, Fourteenth Filing  
E.I. No. 78165.74

Dear Juliet:

We are requesting a variance from the provisions of Section 23-406.B.13 of the City of Billings Subdivision Regulations requiring boulevard style sidewalks be installed on both sides of all streets. To be consistent with the neighboring filings of Lake Hills Subdivision, a variance to curb style sidewalk is being requested. The following information has been provided to address the variance request:

1. The variance would not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties in any way.
2. Currently, the neighboring filings of Lake Hills Subdivision have installed curb style sidewalk. Having the owners of Amended Lots 4 and 5, and 7 through 11, Block 46, Lake Hills Subdivision, Fourteenth Filing install boulevard style sidewalks would be inconsistent with neighboring properties.
3. The variance would not result in an increase to taxpayers.
4. The variance would not place the subdivision in nonconformance with any zoning regulations or Growth Policies.
5. On a low volume residential street, curb style walk would provide adequate access without compromising pedestrian safety.

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

Sincerely,

  
Kjersten Olson  
Staff Engineer

KO/dml  
P:78165\_74\_Spalding\_Variance\_Ltr\_041708

## **ATTACHMENT D continued**

### **Planning Board Analysis of Variance Request**

The proposed subdivision is the amendment of a previously platted subdivision. The subject lots are mid-block of an unbuilt road known as Cherry Hills Road. There is an SID that was bid on June 10, 2008, to construct Cherry Hills Road. When the SID was established, the improvements were designed to be consistent with the others in the immediate area. The street will be built to a width of 37 feet, and will have curb, gutter, and curb-style sidewalk. It does not make sense to have the sidewalks fronting the subject property be different than those surrounding them.

There would be no increase in tax payer burden by allowing this design variance, and the curb-style sidewalks should function equally effective in this instance due to the limited traffic load and large lots within this subdivision. Furthermore, the traffic on this street should be limited to those residents living on the street who have an invested interest in the neighborhood safety. No zoning regulations will be violated by allowing this variance.

For the above reasons, staff is recommending that the City Council approve the requested variance from Section 23.406.B.13, to allow curb-style sidewalks within the subdivision.

**ATTACHMENT E**  
Mayor's Approval Letter

July 15, 2008

Ron Hill  
Specialized Construction, Inc.  
P.O. Box 50636  
Billings, MT 59105

Dear Applicant:

On July 14, 2008, the Billings City Council conditionally approved the preliminary plat of Lake Hills Subdivision, 14<sup>th</sup> Filing, Amended. The conditions of approval are as follows:

1. Sections II.C. and IX. of the Subdivision Improvements Agreement (SIA) should be amended to state: "According to the Geotechnical Investigation Report for the Cherry Hills Development, Portions of Blocks 45 and 46, Lake Hills Subdivision, 14<sup>th</sup> Filing prepared by Geoscience, PLLP, (December 10, 2007) and on file with the City Building Department, building footings shall be placed on sandstone below frost depth, and if that is not possible, excavation observation and implementation of recommendations from a geotechnical engineer will be required."
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

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Ron Tussing, Mayor  
Pc: Kjersten Olson, Engineering, Inc.

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



Q

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Final Plat of Miller Crossing Subdivision, 2<sup>nd</sup> Filing  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** David Green, Planner I

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**PROBLEM/ISSUE STATEMENT:** The final plat of Miller Crossing Subdivision, 2<sup>nd</sup> Filing, is being presented to the City Council for approval. The property is zoned Entryway General Commercial (EGC) and is located on the south side of King Avenue East between Newman Lane and just east of Calhoun Lane. On April 14, 2008, the City Council conditionally approved the preliminary plat for this 10-lot major subdivision on approximately 18.15 acres of land for commercial development. The owner is South Billings Center, LLC, and Engineering, Inc. is the agent.

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

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

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Miller Crossing Subdivision, 2<sup>nd</sup> Filing.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

A: Final Plat

**ATTACHMENT A:** Final Plat

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

R

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, July 14, 2008**

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**TITLE:** Final Plat of Amended Lot 4, Block 1, Shiloh Crossing Subdivision  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** David Green, Planner I

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**PROBLEM/ISSUE STATEMENT:** The final plat of Amended Lot 4, Block 1, Shiloh Crossing Subdivision, is being presented to the City Council for approval. The subject property is zoned Controlled Industrial (CI) and is located on the southeast corner of the intersection of King Avenue West and Shiloh Road. On April 14, 2008, the City Council conditionally approved the 5-lot subsequent minor plat on 12.44 acres of land for commercial development. The owner is Shiloh Crossing, LLC, and Engineering, Inc. is the agent.

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

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

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Amended Lot 4, Block 1, Shiloh Crossing Subdivision.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENT**

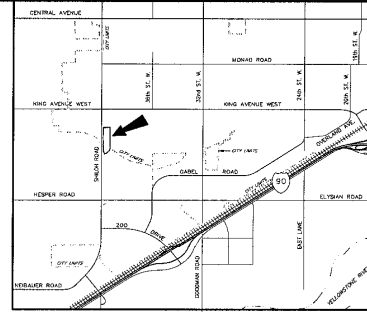
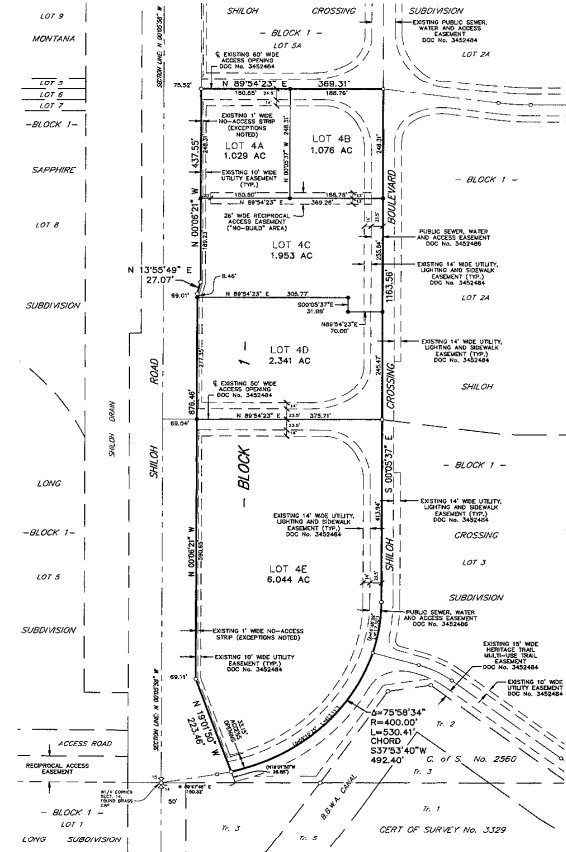
A: Final Plat

# ATTACHMENT A : Final Plat

## AMENDED PLAT OF LOT 4, BLOCK 1, SHILOH CROSSING SUBDIVISION SITUATED IN THE NW1/4 OF SECTION 14, T. 1 S., R. 25 E., P.M.M. IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: SHILOH CROSSING, LLC  
PREPARED BY: ENGINEERING, INC.  
SCALE: 1" = 100'

JUNE, 2008  
BILLINGS, MONTANA



### BASIS OF BEARING: PLAT OF SHILOH CROSSING SUBDIVISION

- FOUND 5/8"x18" REBAR WITH CAP MARKED "ENGINEERING INC." WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.
- FOUND SURVEY MONUMENT, REBAR AND CAP MARKED "ENGINEERING INC.", OR AS NOTED.
- SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC. BILLINGS MT"

### CERTIFICATE OF DEDICATION

STATE OF MONTANA } ss  
County of Yellowstone }

KNOW ALL MEN BY THESE PRESENTS: That SHILOH CROSSING, LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and plotted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the NW1/4 of Section 14, T. 1 S., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Lot 4, Block 1 of Shiloh Crossing Subdivision, according to the official plat on file in the Office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3452484.

Pursuant to Section 78-3-82(3)(b) M.C.A., a park dedication is not required for "subdivision into parcels that are non-residential."

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said tract to be known and designated as AMENDED PLAT OF LOT 4, BLOCK 1, SHILOH CROSSING SUBDIVISION; there is no public land donation.

SHILOH CROSSING, LLC.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MONTANA } ss  
County of Yellowstone }

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person who signed the foregoing instrument as \_\_\_\_\_ of SHILOH CROSSING, LLC, and acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

### CERTIFICATE OF SURVEYOR

STATE OF MONTANA } ss  
County of Yellowstone }

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of June, 2008, a survey was performed under the supervision of a Trust of land in the known as AMENDED PLAT OF LOT 4, BLOCK 1, SHILOH CROSSING SUBDIVISION, in accordance with the request of the owner thereof and in accordance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set, are of the character and occupy the positions shown thereon and that the gross and the net area is 12.443 acres.

ENGINEERING, INC.

By: \_\_\_\_\_  
Montana Registration No. \_\_\_\_\_

Subscriber and sworn to before me, a Notary Public in and for the State of Montana, this day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

### CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA } ss  
County of Yellowstone }

We hereby certify that we have examined the annexed and foregoing AMENDED PLAT OF LOT 4, BLOCK 1, SHILOH CROSSING SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of the Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on the plat as being dedicated to such use are accepted.

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

CITY OF BILLINGS, MONTANA

By: \_\_\_\_\_  
Mayor  
Attest: \_\_\_\_\_  
City Clerk

### NOTICE OF APPROVAL

STATE OF MONTANA } ss  
County of Yellowstone }

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

Date: \_\_\_\_\_ President  
Executive Secretary: \_\_\_\_\_

### CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and foregoing plat conforms with Section 78-4-122(2)(c) M.C.A., for the removal of sanitary restrictions upon the plat to include a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

City Engineer's Office

### ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting and find that said plat conforms with the requirements of the laws of the State of Montana, and that said plat conforms to the adjoining plat and the City of Billings already plotted as nearly as circumstances will permit.

Examining Land Surveyor  
Date: \_\_\_\_\_

### CERTIFICATE OF CITY ATTORNEY

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

Date: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_

### CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-61(1)(b)/76-3-207(3), M.C.A.

Date: \_\_\_\_\_  
Yellowstone County Treasurer  
By: \_\_\_\_\_  
Deputy

### SUBDIVISION IMPROVEMENT AGREEMENT

Document No. \_\_\_\_\_

### RECIPROCAL ACCESS EASEMENT

Document No. \_\_\_\_\_

# S1

AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 14, 2008

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

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,389,192.99 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 6, 2008, are on file in the Finance Department.

### RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

---

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

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$2,053,177.16 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 13, 2008, are on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

---

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

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$3,081,833.82 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 20, 2008, are on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator \_\_\_\_ City Attorney \_\_\_\_

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

## AGENDA ITEM:



## CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, JULY 14, 2008

**SUBJECT:** Postponement of Budget Amendment Resolution Item #3 from the June 23<sup>rd</sup> Council Meeting

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

**PROBLEM/ISSUE STATEMENT:** General Fund (010)-Nondepartmental (14)/Development Services Grants (280)-Home Program – A transfer from the General Fund to the Home Program is needed to reimburse it for expenditures that were not paid by federal grants. ~~Money was spent on Kings Green in the early 2000's from the Home Program. The criterion was never met to allow a reimbursement from the grant program.~~ The HOME program was audited for compliance by EideBaily the fall of 2006 at which time they discovered that the program balance did not equal the balance in the City's financial software. The City started researching the difference to attempt to draw any funds that were eligible. Most of the outstanding amounts were ineligible to be drawn from grant money. The council is being asked to approve a budget amendment transferring money from the General Fund to bring the HOME program into balance. Following are the outstanding problems in the HOME program. First, a project named Spring Gardens was funded prior to 1994 which utilized some HOME funds in addition to State HOME funding. This project accounted for \$240,000 in expenditures which was billed to the HOME program, \$100,000 of which was to come from the State HOME program. Staff is uncertain if the funds were not drawn or not properly coded and deposited and the age of records prevents accurately reconstruction of the event. Second, in 2000, a project was started with an environmental assessment and wetlands delineation on City-owned land located along Covert Lane. HOME recipients can only draw funding from HUD's IDIS system if the project results in actual housing, thus the \$18,251.22 could not be drawn. Last, an additional \$17,209.78 was expended on other various projects which cannot be drawn due to project closure and may be contributed to allocation of administration funding from previous years or errors in reporting program income. This budget amendment request increases the General Fund-Nondepartmental budget by ~~\$150,000~~ \$135,461 for the transfer to the Home Program. The Home Program



revenue item increases by the same amount. Reserves will be used since there won't be any additional revenue.

