

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

December 14, 2009

6:30 P.M.

CALL TO ORDER – Mayor Tussing
PLEDGE OF ALLEGIANCE – Mayor Tussing
INVOCATION – Councilmember Ruegamer
ROLL CALL
MINUTES: November 23, 2009
COURTESIES
PROCLAMATIONS
ADMINISTRATOR REPORTS - TINA VOLEK

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

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

1. CONSENT AGENDA

A. Bid Awards:

- 1. MET Operations Center Bus Wash Facility and Pavement Upgrades.** (Opened 12/1/09). Recommend Langlas and Associates, \$ 343,200.
 - 2. Refuse Packer Truck** for Parks Department. (Opened 11/24/09). Recommend Solid Waste Systems, 2007 Refuse Packer with EPA Emissions Standards engine, \$133,094 (contingent upon availability); or 2010 Refuse Packer with EPA Emissions Standards engine, \$139,094.
- B. Change Order #2,** W.O. 09-03, 2009 Street Maintenance City Crack Seal Project; Z & Z Seal Coating; \$27,540.

- C. Approval** of Modification #4 to Law Enforcement Officer Reimbursement Agreement with the Transportation Security Administration, October 1, 2009 - September 30, 2010, with reimbursement to the City up to \$163,286.40.
- D. Assignment** of three (3) Commercial Aviation Ground Leases with Edwards Jet Center Montana, Inc. and Lynch Flying Service, Inc. to Stockman Bank for financing purposes, with no financial impact to the City.
- E. Approval** of Airport Concession Agreement with Botanical Designs and Services, November 1, 2009 - April 30, 2010, with an option to renew for an additional six-month period, \$1,275.72 revenue for the first six-month period.
- F. Approval** of lease renewal with KTVQ Communications, Inc., for space at the Black Otter Trail tower, 5-year term retroactive to September 1, 2009, \$3,937 annual revenue.
- G. Approval** of compensation agreement for Private Contract No. 608, M&K Blue One, LLC, for water, sanitary sewer and storm drain on King Avenue West from Montana Sapphire Drive to 44th Street West, \$231,834.50.
- H. Acceptance** of easements from Montana Department of Transportation for Parcels 6 and 7, and a sale deed for Parcel 8 at the intersection of 13th Street West and Parkhill, at no cost to the City.
- I. Approval** of Downtown Revolving Loan Fund for two loans to Babcock, LLC, for remodeling of the Babcock Building at 115 N. Broadway, totaling no more than \$400,000.
- J. Acceptance of Donation** from Rathbun Family for purchase and installation of a bench at Descro Park, \$1,000.
- K. Acceptance of Donation** from Alarm Association of Yellowstone County to Police Department for purchase of micro digital recorders or other police equipment, \$1,100.
- L. Acceptance of Donation** from Billings Police Foundation to Police Department for Honor Guard and Bike Patrol equipment, \$4,393.
- M. Resolution** accepting the terms and conditions of the Intercap Loan obtained to finance SID 1387, Zimmerman Trail Sanitary Sewer.
- N. Preliminary Subsequent Minor Plat** of Miller Crossing Subdivision, 3rd Filing, located on approximately 14.355 acres on the south side of King Avenue East and on the west side of Orchard Lane at the site of the nearly-completed Sam's Club, conditional approval of the preliminary plat and adoption of the Findings of Fact.
- O. Bills and Payroll:**
 - 1.** November 9, 2009
 - 2.** November 13, 2009

3. November 20, 2009

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** vacating the alley located in Block 141, Billings Old Town, bounded by 1st Avenue South, 2nd Avenue South, South 26th Street, and South 27th Street; Riverstone Health, petitioner. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
3. **PUBLIC HEARING AND RESOLUTION CREATING SID 1389**, public improvements on Clubhouse Way between Greenbriar Road and Cherry Hills Road, and **approval** of the Professional Services Contract with Sanderson Stewart in the amount of \$114,801.80. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING FOR DONATION, SALE, OR LEASE OF LAND TO THE BETTER BILLINGS FOUNDATION FOR DEVELOPMANT OF A FAMILY AQUATIC FACILITY IN SAHARA PARK.** Staff recommends donation of land. (**Action:** approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING FOR CONSIDERATION OF DOWNTOWN LIBRARY FACILITY PROJECT OPTIONS.** Consideration of three options for the Parnly Library: 1) relocation to the former Gainan's site; 2) rennovation of the existing facility, or 3) demolition of the existing facility and construction of a new library at that site. Action delayed from 11/23/09. Staff recommends approval of the Gainan's option as the least expensive option. (**Action:** approval or disapproval of staff recommendation.)
6. **PUBLIC HEARING AND RESOLUTION FOR CONDITIONAL APPROVAL OF TAX ABATEMENT FOR BRUMAR COPORATION, OWNER, AND MOTOR POWER EQUIPMENT, OPERATOR,** for building expansion at 4941 Midland Road. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
7. **PUBLIC HEARING AND RESOLUTION FOR CONDITIONAL APPROVAL OF TAX ABATEMENT FOR PRESTIGE TOYOTA** for commercial building expansion on property located at 1532 Grand Avenue. RM&S LLC, and Raymond McLean, owners. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
8. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR MUNICIPAL INFRACTIONS ORDINANCE.** A new ordinance that decriminalizes certain minor misdemeanor offenses and classifies them as civil infractions. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
9. **PUBLIC HEARING AND RESOLUTION ESTABLISHING A POLICY TO PROVIDE PUBLIC ACCESS TO CITY COUNCIL EMAIL CORRESPONDENCE.** Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
10. **PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.*)

COUNCIL INITIATIVES

ADJOURN

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.

Date: 12/14/2009

TITLE: Award of the ARRA Funded MET Operations Center Bus Wash Facility and Pavement Upgrades Project

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

The MET Transit recently received bids for facility improvements at the MET Operations Center. The bid specifications for this work consisted of two work schedules. Schedule One is for renovations and upgrades to the MET's Bus Wash building and wash equipment. The Bus Wash building was constructed in 1983, and still utilizes the original power washing equipment. Because of the age of both the building and the wash equipment, some upgrades are required due to obsolescence. The building will receive a new roof replacement, upgrades to the electrical system, interior paint, and new overhead doors. Additionally, new high efficiency wash equipment will be installed, including an undercarriage wash system. This is a project that was approved in both the City's Capital Improvement Plan (CIP) and Fiscal Year 2010 budget. This schedule of the bid will be funded with an American Recovery and Reinvestment Act (ARRA) grant for 100% of the cost. The engineering estimate for Schedule One is \$350,000.

Schedule Two of the project is to replace approximately 14,000 square feet of asphalt and concrete pavement adjacent to the Bus Wash facility that is severely cracked and beginning to fall apart. Under the Schedule Two portion of the project, the old pavement and base soils will be removed and replaced with a better base material and new 6" concrete and asphalt surfaces. The Schedule Two project work will also be funded with an ARRA grant for 100% of the cost. The pavement replacement was recently identified as a needed improvement and is not identified in the Fiscal Year 2010 budget or City CIP. Subsequently, staff will provide a second quarter budget amendment for Council's approval. The engineering estimate for Schedule Two is \$200,000.

The Bus Wash Facility and Pavement Upgrade project was advertised in the *Billings Times* for four weeks and is listed on the City's Web site. On December 1, 2009, the following bids were received for this project.

CONTRACTOR	BID
Langlas and Associates	\$343,200
Jones Construction	\$389,000
Hulteng, Inc.	\$391,600
General Contractors	\$402,055
DPS Company, LLC	\$407,470
Hardy Construction	\$408,000
High Tech Construction	\$435,880
ESTIMATE	\$550,000

The current economic conditions and subsequent lack of commercial construction work, plus the fact that a portion of this project can be completed during the Winter months, have resulted in the City receiving some excellent bids for this project.

ALTERNATIVES ANALYZED

The Council may:

- Approve the Award of the ARRA funded MET Operations Center Bus Wash and Pavement Upgrades; or
- Not Approve the Award of the ARRA funded MET Operations Center Bus Wash and Pavement Upgrades.

FINANCIAL IMPACT

The total cost for the MET Operations Center Bus Wash Facility and Pavement Upgrades project is \$343,200, and will be funded 100% with an ARRA Grant administered through the Federal Transit Administration (FTA) grant process.

RECOMMENDATION

Staff recommends the City Council approve the award of the ARRA funded MET Operations Center Bus Wash Facility and Pavement Upgrades project to the low bidder, Langlas and Associates, for the amount of \$343,200.

APPROVED BY CITY ADMINISTRATOR

Date: 12/14/2009

TITLE: Bid Award New Refuse Packer

PRESENTED BY: Mike Whitaker

Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

On Monday, April 24,2008, City Council approved the Exxon EPA Emissions Reduction Plan Agreement with the City of Billings. The Exxon Mobile Refinery is required by the EPA to undertake a diesel fuel emissions reduction project in the Billings area in the amount of \$300,000. Exxon chose to fund an equipment replacement project with the Billings Park and Recreation Department. The plan commits the City to purchase a new Refuse Packer Truck, two new Mini-Buses, and replace engines in two 16' Wing Mowers. The agreement requires the City to destroy the old diesel engines, maintain the vehicles that are purchased, burn ultra-low sulfur diesel fuel, and include idling control equipment. The Billings Parks, Recreation and Cemetery Board reviewed the agreement at a regularly-scheduled Board meeting on February 13, 2008. As part of the agreement, the Park and Recreation Department is replacing its old Park Refuse Packer Truck. The cost for the Refuse Packer Truck is estimated to range between \$130,000 to \$140,000. The remainder of the \$300,000 grant monies have already been used to purchase two new mini-buses for \$119,706 and to replace diesel engines on two 16' wing mowers for \$35,837.36. The replacements were completed in September, 2009.

The call for sealed bids was published in the Billings Times on November 12 and 19, 2009. The bid opening was November 24, 2009. Solid Waste Systems of Spokane, WA, was the only bidder. Solid Waste Systems provided two different bids for a Refuse Packer Truck. The reason for the two different bids is that the EPA is requiring that all engine manufacturers end production of the 2007 EPA emissions standards engines by December 31, 2009, and switch to the production of engines that meet the 2010 EPA emissions standards. Engine manufacturers currently have 2007 EPA emission standards engines in stock but may sell out of them by the middle of December. Consequently, the vendor provided a bid for a Refuse Packer Truck with a 2010 EPA emission standards engine in the event that 2007 EPA emissions standards engines are no longer available when the order for this unit is placed. The truck chassis, refuse packer, and all features are identical on both bids. The only difference is the two different engines. The bid amounts for both bids are as follows:

2010 EPA Emission Standards Refuse Packer	\$139,094.00
2007 EPA Emission Standards Refuse Packer	\$133,094.00

ALTERNATIVES ANALYZED

City Council may:

- Award the bid to Solid Waste Systems for the Refuse Packer with the 2007 EPA emissions standards engine contingent upon availability; or
- Award the bid to Solid Waste Systems for the Refuse Packer with the 2010 EPA emissions standards engine should the 2007 EPA emissions standards engine not be available; or
- Not award either bid to Solid Waste Systems.

FINANCIAL IMPACT

The Refuse Packer Truck is being purchased through the the Exxon/Mobile Emissions Reduction Plan Agreement with grant funds from Exxon/Mobile at no cost to the City of Billings. The city has budgeted money to pay for the intial purchase and will be reimbursed through Exxon/Mobile. The amount available from the Exxon Grant for the purchase of the Refuse Packer truck is \$144,000.

RECOMMENDATION

Staff recommends that City Council approve the bid from Solid Waste Systems for a 2007 EPA Emissions Standards Refuse Packer Truck in the amount of \$133,094. In the event a 2007 EPA Emissions Standards truck is no longer available at the time the order is placed, staff recommends that City Council also approve the bid for the 2010 EPA Emissions Standards Refuse Packer Truck in the amount of \$139,094.

APPROVED BY CITY ADMINISTRATOR

Approved By: City Administrator _____ City Attorney _____

Date: 12/14/2009

TITLE: WO 09-03 2009 Street Maintenance City Crack Seal Change Order #2

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The City Crack Seal project is part of the ongoing Street Preventative Maintenance Program supported by the City Council since 1985. The crack seal contract provides crack sealing of approximately 15 miles of various streets throughout the city before they are chip sealed. The contract was awarded to Z & Z Seal Coating in the amount of \$86,084.38. The original contract included approximately 51,750 lbs of crack filler. Change Order #1 was approved by the City Administrator on October 26, 2009, for an additional 5,600 lbs of crack filler at a cost of \$8,600. It becomes necessary to add approximately 18,000 lbs of additional crack filler to finish the project. Crack seal project quantities are based on typical sections of the project. In a couple of areas in the Heights, significantly more crack filler was needed because there were many more cracks than a typical street in the project area. The cost to add 18,000 lbs of crack filler is \$27,540.00. This change order, along with change order #1, would bring the total contract amount to \$122,224.38. It is necessary to complete this crack seal portion of the project so these streets can be chipped sealed in the spring. The City Administrator was able to approve Change Order #1 due to the fact that it was for less than 10% of the contract amount. Change Order #2 along with Change Order #1 is more than 10% of the contract and as such must be approved by City Council.

ALTERNATIVES ANALYZED

The Council may:

- Approve Change Order #2 to WO 09-03, City Crack Seal in the amount of \$27,540.00; or
- Do not approve Change Order #2 to WO 09-03, City Crack Seal.

FINANCIAL IMPACT

Funding for WO 09-03, 2009 Street Maintenance City Crack Seal, will be provided from Gas Tax Funds. The original contract was for \$86,084.38. With the approval of change order #1 and change order #2, the new contract amount will be \$122,224.38. The original engineer's estimate was \$118,675.00. There is \$600,000 budgeted in FY '10 for PAVER. After the crack seal, the remaining funds will be utilized for the City Chip Seal to be bid in January 2010.

CIP Project #ENG98	
CIP Budgeted Amount	\$600,000.00
Previous Encumbrances	\$0
Budget Fund Balance (after this change order)	\$477,775.62

RECOMMENDATION

Staff recommends that Council approve Change Order #2 for the 2009 Street Maintenance City Crack Seal Project with Z & Z Seal Coating in the amount of \$27,540.00.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [WO 09-03 City Crack Seal Change Order #2](#)

CHANGE ORDER

(Instructions on reverse side)

No. Two (2)

PROJECT: WO 09-03 City Crack Seal

DATE OF ISSUANCE: 12/14/09

OWNER: City of Billings
(Name & Address) 2224 Montana Avenue
Billings, MT 59101

OWNER'S PROJECT NO. WO 09-03

CONTRACTOR: Z & Z Seal Coating, Inc.
7515 King Avenue West
Billings, MT 59106

ENGINEER: Office of the City Engineer

ENGINEER'S PROJECT NO.
WO 09-03 City Crack Seal

CONTRACT FOR: WO 09-03 City Crack Seal

You are directed to make the following changes in the Contract Documents.

Purpose of Change Order: Extend Crack Seal quantity to pay for materials to finish project.

Attachments: (List documents supporting change)

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIME:

Original Contract Price
\$ 86,084.38

Original Contract Time
30
days or date

Previous Change Orders
\$ 8,600.00

Net Change from previous Change Orders
0
days

Contract Price prior to this Change Order
\$ 94,684.38

Contract Time prior to this Change Order
30
days or date

Net Increase (decrease) of this Change
\$ 27,540.00

Net Increase (decrease) of this Change
0
days

Contract Price with approved Change Order
\$ 122,224.38

Contract Time with approved Change Order
NA
days or date

RECOMMENDED:

By _____
Engineer

APPROVED:

APPROVED:

By _____
Owner

By _____
Contractor

CHANGE ORDER

INSTRUCTIONS

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Time. Changes that have been initiated by a Work Directive Change must be incorporated into a subsequent Change Order if they affect price or time.

Changes that affect Contract Price or Contract Time should be promptly covered by a Change Order. The practice of accumulating Change Order items to reduce the administrative burden may lead to unnecessary disputes.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Time, a Field Order may be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Contractor for approval. After approval by Contractor, all copies should be sent to Owner for approval. Engineer should make distribution of executed copies after approval by Owner.

If a change only applies to price or to time, cross out the part of the tabulation that does not apply.

Date: 12/14/2009

TITLE: Approval of Modification #4 to Law Enforcement Officer Reimbursement Agreement with the Transportation Security Administration

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

During September 2002, the City entered into a Personnel Agreement with the Transportation Security Administration (TSA) to reimburse the Airport for the labor costs associated with providing Law Enforcement Officer (LEO) coverage at the TSA's security screening area. This Agreement expired on May 31, 2003. The TSA then requested that the City enter into a new agreement, which reimbursed the City for the security screening law enforcement costs incurred from June 1, 2003, to September 30, 2003, and permitted the City and the TSA to extend the Agreement each September for an additional year for a maximum of five years. That Agreement expired on September 30, 2007. The Department of Homeland Security (DHS) renewed the reimbursement opportunity for a new five-year program period that began October 1, 2007, and continues through September 30, 2012. To participate in this new program, airports were required to apply via a Federal grant process. Billings Logan International Airport submitted an application for participation in the LEO reimbursement program and was granted an Assistance Award. The City Council approved the LEO Agreement on September 10, 2007. The program has now completed its second year and Congress has approved funding for the third year of the program. The Airport was recently notified that it had been funded for the third year and that Modification #P00004, granting funding for the third year of the program and changing several financial reporting requirements, required approval and signature by the City.

ALTERNATIVES ANALYZED

The alternatives for Council to consider are as follows:

- Approve Modification #4 to the LEO Reimbursement Agreement with the TSA for reimbursement; or
- Not approve Modification #4 to the LEO Reimbursement Agreement with the TSA and terminate future reimbursement.

