

## **RESOLUTION 06-18506**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AMENDING RESOLUTION NO. 06-18437 PURSUANT TO BILLINGS CITY CODE CHAPTER 12, EMINENT DOMAIN, AUTHORIZING THE OFFERING OF AN INCREASED AMOUNT FOR PURCHASE OF ONE OF THE PROPERTIES AFFECTED BY THE GRAND AVENUE WIDENING PROJECT.**

**WHEREAS**, on June 12, 2006, the City of Billings City Council has passed Resolution No. 06 - 18437 finding it necessary to acquire certain real property to allow it to utilize such property for purposes of traffic lane widening improvements on Grand Avenue between 8<sup>th</sup> Street West and 12<sup>th</sup> Street West in the City of Billings and authorizing City officials to offer certain specific amounts to each affected property owner, based upon an earlier appraisal and comparative market analysis of each such property; and

**WHEREAS**, the owner of one of the properties has refused to provide the City's appraisers or review appraiser with a copy of the lease that is in effect for the property located at 1048 Grand Avenue, and it was assumed that the lease would expire six months after the City instituted a condemnation action; and

**WHEREAS**, the owner of the property has now represented to a member of the Council that the lease will continue in force and effect until February 2010; and

**WHEREAS**, the City has commissioned an update of the comparative market analysis of this property on the basis of this new information; and

**WHEREAS**, the updated comparative market analysis indicated that the fair market value of the subject property is currently \$280,000 instead of \$220,000; and

**WHEREAS**, it is in the best interests of the City of Billings to make an offer equal to the fair market value of the subject property so that attorneys fees will not be assessed against the City of Billings, in addition to fair market value, when the court makes its award in the condemnation proceeding; and

**WHEREAS**, City staff has requested authority to make a revised offer to the owner of the property at 1048 Grand Avenue in the amount of \$280,000 plus a 5% premium in the amount of \$14,000, or a total offer in the amount of \$294,000

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

1. ESTABLISHMENT OF FAIR MARKET VALUE. Based upon formal appraisals and comparative market analyses that have been completed at the request of this Council, and the updated comparative market analysis that has been completed on behalf of the City of Billings, City staff are hereby instructed to make a last and best offer to this property owner for the following fair market value which is hereby established by the Council, plus a 5% premium, to encourage settlement:

Lot 3, Sunset Subdivision Fifth Filing (1048 Grand Avenue – Dairy Queen). Fair Market Value for the entire parcel is hereby established as \$280,000.00. City staff are instructed to offer the owner or owners of this property a total of \$294,000.00 for the interest sought which includes the 5% premium referenced above.

2. REAFFIRMATION OF ALL OTHER TERMS. In all other respects, the terms of Resolution No. 06 – 18437 are hereby reaffirmed and remain in effect.

APPROVED by the City Council of the City of Billings, Montana, at a regular session thereof held on the 23rd day of October, 2006.

THE CITY OF BILLINGS:

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RON TUSSING, Mayor

ATTEST:

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MARITA HEROLD, CMC/AEE      City Clerk