**RECOMMENDATION**

Staff recommends that the City Council approve number three (3) of the fourth quarter budget amendment resolution approving and adopting the budget amendments for Fiscal Year 2007/2008 per attached.

**Approved By:**        **City Administrator** \_\_\_\_    **City Attorney** \_\_\_\_

**ATTACHMENT**

A-Resolution to Make Fiscal Year 2007/2008 Adjustment Appropriations (with Exhibit A)

RESOLUTION 08-

A RESOLUTION TO MAKE **FISCAL YEAR 2008**  
ADJUSTMENTS APPROPRIATIONS PURSUANT TO M.C.A. 7-  
6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND  
REVISIONS WITHIN THE GENERAL CLASS OF SALARIES  
AND WAGES, MAINTENANCE AND SUPPORT AND  
CAPITAL OUTLAY.

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

WHEREAS, based upon a **Quarterly** Budget Review (**FY 2007/2008**), it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT A)

PASSED AND APPROVED by the City Council, this 23rd day of June, 2008.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

## **EXHIBIT A**

### **Revenue      Expenditure**

#### **010- General Fund-City Attorney (16)**

This request is to increase payroll for City Attorney in the General Fund. There is no increase in the revenue budget.

010-1611-416	1110	65,000	Salaries
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#### **010– General Fund – Municipal Court (12)**

This request is to increase the budget for Municipal Court for teamster overtime, temporary wages, contract labor, advertising, telephone, employee parking, and transfer to other funds. There is no increase in the revenue budget, general fund reserves will be used.

010-1212-412	1240		Teamster Overtime
		20,000	
010-1220-412	1240		Teamster Overtime
		12,000	
010-1220-412	1160		Temporary wages
		13,000	
010-1220-412	3581		Contract Labor
		24,000	
010-1220-412	3370		Advertising
		10,000	
010-1220-412	3450		Telephone
		3,500	
010-1220-412	3963		Employee Parking
		1,700	
010-1220-412	8225		Transfer to other
		9,600	Funds

#### **010– General Fund – Nondepartmental (14)**

#### **280 – Development Services Grants Fund - Home Program**

A transfer from the General Fund to the Home Program is needed to reimburse it for expenditures that were not paid by federal grants. This budget amendment request is an increase to the General Fund-Nondepartmental budget for the transfer to the Home Program. The Home Program has a revenue transfer from the General Fund.

010-1412-414	8225		135,461	Transfer to other Funds
280-6581-383	7515	135,461		Transfer from General Fund

**EXHIBIT A (continued)**

<b><u>Revenue</u></b>	<b><u>Expenditure</u></b>
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**010– General Fund – Nondepartmental (14)**

This request is to increase the budget for Nondepartmental for Website services by \$17,500. There is no increase in the revenue budget, general fund reserves will be used.

010-1412-414	3552	17,500	Website Services
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**010– General Fund – Code Enforcement (43)**

The contracted service for mowing weeds needs additional budget of \$62,000. About \$42,000 of this budget increase is from mowing services during July, August, and September of 2007. The other \$20,000 of the budget is from mowing services to be paid for in May and June of 2008. Training services are over budget by \$1,000. Also, Salaries are projected to be over budget by \$7,000 and the related benefits are projected to be over budget by \$3,000. General fund reserves will be used to pay for these additional costs.

010-4321-419	3586	62,000	Mowing / weed abatement
010-4321-419	3822	1,000	Technical training
010-4321-419	1110	7,000	Salaries
010-4321-419	1430		Benefits

3,000

**150- Public Safety Fund - Police (21)**

This request is to increase the Public Safety Fund / Police department sick & vacation payoff budget to pay accumulated sick and vacation time to police department employees retiring in fiscal year 2008. There is no increase in the revenue budget, general fund reserves will be used, general fund reserves will be used.

150-2111-421	1500		Sick & Vacation
		50,000	Payoffs

**EXHIBIT A (continued)**

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

**150– Public Safety Fund - Fire (22)**

**221 – Fire Programs Fund**

The FEMA grant for the confined space equipment has a 20% local match. The budget amendment is requested for \$5,062 to transfer the local match from the Public Safety Fund to the Fire Programs Fund.

150-2229-422	8225		Transfer to other
		5,062	Funds
221-2238-383	7553		Transfer from Public
		5,062	Safety

**248 – Municipal Court Drug Grant Fund**

The DUI Task Force from Yellowstone County has donated \$5,000 for Drug Court. The money will be spent on medical services.

248-1252-334	2060		Intergovernmental
		5,000	revenue
248-1252-419	3910	5,000	Medical services

**718 – Police Programs Fund-Drug Fines and Forfeitures**

The Police department is requesting that money collected from drug fines and forfeitures be spent on training, DNA testing, small items of equipment, and computer equipment. Revenue will not increase because there is sufficient cash to cover these expenditures.

718-2160-421	3824		Training
		4,000	
718-2160-421	3569		DNA testing
		5,000	
718-2160-421	2120		Small Items
		28,000	
718-2160-421	9480		Computer Equipment
		17,700	

**EXHIBIT A (continued)**

**Revenue      Expenditure**

**769– Parks Programs Fund**

The Parks department is requesting an increase to the budget for the Parks Program Fund for ground maintenance for Dehler Park and Park & Recreation Capital Improvements for completion of the Central Park Playground. Revenue will not increase because there is sufficient cash to cover these expenditures.

769-5182-452	3650		Ground Maintenance
		33,000	
769-5182-452	9370		Parks & Recreation
		58,000	Capital
			Improvements

**872 - Parks Maintenance District Fund**

Parks Maintenance District Fund – PMD – (872) – The PMD budget is projected to need additional budget authority in electricity of \$12,000. Water services for the parks are over budget by \$15,000. Due to increasing costs in the ground maintenance line item, this line item needs additional budget of \$15,000. The parks charge for services budget for charges from other city departments needs additional budget of \$43,000. Also, the special assessments for the parks annual taxes needs additional budget of \$1,000. Reserves will be used to pay for additional costs.

872-5198-452	3410	12,000	Electricity
872-5198-452	3420	15,000	Water
872-5198-452	3650	15,000	Ground maintenance
872-5198-452	3968	43,000	Parks charges for services
872-5198-452	5410	1,000	Special assessments

**EXHIBIT A (continued)**

**Revenue      Expenditure**

**810 – Street Light Maintenance Districts Fund**

Due to increased electricity costs, the Street Light Maintenance Districts Fund requests a budget increase. There is sufficient cash to fund the budget increase.

810-3183-431	3410	35,000	Electricity
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**605 – Central Services Fund**

This budget amendment is requested to add budget authority for a copier in the office equipment account. One of the copiers failed unexpectedly and needed replaced immediately. Reserves will be used to pay for additional costs.

605-1516-483	9470	8,500	Office machines / equipment
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#### **432 –South Tax Increment #5 Construction Fund**

This capital expenditure is for right-of-way purchases, easements, equipment and financing costs in the amount of \$300,000 for King Avenue East. There is no revenue budget because financing will not occur until July 2008. In the interim, expenditures will be covered by interfund loans from the Gas Tax Fund.

432-3110-431	9310	300,000	Capital outlay
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**EXHIBIT A (continued)**

<u>Revenue</u>	<u>Expenditure</u>
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#### **493 - Public Works - 2004A Street Improvements Construction Fund**

The final payment from this fund for construction for Alkali Creek Road Improvements has been determined. Budget authority of \$7,700 is needed.

493-3112-431	9310	7,700	Capital outlay
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#### **550 - Golf Course Fund**

The debt service was completed from the loan for the construction of the club house at the Exchange Club Par 3 Golf Course. Principle and interest payments of \$44,000 were paid in advance in FY2008 to save on interest in future years and additional budget authority is needed for \$44,000.

550-5152-451	6100	44,000	Principal and interest
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[\(Back to Regular Agenda\)](#)



## AGENDA ITEM:




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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

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**TITLE:** Public Hearing for Resolution Authorizing the Sale of Portions of Olympic Park and the Shiloh Drain access property

**DEPARTMENT:** Public Works Department – Engineering Division

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

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**PROBLEM/ISSUE STATEMENT:** The City owns property along Shiloh Road that is needed by MDT to construct the Shiloh Road Project. The areas are both Parks Recreation and Public Land (PRPL) land and land acquired as part of the Shiloh Drain acquisition. The sale of the land to MDT will not affect the remaining park land nor will it hinder the maintenance of the Shiloh Drain. The areas to be sold are the areas noted as “tract conveyed” on the maps attached to each Bargain and Sale Deed. This land is intended to be transferred to MDT at no cost. The entire Right-of-Way and the improvements will be conveyed back to the City upon completion of the project. The Public Hearing Notice was advertised on June 26, and July 3, 2008.

**ALTERNATIVES ANALYZED:**

1. Approve Resolution Authorizing the Sale of portions of Olympic Park and the Shiloh Drain property to MDT.
2. Do not approve the Resolution Authorizing the Sale of portions of Olympic Park and the Shiloh Drain property to MDT.

**FINANCIAL IMPACT:** There is no financial impact to the City. Montana Department of Transportation needs to acquire Right of Way for Shiloh Road Construction.

**RECOMMENDATION**

Staff recommends that Council approve the Resolution Authorizing the Sale of portions of Olympic Park and the Shiloh Drain access property to MDT.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

## ATTACHMENTS

- A. Resolution Authorizing Sale
- B. Offer to Purchase Right of Way
- C. Right of Way Agreement
- D. Bargain and Sale Deeds (6 parcels)
- E. Waivers of Compensation (6 parcels)

DSM/6.4.08

### RESOLUTION 08-\_\_\_\_\_

A RESOLUTION PURSUANT TO BILLINGS, MONTANA CITY CODE, ARTICLE 22-900: SALE, DISPOSAL OR LEASE OF CITY PROPERTY, DESCRIBING THE PROPERTY TO BE SOLD, DECLARING THE INTENT OF THE CITY TO DISPOSE OF THE PROPERTY AND AUTHORIZING CITY OFFICIALS TO PROCEED.

WHEREAS, the City of Billings finds it necessary or desirable to dispose of property it currently owns, located on **Shiloh Road** in the City of Billings, Yellowstone County, Montana, as follows;

Parcel No. 22 on Montana Department of Transportation Project MT 1031(4), as shown on the Right of Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as tracts of land in E½NE¼ of Section 15; and the SE¼SE¼ of Section 3, Township 1 South, Range 25 East, P.M., M., Yellowstone County, Montana, as shown by the shaded areas on the plat, consisting of 5 sheets, attached hereto and made a part hereof, containing a total area of 0.668 ha (1.65 acres), more or less.