FINANCIAL IMPACT

Under the terms of this Agreement, the City will be authorized to receive reimbursement of the Airport's LEOs' actual wage and benefit costs for the time the officers are available at screening and checkpoint areas, and other TSA mandated activities. Approximately 35% of the total Airport Police Officers' time is spent on these functions. The third year's fully-burdened costs have been estimated at \$169,900. Under Modification #P00004, the Airport will be reimbursed up to \$163,286.40 for the period October 1, 2009, through September 30, 2010.

RECOMMENDATION

Staff recommends that Council approve Modification #P00004 to the LEO Reimbursement Agreement with the TSA.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Modification #4](#)

Date: 12/14/2009

TITLE: Assignment of Commercial Aviation Ground Leases with Edwards Jet Center MT, Inc. and Lynch Flying Service to Stockman Bank for Financing Purposes

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

During the 2001-2002 time frame, Edwards Jet Center Montana, Inc. (EJC) acquired the assets of Lynch Flying Service, Inc. (Lynch), a long-time Fixed Base Operator (FBO) at the Airport, and assumed the Lynch Leases at the Airport. EJC subsequently also assumed FBO related leases held by Corporate Air. In April and December 2001, the City Council approved twenty-year Commercial Aviation Ground Leases by and between Lynch DBA EJC, EJC, and the City of Billings. These Leases covered Commercial Lots 3, 3A, and 5, and Fuel Farm Lots 3 and 4, all of which comprise the majority of the FBO business of EJC. On July 14, 2008, the City Council approved a five-year renewal of a lease on Commercial Lot 2, another parcel key to EJC's FBO operations.

EJC's original commercial loan to finance the FBO operations was with US Bank, and Consent to Assignments of the leasehold interests to US Bank for security purposes were approved by the City Council in November 2006. EJC desires to move its primary financing arrangements from US Bank to Stockman Bank. As a result, Stockman Bank is requesting an Assignment of the EJC and Lynch DBA EJC interests in the Leases to secure the new financing arrangements. If these Assignments are approved by the City, releases of the Assignments to US Bank will also be obtained. EJC is currently one of two FBOs at the Airport.

The Assignment language has been reviewed by both staff and the City Attorney, and is similar to language used in the past. The City has approved a number of these financing assignments over the years as a means for the banks to secure the loans they provide to the Airport tenants for either construction, improvements to, or purchase of their onsite facilities.

ALTERNATIVES ANALYZED

The alternatives for the Council to consider are:

- Approve Assignment of the three Leases to Stockman Bank and authorize the Mayor to sign the three Lessor's Consent to Assignment documents; or
- Not approve the Assignment of the three Leases to Stockman Bank and require EJC to continue with the current Assignments to US Bank.

FINANCIAL IMPACT

There would be no financial impact to the City, as EJC and Lynch DBA EJC will still be required to pay the annual ground lease rentals as established in the following Leases dated:

1. April 9, 2001, by and between Lynch and the City of Billings for Commercial Lot 5 and Fuel Farm Lots 3 and 4,
2. December 10, 2001, by and between EJC and the City of Billings for Commercial Lots 3 and 3A, and
3. July 14, 2008, by and between EJC and the City of Billings for Commercial Lot 2.

RECOMMENDATION

Staff recommends that Council approve the Assignment of the three EJC and Lynch Commercial Aviation Ground Leases to Stockman Bank to secure financing for EJC's FBO operations at the Airport.

APPROVED BY CITY ADMINISTRATOR

Date: 12/14/2009

TITLE: Airport Flower Stand Concession Agreement

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

Botanical Designs and Services approached the Airport with a request to test the market viability of a fresh flower concession at Billings Logan International Airport. The Airport has a number of concessions onsite in the Terminal Building, but has never had a fresh flower concession, nor are fresh cut flowers available at any of the existing concessions. The Airport has negotiated with Botanical Designs and Services to operate a small fresh flower stand on the main floor of the Terminal Building. The initial term of the Agreement is for six months with an option to renew for one additional six-month period. The initial term commences November 1, 2009, and ends on April 30, 2010. It is anticipated that if this concession market test proves successful, the next contract will undergo a competitive bid process.

ALTERNATIVES ANALYZED

The alternatives for Council to consider are as follows:

- Approve the Concession Agreement with Botanical Designs and Services to allow them to determine if this concept can be a viable concession for the Airport; or
- Have staff formally advertise a request for proposals for the Airport Flower Stand Concession and not be concerned with whether a market exists for this service.

FINANCIAL IMPACT

The Airport's Flower Stand Concession will generate \$1,275.72 in rental income for the City for the initial six-month term. Should Botanical Designs and Services wish to exercise the renewal option, rental rates will be adjusted effective July 1, 2010, to correspond to the same Terminal Building rental rates charged to the airlines at that time.

RECOMMENDATION

Staff recommends that Council approve the Flower Stand Concession Agreement with Botanical Designs and Services.

APPROVED BY CITY ADMINISTRATOR

Date: 12/14/2009

TITLE: Antenna Tower Space Lease Renewal

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City of Billings agreed to lease space for a camera and telecommunications equipment at its Black Otter Trail tower to KTVQ Communications, Inc., in 2004. The 5-year lease gave KTVQ the option to extend the lease for an additional 5-year period, and the television channel informed staff this summer that it would like to do so. The previous lease expired Sept. 1, 2009.

KTVQ has given the City \$3,500 per year for non-issue and non- political advertising of City projects or services in exchange for the tower use. That figure would rise 12.5% a year to \$3,937 a year under the new contract. The City has used the advertisement for things such as explaining how to use roundabouts before they were built.

In addition, KTVQ has assisted staff on several occasions by turning the camera toward sites where emergency situations were occurring, assisting in the monitoring of these events. Inclusion of the television equipment has created no known interference with City operations. KTVQ cannot assign or sublet the lease to another firm without City consent.

ALTERNATIVES ANALYZED

The Council may:

- Approve the lease renewal; or
- Deny the release renewal.

FINANCIAL IMPACT

The City would receive \$3,937 a year in non-issue and non-political advertising under the revised agreement. This advertising would provide a format for the City to better communicate with citizens, as suggested in the Community Conversations

RECOMMENDATION

Staff recommends that the Council approve the lease renewal for a 5-year term, retroactive to September 1, 2009.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Lease](#)

ANTENNA TOWER SPACE LEASE

This Lease is made and entered into between City of Billings, Montana hereinafter referred to as "Lessor," and KTVQ Communications, Inc., hereinafter referred to as Tenant".

RECITALS

Lessor owns a tower and equipment building located in Black Otter Trail in Billings, Montana at North Latitude 45 44 52," West Longitude 108 24 23," tower registration number N/A hereinafter referred to as "Tower."

Tenant is a television station serving the Billings community and surrounding area. Toward that end, Tenant needs to locate a camera and telecommunications equipment on the tower and in the building located at the base of the tower (hereinafter referred to as the "leased premises"). Specifically, it needs:

1. to have access to the tower and the building;
2. to install a camera and radio equipment and antennas on the tower (tower equipment), and
3. to house radios and affiliated equipment inside the building (building equipment), and
4. to install wiring to interconnect its tower and building equipment.

TERMS OF LEASE

Subject to the terms of this agreement Lessor is willing to allow Tenant to have such rights and access necessary to meet its needs as detailed above.

It is therefore agreed as follows:

Duration of Lease

This Lease shall start on December 15, 2009, and shall continue for five years expiring on December 15, 2014.

Rights, Obligations and Duties of Lessor and Tenant

1. Tenant shall be allowed to place said equipment for an annual fee of \$3,500 per year, to be traded for advertising or video production services for the benefit of the City of Billings' projects and/or services. No such advertising shall be classified as "Issue or Political" advertising. Issue

advertising is advertising placed by a third party, committee or organization on behalf of a candidate or ballot issue.

2. Renewal. Tenant shall have the right to extend this Lease for an additional five-year period, with City Council approval, for an increase of 12.5% in the annual fee for this additional five year period as it is set forth above in.
3. Subject to the terms of this Lease Tennant may locate one (1) motorized camera and a 3-foot microwave antenna and affiliated equipment on the leased premises for purposes of receiving and transmitting video and data traffic.
4. Tennant may not sublet, license, affiliate with or otherwise allow or suffer other entities to install antennas or affiliated equipment on the leased premises under its name or auspices.
5. Tennant shall not assign this Lease nor sublet all or any part of its rights hereunder without the prior written consent of the Lessor. An antenna, radio or affiliated equipment may be installed upon the leased premises without Lessor's prior written approval. Should Lessor refuse to consent to the installation of antennas or equipment proposed by Tennant then, upon sixty days written notice, Tennant may terminate this Lease without further notice, Tennant may terminate this Lease without further consequence. Should Tennant install antennas or affiliated equipment without the prior written approval of Lessor then, Tennant shall have 30 days to cure such defect after written notification from Lessor. Failure to do so will subject Tennant to the default provision in paragraph 10 below.
6. Lessor shall have the right at all times to inspect any equipment placed on the leased premises by Tennant. Tennant shall have exclusive control of the equipment's operation.
7. Lessor shall provide space to Tennantin the building at the base of the tower. Tennant shall place its radios and affiliated equipment (except tower equipment) within the building in space designated by Lessor. Tennant shall give full cooperation in placing and securing equipment so as not to be a hazard or nuisance to Lessor.
8. Tennant shall be solely responsible for all costs associated with locating its equipment and shall comply with all applicable laws and ordinances in installing and maintaining its equipment.

9. Tenant may use the electrical service inside the building at no additional cost, but Lessor shall not be liable for any interruption of electrical service and rental payments under this Lease shall continue notwithstanding any interruption of power or other required utility facility that is not caused by the gross negligence or willful misconduct of Lessor.
10. Tenant accepts the leased premises "AS IS" and "WITH ALL FAULTS". Prior to the termination of this Lease, tenant shall remove all equipment from the leased premises. Any holding over shall be an unlawful detainer and Tenant shall be subject to immediate eviction and removal.
11. If Tenant's equipment is destroyed or damaged without fault or negligence by Tenant, then, if the cost to repair or replace the equipment exceeds \$2,500.00, tenant may elect to terminate this Lease as of the date of the damage or destruction by giving written notice given to Lessor no more than ten (10) days following the date of any such damage or destruction.
12. Tenant shall operate radio equipment in licensed frequency bands.

Tenant represents and warrants that its equipment shall not cause interference with any other communication equipment existing and operating on the leased premises at the time KTVQ installs its equipment.

Tenant shall cooperate with Lessor to the extent necessary to determine the source of any interference that may be caused by or emitted from its equipment. In the event Tenant's equipment causes interference to any person with equipment located on the leased premises prior to the date Tenant installs its equipment, Tenant shall, within fifteen (15) days, take all steps and precautions necessary to correct and eliminate the interference. Tenant will cease any use of its equipment that is the cause of said interference as soon as reasonably possible after notice thereof. Tenant shall be allowed short periods of operation required identification and elimination of the interference. NOTE: If the City determines that the Tenant's equipment is interfering with critical FAA or City of Billings Public Safety communications or navigation equipment, Tenant shall immediately shut down all communications systems until the interference is corrected.

Lessor represents and warrants that others permitted to have equipment on the leased premises, excluding additional equipment installed for City use, and such other current or future co-tenants shall be similarly constrained if their equipment causes interference and that Tenant is an intended beneficiary of such constraints.

13. Tenant shall have access to the tower and the building so that it can inspect and service its equipment. Lessor shall provide a key (or combination to locks) to Tenant for that purpose. Lessor reserves the right to require supervised access to the site. Tenant will be required to notify the Lessor of the need to access the site each time it is necessary and it will be determined at that time if the Lessor desires to have supervised access. In the event of an emergency, Tenant's access shall not be delayed by reason of this paragraph.
14. Tenant shall conduct its business, and control its agents, employees, invitees, and visitors in such a manner as is lawful and reputable and shall not create any nuisance or otherwise interfere with Lessor's use of its facilities. Tenant shall pay for any damage to the premises caused by its operations.
15. Tenant agrees to save Lessor harmless and indemnify Lessor from any and all liability, loss, damage, costs, judgments or expenses, including litigation costs, expenses and reasonable attorneys fees, on account of any claim of any nature whatsoever for work performed on or materials or supplies furnished to the leased premises for Tenant or persons claiming under Tenant including claims on liens to be removed or record within five (5) days after notice from Lessor. If Tenant desires to contest any claim of lien, it shall furnish Lessor adequate security of at least one hundred ten percent (110%) of the contested amount of the claim. Tenant shall pay and satisfy uncontested amounts at once. If Tenant shall be in default in paying any charge for which a mechanic's lien or suit to foreclose the lien has been recorded or filed and shall not have given Lessor security as aforesaid, Lessor may, but is not required to, pay the uncontested amount of any lien or claim and any costs. If it does so, the amount so paid, together with reasonable attorney's fees incurred in connection therewith, shall be immediately due from Tenant to Lessor.
16. Tenant shall hold Lessor harmless and indemnify Lessor from any loss it may incur for any damage to property or injury to persons rightfully upon the leased premises for any purpose or for any damage to property of Lessor where the injuries or other damage are caused by the negligence or misconduct of Tenant, its agents, servants, employees, or of any other person entering upon the leased premises under express or implied invitation of Tenant. Tenant shall obtain and maintain throughout the term of this Lease a comprehensive general liability insurance policy, including protection against personal injury and property damage and

naming the City of Billings as an additional insured, issued by an insurance company qualified to do business in the State of Montana in amounts not less than \$750,000 per claim and \$1,500,000 per occurrence. If, in the Lessor's opinion, the minimum limits of the insurance coverage herein required become inadequate during the term of this agreement, Tennant agrees that it will increase such minimum limits by reasonable amounts on request of the Lessor.

Default

The following shall be deemed to be events of default by Tennant under this Lease:

1. Tennant shall abandon its operations on the leased premises;
2. Tennant shall fail to comply with any term, provision, or covenant of this Lease, other than the payment or rent, and the failure is not cured within thirty (30) days after written notice from Lessor to Tennant.
3. Upon the occurrence of any default set forth in this Lease agreement Lessor may terminate this Lease, in which event Tennant shall immediately remove its equipment from the leased premises. If Tennant fails to remove its equipment Lessor may, without prejudice to any other remedy, which it may have, take possession of Tennant's equipment by removing it or changing locks if necessary, by occupying all or any part of the building without being liable for the prosecution of any claim or damages.
4. Any notice or document required or permitted to be delivered by this Lease shall be deemed to be delivered (whether or not actually received) when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the parties at the respective addresses set out below.

Termination

This Lease may be terminated by Landlord or Tenant for reasonable cause. Either party will give the other 60 days written notice prior to requesting termination of this agreement.

Compliance with Laws

Tenant agrees that it will comply with all local, state and federal laws and regulations applicable to its activities under the lease. The laws of the State of Montana shall govern this lease.

Dispute Resolution and Venue of Litigation

Should any dispute rise under this agreement, the parties shall first attempt to resolve such through informal discussions and then if necessary informal mediation. If discussion and mediation fail to resolve the dispute, if litigation is deemed necessary by either party, venue shall be in the District Court of the Montana Thirteenth Judicial District, Billings, Yellowstone County, Montana.

Tenant: KTVQ Communications, Inc.

Lessee: City of Billings, Montana

By: _____

By: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

ATTEST:

Approved As To Form

By: _____

By: _____

City Clerk

City Attorney

Date: 12/14/2009

TITLE: Compensation Agreement for Private Contract No. 608--M&K Blue One, LLC

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

In order to obtain water, sanitary sewer and storm sewer service, the Developer, M&K Blue One, LLC., extended 24-inch water main, 60-inch storm drain and 27-inch sanitary sewer main in King Avenue West from approximately Montana Sapphire Drive to 44th Street West. These extensions are not scheduled City Capital Improvements Projects, so the Developer paid the entire cost of the project.

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

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

ALTERNATIVES ANALYZED

The Council may:

- Approve an Agreement totaling \$127,655.50 in sanitary sewer main, \$63,519.00 in water main, and \$40,660.00 in storm sewer for compensation from the City back to the Developer.
- Do not approve an Agreement totaling \$127,655.50 in sanitary sewer main, \$63,519.00 in water main, and \$40,660.00 in storm sewer for compensation from the City back to the Developer.

FINANCIAL IMPACT

Based on review of the final quantities installed on this private contract, the PWD has determined that \$127,655.50 of sanitary sewer, \$63,519.00 of water and \$40,660.00 of storm sewer portions of the work are eligible to be recovered by the Developer. The extent and timing of the City's participation in the project costs is determined in conformance with the CIP approved by City Council.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute the attached Agreement. Compensation is based on final utility construction costs.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [P-608 Compensation Agreement No. 2R](#)

REVISED
FINAL DRAFT

COMPENSATION AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 20____ between THE CITY OF BILLINGS, Billings, Montana, hereinafter referred to as the "City", M&K BLUE ONE, LLC., PO Box 3494, Billings, Montana 59103, hereinafter referred to as the "Developer."