Parcel No. 25 on Montana Department of Transportation Project MT 1031(4), as shown on the Right of Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as tracts of land in Ann Ross Park, Block 1 and Ann Ross Park, Block 4 of the plat of the Village Subdivision, in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3324330, as shown by the shaded areas on the plat, consisting of 3 sheets, attached hereto and made a part hereof, containing an area of 0.228 ha (0.56 acre), more or less.

Parcel No. 31 on Montana Department of Transportation Project MT 1031(4), as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as a tract of land in the Park in Block 16 of the Olympic Park Subdivision in the City of Billings, Montana, according to the official plat thereof, recorded under Document No. 1140076, in the office of the Clerk and Recorder of Yellowstone County, Montana, as shown by the shaded area on the plat, consisting of 2 sheets, attached hereto and made a part hereof, containing an area of 272 m<sup>2</sup> (2,928 sq. ft.), more or less.

Parcel No. 83 on Montana Department of Transportation Project MT 1031(4), as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as a tract of land in a Park located in Missions United Subdivision, in the City of Billings, Montana, according to the official plat thereof, on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3135018, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 122 m<sup>2</sup> (1,313 sq. ft.), more or less.

WHEREAS, the notice required by Section 22-902 of the Billings Montana City Code has been duly published and mailed; and

WHEREAS, the public hearing required by Section 22-902 of the Billings Montana City Code was duly held on the 14<sup>th</sup> day of July, 2008;

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

That the City staff is authorized to proceed with the sale of property along Shiloh Road, under the requirements of Section 22-902 of the Billings, Montana City Code.

APPROVED AND PASSED by the City Council of the City of Billings, Montana this 14<sup>th</sup> day of July, 2008.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
RON TUSSING, MAYOR

ATTEST:

BY: \_\_\_\_\_  
CARI MARTIN, CITY CLERK

B

DEPARTMENT OF TRANSPORTATION  
Right-of-Way Bureau  
Helena, Montana 59620-1001

## OFFER TO PURCHASE RIGHT-OF-WAY

To: City of Billings  
210 North 27<sup>th</sup> Street  
Billings MT 59101Project ID: MT 1031(4)  
Project No.: 4666-004  
Designation: Shiloh Road Corridor-Billings  
Parcel No.: 22, 25, 29, 31, 79, 83

Our records indicate you have an interest in the property as referred to on the attached forms. On behalf of the Department of Transportation, I am authorized to offer you \$34,750.00 (Thirty-four thousand seven hundred fifty dollars and no/100) for this property. Said amount is the total offer for the interests shown on the attached Right-of-Way Negotiations Report and Agreement Form.

This offer is based on the current fair market value appraisal of your property considering the effect the proposed highway, as shown on our official plans, will have on your property. The above offer has been determined by our appraisers to be the full, just compensation for the right-of-way acquired from you.

The determination of just compensation disregards any decrease or increase in the current fair market value caused by the project for which the property is being acquired.

In the case of separately held interest in the real property, the determination of just compensation includes an apportionment of the total just compensation for each of those interests.

You will not be required to surrender possession of your property until the State has made available to you the full amount of this written offer. Arrangements may be made if you desire to surrender possession of your property before receiving this payment.

In exceptional cases, changes of plans, unavailability of funds, or legal complications may prevent us from acquiring this property. Therefore, the Department of Transportation must reserve the right to rescind this offer without prior notice.

DEPARTMENT OF TRANSPORTATION

By: Don E. Vanica 3/21/08  
Don E. Vanica (Date)  
Right-of-Way Agent

## Distribution

Landowner - 1 Original  
Helena File - 1

## DEPARTMENT OF TRANSPORTATION

SUMMARY STATEMENT  
OF  
AMOUNT ESTABLISHED AS JUST COMPENSATION

Project ID MT 1031(4) Designation Shiloh Road Corridor - Billings  
 Parcel No. 22, 25, 29, 31, 79, 83 Owner City of Billings-Parks Department

## I. Identification of real property to be acquired:

- A. Land: 2.30 ac r/w, 0.92 ac easement, 4.59 ac construction permit  
 B. Improvements: Trees and sod  
 C. Fixtures considered part of realty: \_\_\_\_\_

## II. Estate or interest to be acquired:

- ☒ A. Fee Simple (excluding mineral rights)  
☐ B. Leasehold  
☒ C. Easement  
☒ D. Construction Permit  
☒ E. Other (Describe): Access Control Administrative Fee

## III. Statement of amount established as just compensation:

A.	For real property interest(s) to be acquired.	\$34,400.00
B.	For damages (depreciation) to remaining real property.	\$350.00
	Total	\$34,750.00

## IV. Basis for amount established as just compensation: The amount established as just compensation is based on the Department of Transportation's review and analysis of an appraisal(s) of the real property to be acquired, made by a qualified appraiser(s). The appraisal(s) contain(s) an analysis of the following information:

- ☒ A. Sales of other property (see listing below)  
☒ B. Building cost data and/or contractor's estimates  
☐ C. Income data

Property sales considered in establishing just compensation include the following:

- (1) Grantor: Bach Builders & Developers, LLC Date of Sale: 4/13/04  
 Grantee: Billings Retirement, LLC County: Yellowstone
- (2) Grantor: Bach Builders & Developers, LLC Date of Sale: 4/13/04  
 Grantee: Faith Evangelical Church County: Yellowstone
- (3) Grantor: Larry Kramer, et al Date of Sale: 10/1/02  
 Grantee: Legacy Homes, Inc County: Yellowstone
- (4) Grantor: CJ Land & Livestock, LLP Date of Sale: 7/31/06  
 Grantee: Advanced Care Hospital of MT County: Yellowstone
- (5) Grantor: Shilo 47, LLP Date of Sale: 2/23/05  
 Grantee: Mary S. Underriner County: Yellowstone

By: DEW  
 Right-of-Way Agent

3/21/08  
 Date Presented

C

**STATE OF MONTANA DEPARTMENT OF TRANSPORTATION**  
(hereinafter referred to as State, Department and/or MDT)

**RIGHT-OF-WAY AGREEMENT**

ROW\FORMS\ACQ\200 (Revised 2-6-2004)

PE PROJECT ID: STPU 1031(2)

Shiloh Road Corridor-Billings  
DESIGNATION

R/W PROJECT ID: MT 1031(4)

Yellowstone  
COUNTY

UNIFORM PROJECT No.: 4666-004

<u>Parcel</u>	<u>From Station</u>	<u>To Station</u>	<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>
<b>22-South</b>	24+05.5 LT	31+30 LT	E½NE¼	15	1S	25E
<b>25</b>	31+67.5 LT	39+41.5 LT	Ann Ross Park in Village Subdivision	10	1S	25E
<b>29</b>	35+40.5 RT	35+50 RT	Park in Block 17 of Olympic Park Sub	11	1S	25E
<b>31</b>	36+47 RT	39+42 RT	Park in Block 16 of Olympic Park Sub	11	1S	25E
<b>22-North</b>	47+72.5 LT	51+62 LT	SE¼SE¼	3	1S	25E
<b>79</b>	70+40.5 LT	70+52.75 LT	Park in Rush Sub	33	1N	25E
<b>83</b>	72+08 RT	72+46 RT	Park in Missions United Subdivision	33	1N	25E

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

City of Billings  
PO Box 1178  
Billings MT 59103

- 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. Grantor certifies that any encumbrances on the property are shown on this agreement. This agreement is effective upon execution by the Acquisition Manager or a designated representative, and possession of the property is granted to the Department when it sends the payment(s) agreed to below. Grantors contract that they will, on Department's request, execute a deed and/or easement required by Department for all real property agreed to be conveyed by this agreement.
- COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)
 

2.30 ac (0.935 ha) additional right-of-way by deed	\$20,701.00
0.92 ac (0.477 ha) easements for drainage	\$3,140.00
Trees and sod (Parcel 31)	\$3,787.00
- OTHER COMPENSATION:
 

4.59 ac (1.912 ha) Temporary Construction Permits	\$3,772.00
Cost-to-Cure: Reconfigure sprinkler system (Parcel 31)	\$2,500.00
Access Control Administrative Fee – 6 parcels	\$3,000.00
- AMOUNT TO BE DONATED:
 

Compensation for r/w, improvements, construction permits and access control fees (as specified on Waiver of Compensation Form (Form 211) for each parcel)	(\$34,400.00)
---	---------------
- TOTAL COMPENSATION (includes all damages to the remainder): **\$2,500.00**
- IT IS UNDERSTOOD AND AGREED THE STATE SHALL MAKE PAYMENT AS FOLLOWS:  
A warrant in the amount of \$2,500.00 to be made payable to City of Billings and mailed to City of Billings at PO Box 1178 Billings MT 59103.
- It is understood and agreed that Grantor conveys all rights of ingress and egress, including future or potential easements of access, except Grantor reserves the right of reasonable access to and from Grantor's adjacent property. The amount being paid to Grantor herein is not based upon the loss of any property right, but is a settlement for the imposition of access control.

(Continued from Previous Page)

8. 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 Grantors for the expense of performing the following work: Reconfigure the sprinkler system in the park at the southeast corner of Monad Road and Shiloh Road.
9. Permission is hereby granted the State to enter upon the Grantor's land, where necessary and for the purposes described as follows:
- |  |  |               |
|--|--|---------------|
| A. Station <u>24+75</u> to Station <u>25+07</u>                              | 3m wide (9.8') Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| B. Station <u>27+00</u> to Station <u>28+08</u>                              | 2m wide (6.5') Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| C. Station <u>28+08</u> to Station <u>28+38</u>                              | 26.5m wide (87') Temporary Construction Permit to build multi-use path and private approach. | <u>LT SOP</u> |
| D. Station <u>28+23</u>  | Build Private Approach.  | <u>LT SOP</u> |
| E. Station <u>28+38</u> to Station <u>31+30</u><br>(38 m left of centerline) | 10.5m wide (34.4') Temporary Construction Permit to build multi-use path.                    | <u>LT SOP</u> |
| F. Station <u>32+22</u> to Station <u>39+10</u><br>(38 m left of centerline) | 10.5 m wide (35') Temporary Construction Permit to build multi-use path.                     | <u>LT SOP</u> |
| G. Station <u>32+86.52</u> to<br>Station <u>34+03.33</u>                     | 1.5 m wide (5') Temporary Construction Permit for sloping.                                   | <u>LT SOP</u> |
| H. Station <u>34+63.03</u> to<br>Station <u>35+03.33</u>                     | 1.5 m wide (5') Temporary Construction Permit for sloping.                                   | <u>LT SOP</u> |
| I. Station <u>35+09.33</u> to<br>Station <u>35+63.33</u>                     | 1.5 m wide (5') Temporary Construction Permit for sloping.                                   | <u>LT SOP</u> |
| J. Station <u>35+69.33</u> to<br>Station <u>36+68.33</u>                     | 1.5 m wide (5') Temporary Construction Permit for sloping.                                   | <u>LT SOP</u> |
| K. Station <u>36+74.33</u> to<br>Station <u>37+08</u>                        | 1.5 m wide (5') Temporary Construction Permit for sloping.                                   | <u>LT SOP</u> |
| L. Station <u>39+10</u> to<br>Station <u>39+40.74</u>                        | 12.5 m wide (41') Temporary Construction Permit to build multi-use path.                     | <u>LT SOP</u> |
| M. Station <u>39+15</u> to Station <u>39+41.73</u>                           | Variable-width Temporary Construction Permit for sloping                                     | <u>RT SOP</u> |
| N. Station <u>47+78</u> to Station <u>48+08</u>                              | Variable-width Temporary Construction Permit to build multi-use path.                        | <u>LT SOP</u> |
| O. Station <u>48+08</u> to Station <u>48+80</u><br>(30 m left of centerline) | 11m wide (36') Temporary Construction Permit to build multi-use path.                        | <u>LT SOP</u> |
| P. Station <u>48+08</u> to Station <u>48+29.52</u>                           | 3m wide (9.8') Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| Q. Station <u>48+35.52</u> to<br>Station <u>48+69.66</u>                     | 3m wide (9.8') Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| R. Station <u>48+55</u>  | Build Private Approach.  | <u>LT SOP</u> |
| S. Station <u>48+80</u> to Station <u>48+80</u><br>(30 m left of centerline) | 15.5m wide (51') Temporary Construction Permit to build multi-use path.                      | <u>LT SOP</u> |
| T. Station <u>48+75.66</u> to<br>Station <u>49+24.66</u>                     | 3m (9.8') wide Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| U. Station <u>48+80</u> to Station <u>51+62</u><br>(32 m left of centerline) | 13.75m wide (45') Temporary Construction Permit to build multi-use path.                     | <u>LT SOP</u> |
| V. Station <u>49+30.66</u> to<br>Station <u>49+79.66</u>                     | 3m (9.8') wide Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| W. Station <u>49+85.66</u> to<br>Station <u>50+84.66</u>                     | 3m (9.8') wide Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| X. Station <u>50+90.66</u> to<br>Station <u>51+37.66</u>                     | 3m (9.8') wide Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |
| Y. Station <u>51+43.66</u> to<br>Station <u>51+62</u>                        | 3m (9.8') wide Temporary Construction Permit for sloping.                                    | <u>LT SOP</u> |