WITNESSETH:

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

WHEREAS, M&K Blue One, LLC. have completed the required sanitary sewer, water, and storm drain improvements along the King Avenue West frontage of Certificate of Survey No. 2063, Tract 1A; and

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

WHEREAS, Developer agrees to extend the existing sanitary sewer, water, and storm drainage improvements necessary to construct the surface improvements provided the City compensates the Developer for said extension in accordance with the terms of this agreement; and

WHEREAS, Developer agrees to extend the existing sanitary sewer, water, and storm drain improvements in accordance with plans and specifications approved by the City on the _____ day of _____, 20____; and

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

REVISED
FINAL DRAFT

1. The water, wastewater and storm water facilities which are eligible for compensation to the extent set forth in this Agreement are specifically described in Exhibit 1, attached hereto, and by this reference incorporated herein as if fully set out.
2. With respect to Developers' entitlement to compensation, the City and Developer agree that the conditions set forth hereinafter must be met before Developer is entitled to or will receive any compensation. Said conditions are:
 - A. The extent, timing, and manner of the City's participation in a water and wastewater facilities extension is determined in conformance with the City's Water/Wastewater Extension Policy and the City's Utilities Fees Practice. Extensions or replacements not eligible for compensation according to these City policies and practices must be constructed by the Developer at his expense.
 - B. The extent, timing, and manner of the City's participation in a storm drainage facilities extension is determined by the terms set forth in this agreement. It is understood that the Developers choose to proceed with the storm drainage improvements even though the compensation funding may or may not be included in the City's Capital Improvements Plan. It is further understood that inclusion into the City's Capital Improvements Plan and subsequent payment of compensation to the Developer will be delayed several years after installation of the improvements. Extensions or replacements not eligible for compensation in accordance with this agreement must be constructed by the Developer at his expense.
 - C. Developer shall provide to the City sufficient verifiable cost data to determine the appropriate amount of compensation within 30 days of final inspection of the water, wastewater and storm drain facilities and approval and acceptance by the City that all construction was completed according to the approved plans and specifications.
 - D. Upon completion of the extension of the water, wastewater, and storm drain facilities, the Developer must convey all right, title and interest in the facilities to the City.
 - E. Developer shall, at all times, provide to the City a current address for purposes of mailing compensation to Developer.

REVISED
FINAL DRAFT

E. Extension of water, waste water, and storm drain facilities eligible for compensation must comply with all city, state and federal laws, rules and regulations including, but not limited to, standards for design and construction, competitive bidding and contract requirements for cities, prevailing wage rates, and non-discrimination requirements.

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

3. In addition, it is expressly agreed that any compensation is conditioned upon the following:

A. Compensation is limited to costs attributable to storm water and/or wastewater facilities described in Exhibit 1, less all administrative costs incurred by the City. In no event will compensation exceed the actual cost to the Developer of extending the storm water and/or wastewater facilities.

B. Compensation shall not include any interest charges.

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

4. Compensation shall be based upon the final total project costs.

5. The addresses for mailing compensation to the Developer shall be the address specified in the first paragraph of this agreement. Any change in address of the Developers shall be sent to the Public Works Director of the City of Billings at P.O. Box 1178, Billings, Montana 59103. The designation of a new address shall be accompanied by a copy of this Agreement.

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

REVISED
FINAL DRAFT

DATED this _____ day of _____, 20_____.

CITY:

CITY OF BILLINGS

By: _____

Its: _____

ATTEST:

City Clerk

DEVELOPER:

M&K BLUE ONE, LLC.

By: _____

Its: _____

EXHIBIT 1
King Avenue West Improvements
West End of St. Vincents Property to 44th Street West

Storm Drain Oversizing

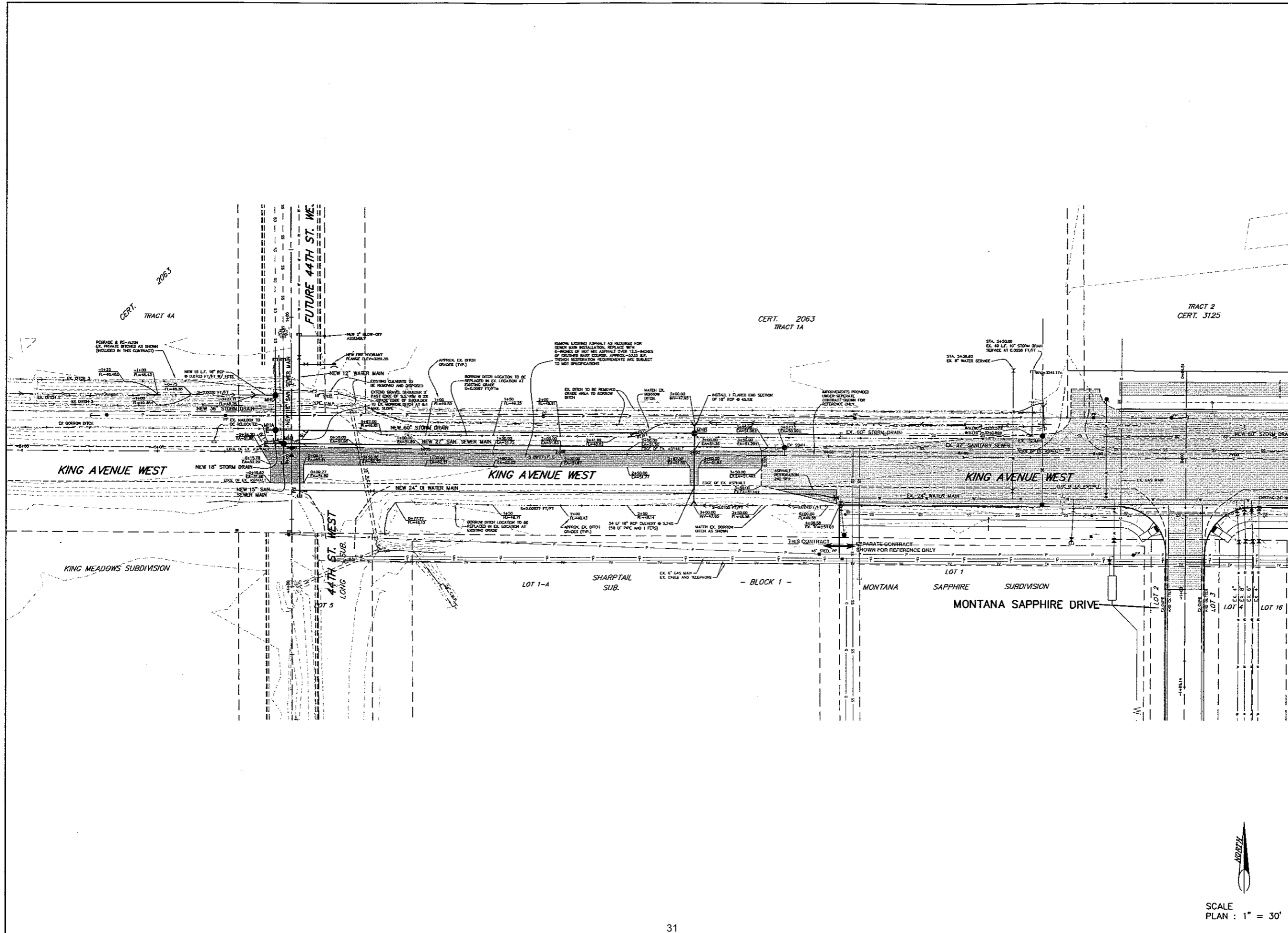
ITEM NO.	EST. QTY	DESCRIPTION	UNIT PRICE	CITY COMPENSATION	AMOUNT DUE CAL KUNKEL
126	428 LF	60-inch Storm Drain Pipe 36-inch Storm Drain Pipe Storm Drain Oversizing Delta	\$187.00 / LF \$92.00 / LF \$95.00 / LF =	\$40,660.00	\$40,660.00
Sub Total Storm Drain Oversizing				\$40,660.00	\$40,660.00

Sanitary Sewer Main Extension

ITEM	EST. QTY	DESCRIPTION	UNIT	CITY COMPENSATION	AMOUNT DUE M&K BLUE ONE, LLC.
505	1 LS	Dewatering	\$29,000.00 / LS =	\$29,000.00	\$29,000.00
506	1 EA	Basic Sanitary Sewer Manhole	\$6,600.00 / EA =	\$6,600.00	\$6,600.00
507	24.6 VF	Extra Depth Manhole	\$180.00 / VF =	\$4,428.00	\$4,428.00
508	400 EA	27-inch Sanitary Sewer Pipe	\$130.00 / EA =	\$52,000.00	\$52,000.00
509	1 EA	27-inch Cap	\$500.00 / EA =	\$500.00	\$500.00
530	905 SY	Remove Street Section	\$9.00 / SY =	\$8,145.00	\$8,145.00
531	905 SY	Asphalt Restoration (6 inch/12.5 inch)	\$26.50 / SY =	\$23,982.50	\$23,982.50
532	1 LS	Striping Restoration	\$1,000.00 / LS =	\$1,000.00	\$1,000.00
533	1 LS	Borrow Ditch Regrading	\$2,000.00 / LS =	\$2,000.00	\$2,000.00
TOTAL SANITARY SEWER REIMBURSEMENT COST				\$127,655.50	\$127,655.50

Water Main Extension

ITEM	EST. QTY	DESCRIPTION	UNIT	CITY COMPENSATION	AMOUNT DUE M&K BLUE ONE, LLC.
102	1 LS	Traffic Control During Construction	\$3,500.00 / LS =	\$3,500.00	\$3,500.00
103	1 EA	Connect to Existing 24-inch Water Main	\$2,200.00 / EA =	\$2,200.00	\$2,200.00
104	1 EA	Connect to Existing 24 x 12-inch Cross	\$2,970.00 / EA =	\$2,970.00	\$2,970.00
105	400 LF	24-inch Ductile Iron Water Main Pipe	\$100.00 / LF =	\$40,000.00	\$40,000.00
106	1 EA	24-inch Butterfly Valve	\$5,784.00 / EA =	\$5,784.00	\$5,784.00
107	1 EA	24-inch Plug and Thrust Block	\$1,500.00 / EA =	\$1,500.00	\$1,500.00
108	0 EA	6-inch Fire Hydrant Assembly from New 24-inch Main	\$3,000.00 / EA =	\$0.00	\$0.00
109	0 EA	24 x 24 x 6 inch Tee	\$2,800.00 / EA =	\$0.00	\$0.00
110	2 EA	24-inch Bend	\$2,905.00 / EA =	\$5,810.00	\$5,810.00
111	27 SY	Asphalt Restoration	\$65.00 / SY =	\$1,755.00	\$1,755.00
TOTAL WATER REIMBURSEMENT COST				\$63,519.00	\$63,519.00



KING AVENUE WEST IMPROVEMENTS

TO PROVIDE WATER, SANITARY SEWER, AND STORM DRAIN IMPROVEMENTS FOR KING AVENUE WEST BILLINGS, MONTANA

UTILITY EXHIBIT

C.A.D.	ATV
DATE:	7/15/09
REVISIONS:	
APPROVED BY:	WMR
QUALITY ASSURANCE:	
SCALE:	AS SHOWN
FILE:	1204007_0000_UTILITY_EXHIBIT
PROJECT NO.:	07054.02
SHEET	1 OF 1

SCALE PLAN : 1" = 30'

Date: 12/14/2009

TITLE: Acceptance of Deed and Easements from Montana Department of Transportation for Intersection of 13th Avenue and Parkhill Drive

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Montana Department of Transportation (MDT) is reconstructing the intersection of 13th Avenue and Parkhill Drive. The new alignment of the intersection required the acquisition of additional land on the northeast and southwest legs of the intersection. The MDT acquired the land in the name of the City of Billings due to the fact that the existing roadway is all owned by the City. The City needs to accept the land before the construction can be started. Parcels 6 and 7 were acquired by a Highway Easement because acquisition by deed would have created non-compliant lots with their subdivision regulations. Parcel 8 was acquired by a Bargain and Sale Deed.

ALTERNATIVES ANALYZED

The City Council may:

- Accept the Sale Deed for Parcel 8 and Highway Easements for Parcels 6 and 7; or
- Do not accept the Sale Deed for Parcel 8 and Highway Easements for Parcels 6 and 7.

FINANCIAL IMPACT

There is no financial impact to the City with acceptance of these documents. The MDT is acquiring the land in the City's name at no cost to the City.

RECOMMENDATION

Staff recommends that Council accept the deed for Parcel 8 and easements for Parcels 6 and 7.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Parcel 6 Easement](#)

Link: [Parcel 7 easement](#)

Link: [Parcel 8 Deed](#)

**State of Montana
Department of Transportation**

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

R/W ID.: HSIP 1099(65) Parcel No.: 6 County: Yellowstone
Designation: SF069-PARKHILL/13TH ST W-BLGS
Project No.: 6089-065-000

Highway Easement

This Easement, 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**,

Benjamin Pretlow and Margia Pretlow
1308 Parkhill Dr.
Billings, MT 59102-3141

do(es) hereby **grant, bargain, sell and convey** unto the **City of Billings, Montana**, an easement and right-of-way for highway purposes, including the construction, reconstruction and maintenance of a highway over, across, and the right of entry upon and occupation of lands, and the right to take therefrom such earth, sand, gravel, stones, and trees as may be necessary in the construction, reconstruction, and maintenance of a highway covering and embracing the following described land:

Parcel No. 6, on Montana Department of Transportation Project HSIP 1099(65), 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 Easement covers and embraces the following described land:

A tract of land in the East half of Lot 44, Lot 45 and 46 in Block 12, Evergreen Subdivision 2nd Filing, 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, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 4 sq. ft., more or less

RW:6089:p6:jdjg

Highway Easement
R/W ID.: HSIP 1099(65)
Designation: SF069-PARKHILL/13TH ST W-BLGS

Parcel No.: 6

TO HAVE AND TO HOLD all of the above-described property unto the **City of Billings, Montana**, and to its successors and assigns as long as the same is used for highway purposes.

This Easement 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: _____ / _____ / 20__

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 _____

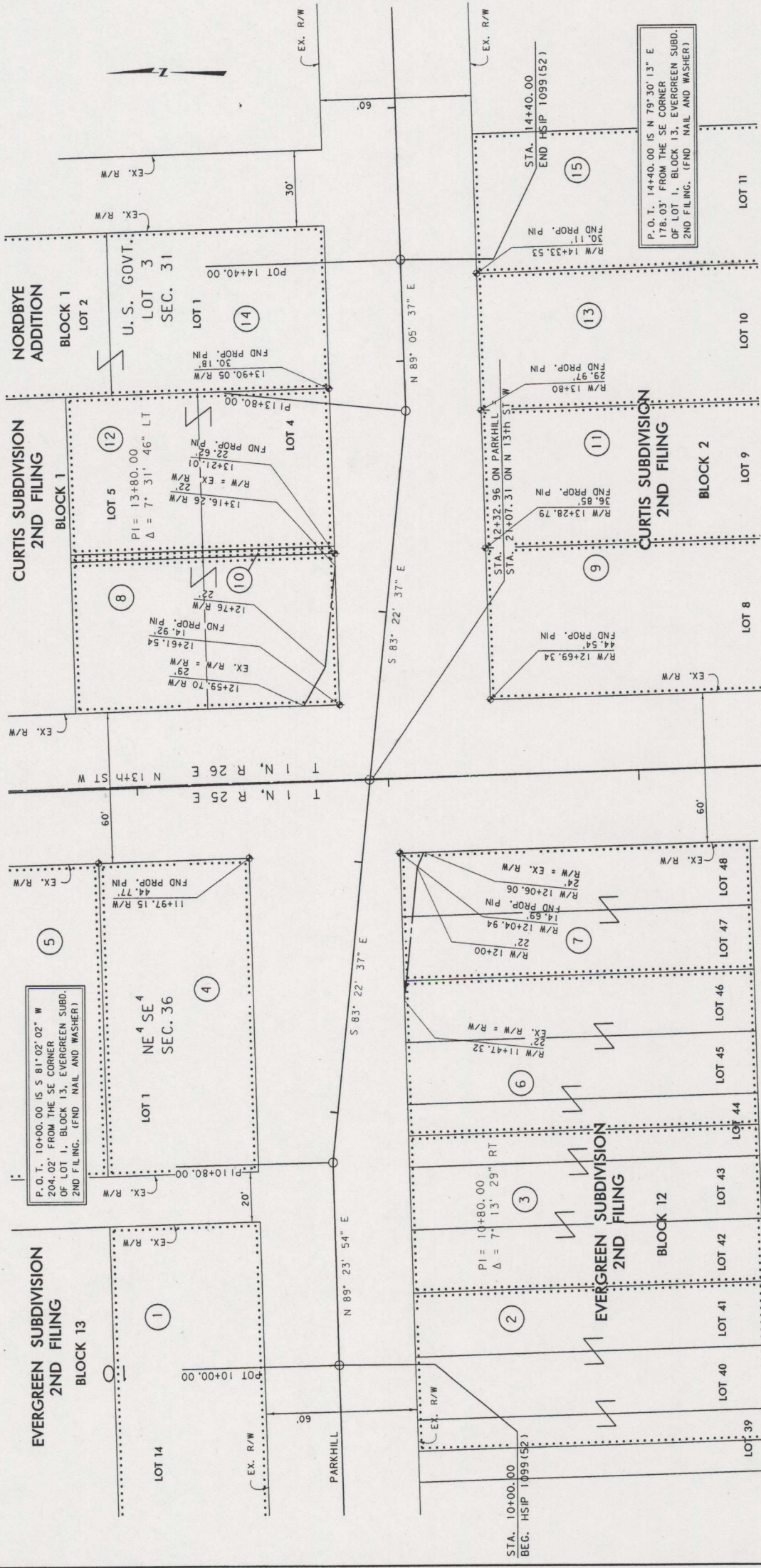
Residing at: _____

My Commission Expires: _____ / _____ / 20__

Recording Information

STATE	MONTANA	RIGHT OF WAY	SHEET TOTAL
R/W ID.	HSIP 1099(165)		NO. SHEETS
PROJECT NO.	6089-065-000		

SFO69-PARKHILL/13TH ST W-BLGS



PARCEL 6 SHEET 1 OF 1

MONTANA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY EXHIBIT
 YELLOWSTONE COUNTY

LEGEND

- OWNERSHIP BOUNDARY
- RIGHT OF WAY LINE
- R.R. R/W LINE
- CENTERLINE
- FULL ACCESS CONTROL
- LIMITED ACCESS CONTROL
- TRACT CONVEYED

DATE PREPARED: 7-27-09
 DATE REVISED:

SCALE: 1" = 20'
 0 20' 40' 60'

GRID STATE PLANE COORDINATES

THIS IS A STATE PLANE COORDINATE PROJECT. ALL DIMENSIONS, DISTANCES AND AREAS ON THIS PROJECT ARE GRID, EXCEPT FOR THE EXISTING R/W WIDTH DIMENSION, WHICH IS RECORD.