R/W Project ID: MT 1031(4)

Parcel No.: 22, 25, 29, 31, 79, 83

(Continued from Previous Page)

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

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

Signature: \_\_\_\_\_ (Date) \_\_\_\_\_ 81-6001237  
Tax ID No.

RECOMMENDED FOR APPROVAL:

APPROVED FOR AND ON BEHALF OF DEPARTMENT:

Right-of-Way Agent \_\_\_\_\_ (Date) \_\_\_\_\_ R/W Supervisor \_\_\_\_\_ (Date)

Consultant Project or R/W Manager (if applicable) \_\_\_\_\_ (Date) \_\_\_\_\_ Acquisition Manager \_\_\_\_\_ (Date)



Montana Department of Transportation  
Right-of-Way Bureau  
PO Box 201001  
Helena, MT 59620-1001

D

ROWForm/Pln/523

Revised 2/12/08

**State of Montana  
Department of Transportation**

Right-of-Way Bureau  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

Project ID: MT 1031(4)

Parcel No.: 22

County: Yellowstone

Designation: Shiloh Road Corridor - Billings

Project No.: 4666-004

**Bargain and Sale Deed With Easement**

This Deed, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, witnesses that:

City of Billings  
210 North 27<sup>th</sup> Street  
Billings, MT 59101

does hereby **grant, bargain, sell** and convey to the Montana Department of Transportation the following-described real property:

Parcel No. 22 on Montana Department of Transportation Project MT 1031(4), as shown on the Right of Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as tracts of land in E $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15; and the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, Township 1 South, Range 25 East, P.M., M., Yellowstone County, Montana, as shown by the shaded areas on the plat, consisting of 5 sheets, attached hereto and made a part hereof, containing a total area of 0.668 ha (1.65 acres), more or less.

ALSO, the Grantor hereby conveys to the Montana Department of Transportation all rights of ingress and egress over and across the access control lines shown on said attached plat.

Grantor reserves the right of reasonable access to and from the adjacent property of the Grantor.

ALSO, the Grantor hereby conveys unto the MONTANA DEPARTMENT OF TRANSPORTATION, easements for drainage purposes in said E $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15; and said SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, as shown by the hatched areas on said plat, containing a total area of 0.303 ha (0.75 acre), more or less.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Grantor, its successors and assigns.

**Subject to any and all easements apparent and/or of record.**

D5:4666:p22w/ease:rle

Bargain and Sale Deed With Easement  
Project ID: MT 1031(4)  
Designation: Shiloh Road Corridor - Billings

Parcel No.: 22

Excepting and reserving to Grantor(s), however, all gas, oil and minerals 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 damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), its 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 therein, save and except groundwater for the use, benefit and purposes of the Grantee(s).

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgement.

State of \_\_\_\_\_ )

County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_

(date)

by \_\_\_\_\_

(Grantor(s))

Notary Signature Line

(Seal)

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ )

County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_

(date)

by \_\_\_\_\_

(Grantor(s))

Notary Signature Line

(Seal)

Notary Printed Name

Notary Public for State of \_\_\_\_\_

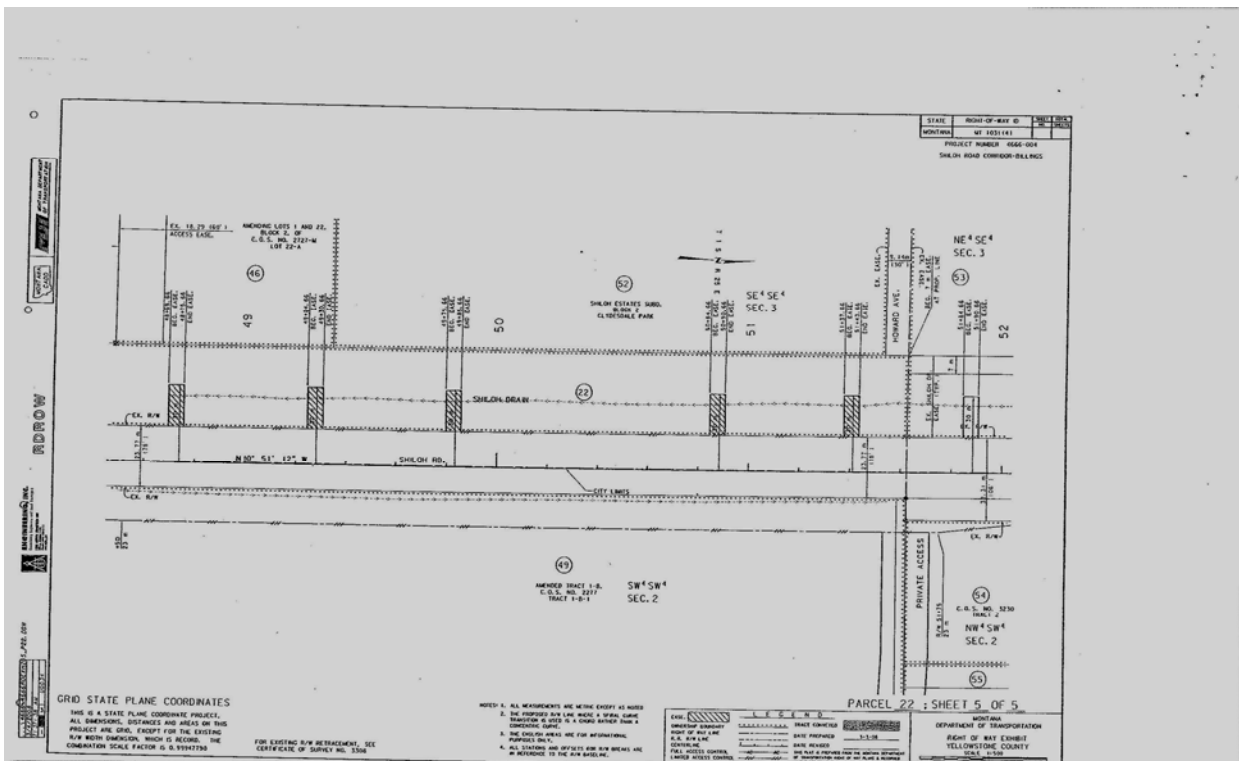
Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Recording Information







GRID STATE PLANE COORDINATES

THIS IS A STATE PLANE COORDINATE PROJECT.  
ALL DIMENSIONS, DISTANCES AND BEARS ON THIS  
PROJECT ARE GRID, EXCEPT FOR THE EXISTING  
R/W BEING SURVEYED, WHICH IS RECORD. THE  
CONVERSION SCALE FACTOR IS 0.99977780

FOR EXISTING R/W RETRACTION, SEE  
LEFT PAGE OF SHEET NO. 1308

- NOTES: 1. ALL MEASUREMENTS ARE BEING EXCEPT AS NOTED  
2. THE PROPOSED R/W LINE BEING A OPEN LANE  
THUS THE R/W LINE IS A OPEN EXCEPT FOR A  
CONTINUING LANE.  
3. THE EXISTING R/W LINE ARE FOR INFORMATIONAL  
PURPOSES ONLY.  
4. ALL STATIONS AND OFFSETS FOR R/W BEARS ARE  
AS NOTED TO THE R/W BEARS.

SYMBOL	DESCRIPTION
---	EXISTING R/W LINE
---	PROPOSED R/W LINE
---	EXISTING R/W LINE
---	PROPOSED R/W LINE
---	EXISTING R/W LINE
---	PROPOSED R/W LINE
---	EXISTING R/W LINE
---	PROPOSED R/W LINE

PARCEL 22 : SHEET 5 OF 5

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
COUNTY OF YELLOWSTONE  
SHEET 1308

Montana Department of Transportation  
Right-of-Way Bureau  
PO Box 201001  
Helena, MT 59620-1001

D

ROWForms/Pln/523

Revised 2/12/08

**State of Montana  
Department of Transportation**

Right-of-Way Bureau  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

Project ID: MT 1031(4)

Parcel No.: 25

County: Yellowstone

Designation: Shiloh Road Corridor - Billings

Project No.: 4666-004

**Bargain and Sale Deed With Easement**

This Deed, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, witnesses that,

City of Billings - Parks Department  
P.O. Box 1178  
Billings, MT 59103

does hereby **grant, bargain, sell and convey** to the Montana Department of Transportation the following-described real property:

Parcel No. 25 on Montana Department of Transportation Project MT 1031(4), as shown on the Right of Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as tracts of land in Ann Ross Park, Block 1 and Ann Ross Park, Block 4 of the plat of the Village Subdivision, in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3324330, as shown by the shaded areas on the plat, consisting of 3 sheets, attached hereto and made a part hereof, containing an area of 0.228 ha (0.56 acre), more or less.

ALSO, the Grantor hereby conveys to the Montana Department of Transportation all rights of ingress and egress over and across the access control lines shown on said attached plat.

Grantor reserves the right of reasonable access to and from the adjacent property of the Grantor.

ALSO, the Grantor hereby conveys unto the MONTANA DEPARTMENT OF TRANSPORTATION, easements for drainage purposes in said Ann Ross Park, Block 1 and Ann Ross Park, Block 4, as shown by the hatched areas on said plat, containing a total area of 707 m<sup>2</sup> (7,610 sq ft), more or less.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Grantor, its successors and assigns.

**Subject to any and all easements apparent and/or of record.**

D5:4666:p25BSw/ease:rls

Bargain and Sale Deed With Easement  
Project ID: MT 1031(4)  
Designation: Shiloh Road Corridor - Billings

Parcel No.: 25

Excepting and reserving to Grantor(s), however, all gas, oil and minerals 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 damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), its 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 therein, save and except groundwater for the use, benefit and purpose of the Grantee(s).

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgement.

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

(Seal)

Notary Signature Line

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

(Seal)

Notary Signature Line

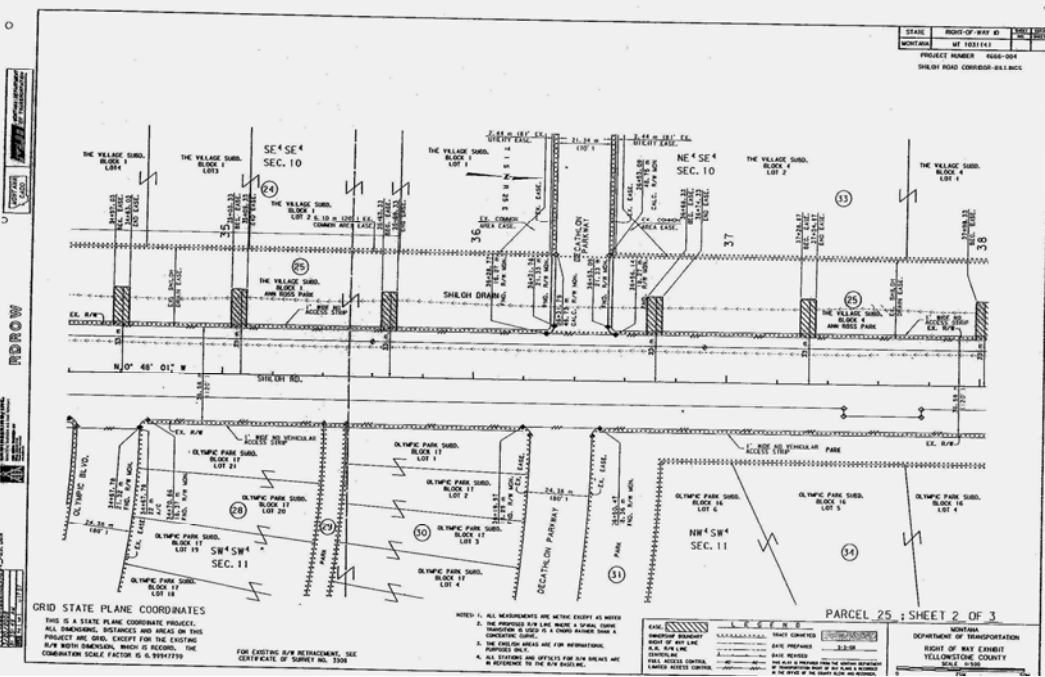
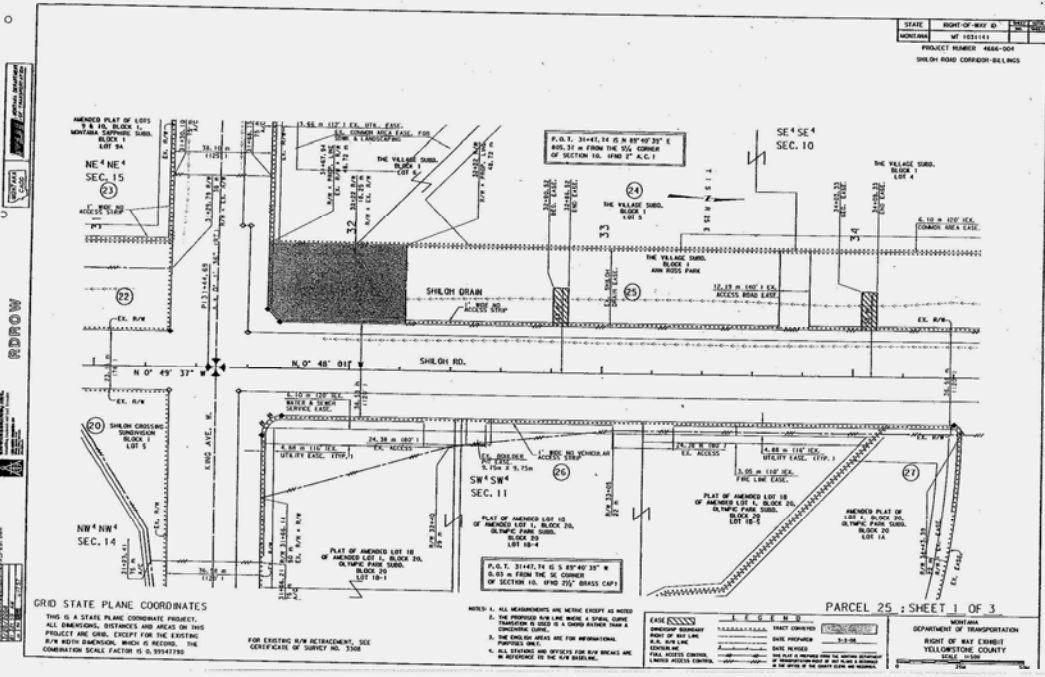
Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Recording Information







Montana Department of Transportation  
Right-of-Way Bureau  
PO Box 201001  
Helena, MT 59620-1001

D

ROWForm#Pin521

Revised 9/29/06

**State of Montana  
Department of Transportation**

Right-of-Way Bureau  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

Project ID: MT 1031(4) Parcel No.: 29 County: Yellowstone  
Designation: Shiloh Road Corridor - Billings  
Project No.: 4666-004

**Bargain and Sale Deed**

This Deed, made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, **witnesses that,**

City of Billings - Parks Department  
P.O. Box 1178  
Billings, MT 59103

does hereby **grant, bargain, sell and convey** to the **Montana Department of Transportation** the following:

**ACCESS CONTROL**

The Grantor hereby conveys to the Montana Department of Transportation all rights of ingress and egress over and across the access control lines shown on the plat, consisting of 1 sheet, attached hereto and made a part hereof.

Grantor reserves the right of reasonable access to and from Grantor's property being a Park in Block 17 of the Olympic Park Subdivision in the City of Billings, Montana, according to the official plat thereof, on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 1140076.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Grantor, its successors and assigns.

**Subject to any and all easements apparent and/or of record**

D5:4666:p29.jpg

Bargain And Sale Deed  
Project ID: MT 1031(4)  
Designation: Shiloh Road Corridor - Billings

Parcel No.: 29

This Deed was executed on the date of its last acknowledgment.

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

(Seal)

Notary Signature Line

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

(Seal)

Notary Signature Line

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Recording Information



Montana Department of Transportation  
Right-of-Way Bureau  
PO Box 201001  
Helena, MT 59620-1001

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ROWForms\Pin\521

Revised 9/29/06

**State of Montana  
Department of Transportation**

Right-of-Way Bureau  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

Project ID: MT 1031(4) Parcel No.: 31 County: Yellowstone  
Designation: Shiloh Road Corridor - Billings  
Project No.: 4666-004

**Bargain and Sale Deed**

This Deed, made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, **witnesses that,**

City of Billings - Parks Department  
P.O. Box 1178  
Billings, MT 59103

does hereby **grant, bargain, sell and convey** to the Montana Department of Transportation the following-described real property:

Parcel No. 31 on Montana Department of Transportation Project MT 1031(4), as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as a tract of land in the Park in Block 16 of the Olympic Park Subdivision in the City of Billings, Montana, according to the official plat thereof, recorded under Document No. 1140076, in the office of the Clerk and Recorder of Yellowstone County, Montana, as shown by the shaded area on the plat, consisting of 2 sheets, attached hereto and made a part hereof, containing an area of 272 m<sup>2</sup> (2,928 sq. ft.), more or less.

ALSO, the Grantor hereby conveys to the Montana Department of Transportation all rights of ingress and egress over and across the access control lines shown on said attached plat.

Grantor reserves the right of reasonable access to and from the adjacent property of the Grantor.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Grantor, its successors and assigns.

**Subject to any and all easements apparent and/or of record.**

D5:4666:p31:jg

Bargain And Sale Deed  
Project ID: MT 1031(4)  
Designation: Shiloh Road Corridor - Billings

Parcel No.: 31

Excepting and reserving to Grantor(s), however, all gas, oil and minerals 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 damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), its 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 therein, save and except groundwater for the use, benefit and purposes of the Grantee(s).

The Grantor(s) further expressly waives and relinquishes all rights, as owner or successor in interest provided under law, for any preference to repurchase all or a portion of this property should it be determined no longer to be necessary for highway purposes.

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation, and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgment.

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

This instrument was acknowledged before me on \_\_\_\_\_ (date)  
by \_\_\_\_\_  
(Grantor(s))

Notary Signature Line

(Seal)

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

This instrument was acknowledged before me on \_\_\_\_\_ (date)  
by \_\_\_\_\_  
(Grantor(s))

Notary Signature Line

(Seal)

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Recording Information



Montana Department of Transportation  
Right-of-Way Bureau  
PO Box 201001  
Helena, MT 59620-1001

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ROWFormsPin521

Revised 9/29/06

**State of Montana  
Department of Transportation**

Right-of-Way Bureau  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

Project ID: MT 1031(4) Parcel No.: 79 County: Yellowstone  
Designation: Shiloh Road Corridor-Billings  
Project No.: 4666-004

**Bargain and Sale Deed**

**This Deed**, made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, **witnesses that,**

The City of Billings  
P.O. Box 1178  
Billings, MT 59103

does hereby **grant, bargain, sell and convey** to the **Montana Department of Transportation** the following:

**ACCESS CONTROL**

The Grantor hereby conveys to the Montana Department of Transportation all rights of ingress and egress over and across the access control lines shown on the plat, consisting of 1 sheet, attached hereto and made a part hereof.

Grantor reserves the right of reasonable access to and from Grantor's property being a Park located in the Plat of Rush Subdivision, Seventh Filing, being Lot 4, Block 6, Rush Subdivision, Second Filing, Lot 1, Block 7, Rush Subdivision, Third Filing and a vacated portion of Colton Boulevard Right-Of-Way, City of Billings, Yellowstone County, Montana, according to the official plat thereof, on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3116043, official records of said County.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Grantor, its successors and assigns.

**Subject to any and all easements apparent and/or of record.**

ROW:4666:p079ACQ:thw



Bargain And Sale Deed  
Project ID: MT 1031(4)  
Designation: Shiloh Road Corridor-Billings

Parcel No.: 79

This Deed was executed on the date of its last acknowledgment.

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

(Seal)

Notary Signature Line

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

(Seal)

Notary Signature Line

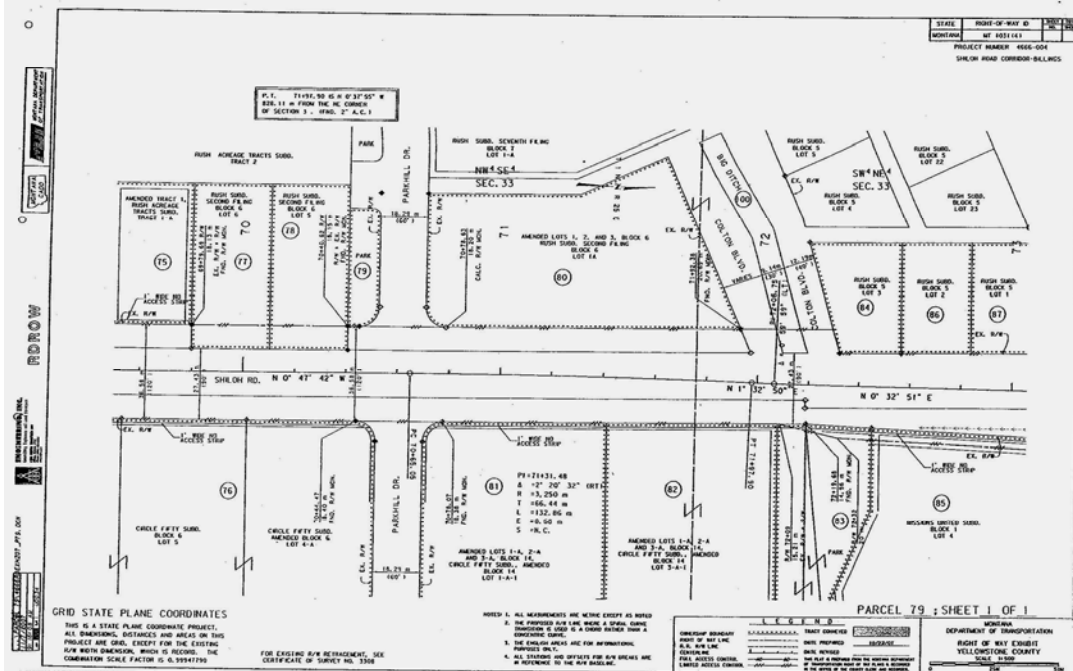
Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Recording Information



Montana Department of Transportation  
Right-of-Way Bureau  
PO Box 201001  
Helena, MT 59620-1001

D

ROWForms(Pin)521

Revised 9/29/06

**State of Montana  
Department of Transportation**

Right-of-Way Bureau  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

Project ID: MT 1031(4) Parcel No.: 83 County: Yellowstone  
Designation: Shiloh Road Corridor-Billings  
Project No.: 4866-004

**Bargain and Sale Deed**

**This Deed**, made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration now paid, the receipt of which is acknowledged, **witnesses that,**

City of Billings  
P.O. Box 1178  
Billings, MT 59103

does hereby **grant, bargain, sell and convey** to the **Montana Department of Transportation** the following-described real property:

Parcel No. 83 on Montana Department of Transportation Project MT 1031(4), as shown on the Right-of-Way plan for said project recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana. Said parcel is also described as a tract of land in a Park located in Missions United Subdivision, in the City of Billings, Montana, according to the official plat thereof, on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3135018, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 122 m<sup>2</sup> (1,313 sq. ft.), more or less.