THE COMBINATION SCALE FACTOR IS 0.999946656

FOR EXISTING R/W RETRACEMENT, SEE C.O.S. NO. 3348

NOTES:

- PROPOSED R/W LINE WHERE A SPIRAL CURVE TRANSITION IS USED IS A CHORD RATHER THAN A CONCENTRIC CURVE.
- ALL STATIONS AND OFFSETS FOR R/W BREAKS ARE IN REFERENCE TO THE R/W BASELINE.

MONTANA DEPARTMENT OF TRANSPORTATION
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THIS PLAT IS PREPARED FROM THE MONTANA DEPARTMENT OF TRANSPORTATION RECORDS AND IS RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER. OFFICIAL PLANS AND EXHIBITS CAN BE FOUND AT THE DEPARTMENT OF TRANSPORTATION, HELENA, MONTANA.

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**State of Montana
Department of Transportation**

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

R/W ID.: HSIP 1099(65) Parcel No.: 7 County: Yellowstone
Designation: SF069-PARKHILL/13TH ST W-BLGS
Project No.: 6089-065-000

Highway Easement

This Easement, 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**,

Adam L. Erekson
1302 Parkhill Drive
Billings, MT 59102

do(es) hereby **grant, bargain, sell and convey** unto the **City of Billings, Montana**, an easement and right-of-way for highway purposes, including the construction, reconstruction and maintenance of a highway over, across, and the right of entry upon and occupation of lands, and the right to take therefrom such earth, sand, gravel, stones, and trees as may be necessary in the construction, reconstruction, and maintenance of a highway covering and embracing the following described land:

Parcel No. 7, on Montana Department of Transportation Project HSIP 1099(65), 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 Easement covers and embraces the following described land:

A tract of land in Lot 47 and 48 in Block 12, Evergreen Subdivision 2nd Filing, 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, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 216 sq. ft., more or less

RW:6089:p7:jdjg

Highway Easement
RW ID.: HSIP 1099(65)
Designation: SF069-PARKHILL/13TH ST W-BLGS

Parcel No.: 7

TO HAVE AND TO HOLD all of the above-described property unto the **City of Billings, Montana**, and to its successors and assigns as long as the same is used for highway purposes.

This Easement 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: _____ / _____ / 20__ __

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 _____

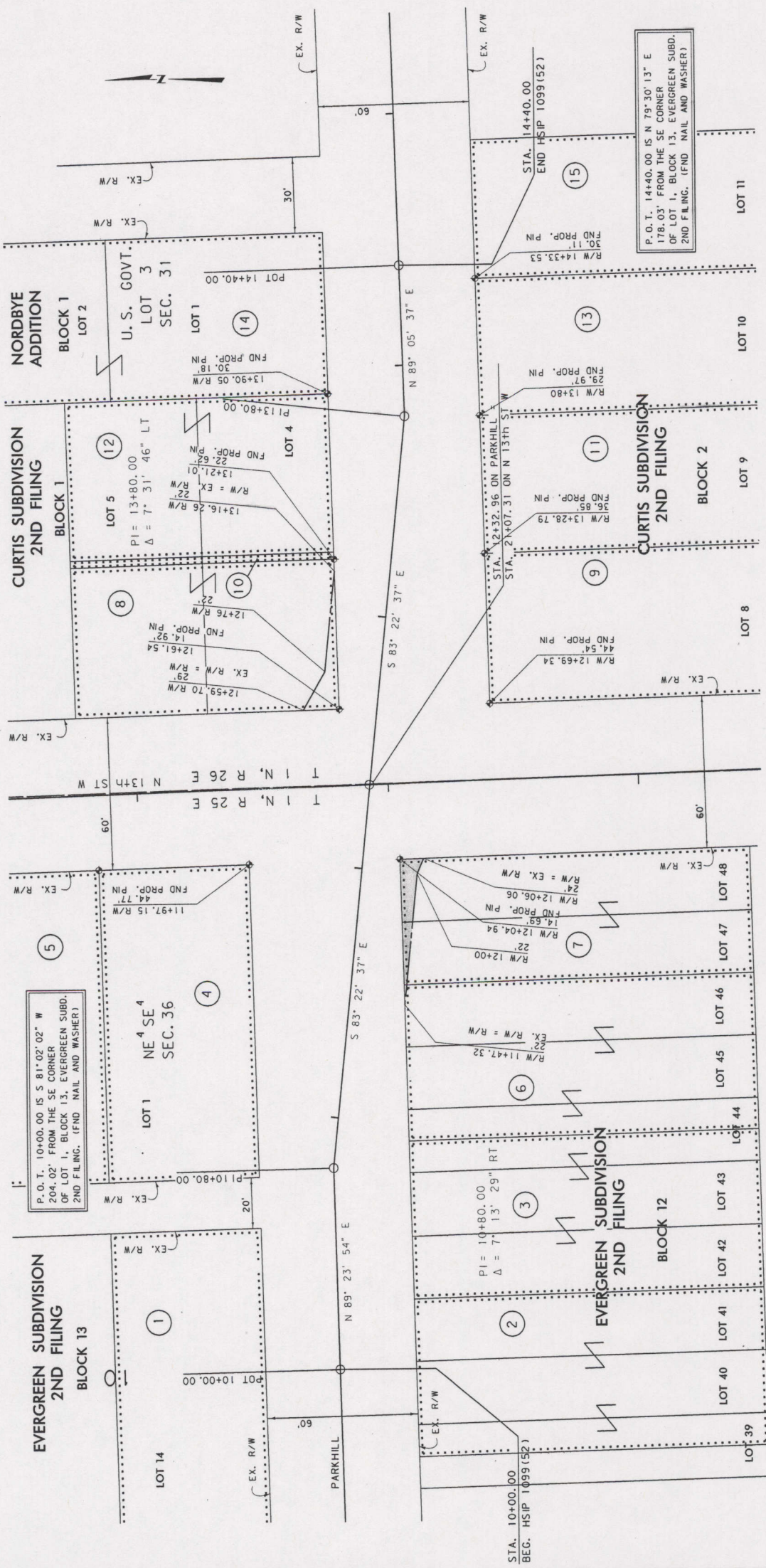
Residing at: _____

My Commission Expires: _____ / _____ / 20__ __

Recording Information

STATE	RIGHT OF WAY	SHEET TOTAL
MONTANA		NO. SHEETS
R/W ID.	HSIP 1099 (65)	
PROJECT NO.	6089-065-000	

SF069-PARKHILL/13TH ST W-BLGS



PARCEL 7 ; SHEET 1 OF 1

LEGEND

- OWNERSHIP BOUNDARY
- RIGHT OF WAY LINE
- R.R. R/W LINE
- CENTERLINE
- FULL ACCESS CONTROL
- LIMITED ACCESS CONTROL
- TRACT CONVEYED
- DATE PREPARED: 7-27-09
- DATE REVISED

RIGHT OF WAY EXHIBIT
YELLOWSTONE COUNTY

SCALE 1"=20'
0 20' 40' 60'

GRID STATE PLANE COORDINATES
THIS IS A STATE PLANE COORDINATE PROJECT. ALL DIMENSIONS, DISTANCES AND AREAS ON THIS PROJECT ARE GRID, EXCEPT FOR THE EXISTING R/W WIDTH DIMENSION, WHICH IS RECORD.
THE COMBINATION SCALE FACTOR IS 0.99946636

FOR EXISTING R/W RETRACEMENT, SEE C.O.S. NO. 3348

NOTES:
1. PROPOSED R/W LINE WHERE A SPIRAL CURVE TRANSITION IS USED IS A CHORD RATHER THAN A CONCENTRIC CURVE.
2. ALL STATIONS AND OFFSETS FOR R/W BREAKS ARE IN REFERENCE TO THE R/W BASELINE.

THIS PLAT IS PREPARED FROM THE MONTANA DEPARTMENT OF TRANSPORTATION RECORDS AND IS UNRECORDED. OFFICIAL PLANS AND EXHIBITS CAN BE FOUND AT THE MONTANA DEPARTMENT OF TRANSPORTATION, HELENA, MONTANA.

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**State of Montana
Department of Transportation**

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

R/W ID.: HSIP 1099(65) Parcel No.: 8 County: Yellowstone
Designation: SF069-PARKHILL/13TH ST W-BLGS
Project No.: 6089-065-000

Bargain and Sale Deed

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**,

Joshua L. Obie
1249 Parkhill Dr.
Billings, MT 59102-3267

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

Parcel No. 8 on Montana Department of Transportation Project HSIP 1099(65), 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 west 60 feet of Lots 4 and 5 in Block 1, Curtis Subdivision 2nd Filing in 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, as shown by the shaded area on the plat, consisting of 1 sheet, attached hereto and made a part hereof, containing an area of 251 sq. ft., more or less.

RW:6089:p8:jdjg

Bargain and Sale Deed
R/W ID.: HSIP 1099(65)
Designation: SF069-PARKHILL/13TH ST W-BLGS

Parcel No.: 8

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), his heirs, 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 City of Billings, Montana, 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

Notary Printed Name
Notary Public for State of _____
Residing at: _____
My Commission Expires: _____ / _____ / 20__

(Seal)

State of _____)
County of _____)

This instrument was acknowledged before me on _____
(date)

by _____
(Grantor(s))

Notary Signature Line

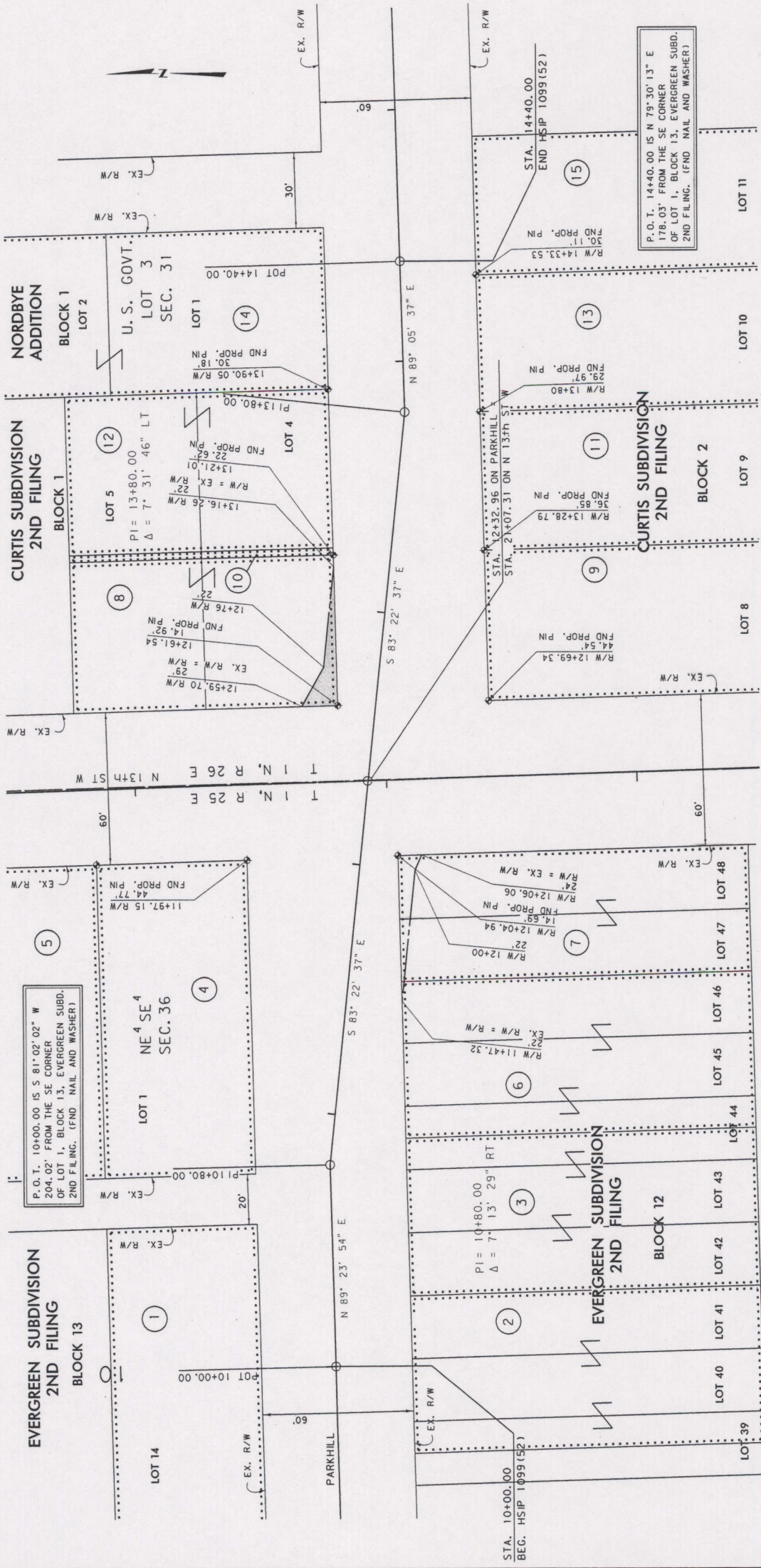
Notary Printed Name
Notary Public for State of _____
Residing at: _____
My Commission Expires: _____ / _____ / 20__

(Seal)

Recording Information

STATE	RIGHT OF WAY	SHEET	TOTAL
MONTANA		NO.	SHEETS
R/W ID.	HSP 1099(65)		
PROJECT NO.	6089-065-000		

SF069-PARKHILL/13TH ST W-BLCS



PARCEL 8 ; SHEET 1 OF 1

FOR EXISTING R/W RETRACEMENT, SEE C.O.S. NO. 3348

NOTES:
1. THE PROPOSED R/W LINE WHERE A SPIRAL CURVE TRANSITION IS USED IS A CHORD RATHER THAN A CONCENTRIC CURVE.
2. ALL STATIONS AND OFFSETS FOR R/W BREAKS ARE IN REFERENCE TO THE R/W BASELINE.

MONTANA DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY EXHIBIT
YELLOWSTONE COUNTY

DATE PREPARED: 7-27-09
DATE REVISED:

UT909
2:08:41 PM

Date: 12/14/2009

TITLE: Downtown Revolving Loan Fund Recommendation for Babcock, LLC

PRESENTED BY: Patrick M. Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Downtown Revolving Loan Committee met on November 16, 2009, and recommends approving loans to Babcock, LLC.

Babcock, LLC is requesting two loans from the Downtown Revolving Loan Fund for the purpose of remodeling the Babcock Building for retail and residential space located at 115 North Broadway. Babcock, LLC is in the process of completing the theatre remodel and restoration and has plans to continue renovation of the retail and residential spaces within the building. The total project costs will be approximately \$3,575,000, of which the Downtown Revolving Loan Fund will loan no more than \$400,000 in two separate loans. The first loan will be for \$150,000 with a 5% interest rate, 20 year amortization and a balloon payment on June 1, 2010. The second loan will be for \$250,000 with a 5% interest rate, 20 year amortization and a 10 year balloon payment. Personal guarantees of all four members of Babcock LLC will be required. The Downtown Revolving Loan will be subordinate to a bank loan of approximately \$1,000,000.

ALTERNATIVES ANALYZED

The Council may: Approve the loan; or Not approve the loan.

FINANCIAL IMPACT

Subsequent to approval of this loan, the loan fund will have a balance available for disbursement of approximately \$260,000. (current inter-credit loan balance outstanding of \$740,000 which has a line of credit available up to \$1,600,000, not yet disbursed of \$400,000 to Babcock, LLC, and not yet disbursed of \$200,000 to EB Ventures)

RECOMMENDATION

The Downtown Revolving Loan Committee recommends that council approve two loans to Babcock, LLC totalling no more than \$400,000 and requiring personal guarantees.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Attachment A](#)

Revolving Loan Fund Loan

Monday, December 14, 2009

The Babcock, LLC, loan terms are as follows:

Loan #1	Not to exceed \$150,000.
Interest Rate	5% Adjusted annually.
Term	Amortized over twenty years with a balloon payment at June 1, 2010.
Payments	Minimum Payments calculated at a rate of 5% over a twenty year term.
Collateral	Second mortgage on the real property and personal guarantees of Babcock, LLC members.
Disbursement	The City will disburse funds after it receives Council approval.

Loan #2	Not to exceed \$250,000.
Interest Rate	5% Adjusted annually.
Term	Amortized over twenty years with a balloon payment at ten years.
Payments	Minimum Payments calculated at a rate of 5% over a twenty year term.
Collateral	Second mortgage on the real property and personal guarantees of Babcock, LLC members.
Disbursement	The City will disburse funds after it receives Council approval.

This loan is for the purpose of remodeling retail and residential space in the Babcock Theatre Building.

Date: 12/14/2009

TITLE: Acceptance of Donation for Bench in Descro Park

PRESENTED BY: Mike Whitaker

Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

The City of Billings Parks and Recreation Department has received a donation from Debbie Rathbun of Kalispell in the amount of \$1,000 for the purchase and installation of a park bench at Descro Park to honor her mother who lives near the park and walks on the trail there frequently. The Rathbun Family has provided a modest 5" x 7" bronze plaque dedicating the bench to their mother. The bench has been installed just off the heritage Trail running through Descro Park on a concrete pad at the north end of the park.

ALTERNATIVES ANALYZED

The Council may:

- 1- Accept the donation for a bench at Descro Park.
- 2- Not accept the donation for a bench at Descro Park

FINANCIAL IMPACT

There will be no financial impact to the City. The funds that were donated were used to purchase and install the bench.

RECOMMENDATION

Staff recommends that Council accept this generous donation from the Rathbun Family to provide a bench at Descro Park.

APPROVED BY CITY ADMINISTRATOR

Date: 12/14/2009

TITLE: Acceptance of \$1,100 Donation from the Alarm Association of Yellowstone County.

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

The Alarm Association of Yellowstone County, through Kenco Security and Technology, donated \$1,100 to the Billings Police Department through the Billings Police Foundation. We have received the check from the Billings Police Foundation with the letter attached from Kenco Security stating the \$1,100 donation from the Alarm Association of Yellowstone County is to be used toward the purchase of micro digital recorders or any other items that are needed to assist the officers. A donation verification form has been sent to the Billings Police Foundation for completion. When received, it will be forwarded to the City Clerk. The letter from Kenco Security will be on file in the City Clerk's Office. City Council is being asked to approve acceptance of the \$1,100 donation from the Alarm Association of Yellowstone County.

ALTERNATIVES ANALYZED

The City Council may:

- Approve acceptance of the \$1,100 donation check from the Alarm Association of Yellowstone County; or
- Not approve acceptance of the \$1,100 donation check from the Alarm Association of Yellowstone County.

FINANCIAL IMPACT

This donation will afford the Police Department the opportunity to purchase additional micro digital recorders.

RECOMMENDATION

City Council is being asked to approve acceptance of the \$1,100 donation from the Alarm Association of Yellowstone County.

APPROVED BY CITY ADMINISTRATOR

Date: 12/14/2009

TITLE: Acceptance of \$4,393 Donation from the Billings Police Foundation

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

The Billings Police Foundation will donate \$4,393 for the purchase of Honor Guard equipment and Bike Patrol equipment and uniforms. The Honor Guard donation of \$2,028 will include a U.S. Flag, a Montana Flag, and a City Flag, as well as a flag staff, staff warhead, flag harness, and miscellaneous uniform apparel. This will allow the Honor Guard to be in full regalia for special events. The Bike Patrol donation of \$2,365 will include 5 cold weather jackets and trousers, and 3 bike racks to be placed on the back of police cruisers. The bike certified officers are only able to ride if there are enough officers on shift to park a patrol car. The bike racks would allow the bike certified officers to come to work ready to ride, check out a bike and place it on their vehicle. In that way the officers would be able to take the bikes to other areas of the city such as neighborhoods with burglary problems or city parks. A donor verification form has been sent to the Foundation, and when received, it will be forwarded to the City Clerk's Office. City Council is being asked to approve acceptance of the \$4,393 donation from the Billings Police Foundation for the Honor Guard and Bike Patrol.

ALTERNATIVES ANALYZED

The City Council may:

- Approve acceptance of the \$4,393 donation from the Billings Police Foundation, or
- Not approve acceptance of the \$4,393 donation from the Billings Police Foundation.

FINANCIAL IMPACT

The donation from the Billings Police Foundation will allow the Billings Police Department Honor Guard to purchase new flags and miscellaneous equipment, and the Bike Patrol to purchase cold weather clothing and bike racks.

RECOMMENDATION

City Council is being asked to approve acceptance of the \$4,393 donation from the Billings Police Foundation for the Honor Guard and Bike Patrol.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Consent : 1.M.

Date: 12/14/2009

TITLE: Bond Resolution of terms for Intercap Loan for SID 1387

PRESENTED BY: Patrick M. Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

On October 13, 2009, the City Council approved authorization to apply for an Intercap loan to finance Special Improvement District 1387 totaling \$80,500. The loan application was reviewed by the Intercap Loan board and approved. The attached resolution accepts the terms and conditions of the loan.

ALTERNATIVES ANALYZED

The Council may:

- Approve the terms of the Intercap loan bond resolution
- Not approve the terms of the Intercap loan bond resolution

FINANCIAL IMPACT

N/A

RECOMMENDATION

It is recommended that the City Council approve the attached resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Bond resolution SID 1387](#)

CERTIFICATE OF MINUTES RELATING TO
RESOLUTION NO. _____

Issuer: City of Billings

Kind, date, time and place of meeting: A _____ meeting held on _____ at
_____ o'clock ____m. in _____, Montana.

Members present:

Members absent:

RESOLUTION NO. _____

RESOLUTION RELATING TO \$80,500.00 FOR THE CITY OF BILLINGS SPECIAL
IMPROVEMENT (ZIMMERMAN TRAIL) DISTRICT NO. 1387 BOND; FIXING THE FORM AND
DETAILS AND PROVIDING FOR THE EXECUTION AND DELIVERY THEREOF AND
SECURITY THEREFOR

I, the undersigned, being the fully qualified and acting recording officer of the public body issuing the obligations referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of the public body in my legal custody, from which they have been transcribed; that the documents are a correct and complete transcript of the minutes of a meeting of the governing body at the meeting, insofar as they relate to the obligations; and that the meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer this ____ day of _____, _____.

By _____
Its _____

RESOLUTION NO. _____

RESOLUTION RELATING TO \$80,500.00 FOR THE CITY OF BILLINGS SPECIAL IMPROVEMENT (ZIMMERMAN TRAIL) DISTRICT NO. 1387 BOND; FIXING THE FORM AND DETAILS AND PROVIDING FOR THE EXECUTION AND DELIVERY THEREOF AND SECURITY THEREFOR

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

Section 1. Recitals. It is hereby found, determined and declared as follows:

1.01. Creation of the District. By adopting the Resolution of Intention, this City Council (the "Council") declared its intention to create the following Special Improvement District No. 1387:

Zimmerman Trail Special Improvement District (the "District"), for the purpose of making local improvements (the "Improvements") for the special benefit of the District, in accordance with the provisions of Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42 (the "Act"). This Council by adopting the Resolution, did create the District and order the proposed Improvements in accordance with the Resolution of Intention.

1.02. Costs. The costs and expenses connected with and incidental to the formation of the District to the City, including costs of preparation of plans, specifications, maps, profiles, engineering superintendence and inspection, preparation of assessment rolls, expenses of making the assessments, the cost of work and materials under the construction contract and all other costs and expenses (hereafter, the "Projects") will be levied and assessed upon the assessable real property within the District on the basis described in the Resolution of Intention. This Council has jurisdiction and is required by law to levy and assess such amounts, to collect such special assessments and credit the same to the special improvement district fund created for the District, which fund is to be maintained on the official books and records of the City separate from all other funds, for the payment of principal and interest when due on the Bond herein authorized.

1.03. Board of Investments; INTERCAP Revolving Program. Pursuant to Montana Code Annotated, Section 2-15-1808 and Title 17, Chapter 5, Part 16, as amended, and in accordance with the Indenture of Trust, dated as of March 1, 1991 as amended and supplemented (the "Indenture"), between the Board of Investments of the State of Montana (the "Board of Investments") and U.S. Bank Trust National Association MT (formerly known as First Trust Company of Montana National Association), as Trustee (with any successor trustee thereunder), (the "Trustee"), the Board of Investments has established its INTERCAP Revolving Program (the "INTERCAP Program") pursuant to which the Board of Investments will issue and remarket, from time to time, its Annual Adjustable Rate Tender Option Municipal Finance Consolidation Act Bonds (INTERCAP Revolving Program) (the "Board Bonds"), for the purpose of making loans to local government units to finance or refinance the acquisition and installation of equipment, personal and real property improvements, to provide temporary financing of projects or for other authorized corporate purposes of a local government unit. All Board Bonds issued under the Indenture are secured equally and ratably thereunder and bear interest at a rate that is adjustable annually, effective for the period commencing on each March 1st and ending on the last day of the next succeeding February.

1.04. Sale and Issuance of Bond. For the purpose of financing the costs and expenses of making the Improvements, which are to be assessed against the property within the District as provided in the Resolution of Intention, this Council hereby authorizes the negotiated sale of a special improvement district bond in the principal amount of \$80,500.00 (the "Bond") to the Board of Investments, in accordance with the provisions of Montana Code Annotated, Section 7-12-4204(2), upon the further terms set forth in this Resolution. The Board will fund its purchase of the Bond from the proceeds of a series of Board Bonds or from loan payments made with respect to loans funded from such proceeds.

The Bond may bear a variable rate of interest and be sold at a private negotiated sale since the principal amount of the Bond does not exceed \$500,000.

1.05. Recitals. All acts, conditions and things required by the Constitution and laws of the State of Montana, including Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, in order to make the Bond a valid and binding special obligation in accordance with its terms and in accordance with the terms of this Resolution have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required.

Section 2. The Bond.

2.01. Principal Installments, Maturities, Denominations, Date, Interest Rates. For the purpose of paying the costs and expenses incurred in construction of the Improvements, and in anticipation of the collection of special assessments to be levied therefor, and in accordance with the sale described in Section 1.04, the City shall forthwith issue and deliver to the Board of Investments the Bond payable solely from the Special Improvement District Fund (the "District Fund") and denominated City of Billings Special Improvement District, Bond No. 2009-5(the "Bond").

<u>District Name</u>	<u>District Number</u>	<u>Bond Number</u>
Zimmerman Trail	1387	2009-5

The Bond shall be in the principal amount of \$80,500.00, shall be issued as a fully registered bond numbered 2009-5, shall be dated, as originally issued, and registered as of the date of delivery to the Board of Investments, and principal installments thereof shall mature on February 15, 2025 in the years and principal amounts set forth on attached schedule, and shall bear interest from the date of delivery of the Bond at the rate per annum equal to the Loan Rate (as hereinafter defined), as determined from time to time, for the periods hereinafter described.

Interest on the Bond shall be payable on each February 15th and August 15th, commencing August 15, 2009 to the owners of record thereof as such appear on the bond register on the date of payment, whether or not such day is a business day. The Bond shall represent all the principal installments of the issue.

For purposes of this Resolution, "Loan Rate" shall mean, for the period from the date of original registration of the Bond until February 15, 2010, the rate of three and twenty-five hundredths (3.25 %) per annum, and, for each twelve-month or shorter period thereafter during the term of the Bond commencing on February 16th and concluding on February 15th in the next succeeding year, an annual interest rate specified by the Trustee and calculated as provided under the Indenture, which rate generally shall be equal to the sum of (i) the interest rate on the Board Bonds during such period (which interest rate may not exceed fifteen percent (15%) per annum) plus (ii) a rate, not to exceed one and one-half percent (1.50%) per annum, sufficient to produce the amount necessary to pay the City's share of Program Expenses (as hereinafter defined). For purposes of this Section 2.01, "Program Expenses" shall mean the expenses of the Program, including (without limitation) the fees and expenses of the Trustee and such other fees and expenses of the Program or of the Board of Investments relating thereto as shall be approved by the Board of Investments. Under the Indenture, the Trustee is to calculate and notify the City, within 20 days after each March 1st, of the interest rate on the Bond for the period commencing on the preceding February 16th.

2.02. Negotiability, Transfer and Registration. The Bond shall be fully registered as to both principal and interest, and shall be initially registered in the name of and payable to the Board of Investments. While so registered, principal of and interest on the Bond shall be payable to the U.S. Bank Trust National Association MT (formerly known as First Trust Company of Montana National Association), Corporate Trust Services, 60 Livingston Avenue, St. Paul, MN 55107 or such other place as may be designated by the Board of Investments in writing and delivered to the City. The Bond shall be negotiable, subject to the provisions for registration and transfer contained in this section. No transfer of the Bond shall be valid unless and until (1) the holder, or duly authorized attorney or legal representative, has executed the form of assignment appearing on the Bond, and (2) the City Treasurer of the City or any successor financial institution or trust company which this Council may appoint to so act as Bond Registrar (the "Registrar"), has duly noted the transfer on the Bond and recorded the transfer on the registration books of the Registrar. The Registrar may, prior to noting and recording the transfer, require appropriate proof of the transferor's authority and the genuineness of the transferor's signature. All costs of such registration and transfer shall be paid by the City, except that the City may charge the holder for any tax, fee or other governmental charge imposed upon or with respect to the transfer of the Bond. The

City shall be entitled to deem and treat the person in whose name the Bond is registered as the absolute owner of the Bond for all purposes, notwithstanding any notice to the contrary, and all payments to the registered holder shall be valid and effectual to satisfy and discharge the City's liability upon such Bond to the extent of the sum or sums so paid.

2.03. Execution and Delivery. The Bond shall be executed on behalf of the City by the manual signatures of the Mayor and the City Clerk. Any or all of such signatures may be affixed at or prior to the date of delivery of the Bond. The Bond shall be sealed with the corporate seal of the City. In the event that any of the officers who shall have signed the Bond shall cease to be officers of the City before the Bond is issued or delivered, their signatures shall remain binding upon the Borrower. Conversely, the Bond may be signed by an authorized official who did not hold such office on the date of adoption of this Resolution. The Bond shall be delivered to the Board of Investments, or its attorney or legal representative. The Bond shall be registered in the office of the City Clerk and the City Treasurer.

2.04. Prepayment, when Mandatory Redemption Required. The principal installments of the Bond are subject to mandatory redemption in order of registration on any interest payment date if, after paying all principal and interest then currently due on the Bond, there are monies available in or to the credit of the Special Improvement District No. 1387 Fund of the City, either from the prepayment of assessments levied in the District or from surplus proceeds of the Bond not required to pay costs of the Improvements, for the redemption thereof, and in the manner provided for the redemption of the same. The principal installments of the Bond are subject to redemption at the option of the City from other sources of funds available therefor on any interest payment date. The redemption price is equal to the amount of the principal installment or installments of the Bond to be redeemed plus interest accrued thereon to the date of redemption, without premium. The date of redemption shall be fixed by the City Treasurer, who shall give notice by first class mail, postage prepaid, to the owner or owners of the Bond at their address shown on the bond register, of the numbers of the principal installments to be redeemed and the date on which payment will be made, which date shall not be less than ten days after the date of mailing of notice, on which date so fixed interest shall cease. On the date so fixed interest on the principal installments of the Bond so redeemed shall cease to accrue.

2.05. Form. The Bond shall be drawn in substantially the form set forth in Exhibit A hereto, and by this reference made a part hereof, with such modifications as are permitted by the Act.

Section 3. District Fund; Assessments.

3.01. District Fund. There is hereby created and established the District Fund designated as the "Special Improvement District Fund," which shall be maintained by the City Treasurer on the books and records of the City separate and apart from all other funds of the City. Within the District Fund there shall be maintained two separate accounts, designated as the "Principal Account" and "Interest Account," respectively.

3.02. Principal Account and Interest Account. Money in the Principal Account and the Interest Account shall be used only for payment of the principal of and interest on the Bond as such payments become due or to redeem prior installments of the Bond.

Upon collection of the installment of principal and interest due on November 30 and May 31 of each fiscal year on the special assessments to be levied with respect to the Improvements, the City Treasurer shall credit to the Interest Account so much of said special assessments as is collected as interest and the balance thereof to the Principal Account. Any installment of any special assessment paid prior to its due date with interest accrued thereon to the next succeeding interest payment date shall be credited with respect to principal and interest payments in the same manner as other assessments are credited to the District Fund. All money in the Interest Account and the Principal Account shall be used first to pay interest due, and any remaining money shall be used to pay the Bond then due and, if money is available, to redeem the Bond or principal installments thereof in accordance with Section 2.04. Redemption of Bond shall be in order of the principal installments, and interest shall be paid as accrued thereon to the date of redemption, in accordance with the provisions of Montana Code Annotated, Section 7-12-4206.

3.03. Loans from Revolving Fund. The Council shall annually or more often if necessary issue an order authorizing a loan or advance from the Special Improvement District Revolving Fund of the City (the "Revolving Fund") to the District Fund in an amount sufficient to make good any deficiency then existing in any Interest Account and shall issue an order authorizing a loan or advance from the Revolving Fund to the District Fund in an amount sufficient to make good any deficiency then existing in the Principal Account in such order and in each case to the extent that money is available in the Revolving Fund. A deficiency shall be deemed to exist in the Principal Account or the Interest Account if the money on deposit therein on any February 1 or August 1 (excluding amounts in the Principal Account representing prepaid special assessments) is less than the amount necessary to pay principal of the Bond due, and interest on the Bond payable, on the next succeeding interest payment date.

Pursuant to Resolution No. 08-18812, the City has undertaken and agreed to provide funds for the Revolving Fund by levying such tax or making such loan from the General Fund as authorized by Montana Code Annotated, Section 7-12-4222. In the event that the balance on hand in the Revolving Fund fifteen days prior to any date when interest is due on special improvement district bonds or warrants of the City is not sufficient to make good all deficiencies then existing in the special improvement district fund for which the City has covenanted to make loans from the Revolving Fund, then, pursuant to 7-12-4223 M.C.A., the balance on hand in the Revolving Fund shall be allocated to the funds of the special improvement district in which such deficiencies then exist in proportion to the amounts of the deficiencies on the respective dates of receipt of such money, until all interest accrued on such special improvement district bonds or warrants of the City has been paid. On any date when all accrued interest on special improvement district bonds and warrants of the City payable from funds for which the City has covenanted to make loans from the Revolving Fund has been paid, any balance remaining in the Revolving Fund shall be lent or advanced to the special improvement district fund for payment and redemption of bonds to the extent the district funds are deficient for such purpose, and, if money in the Revolving Fund is insufficient therefor, pro rata, in an amount proportionate to the amount of such deficiency.

Section 4. Covenants and Representations. The City covenants and agrees with the owners from time to time of the Bond that until the Bond and interest thereon are fully paid:

4.01. Compliance with the Resolution. The City will hold the District Fund and the Revolving Fund as trust funds, separate and apart from all of its other funds, and the City, its officers and agents, will comply with all covenants and agreements contained in this Resolution. The provisions hereinabove made with respect to the District Fund and the Revolving Fund are in accordance with the undertaking and agreement of the City made in connection with the sale of the Bond as set forth in Section 1.04.

4.02. Construction of Improvements. The City has taken all steps necessary to enforce the provisions of the construction contracts and bond relating to the Improvements and to ensure the completion of the Improvements for the benefit of the District in accordance with the plans and specifications and within the time therein provided, and has paid all costs thereof promptly as incurred and allowed, out of the District Fund. All awards of contracts have complied with the applicable bid and award statutes.