ALSO, the Grantor hereby conveys to the Montana Department of Transportation all rights of ingress and egress over and across the access control lines shown on said attached plat.

Grantor reserves the right of reasonable access to and from the adjacent property of the Grantor.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Grantor, its successors and assigns.

**Subject to any and all easements apparent and/or of record.**

ROW:4666:p083AC:thw

Bargain And Sale Deed  
Project ID: MT 1031(4)  
Designation: Shiloh Road Corridor-Billings

Parcel No.: 63

Excepting and reserving to Grantor(s), however, all gas, oil and minerals 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 damaged. This exception and reservation does not include sand, gravel and other road building materials, which are conveyed by this Deed.

Further excepting and reserving unto the Grantor(s), its 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 therein, save and except groundwater for the use, benefit and purposes of the Grantee(s).

The Grantor(s) further expressly waives and relinquishes all rights, as owner or successor in interest provided under law, for any preference to repurchase all or a portion of this property should it be determined no longer to be necessary for highway purposes.

To have and to hold the above-described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the Montana Department of Transportation, and to its successors and assigns forever.

This Deed was executed on the date of its last acknowledgment.

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

Notary Signature Line

(Seal)

Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (Grantor(s))

Notary Signature Line

(Seal)

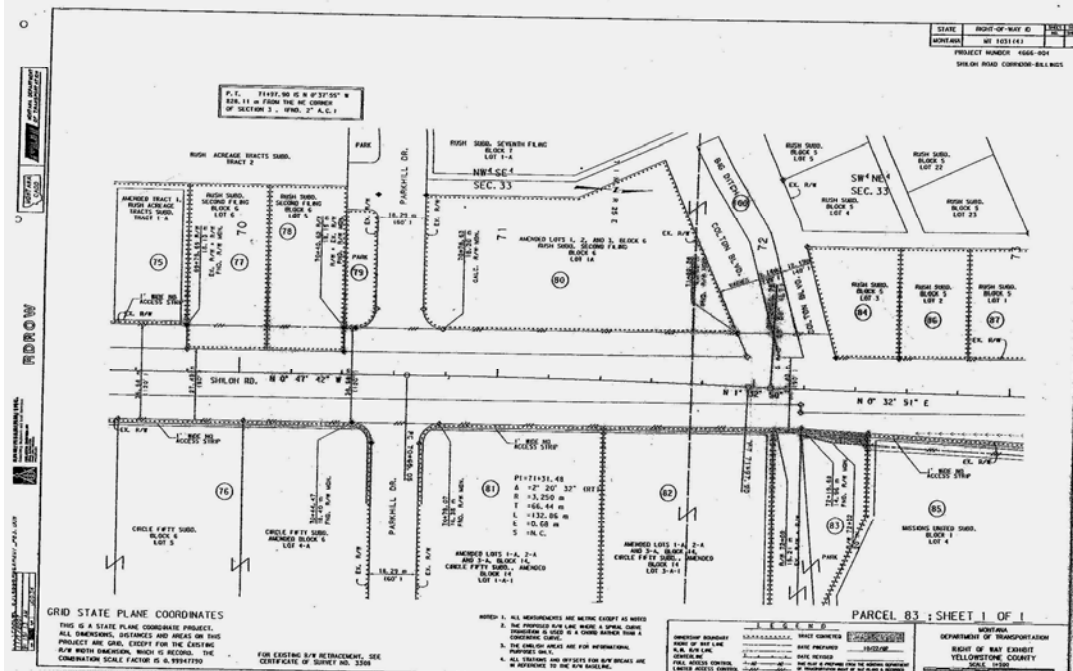
Notary Printed Name

Notary Public for State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Recording Information



ROWFORMSACQ211

Revised 12-2003

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY BUREAU

**WAIVER OF COMPENSATION**

1. Project ID: MT 1031(4) Designation: Shiloh Road Corridor-Billings
2. County: Yellowstone City: Billings, Montana
3. Location of Right-of-Way (Section, Township, Range, or Lot, Block and Subdivision):  
**Parcel 22** -- E $\frac{1}{4}$ NE $\frac{1}{4}$  Section 15 and SE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 3 T1S R25E
4. Property Owner: City of Billings
5. Waiver by Landowner:

The undersigned, having first been informed concerning the right of the property owner to receive payment of \$12,100 for land and access acquired for highway right-of-way, does hereby waive said right and voluntarily agrees to donate the right-of-way needed for the above-named road construction project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

BY: CITY OF BILLINGS

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designated representative)

ROWFORMSVACQ/211

Revised 12-2003

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY BUREAU

WAIVER OF COMPENSATION

1. Project ID: MT 1031(4) Designation: Shiloh Road Corridor-Billings
2. County: Yellowstone City: Billings, Montana
3. Location of Right-of-Way (Section, Township, Range, or Lot, Block and Subdivision):  
Parcel 25 -- Ann Ross Park in Village Subdivision Section 10 T1S R25E
4. Property Owner: City of Billings-Parks Department
5. Waiver by Landowner:

The undersigned, having first been informed concerning the right of the property owner to receive payment of \$2,350 for land and access acquired for highway right-of-way, does hereby waive said right and voluntarily agrees to donate the right-of-way needed for the above-named road construction project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

BY: CITY OF BILLINGS

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designated representative)

ROWFORMSVACQ211

Revised 12-2003

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY BUREAU

WAIVER OF COMPENSATION

1. Project ID: MT 1031(4) Designation: Shiloh Road Corridor-Billings
2. County: Yellowstone City: Billings, Montana
3. Location of Right-of-Way (Section, Township, Range, or Lot, Block and Subdivision):  
Parcel 29 -- Park in Block 17 of Olympic Park Subdivision Section 11 T1S R25E
4. Property Owner: City of Billings-Parks Department
5. Waiver by Landowner:

The undersigned, having first been informed concerning the right of the property owner to receive payment of \$500 for an access control deed, does hereby waive said right and voluntarily agrees to donate the access control needed for the above-named road construction project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

BY: CITY OF BILLINGS

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designated representative)



ROWFORMSACQ211

Revised 12-2003

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY BUREAU

WAIVER OF COMPENSATION

1. Project ID: MT 1031(4) Designation: Shiloh Road Corridor-Billings
2. County: Yellowstone City: Billings, Montana
3. Location of Right-of-Way (Section, Township, Range, or Lot, Block and Subdivision):  
Parcel 31 -- Park in Block 16 of Olympic Park Subdivision Section 11 T1S R25E
4. Property Owner: City of Billings-Parks Department
5. Waiver by Landowner:

The undersigned, having first been informed concerning the right of the property owner to receive payment of \$17,650 for land, improvements and access acquired for highway right-of-way, does hereby partially waive said right and voluntarily agrees to donate part of the right-of-way compensation for the above-named road construction project. Specifically, the landowner agrees to waive all but \$2,500 of the compensation with the understanding that \$2,500 is needed to relocate the sprinkler system.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

BY: CITY OF BILLINGS:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designated representative)

ROWFORMSACQ211

E

Revised 12-2003

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY BUREAU

**WAIVER OF COMPENSATION**

1. Project ID: MT 1031(4) Designation: Shiloh Road Corridor-Billings
2. County: Yellowstone City: Billings, Montana
3. Location of Right-of-Way (Section, Township, Range, or Lot, Block and Subdivision):  
Parcel 79 -- Park in Rush Subdivision Section 33 T1N R25E
4. Property Owner: City of Billings
5. Waiver by Landowner:

The undersigned, having first been informed concerning the right of the property owner to receive payment of \$500 for an access control deed, does hereby waive said right and voluntarily agrees to donate the access control needed for the above-named road construction project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

BY: CITY OF BILLINGS

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designated representative)

ROWFORMSACQ211

E

Revised 12-2003

STATE OF MONTANA  
DEPARTMENT OF TRANSPORTATION  
RIGHT-OF-WAY BUREAU

**WAIVER OF COMPENSATION**

1. Project ID: MT 1031(4) Designation: Shiloh Road Corridor-Billings
2. County: Yellowstone City: Billings, Montana
3. Location of Right-of-Way (Section, Township, Range, or Lot, Block and Subdivision):  
Parcel 83 -- Park in Missions United Subdivision Section 33 T1N R25E
4. Property Owner: City of Billings
5. Waiver by Landowner:

The undersigned, having first been informed concerning the right of the property owner to receive payment of \$3,800 for land and access acquired for highway right-of-way, does hereby waive said right and voluntarily agrees to donate the right-of-way needed for the above-named road construction project.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

BY: CITY OF BILLINGS:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Mayor (or designated representative)

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

## AGENDA ITEM:




---

**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, July 14, 2008**

---

**TITLE:** Public Hearing to Vacate the Alley within Block 260 of Billings Original Townsite

**DEPARTMENT:** Public Works/Engineering

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

---

**PROBLEM/ISSUE STATEMENT:** Aaron Sparboe, owner of the property within Block 260 of Billings Original Townsite, has petitioned to vacate the alley within Block 260. Mr. Sparboe owns all of the property abutting the proposed right-of-way and is proposing to develop the property in the future. The total amount of right of way to be vacated is 2,500 square feet.

**ALTERNATIVES ANALYZED:**

1. After the public hearing, approve the vacation of the above-mentioned right-of-way.
2. Do not approve the vacation of the above-mentioned right-of-way.

**FINANCIAL IMPACT:** At the March 24, 2008, City Council Meeting, Council agreed to vacate a portion of the alley within Block 261 of Billings Original Townsite for \$1.25 per square foot. This was based on a comparison land sales report done by Charles H. Hamwey. The petitioner is offering the same amount for this right of way. With 5,500 square feet of right of way proposed to be vacated, Mr. Sparboe is offering the city \$6,875.00.

**RECOMMENDATION**

After the public hearing, staff recommends that Council approve the vacation the alley within Block 260 of Billings Original Townsite.