4.03. Levy of Assessments. The City will do all acts and things necessary for the final and valid levy of special assessments upon all assessable real property within the boundaries of the District in accordance with the Constitution and laws of the State of Montana and the Constitution of the United States in an aggregate principal amount not less than the original principal amount of the Bond. Such special assessments shall be levied on the basis or bases prescribed in the Resolution of Intention and shall be payable in semiannual installments during the term of the Bond. Each special assessment shall bear interest on the whole amount remaining unpaid at an annual rate equal to the sum, determined as of the date an installment of the special assessment is levied each fiscal year, of: (i) the then current Loan Rate, plus (ii) one percent (1.00%) per annum, plus (iii) if and to the extent that the Loan Rate is then less than 15% per annum (the maximum interest rate on the Bond), an additional one percent (1.00%) per annum, interest being payable with principal installments. The assessments to be levied will be payable on the 30th day of November and on the 31st day of May in each fiscal year during the term of the Bond and, if not theretofore paid, shall become delinquent on such date unless paid in full. The first partial payment of each assessment shall include interest on the entire assessment from the date of original registration of the Bond to the first interest payment date thereon, and each subsequent partial

payment shall include interest for six months on that payment and the then remaining balance of the special assessment. The assessments shall constitute a lien upon and against the property against which they are made and levied, which lien may be extinguished only by payment of the assessment with all penalties, cost and interest as provided in Montana Code Annotated, Section 7-12-2168. No tax deed issued with respect to any lot or parcel of land shall operate as payment of any installment of the assessment thereon which is payable after the execution of such deed, and any tax deed so issued shall convey title subject only to the lien of said future installments, as provided in Montana Code Annotated, Section 15-18-214.

4.04. Reassessment. If at any time and for whatever reason any special assessment or tax herein agreed to be levied is held invalid, the City and this Council, its officers and employees, will take all steps necessary to correct the same and to reassess and re-levy the same, including the ordering of work, with the same force and effect as if made at the time provided by law, ordinance or resolution relating thereto, and will reassess and re-levy the same with the same force and effect as an original levy thereof, as authorized in Montana Code Annotated, Section 7-12-4186. Any special assessment, or reassessment or re-levy shall, so far as is practicable, be levied and collected as it would have been if the first levy had been enforced including the levy and collection of any interest accrued on the first levy.

If proceeds of the Bond, including investment income thereon, are applied to the redemption of principal installments thereof, as provided in Montana Code Annotated, Sections 7-12-4205 and 7-12-4206, or if refunding bonds are issued and the principal amount of the outstanding bond of the District is decreased or increased, the City will reduce or increase, respectively, the assessments levied in the District and then outstanding pro rata by the principal amount of such prepayment or the increment above or below the outstanding principal amount of bond represented by the refunding bonds in accordance with the provisions of Montana Code Annotated, Sections 7-12-4192.

4.05. Absence of Litigation. There is now no litigation pending or, to the best knowledge of the City, threatened questioning the validity or regularity of the creation of the District, or the undertaking and agreement of the City to levy special assessments therefor and to make good any deficiency in the collection thereof through the levy of taxes for and the making of advances from the Revolving Fund, or the right and power of the City to issue the Bond or in any manner questioning the existence of any condition precedent to the exercise of the City's powers in these matters. If any such litigation should be initiated or threatened, the City will forthwith notify in writing the Board of Investments, and will furnish the Board of Investments a copy of all documents, including pleadings, in connection with such litigation.

4.06. Waiver of Penalty and Interest. The City covenants not to waive the payment of penalty or interest on delinquent assessments levied on property in the District for costs of the Improvements.

4.07. Additional Pledge of Revolving Fund. The City agrees that so long as any principal or interest on the Bond is outstanding and unpaid, that it will not pledge to make a loan from the City Revolving Fund as authorized in 7-12-4223 M.C.A. for the benefit of any additional City improvement district or any additional project within a currently established special improvement district without the Board of Investments' written consent.

Section 5. Mandatory Contribution to Revolving Fund As provided in 7-12-4222, M.C.A., the City must provide an amount equal to 5% of the principal amount of any bonds or warrants to be issued if the bonds or warrants are secured by the Revolving Fund. The County will deposit an amount equal to 5% of the principal amount of the Bond advanced into the Revolving Fund.

Section 6. Conclusive Findings as Required by Statute By adopting this Resolution, the City authorizes the issuance of the Bond and its sale to the Board of Investments. The City Revolving Fund is pledged as part of the security of the Bond. As required by 7-12-4225 M.C.A., the City makes the express finding that the creation of the District, the authorization of bonded indebtedness, and the pledge of the Revolving Fund are in the public interest after the Council has considered the following and other material factors as required by law:

a) the estimated market value of the lots, parcels, or tracts included in the District at the time that the District is created in comparison to the estimated market value of the value of lots, parcels, or tracts after the

improvements are made;

- b) the diversity of ownership of property in the District;
- c) the amount of the special assessments proposed to be levied against each lot, parcel, or tract in the District in comparison to the estimated market value of the lot, parcel, or tract after the improvements are made;
- d) the amount of any outstanding special assessments against the property in the District;
- e) the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against property in the District; and
- f) the public benefit of the improvements proposed to be financed.

Section 7. Authentication of Transcript. The officers of the City are hereby authorized and directed to furnish to the Board of Investments certified copies of all proceedings relating to the issuance of the Bond and such other certificates and affidavits as may be required to show the right, power and authority of the City to issue the Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the City as to the truth of the statements purported to be shown thereby.

Section 8. Discharge. When the liability of the City on the Bond has been discharged as provided in Section 2, all pledges, covenants and other rights granted by this Resolution to the owners of the Bond shall cease.

PASSED by the Council of the City of Billings, Montana, this _____ day of _____, 2009.

Mayor

Attest: _____
City Clerk

EXHIBIT A

UNITED STATES OF AMERICA
 STATE OF MONTANA
 CITY OF _____
 SPECIAL IMPROVEMENT DISTRICT NO. _____

\$ _____ SPECIAL IMPROVEMENT DISTRICT NO. _____ BOND

Interest at the rate per annum specified below
 Payable _____ and
 semiannually thereafter
 on the 15th day of February
 and the 15th day of August in each year.

No. _____ \$ _____

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>
Variable	_____	_____

REGISTERED OWNER: BOARD OF INVESTMENTS

PRINCIPAL AMOUNT: \$ _____

The City Treasurer of _____, Montana, will pay to the Board of Investments of the State of Montana (the "Board"), or registered assigns, on the maturity date specified above the principal amount of _____ (\$ _____), in principal installments on each February 15 and August 15 in the years and in the principal amounts set forth by the Board, solely from the revenues hereinafter specified, as authorized by Resolution No. _____ adopted _____ (the "Resolution"), all subject to the provisions hereinafter described relating to the redemption of this Bond before maturity. Upon each disbursement of the SID Bond No. 2009-5 proceeds, the Board of Investments shall prepare an amortization schedule that will serve as specific evidence of actual draws made and outstanding.

Unpaid principal installments of this Bond shall bear interest from the date of delivery of the Bond at the rate per annum equal to the Loan Rate (as hereinafter defined), as determined from time to time, for the periods hereinafter described. Interest shall be payable on each February 15th and August 15th, commencing _____, to the owners of record of this Bond as such appear on the bond register on the date of payment, whether or not such day is a business day. The Bond shall represent all the principal installments of the issue.

SCHEDULE OF PRINCIPAL INSTALLMENTS

<u>Payment Date</u>	<u>Principal Payment</u>	<u>Payment Date</u>	<u>Principal Payment</u>
August 15, 2010	\$2,683.00	February 15, 2011	\$2,683.00
August 15, 2011	2,683.00	February 15, 2012	2,683.00
August 15, 2012	2,683.00	February 15, 2013	2,683.00
August 15, 2013	2,683.00	February 15, 2014	2,683.00
August 15, 2014	2,683.00	February 15, 2015	2,683.00
August 15, 2015	2,683.00	February 15, 2016	2,683.00
August 15, 2016	2,683.00	February 15, 2017	2,683.00
August 15, 2017	2,683.00	February 15, 2018	2,683.00
August 15, 2018	2,683.00	February 15, 2019	2,683.00

<u>August 15, 2019</u>	<u>2,683.00</u>	<u>February 15, 2020</u>	<u>2,683.00</u>
<u>August 15, 2020</u>	<u>2,683.00</u>	<u>February 15, 2021</u>	<u>2,683.00</u>
<u>August 15, 2021</u>	<u>2,683.00</u>	<u>February 15, 2022</u>	<u>2,683.00</u>
<u>August 15, 2022</u>	<u>2,683.00</u>	<u>February 15, 2023</u>	<u>2,683.00</u>
<u>August 15, 2023</u>	<u>2,683.00</u>	<u>February 15, 2024</u>	<u>2,683.00</u>
<u>August 15, 2024</u>	<u>2,683.00</u>	<u>February 15, 2025</u>	<u>2,693.00</u>

For purposes of this Bond, "Loan Rate" shall mean, for the period from the date of original registration of the Bond until February 15, _____, the rate of _____ and _____ hundredths percent (_____%) per annum, and, for each twelve-month or shorter period thereafter during the term of this Bond commencing on February 16th and concluding on February 15th in the next succeeding year an annual interest rate specified by the Trustee and calculated as provided under the Indenture (each as defined in the Resolution), which rate generally shall be equal to the sum of (i) the interest rate on the Board Bonds (as defined in the Resolution) during such period (which interest rate may not exceed fifteen percent (15%) per annum) plus (ii) a rate, not to exceed one and one-half percent (1.50%) per annum, sufficient to produce the amount necessary to pay the City's share of Program Expenses (as defined in the Resolution). The principal of and interest on this Bond are payable in lawful money of the United States of America.

This Bond comprises an issue in the aggregate principal amount of \$ _____ and is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42 to finance the costs of certain local improvements (the "Improvements") for the special benefit of property located in Special Improvement District No. _____ of the City (the "District"). Reference is made to the Resolution for a more complete statement of the terms and conditions upon which this Bond has been issued. The Bond is issuable only as a single, fully registered bond.

This Bond is payable from the collection of a special tax or assessment levied upon all assessable real property within the boundaries of the District, in an aggregate principal amount of not less than \$ _____, except as such amount may be reduced or increased in accordance with provisions of Montana law. Such assessments constitute a lien against the assessable real estate within the District, and this Bond is not a general obligation of the City's.

The principal installments of this Bond are subject to mandatory redemption in order of registration on any interest payment date if, after paying all principal and interest then currently due on this Bond, there are monies available in or to the credit of the Special Improvement District No. _____ Fund of the City, either from the prepayment of assessments levied in the District or from surplus proceeds of the Bond not required to pay costs of the Improvements, for the redemption thereof, and in the manner provided for the redemption of the same. The principal installments of this Bond are subject to redemption at the option of the City from other sources of funds available therefor on any interest payment date. The redemption price is equal to the amount of the principal installment or installments of the Bond to be redeemed plus interest accrued thereon to the date of redemption, without premium. The date of redemption shall be fixed by the City Treasurer, who shall give notice by first class mail, postage prepaid, to the owner or owners of this Bond at their addresses shown on the bond register, of the numbers of the principal installments to be redeemed and the date on which payment will be made, which date shall not be less than ten days after the date of mailing of notice, on which date so fixed interest shall cease. On the date so fixed interest on the principal installments of this Bond so redeemed shall cease to accrue.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all things required to be done precedent to the issuance of this Bond have been properly done, happened and been performed in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of the City of _____, Montana, relating to the issuance thereof.

IN WITNESS WHEREOF, the City of _____, Montana, by its City Council, has caused this Bond to be executed by the signatures of the Mayor and the City Clerk, and by the official seal of the City.

City of, _____, MONTANA

EXAMPLE

Mayor

EXAMPLE

City Clerk

(Seal)

Dated: _____

CERTIFICATE OF REGISTRATION

This Bond and the principal installments hereof have been registered as required by law on the books of the City as of the _____ day of _____, _____.

EXAMPLE

City Treasurer

REGISTRATION AND TRANSFER

This Bond shall be fully registered as to both principal and interest. No transfer of this Bond shall be valid unless and until (1) the registered holder of the Bond, or his duly authorized attorney or legal representative, executes the form of assignment appearing on this Bond, and (2) the City Treasurer, or any successor appointed by the City, as bond registrar (the "Registrar"), has duly noted the transfer on the Bond and recorded the transfer on the Registrar's registration books. The City shall be entitled to deem and treat the person in whose name this Bond is registered as absolute owner thereof for all purposes, notwithstanding any notice to the contrary. Payments on account of the Bond shall be made only to the order of the registered holder thereof, and all such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond to the extent of the sum or sums so paid.

THE FOLLOWING ENTRIES ARE TO BE MADE ONLY BY THE BOND REGISTRAR UPON REGISTRATION OF EACH TRANSFER

The City Treasurer of the City of _____, Montana, or any successor appointed by the City, acting as Bond Registrar, has transferred, on the books of the City, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

<u>Date of Transfer</u>	<u>Name of New Registered Holder</u>	<u>Signature of Bond Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FORM OF ASSIGNMENT

For value received, this Bond is hereby transferred and assigned by the undersigned holder, without recourse, to _____ on this _____ day of _____.

By: EXAMPLE
(authorized signature)

For: EXAMPLE
(Holder)

EXAMPLE

Date: 12/14/2009

TITLE: Preliminary Subsequent Minor Plat of Miller Crossing Subdivision, 3rd Filing

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

On November 2, 2009, owner, Sam’s Real Estate Business Trust, applied for preliminary subsequent minor plat approval for Miller Crossing Subdivision, 3rd Filing. The proposed subdivision contains two lots on approximately 14.36 acres of land. The subject property is located on the southwest corner of King Avenue East and Orchard Lane. The property is zoned Entryway General Commercial (EGC) and is currently the site of the nearly completed Sam’s Club store. Sanderson Stewart is the representing agent. The City Council will review the preliminary plat, and approve, conditionally approve, or deny the proposal at the December 14, 2009, meeting.

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. Within the 35 day review period, the City Council is required to:

- 1. Approve;
- 2. Conditionally Approve; or
- 3. Deny the Preliminary Plat

FINANCIAL IMPACT

Upon completion of the development of the property, additional tax revenue may be generated for the City.

BACKGROUND

On November 2, 2009, owner, Sam’s Real Estate Business Trust, applied for preliminary subsequent minor plat approval for Miller Crossing Subdivision, 3rd Filing. The proposed subdivision contains two lots on approximately 14.36 acres of land. The subject property is located on the southwest corner of King Avenue East and Orchard Lane. The property is zoned Entryway General Commercial (EGC) and is currently the site of the nearly completed Sam’s Club store. Sanderson Stewart is the representing agent. The subject property is also part of the South Billings Boulevard Tax Increment Finance District (TIFD).

General location: South side of King Avenue East on the west side of Orchard Lane

Legal Description: Lot 2A-4, Block 1, of Amended Plat of 2A, Block 1, of Amended Lots 2-5, Block 1, of Miller Crossing Subdivision

Subdivider/ Owner: Sam’s Retail Business Trust

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: EGC

Existing land use: Commercial—Sam’s Club

Proposed land use: Commercial

Gross area: 14.355 acres

Net area: 14.355 acres

Proposed number of lots: 2

Lot size: Max: 13.049 acres

Min.: 1.306 acres

Parkland requirements: There is no parkland dedication required for commercial subdivisions

STAKEHOLDERS

A public hearing is not required for minor subdivisions. However, any interested party may review the proposal and make comments. The Planning Division has received no public input on this proposal at the time this staff report was completed.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact (Attachment 2).