**Approved By:** City Administrator \_\_\_\_ City Attorney \_\_\_\_

**ATTACHMENTS**

- A. Map Depicting Area to be Vacated
- B. Resolution to Vacate

**EXHIBIT A**

**ALLEY VACATION**

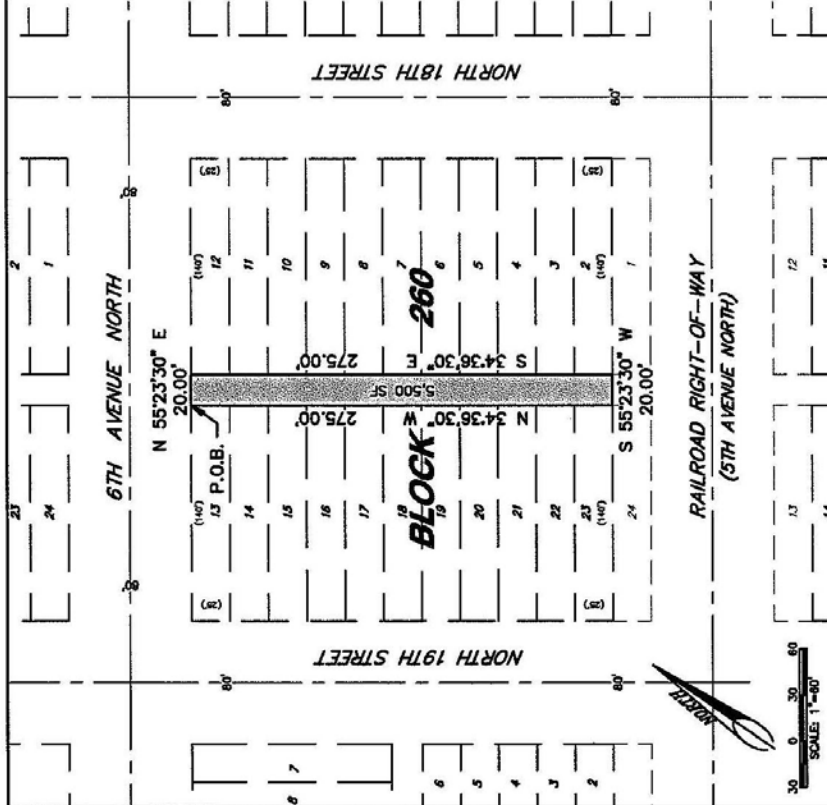
**BLOCK 260 OF THE ORIGINAL TOWN OF BILLINGS**

PREPARED FOR : SFH II, LLC  
PREPARED BY : ENGINEERING, INC.  
MAY, 2008  
BILLINGS, MONTANA

**DESCRIPTION:**

A tract of land situated in the W1/2 of Section 33, T. 1 N., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to wit:

Beginning at a point which is the northeast corner of Lot 13, Block 260 of the Original Town of Billings; thence, from said Point of Beginning, N 55°23'30" E a distance of 20.00 feet to the northwest corner of Lot 12 of said Block 260; thence S 34°36'30" E a distance of 275.00 feet to the southwest corner of Lot 2 of said Block 260; thence S 55°23'30" W a distance of 20.00 feet to the southeast corner of Lot 23 of said Block 260; thence N 34°36'30" W a distance of 275.00 feet to said Point of Beginning; said described tract containing an area of 5,500 SF.



RESOLUTION NO. 08-\_\_\_\_\_

A RESOLUTION OF THE CITY OF BILLINGS,  
MONTANA, DISCONTINUING AND VACATING **alley within  
Block 260 of Billings Original Town.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **alley within Block 260 of Billings Original Town** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **alley within Block 260 of Billings Original Town** more particularly described as follows:

ALLEY VACATION  
NORTH – SOUTH ALLEY  
BLOCK 260, BILLINGS ORIGINAL TOWNSITE

A tract of land situated in the W1/2 of Section 33, T. 1 N., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to wit:

Beginning at a point which is the northeast corner of Lot 13, Block 260 of the Original Town of Billings; thence, from said Point of Beginning, N 55°23'30" E a distance of 20.00 feet to the northwest corner of Lot 12 of said Block 260; thence S 34°36'30" E a distance of 275.00 feet to the southwest corner of Lot 2 of said Block 260; thence S 55°23'30" W a distance of 20.00 feet to the southeast corner of Lot 23 of said Block 260; thence N 34°36'30" W a distance of 275.00 feet to said Block 260; thence N 34°36'30" W a distance of 275.00 feet to said Point of Beginning; said described tract containing an area of 5,500 SF.

Is hereby discontinued, abandoned and vacated.

2. PUBLIC INTEREST. The discontinuance, vacation and abandonment of the above described **alley within Block 260 of Billings Original Town** is in the best interest of the public and can be done without any public detriment. PASSED by the City Council and APPROVED this 14<sup>th</sup> day of July 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, July 14, 2008

TITLE: Public Hearing for Special Review #862 – 1911 King Avenue West

DEPARTMENT: Planning and Community Services

PRESENTED BY: Dave Green, Planner I

**PROBLEM/ISSUE STATEMENT:** This is a special review request to remove a condition of approval from Special Review (SR) #836 and SR #841 restricting vehicle access across the west property line to adjacent property on a 2.303 acre parcel of land in a Controlled Industrial (CI) zone, on Lot 11A-1, CBH Industrial Park Subdivision. The property is addressed as 1911 King Avenue West and is currently a developed commercial property. The property is located on the northwest corner of the intersection of King Avenue West and Carbon Street. KRP, LLC, is the owner, and Blueline Engineering, is the agent. The Zoning Commission held a public hearing on this request on June 3, 2008, and is forwarding a recommendation of conditional approval to the City Council on a 4-0 vote. The City Council was scheduled to conduct a public hearing and take action on this application at its meeting on June 23. The applicant requested The Council delay action until its meeting on July 14. The Council approved this delay request.

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

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

**FINANCIAL IMPACT:** The special review, if approved, should have no effect on the City's tax base.



## **RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #862 on a 4-0 vote.

**Approved By:**            **City Administrator** \_\_\_\_            **City Attorney** \_\_\_\_

## **ATTACHMENTS**

A: Zoning/Location Map.

B: Site Plan

C: Letter of support

D: Letter of opposition

E: Request for delay

## **INTRODUCTION**

This is a request to remove a condition of approval from SR #836 and SR #841 restricting vehicle access across the west property line to adjacent property on a 2.303 acre parcel of land in a CI zone, on Lot 11A-1, CBH Industrial Park Subdivision. The property is addressed as 1911 King Avenue West.

## **PROCEDURAL HISTORY**

- A special review application to modify the condition of approval for SR #836 and SR #841 restricting vehicle access across the west property line to adjacent property on a 2.303 acre parcel of land in a Controlled Industrial (CI) zone was submitted on May 1, 2008.
- The City Zoning Commission held a public hearing on June 3, 2008, and is forwarding a recommendation of conditional approval.
- The City Council at its meeting on June 23 approved a request by the applicant to delay action on this application until July 14, 2008.
- The City Council will conduct a public hearing and consider this application on July 14, 2008.

## **BACKGROUND**

This is a special review request to remove a condition of approval from SR #836 and SR #841 restricting vehicle access across the west property line to adjacent property on a 2.303 acre parcel of land in a CI zone, on Lot 11A-1, CBH Industrial Park Subdivision. The property is addressed as 1911 King Avenue West and is currently a developed commercial property. The property is located on the northwest corner of the intersection of King Avenue West and Carbon Street.

SR #836 and SR #841 required the applicant to close the north parking lot, on the west end, to prevent traffic from cutting through to South 20<sup>th</sup> Street West from Carbon Street.

The applicants have stated in a letter that they have signed a reciprocal parking and access agreement with the owner of the adjacent property northwest of their property with the intention of improving the lot south of Perkins Restaurant. The proposed layout of the parking will allow

access to South 20<sup>th</sup> Street West but will not be a “straight shot” that causes traffic conflicts. The proposed parking lot addition prevents access to the Holiday Station parking, and the access that currently exist at the Holiday Station on the north west corner of the lot and accesses South 20<sup>th</sup> Street West will be narrowed to approximately 24 feet wide.

On June 23, 2008 the applicant sent a letter to the Planning Division (See Attachment E) requesting that the City Council delay action on this application until they are able to discuss their proposal with a neighboring property owner (See Attachment D). At the City Council meeting on June 23, 2008 the council voted to delay action on this special review as requested by the applicant until July 14.

### **ALTERNATIVES ANALYSIS**

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

1. Complies with all requirements of this Article (27-1500).  
*This application does comply with the requirements of the zoning regulations.*
2. Is consistent with the objectives and purposes of Chapter 27 and the Growth Policy.  
*This application is consistent with the purposes of Chapter 27 and the 2003 Growth Policy. The application is appropriate in this particular district based on all the circumstances of the location. The application does encourage predictable land use decisions that are consistent with the neighborhood character and land use patterns. The application does encourage land uses that are sensitive to and compatible with the character of the surrounding uses.*
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.  
*The zoning regulations adopted by the City Council require separations and landscaping to reduce negative impacts on surrounding properties. Since this is an addition to a parking lot surrounded by businesses the impact to the neighborhood will be minimal. There are no existing residential developments immediately adjacent to this property.*

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval of Special Review #862 on a 4-0 vote.

### **CONDITIONS OF APPROVAL**

1. The special review approval shall be limited to Lots 11A and 12A, of Block 1, of CBH Industrial Park Subdivision for a parking lot addition on Lot 11A-2, Block 1, CBH Industrial Park Subdivision as shown on the site plan submitted with this application on May 1, 2008.
2. Development of the site shall be in substantial conformance with the site plan submitted with this application on May 1, 2008. Deviations from the approved site plan that change the location of the proposed parking lot, the parking lot circulation, layout and access will require additional special review approval.
3. Directional signs shall be installed in the proposed parking lot south of Perkins Restaurant to direct traffic from the parking lot behind the building on the subject property, Lots 11A and 12A of Block 1 of CBH Industrial Park Subdivision that they must turn right to exit to South 20<sup>th</sup> Street West.
4. All exterior lighting with the exception of sign lighting shall have full cut-off shields so light is directed to the ground and not onto adjacent property.
5. Landscaping shall be provided in the new parking lot area as required by Section 27-1101 (Landscaping) of the Unified Zoning Regulations.
6. There shall be permanent bollards provided from the northwestern corner of the existing building at 1911 King Avenue West installed along the back of curb of the new parking lot addition every 5 feet going west. The final bollard shall be installed directly across from the center of the first angled parking stall in the proposed additional parking or a fence may be installed in place of the bollard in the same location as described. This is to discourage cut-through traffic from the Holiday property or from the new parking lot being proposed.
7. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
8. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

### **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on June 3, 2008, and forwarded a recommendation of approval to the City Council on a 4-0 vote.

The applicants' agent, Marshall Phil from Blueline Engineering, was present at the Zoning Commission meeting and spoke in favor of the special review. Mr. Phil stated that he had a copy of an email from a surrounding property owner in support of this special review report. He provided copies of the email to all commission members. (See Attachment C) He stated that the previous special reviews had conditions placed on them in response to concerns the Police Department had about cut through drivers and the unsafe situation this created. Mr. Phil stated that the owners developed this new plan and discussed it with the police. He stated that the police felt this was a workable solution to the traffic concerns they originally had about cut through traffic.

Mr. Phil asked that condition number 6 be modified to allow a fence instead of bollards along a portion of the south edge of the new parking area. He stated that the bollards would take up too much space to install and that it may make it so they were not able to get the clearances they needed for the drive isle along the angled parking stalls. He stated that the owners also felt the fence would look better than the bollards.

There was no other public comment at the meeting.

A motion was made to approve the special review with a modification to condition number 6 to allow either bollards or a fence along a portion of the south side of the new parking lot. The Zoning Commission voted 4-0 to forward a recommendation of conditional approval with one modification to condition 6 to the city council.

### **CONSISTENCY WITH ADOPTED PLANS AND POLICIES**

In addition to the above discussion in the Alternatives Analysis section, this application does conform to the goals of the 2003 City of Billings/Yellowstone County Growth Policy, specifically:

- New Development that is sensitive to and compatible with the character of adjacent City neighborhoods.
- The project does encourage predictable land use decisions that are consistent with the neighborhood character and land use patterns.

### **RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #862 on a 4-0 vote.

### **ATTACHMENTS**

A: Zoning/Location Map.

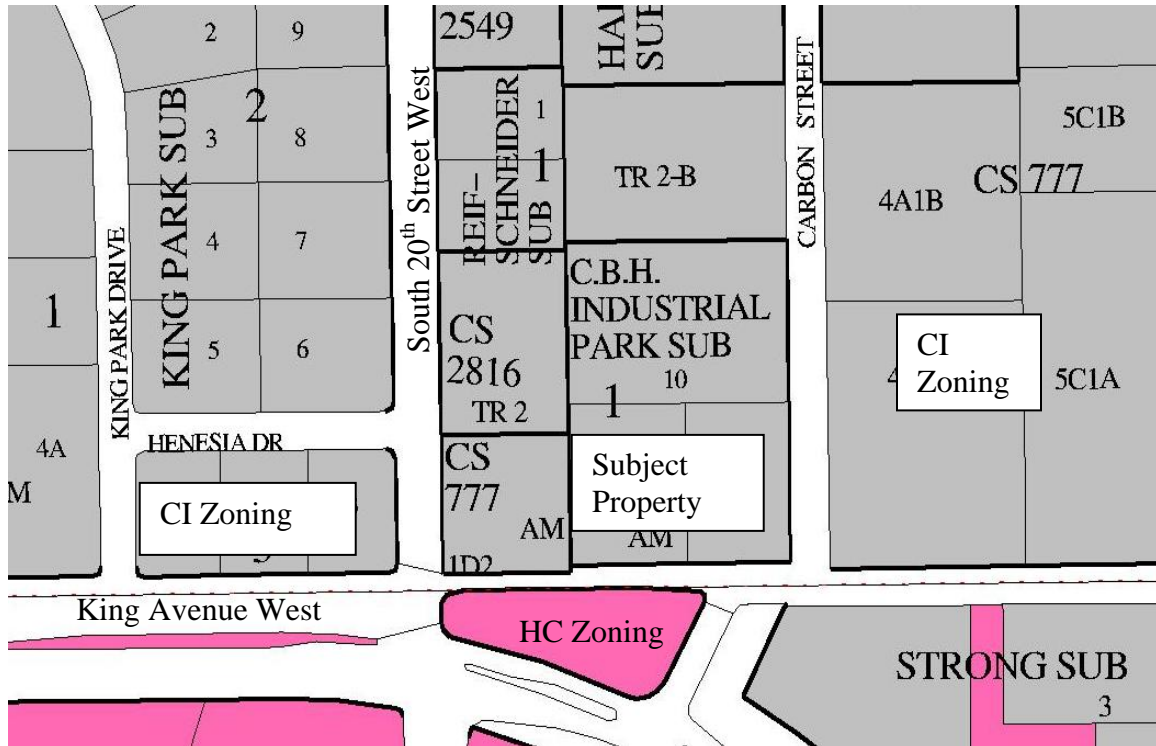
B: Site Plan

C: Letter of support

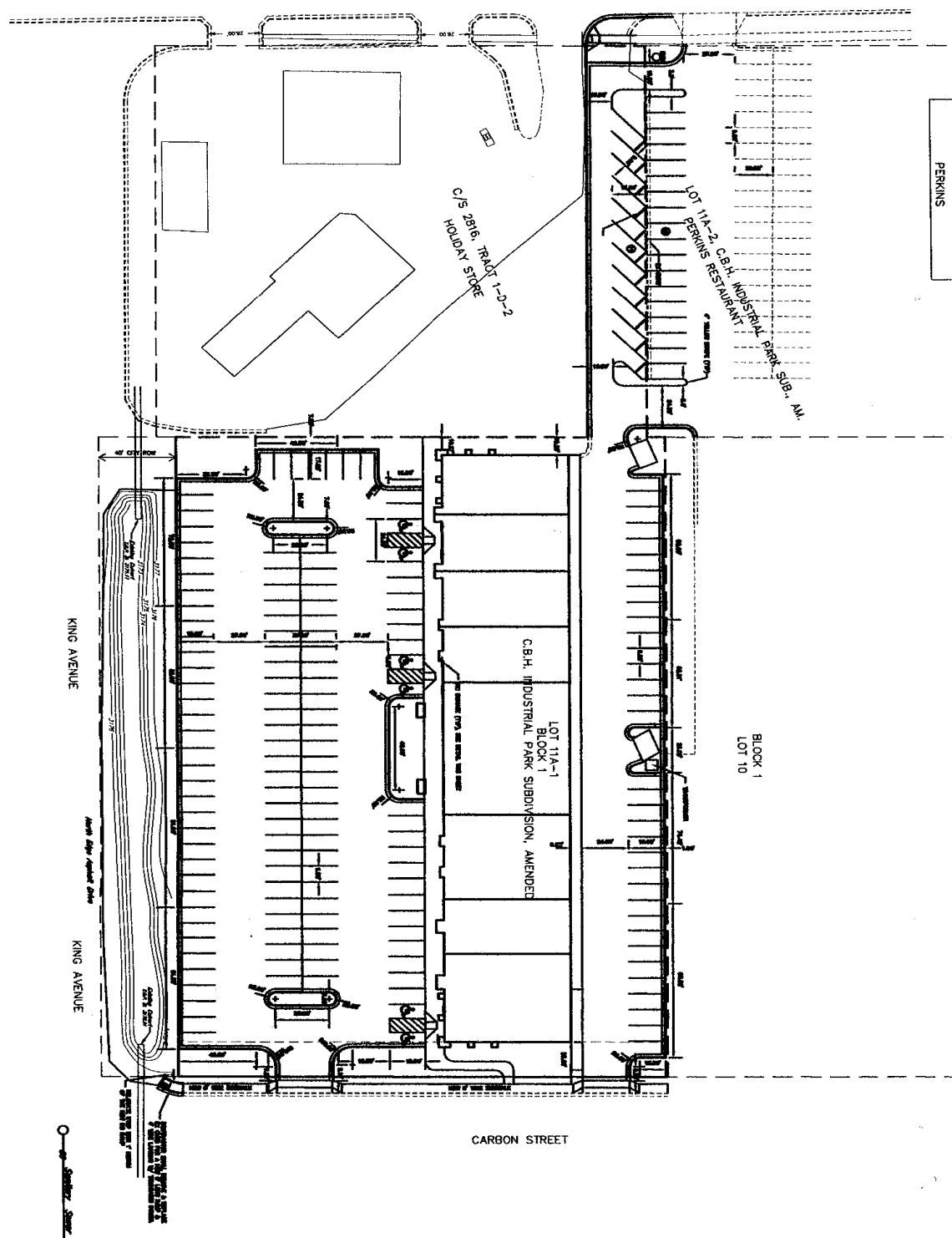
D: Letter of opposition

E: Request for delay

**ATTACHMENT A:** Zoning Map



## **ATTACHMENT B:** Site Plan



## **ATTACHMENT C**

### Letter of support

**Marshall Phil**

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**From:** KW Signature Homes [kwhomes@kwsignature.com]  
**Sent:** Tuesday, June 03, 2008 3:10 PM  
**To:** Blueline Engineering  
**Subject:** FW: Special Review Application

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**From:** GUN30@aol.com [mailto:GUN30@aol.com]  
**Sent:** Tuesday, June 03, 2008 3:02 PM  
**To:** kwhomes@kwsignature.com  
**Subject:** Special Review Application

Dear Shawn,

My name is Paul Gunville, I'm one of the partners that own the building that Conlin Furniture is the tenant. I have reviewed your plans under city SR#862 and both our partners as property owners and the tenant, Conlin Furniture are very excited about the improvements you plan to do to this property. We think this is a great plan and we are sure the city will approve this. Best of luck, Paul

\*\*\*\*\*

Get trade secrets for amazing burgers. Watch "Cooking with Tyler Florence" on AOL Food.  
<http://food.aol.com/tyler-florence?video=4?&NCID=aolfod00030000000002>)

**ATTACHMENT D:** Letter of opposition

**Green, Dave**

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**From:** Laura Boyer [laura@boyerproperties.com]  
**Sent:** Friday, June 20, 2008 1:43 PM  
**To:** Beaudry, Candi; Green, Dave; Volek, Christina  
**Subject:** Special Review #862

June 20, 2008

Planning Department:

As the property owner to the south and the west of the subject property for Special Review #862 I have several concerns:

1. Applicant on the City Special Review application was only KRP, Inc but in fact there is a second property involved and that property is owned by Fred Madsen.
2. The Legal description shown on the application is stated as only L11A-1 but the site plan clearly shows that they intend to use the entrance of L11A-2 so that legal should also be included on the application.
3. The 300 foot radius that was used to send out notices was it for only the 300 feet from the property owned by KRP, Inc. or did they also include the 300 feet radius around the property owned by Fred Madsen.
4. The sign that was placed on the subjected property was only placed on the east side of one of the subjected properties. There was no sign placed on the west side of either of the two subjected properties and clearly those are the affected areas.
5. Were other departments made fully aware of this site layout and its limitations; such as the 20' drive path from the east portion to the west portion. We were told by the engineering department that this does not meet the requirements for two way traffic.
6. Was this application thoroughly studied for its appropriateness and effect on existing land uses? Currently the west end of the building has entrances facing and walking paths directly unto the Holiday Stations parking lot to the west. Holiday and Boyer's have repeatedly expressed to the owners and the representatives of the 1911 King Ave. property that they are not to use the Holiday parking area and they have been asked to install a fence to stop this. What they have done is install a fence with an opening and walking path encouraging their patrons to use the Holiday parking area. The proposed new site plan shows a fence along there South property abutting Holiday but what about the property to the West that abuts Holiday. This new parking area does not detour people in any way from using Holidays parking lot in fact it will encourage them to use it.
7. When the Perkins and Holiday buildings were built and the two sites developed the owners chose to have one large entrance to the two properties and it has been this way for over 20 years. When this was installed it was agreed that only Perkins and Holiday



would share use the entrance. Now it appears that there will be a curb installed and this joint access closed off.

8. When notices were sent out about this Special Review Jim and JoAnn Boyer's notice was mailed to the incorrect address. When they moved their office Yellowstone County Tax Department was notified of the change and asked to change all addresses. As much work as they do with the City and as much mail as the city mails to them it is rather surprising that this was not noticed.

I do have photos to show you or would be more than happy to meet you out there to go over our concerns.

**Laura Boyer**

Design Builders, Inc.  
2810 Central Ave. Unit C  
Billings, MT 59102

[laura@boyerproperties.com](mailto:laura@boyerproperties.com)

406-256-5454 work  
406-698-5455 cell  
406-256-5473 fax



**ATTACHMENT E:** Request for delay

June 23, 2008

Tina Volek, City Administrator  
Mayor and Council Members  
Cari Martin, City Clerk  
Nicole Cromwell, Zoning Coordinator

Re: Special Review #862

We are asking that you delay the Public Hearing for Special Review #862 until July 14, 2008.

The land owner to the west of the site has expressed concern over the development and we would like the opportunity to review the project with that owner prior to holding the public Hearing.

Sincerely,



KRP, LLC  
Member



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