RECOMMENDATION

Planning Staff recommends that the City Council grant conditional approval of the preliminary plat of Miller Crossing Subdivision, 3rd Filing, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Recommended Conditions of Approval

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

1. To ensure the provision of easements and minimize effects on public health and safety, a Declaration of Covenant for Reciprocal Shared Access Easement and Utility Easements shall be recorded prior to or with the final plat documents.
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 Yellowstone County, and the laws and Administrative Rules of the State of Montana.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Preliminary Plat](#)

Link: [Findings of Fact](#)

Link: [Mayor's Letter](#)

Link: [Site Photos](#)

PRELIMINARY PLAT OF MILLER CROSSING SUBDIVISION, THIRD FILING

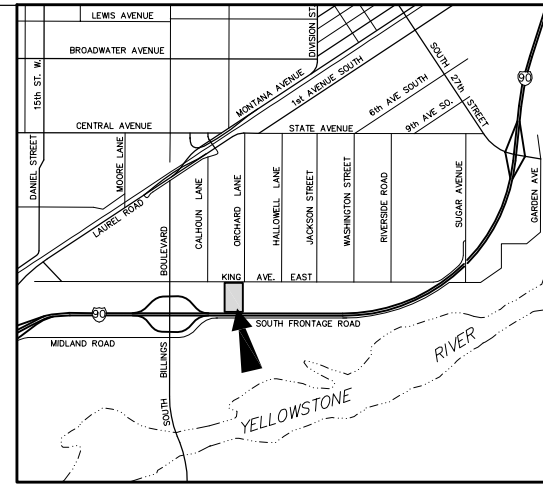
BEING LOT 2A-4 OF AMENDED PLAT OF LOT 2A OF AMENDED
LOTS 2, 3, 4, & 5, BLOCK 1, MILLER CROSSING SUBDIVISION
SITUATED IN THE NW1/4 OF SECTION 16, T. 1 S., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : SAM'S RETAIL BUSINESS TRUST

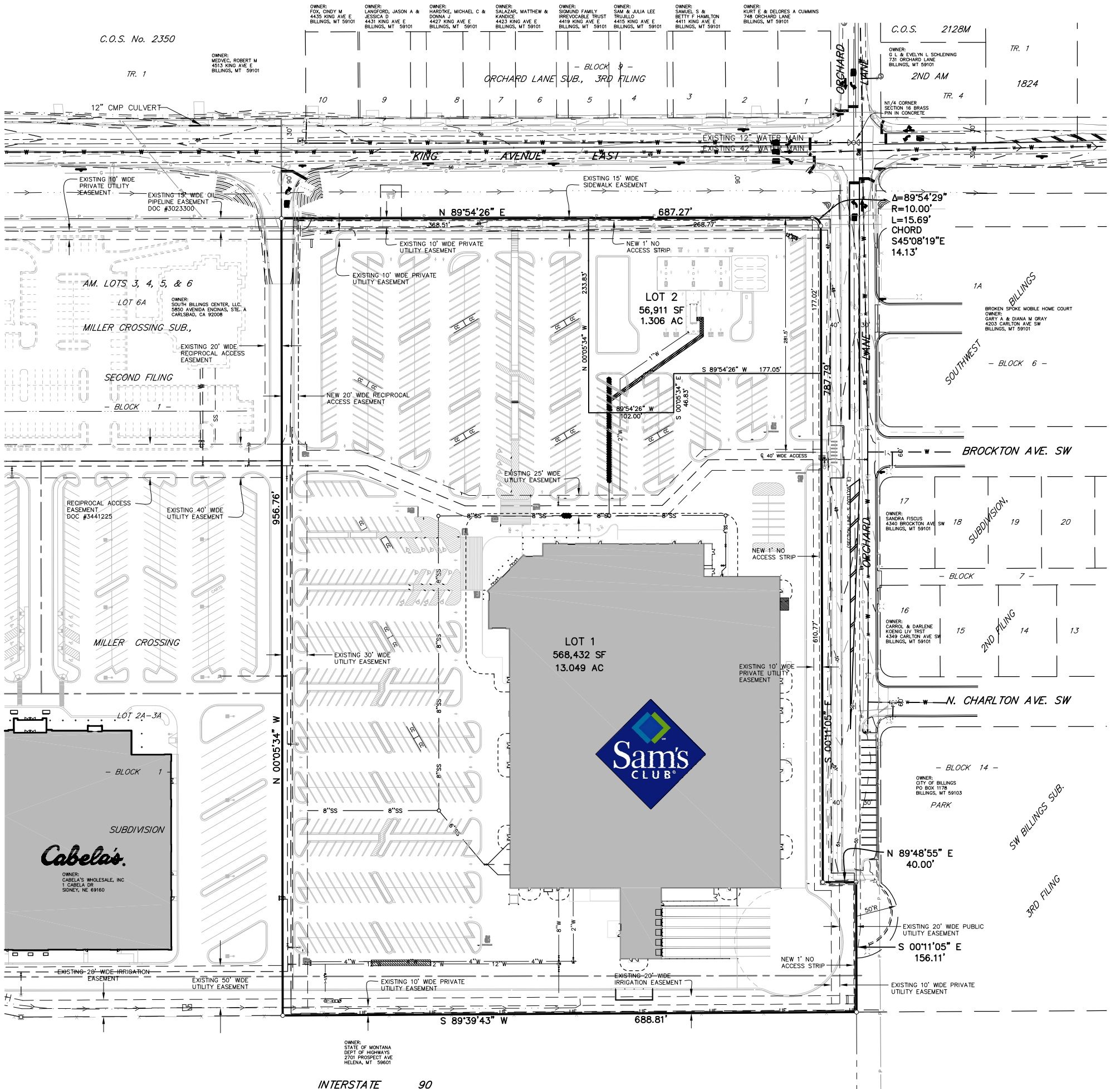
OCTOBER, 2009

PREPARED BY : SANDERSON STEWART 

BILLINGS, MONTANA



VICINITY MAP
NOT TO SCALE



PLAT DATA

GROSS AREA	=	14.355 AC
NET AREA	=	14.355 AC
NUMBER OF LOTS	=	2
MINIMUM LOT SIZE	=	1.306 AC
MAXIMUM LOT SIZE	=	13.049 AC
LINEAL FEET OF STREETS	=	NA
PARKLAND REQUIREMENT	=	NA
EXISTING ZONING	=	ENTRYWAY GENERAL COMMERCIAL
SURROUNDING ZONING:		
NORTH	=	RESIDENTIAL 7000
SOUTH	=	I-90 & PLANNED UNIT DEVELOPMENT
EAST	=	RESIDENTIAL MULTI-FAMILY & PUBLIC
WEST	=	ENTRYWAY GENERAL COMMERCIAL
EXISTING LAND USE	=	COMMERCIAL DEVELOPMENT
PROPOSED LAND USE	=	COMMERCIAL DEVELOPMENT

Findings of Fact

The Planning staff is forwarding the recommended Findings of Fact for Miller Crossing Subdivision, 3rd Filing 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 (Article 23-303(H), BMCC).

A. What are the effects on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and public health and safety? (76-3-608 (3)(a), MCA) (23-302(H)(2), BMCC)

1. Effect on agriculture and agricultural water user facilities

The subject property has historically been utilized for crop production. However, when the subject property was previously platted in 2008, it was recognized that this agricultural land was suitable for commercial development due to its small acreage and proximity to Interstate-90 and City services.

The City/County drain is located along the northern border of the site and provides drainage for properties in the area. The subdivider is not proposing any alterations to the drain with the exception of trail construction and landscaping along the southern border of the drain.

2. Effect on local services

- a. **Utilities** – Water services to each of the lots will connect to a 12-inch public water main constructed under private contract (PC#585) within an existing public utility easement that runs through the site under the main access drive in the parking lot. Service will be stubbed to each lot from the water main that is in the public easement. A reciprocal access and utility easement agreement will be recorded to ensure that Lot 2 has access to the water main, across Lot 1 (**Condition #1**). The owner of each lot is responsible for extension of water service within the lot from the easement boundary to the building.

Sanitary sewer services to each of the lots will be through an 8-inch public sewer main constructed under private contract within an existing public utility easement that runs on the western boundary of Lot 1. A reciprocal access and utility easement agreement will be recorded to ensure that Lot 2 has access to the sanitary sewer service, across Lot 1 (**Condition #1**). The owner of each lot is responsible for extension of sewer service within the lot from the easement boundary to the building.

- b. **Stormwater** – As specified in the SIA, the subdivision shall have a combination of surface and subsurface detention sized in accordance with the City of Billings Storm Water Management Manual. Discharges shall be permitted to the City/County drain which lies along the north property line of the subdivision.
- 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** -Access to both lots shall be from King Avenue East crossing the City/County Drain at an access on the western boundary of the subdivision. This access is shared with the Cabela's store to the west and reciprocal access agreements are already in place. A second access connecting from the internal circulation street to Orchard Lane across from Brockton Avenue is also shown on the final plat. Internal circulation, access widths and construction details shall be in accordance with City of Billings' site development ordinances.

Street improvements to King Avenue East and Orchard Lane have been completed as recommended by the Traffic Accessibility Study, prepared with the overall development. The City of Billings has constructed these improvements through a Special Improvement District and bonding based on funding from the South Billings Tax Increment Finance District (TIFD).

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 501 South 28th Street (Station #2). The fire department finds the proposed accesses and hydrant locations adequate for emergency vehicles. The Police Department indicated that they have had discussions with the site's management regarding security, and will continue to be in contact with them. The subdivision is located within the ambulance service area of American Medical Response (AMR); no comments were received.
- f. **Schools** – The subdivision is located within School District #2. Because it is a commercial subdivision there will be no impact on school populations.
- g. **Parks and Recreation** – Because this is a commercial development, the subdivider is not required to provide parkland dedication.
- h. **Mail Delivery** - The United States Postal Service has previously worked with the owners of this property and adjacent properties to establish a centralized delivery location for the entire commercial complex. It is located by Cabela's in the middle of the parking lot.

3. Effect on the natural environment

A geotechnical report was submitted with this application and indicates that there are variable soil conditions throughout the subdivision. Due to the low bearing strength of compressible clay soils the buildings should be designed with spread footings. The Building Official will require verification from a qualified engineer regarding structural designs and preparation prior to installing footings. These requirements will be satisfied with the submission of building permits on the property. Building permits are in the review and approval process for the property.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. MFWP reviewed the proposed subdivision and indicated that future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. It has already been determined that the newly planted trees next to the drain on the north side of the property were damaged and removed by beavers. Any damage caused by wildlife is the responsibility of the owner.

5. Effect on the public health, safety and welfare

There are two conditions that exist on the subject property that may potentially create problems for future landowners: low compression soils and an oil pipeline that exists within a 15-foot-wide oil pipeline easement along the north boundary of both lots. These issues have been addressed within the Conditions that Run with the Land portion of the SIA to warn future lot owners.

B. Was an Environmental Assessment required? (76-3-210, MCA) (23-901, BMCC)

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

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the 2005 Transportation Plan Update, and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2008 Growth Policy

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

- a. **Goal: More housing and business choices within each neighborhood (Land Use Element Goal, Page 6).**

The proposed subdivision would provide for more business choices within this portion of the City.

- b. **Goal: Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, Page 6).**

The subject property is surrounded by a mix of residential and commercial developments and is considered infill.

- c. **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element Goal, page 6)**

The new development is in an area of Billings that is well suited to commercial development. It is located adjacent to I-90 and King Avenue East, as well as a freeway interchange.

- d. **Goal: Coordinated economic development efforts that target business recruitment, retention and expansion.**

The new development will enable the expansion of Sam's Club with additional development in this commercial hub.

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. This

portion of King Avenue is classified as a Minor Arterial street and was recently upgraded to meet the current needs of this neighborhood and commercial site.

3. Heritage Trail Plan

The City/County Drain located along the northern boundary of the property, is depicted as a trail corridor within the Heritage Trail Plan. As such, the subdivider has provided an easement for a 10-foot wide trail along on the northern property lines along King Avenue East. The trail was recently built by the city partially on public right-of-way and partially in the easement provided along the southern boundary of the drain. It has been landscaped and will be maintained by the property owners.

4. South Billings Boulevard Master Plan

The South Billings Boulevard Master Plan, adopted in 1990 and revised on September 27, 2002, defines one objective of this area as a place “To encourage the development of large, well planned projects designed to serve the area over a long period of time, as opposed to small, hastily conceived projects that do little to add to the overall appearance or economic vitality of the area.” Another objective is “To present a favorable and attractive image for Billings from Interstate 90, King Avenue and South Billings Boulevard.”

The proposed development is for commercial uses with shopping opportunities for travelers as well as the local population. The EGC zoning on this parcel of land requires aesthetically pleasing buildings and also requires more landscaping than what is required in other commercial zonings in Billings. The entire site is master planned so the circulation, parking and buildings are laid out to work together to provide good circulation through the site and for an aesthetically pleasing shopping center. It will be an attractive addition to the area for Billings and travelers along the freeway, and not an industrial use area similar to others along the I-90 corridor through Billings.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA) (23-301, BMCC)

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? (23-408, BMCC)

The subdivision will utilize city water, 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? (23-402, BMCC)

The subject property shall conform to the requirements set forth by Article 27-1000 of the Unified Zoning Regulations for the EGC zoning districts.

G. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3)(c), MCA) (23-410(A)(1), BMCC)

The City Engineering Department and the private utility companies have already determined where needed utility easements should be with the previous plat of this property. To ensure that internal access roads and utility lines are unencumbered, Condition #1 requires the subdivider to record a Declaration of Covenant for Reciprocal Shared Access Easement and Utility Easements prior to or with the final plat documents.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Legal and physical access to the proposed subdivision will be via King Avenue East and Orchard Lane. Each lot will have access from internal private subdivision streets.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Miller Crossing Subdivision, 3rd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, December 14, 2009.

Ron Tussing, Mayor

Mayor's Approval Letter

December 14, 2009

John Clarke, Regional Vice President
Sam's Real Estate Business Trust
2001 S.E. 10th St.
Bentonville, AR 72716

Dear Mr. Clark:

On December 14, 2009, the Billings City Council conditionally approved the preliminary plat of Miller Crossing Subdivision, 3rd Filing subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, a Declaration of Covenant for Reciprocal Shared Access Easement and Utility Easements shall be recorded prior to or with the final plat documents.
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 Yellowstone County, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Juliet Spalding with the Planning Division at 247-8684 or by email at spaldingj@ci.billings.mt.us

Sincerely,

Ron Tussing, Mayor

Pc: Tim Pirtz, PE, Sanderson Stewart

Site Photographs



Figure 1: View from shared access drive off of King Ave. East of Lot 1 where Sam's Club is located.



Figure 2: Looking east at Lot 2 where gas island is located. Newly installed trail along the City drain is on left.



Figure 3: Looking north from east property line at access road onto Orchard Lane.

Regular City Council Meeting

Consent : 1.O.1.

Date: 12/14/2009

TITLE: Payment of Claims, 11/09/2009.

Pat M. Weber, Financial

PRESENTED BY: Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$2,201,916.56 have been audited and are presented for your approval for payment. A complete listing of the claims dated November 9, 2009, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

- Approve the payment of claims; or
- Not approve the payment of claims.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the council.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [List of claims greater than \\$2500.](#)

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
11/09/2009	726288	ABB INC.	16502			5,075.03	
512-8400-623.23-60	11/05/2009	ACS800 DRIVE	7100186668	270356	05/2010	5,075.03	
11/09/2009	726292	ACOM INC	20212			18,835.00	
521-1593-493.24-50	10/30/2009	GARAGE PAINTING	263	269242	04/2010	3,000.00	
521-1593-493.24-50	11/03/2009	CORRECTION P.O. 269242	262	270323	05/2010	3,000.00	
521-1593-493.24-50	11/03/2009	CORRECTION TO P.O. 269242	262	270325	05/2010	2,850.00	
521-0000-201.10-00	11/05/2009	GARAGE PAINTING	RET RELEASE	270325	05/2010	150.00	
521-0000-201.10-00	11/05/2009	GARAGE PAINTING	RET RELEASE	269242	05/2010	106.25	
521-0000-201.10-00	11/05/2009	GARAGE PAINTING	RET RELEASE	260381	05/2010	15,728.75	
11/09/2009	726293	ACTIVE TRANSPORTATION ALTERNAT	20644			5,667.00	
240-4301-419.72-14	10/30/2009	ALT MODES OCT 09	ALT MODES OCT	270252	04/2010	5,667.00	
11/09/2009	726315	BILLINGS CARPET CLEANING	15109			2,806.65	
260-5512-455.24-50	10/29/2009	4TH FLOOR CARPET CLEANING	14981	F10013	04/2010	2,806.65	
11/09/2009	726316	BILLINGS COMMUNITY CABLE	413			25,000.00	
10-1411-414.72-66	11/02/2009	MISC SERVICES	10262009	270268	05/2010	25,000.00	
11/09/2009	726327	BRENNTAG PACIFIC INC	17236			12,616.48	
512-8400-623.22-20	11/04/2009	MISC SERVICES	BPI940818	270288	05/2010	1,167.50	
211-3134-433.47-20	11/04/2009	ROAD/HIGHWAY MATERIAL	BPI940819	270387	05/2010	5,691.43	
211-3134-433.47-20	11/04/2009	ROAD/HIGHWAY MATERIAL	BPI940820	270387	05/2010	5,757.55	
11/09/2009	726330	BUSINESS TAX SECTION	2449			14,294.03	
503-7591-609.93-40	10/28/2009	TEMP WATER SVC	2450	270114	04/2010	44.00	
503-7591-609.93-40	10/28/2009	TEMP WATER SERVICE	2501	270114	04/2010	66.00	
840-0000-201.10-00	11/04/2009	WO0105 LAKE HILLS SW	RET RELEASE	263201	04/2010	190.23	
210-0000-201.10-00	11/04/2009	WO0304 JACKSON ST SDWLKS	RET RELEASE	268421	04/2010	25.00	
840-0000-201.10-00	11/04/2009	WO0304 JACKSON ST SDWLKS	RET RELEASE	268421	04/2010	2.60	
205-0000-201.10-00	11/04/2009	WO0304 JACKSON ST SDWLKS	RET RELEASE	268421	04/2010	9.58	
503-0000-201.10-00	11/04/2009	WO0823 WICKS LANE	RET RELEASE	266309	04/2010	88.25	
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562-7120-711.92-90	11/04/2009	MISC SERVICES	267080-2	267080	05/2010	305.52	
205-3131-433.93-10	11/04/2009	WO0917	FUND CORRECTION	269602	05/2010	54.19	
205-3131-433.93-10	11/04/2009	WO0917 24TH ST W CONCRETE	FUND CORRECTION	269602	05/2010	54.19	
503-7591-609.93-40	11/04/2009	TEMP WATER SERVICE	2526	270114	05/2010	55.00	
503-7591-609.93-40	11/04/2009	TEMP WATER SERVICE	2527	270114	05/2010	9.00	
503-7591-609.93-40	11/04/2009	TEMP WATER SERVICE	2529	270114	05/2010	5.00	
840-3184-431.93-10	11/05/2009	WO0105 LAKE HILLS STRMWTR	7	263201	05/2010	296.25	
205-3131-433.93-10	11/05/2009	WO0802 MISC. DEVELOPER	6	265381	05/2010	184.01	
448-3165-431.93-11	11/05/2009	WO0802 MISC. DEVELOPER	6	265381	05/2010	121.29	
840-3184-431.93-10	11/05/2009	WO0802 MISC. DEVELOPER	6	265381	05/2010	2.37	
503-7591-609.93-40	11/05/2009	WO0801 2008 WTR&SWR SCH 3	4	265601	05/2010	6,828.27	

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513-8591-625.93-40	11/05/2009	WO0801 2008 WTR&SWR SCH 3	4	265601	05/2010	1,489.07	
416-7493-603.92-20	11/05/2009	WO0426 ZONE 4 RSVR PHS 1	1	267953	05/2010	1,378.26	
416-7493-603.92-20	11/05/2009	WO0426 ZONE 4 RSVR	2	267994	05/2010	1,708.63	
205-3131-433.93-10	11/05/2009	WO0304 JACKSON ST SIDEWLK	2	268421	05/2010	119.01	
840-3184-431.93-10	11/05/2009	WO0304 JACKSON ST SIDEWLK	2	268421	05/2010	16.44	
205-3131-433.93-10	11/05/2009	WO0917 24TH ST W CONCRETE	2	269602	05/2010	96.26	
845-3186-431.93-10	11/05/2009	WO0917 24TH ST W CONCRETE	2	269602	05/2010	51.48	
414-1519-493.92-24	11/05/2009	PARK 1 ELEVATOR TAX	APP 1	270250	05/2010	695.24	
505-7515-609.36-71	11/05/2009	WATER SERVICE REPAIR	272968	270334	05/2010	195.00	
205-3131-433.93-10	11/05/2009	WO0830 POLY DR SIDEWALKS	1	270377	05/2010	20.61	
210-3110-431.93-11	11/05/2009	WO0830 POLY DR SIDEWALKS	1	270377	05/2010	204.99	
449-3165-431.93-11	11/05/2009	WO0830 POLY DR SIDEWALKS	1	270377	05/2010	11.16	
11/09/2009	726333	CB & I INC	20708			136,447.74	
416-7493-603.92-20	11/05/2009	WO0426 ZONE 4 RSVR PHS 1	1	267952	05/2010	136,447.74	
11/09/2009	726335	CIBA SPECIALTY CHEMICALS	13646			49,280.00	
502-0000-141.00-00	10/23/2009	WATER PARTS AND SUPPLIES	91125844		04/2010	49,280.00	
11/09/2009	726341	COMMERCIAL ROOFING	816			30,246.48	
562-7120-711.92-90	11/04/2009	MISC SERVICES	266984-2	266984	05/2010	30,246.48	
11/09/2009	726345	COP CONSTRUCTION CO	865			823,416.21	
503-7591-609.93-40	11/05/2009	WO0801 WTR&SWR REHABSCH3	4	265600	05/2010	675,998.31	
513-8591-625.93-40	11/05/2009	WO0801 WTR&SWR REHABSCH3	4	265600	05/2010	147,417.90	
11/09/2009	726346	COUNTY WATER DISTRICT OF	881			19,300.88	
150-2221-422.34-20	11/02/2009	FIRE6/WATER/48,680 GALLNS	16118-00 09OCT	267470	05/2010	124.63	
512-8500-625.34-20	11/04/2009	MISC SERVICES	1603500 OCT09	270290	05/2010	149.46	
805-1570-425.53-50	11/04/2009	MISC SERVICES	1285	270414	05/2010	18,509.04	
10-5112-452.34-20	11/05/2009	WATER CHARGES	08163	270365	05/2010	20.73	
872-5198-452.34-20	11/05/2009	WATER CHARGES	10112	270365	05/2010	43.86	
10-5112-452.34-20	11/05/2009	WATER CHARGES	13137	270365	05/2010	17.55	
10-5112-452.34-20	11/05/2009	WATER CHARGES	13138	270365	05/2010	40.79	
872-5198-452.34-20	11/05/2009	WATER CHARGES	16219	270365	05/2010	140.59	
872-5198-452.34-20	11/05/2009	WATER CHARGES	17140	270365	05/2010	254.23	
11/09/2009	726349	CURB BOX SPECIALISTS	5716			21,721.00	
503-7591-609.93-40	10/28/2009	TEMP WATER SVC	2450	270113	04/2010	4,356.00	
503-7591-609.93-40	10/28/2009	TEMP WATER SERVICE	2501	270113	04/2010	6,534.00	
503-7591-609.93-40	11/04/2009	TEMP WATER SERVICE	2526	270113	05/2010	5,445.00	
503-7591-609.93-40	11/04/2009	TEMP WATER SERVICE	2527	270113	05/2010	891.00	
503-7591-609.93-40	11/04/2009	TEMP WATER SERVICE	2529	270113	05/2010	495.00	
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11/09/2009	726354	DORSEY & WHITNEY LLP	8347			10,000.00	
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11/09/2009	726361	EIDEBAILLY LLP	15349			17,190.00	
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502-7400-603.22-20	11/04/2009	MISC SERVICES	143109	269538	05/2010	40.03	
11/09/2009	726373	FOREVER FAMILIES	19705			7,958.45	
295-6686-463.72-75	11/04/2009	MISC SERVICES	FY2000-12 #1	270367	05/2010	7,958.45	
11/09/2009	726380	GILLIG CORPORATION	18154			2,766.16	
601-0000-141.71-41	10/29/2009	MP	4574055		04/2010	191.24	
571-7144-713.23-20	10/29/2009	MP	4574056	270204	04/2010	128.31	
601-0000-141.71-41	10/30/2009	MP	4574902		04/2010	554.29	
630-1753-485.73-10	10/30/2009	MISC SERVICES	4577086	270240	04/2010	761.20	
630-1753-485.73-10	10/30/2009	MISC SERVICES	5018417	270240	04/2010	79.46-	
571-7144-713.23-20	11/04/2009	MP	4560835	270394	05/2010	1,210.58	
11/09/2009	726382	GRAINGER PARTS	16331			2,739.08	
512-8500-625.23-60	11/04/2009	MISC SERVICES	9079990348	269458	05/2010	769.12	
512-8500-625.23-60	11/04/2009	MISC SERVICES	9080919799	269458	05/2010	291.95	
512-8400-623.23-60	11/04/2009	MISC SERVICES	9097823901	269458	05/2010	76.77	
502-7400-603.24-50	11/04/2009	MISC SERVICES	9100544197	269458	05/2010	182.25	
512-8500-625.23-60	11/04/2009	MISC SERVICES	9103450913	269458	05/2010	90.32	
512-8400-623.23-60	11/04/2009	MISC SERVICES	9103450921	269458	05/2010	74.83	
502-7400-603.24-50	11/04/2009	MISC SERVICES	9105862503	270353	05/2010	56.36	
512-8400-623.23-60	11/04/2009	MISC SERVICES	9106034375	270353	05/2010	848.49	
512-8400-623.23-60	11/04/2009	MISC SERVICES	9106034383	270353	05/2010	266.22	
512-8400-623.23-60	11/04/2009	MISC SERVICES	9106034391	270353	05/2010	55.18	
512-8400-623.23-60	11/04/2009	MISC SERVICES	9106034409	270353	05/2010	27.59	
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900-0000-209.99-20	11/06/2009	PAYROLL SUMMARY	20091106		05/2010	4,306.50	
11/09/2009	726402	J & J CONCRETE	15244			53,898.23	
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205-3131-433.93-10	11/05/2009	WO0802 MISC DEVELOPER	6	265380	05/2010	184.01	
448-3165-431.93-11	11/05/2009	WO0802 MISC. DEVELOPER	6	265380	05/2010	12,007.15	
448-3165-431.93-11	11/05/2009	WO0802 MISC DEVELOPER	6	265380	05/2010	121.29	
840-3184-431.93-10	11/05/2009	WO0802 MISC. DEVELOPER	6	265380	05/2010	235.12	
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205-3131-433.93-10	11/05/2009	WO0830 POLY DR SIDEWALKS	1	270376	05/2010	2,040.16	
210-3110-431.93-11	11/05/2009	WO0830 POLY DR SIDEWALKS	1	270376	05/2010	20,293.63	
449-3165-431.93-11	11/05/2009	WO0830 POLY DR SIDEWALKS	1	270376	05/2010	1,105.38	
11/09/2009	726406	JTL GROUP INC DBA KNIFE RIVER	2417			20,175.13	
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513-0000-201.10-00	11/04/2009	WO0823 WICKS LANE	RET RELEASE	266308	05/2010	187.16	
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205-0000-201.10-00	11/04/2009	WO0823 WICKS LANE	RET RELEASE	266308 05/2010 3,955.84
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	190937	270391 05/2010 34.77
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	190943	270391 05/2010 69.72
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	190944	270391 05/2010 72.76
211-3132-433.47-10	11/04/2009	ROAD AND HIGHWAY MATERIAL	190948	270391 05/2010 135.52
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	191162	270391 05/2010 64.13
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	191163	270391 05/2010 68.81
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	191345	270391 05/2010 140.96
211-3132-433.47-10	11/04/2009	ROAD AND HIGHWAY MATERIAL	191363	270391 05/2010 377.52
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	191965	270391 05/2010 115.84
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	191975	270391 05/2010 105.77
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	192007	270391 05/2010 118.14
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	192015	270391 05/2010 815.55
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	192207	270391 05/2010 144.72
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	192223	270391 05/2010 157.46
211-3132-433.45-20	11/04/2009	ROAD/HIGHWAY MATERIAL	192253	270391 05/2010 53.52
412-7155-713.92-10	11/03/2009	INVOICE# 5868	5868	F10039 05/2010 1,488.00
11/09/2009	726407	KADRMAS LEE & JACKSON	14850	22,143.10
503-7591-609.93-40	11/05/2009	WO0911 RIMROCK RD	3	268015 05/2010 3,432.18
840-3184-431.93-10	11/05/2009	WO0911 RIMROCK RD	3	268015 05/2010 5,358.63
845-3186-431.93-10	11/05/2009	WO0911 RIMROCK RD	3	268015 05/2010 13,352.29
11/09/2009	726413	LANGLAS & ASSOCIATES INC	7004	68,828.61
414-1519-493.92-24	10/30/2009	GROSS RECEIPT TAX CORRECT	CORRECTION	268693 04/2010 2,490.00-
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414-1519-493.92-24	11/05/2009	PARK 1 ELEVATOR	APP 1	268693 05/2010 68,828.61
11/09/2009	726418	MAILING TECHNICAL SERVICES	12577	3,056.32
502-7311-602.31-10	11/04/2009	MISC SERVICES	IVC09777	270283 05/2010 1,211.26
502-7311-602.31-11	11/04/2009	MISC SERVICES	IVC09777	270283 05/2010 249.15
512-8311-622.31-10	11/04/2009	MISC SERVICES	IVC09777	270283 05/2010 1,211.26
512-8311-622.31-11	11/04/2009	MISC SERVICES	IVC09777	270283 05/2010 249.15
502-7311-602.31-10	11/04/2009	MISC SERVICES	IVC09782	270283 05/2010 58.25
502-7311-602.31-11	11/04/2009	MISC SERVICES	IVC09782	270283 05/2010 9.49
512-8311-622.31-10	11/04/2009	MISC SERVICES	IVC09782	270283 05/2010 58.27
512-8311-622.31-11	11/04/2009	MISC SERVICES	IVC09782	270283 05/2010 9.49
11/09/2009	726427	MONTANA DAKOTA UTILITIES CO	2492	3,300.53
502-7400-603.34-40	11/05/2009	PUD	04571122	05/2010 30.11
512-8500-625.34-40	11/05/2009	PUD	04695121	05/2010 14.77
502-7400-603.34-40	11/05/2009	PUD	08156221	05/2010 1,006.97
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502-7400-603.34-40	11/05/2009	PUD	08156322	50% 05/2010 13.35
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502-7400-603.34-40	11/05/2009	PUD	08156521	05/2010 45.94
502-7400-603.34-40	11/05/2009	PUD	08156621	05/2010 351.33
502-7400-603.34-40	11/05/2009	PUD	08156721	05/2010 80.34

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512-8314-622.34-40	11/05/2009	PUD	08157021 50%	05/2010 469.97
502-7314-602.34-40	11/05/2009	PUD	08157121 50%	05/2010 111.85
512-8314-622.34-40	11/05/2009	PUD	08157121 50%	05/2010 111.85
502-7400-603.34-40	11/05/2009	PUD	08157221	05/2010 17.39
502-7400-603.34-40	11/05/2009	PUD	08157322	05/2010 12.14
512-8400-623.34-40	11/05/2009	PUD	08510222	05/2010 30.91
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10-5141-436.34-40	11/05/2009	CEMETERY	08543521	05/2010 116.68
502-7400-603.34-40	11/05/2009	PUD	08683522	05/2010 10.40
10-5112-452.34-40	11/05/2009	PARKS	08767921	05/2010 54.57
502-7400-603.34-40	11/05/2009	CSD	31563202	05/2010 37.22
502-7400-603.34-40	11/05/2009	CSD	31563302	05/2010 20.31
502-7400-603.34-40	11/05/2009	PUD	31753602	05/2010 10.99
10-5126-451.34-40	11/05/2009	PARKS & REC	34329601	05/2010 22.05
512-8500-625.34-40	11/05/2009	PUD LIFT STATION	36738301	05/2010 27.94
11/09/2009 726428	GOVERNS OFFICE OF COMMUNITY SE	20874		3,100.00
268-6770-465.38-24	11/04/2009	COMM BUILDING INSTITUTE	AMERICORP VISTA 270383	05/2010 3,100.00
11/09/2009 726431	MONTANA STATE FIREMAN'S ASSOC	20195		2,653.33
900-0000-209.99-24	11/06/2009	PAYROLL SUMMARY	20091106	05/2010 2,653.33
11/09/2009 726432	MORRISON MAIERLE INC	2572		179,992.25
503-7591-609.93-40	11/05/2009	WO0801 2008 WTR&SWR REHAB	23 252779	05/2010 81,315.23
513-8591-625.93-40	11/05/2009	WO0801 2008 WTR&SWR REHAB	23 252779	05/2010 70,818.03
503-7591-609.93-40	11/05/2009	WO1001 2010 WTR&SWR REPLC	2 268044	05/2010 13,929.49
513-8591-625.93-40	11/05/2009	WO1001 2010 WTR&SWR REPLC	2 268044	05/2010 13,929.50
11/09/2009 726435	MOTOR POWER EQUIPMENT CO.	2582		119,209.67
211-3134-433.23-20	10/29/2009	MP	AI75996 270228	04/2010 414.69
407-7128-711.94-97	11/03/2009	MISC SERVICES	6145 265861	05/2010 118,687.00
150-2226-422.23-20	11/03/2009	MP	AI77369 270361	05/2010 107.98
11/09/2009 726444	NORTH WEST FLOORS	16186		8,979.00
260-5512-455.24-50	10/29/2009	CARPET REMOVAL AND INSTAL	1454 F10012	04/2010 4,214.00
563-7122-711.92-90	11/02/2009	INVOICE #1489	1489 F10019	05/2010 4,765.00
11/09/2009 726447	NORTHWEST INDUSTRIAL	2755		3,166.30
502-7400-603.24-50	10/05/2009	NONSTOCKING ITEMS-P.U.D.	1406494 269081	04/2010 38.52
502-7500-609.24-10	10/07/2009	NONSTOCKING ITEMS-P.U.D.	1406652 269081	04/2010 2.40
502-7312-602.24-10	10/07/2009	NONSTOCKING ITEMS-P.U.D.	1406677 269081	04/2010 121.63
502-7500-609.24-10	10/08/2009	NONSTOCKING ITEMS-P.U.D.	1406698 269081	04/2010 13.25
541-3122-435.22-90	10/09/2009	MISC SUPPLIES JASON C	1406770 269081	04/2010 272.00
502-7400-603.24-50	10/13/2009	NONSTOCKING ITEMS-P.U.D.	1406776 269081	04/2010 114.68
502-7500-609.24-10	10/13/2009	NONSTOCKING ITEMS-P.U.D.	1406844 269081	04/2010 115.99
541-3122-435.24-10	10/13/2009	MISC SUPPLIES	1406877 269081	04/2010 121.13
211-3134-433.22-90	10/14/2009	MISC SERVICES	1406729 269081	04/2010 174.80

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
211-3138-433.22-90	10/14/2009	MISC SERVICES	1406759	269081 04/2010 197.78
512-8400-623.24-50	10/14/2009	NONSTOCKING ITEMS-P.U.D.	1406769	269081 04/2010 36.53
211-3134-433.22-90	10/14/2009	MISC SERVICES	1406787	269081 04/2010 92.24
211-3134-433.22-90	10/14/2009	MISC SERVICES	1406830	269081 04/2010 28.24
502-7400-603.24-50	10/14/2009	NONSTOCKING ITEMS-P.U.D.	1406929	269081 04/2010 28.98
502-7400-603.24-50	10/14/2009	NONSTOCKING ITEMS-P.U.D.	1406973	269081 04/2010 16.72
211-3134-433.29-20	10/14/2009	MISC SERVICES	1407002	269081 04/2010 655.00
541-3122-435.26-30	10/15/2009	SAFETY GLASSES AND GLOVES	1407017	269081 04/2010 290.27
502-7500-609.24-10	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1407092	269081 04/2010 13.25
502-7500-609.24-10	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1407098	269081 04/2010 38.00
502-7500-609.24-10	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1407119	269081 04/2010 5.23
502-7500-609.24-10	10/20/2009	NONSTOCKING ITEMS-P.U.D.	1407021	269081 04/2010 75.58
512-8400-623.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1407051	269081 04/2010 12.70
502-7312-602.24-10	10/23/2009	NONSTOCKING ITEMS-P.U.D.	1406415	269081 04/2010 272.00
502-7312-602.24-10	10/23/2009	NONSTOCKING ITEMS-P.U.D.	1407366	269081 04/2010 81.65
502-7500-609.24-10	10/26/2009	NONSTOCKING ITEMS-P.U.D.	1407413	269081 04/2010 18.00
502-7500-609.24-10	10/27/2009	NONSTOCKING ITEMS-P.U.D.	1407420	269081 04/2010 259.55
601-0000-141.00-00	10/30/2009	MP	1407195	04/2010 44.30
502-0000-141.00-00	11/02/2009	WATER PARTS AND SUPPLIES	14058691	05/2010 9.92
512-8400-623.24-50	11/04/2009	NONSTOCKING ITEMS-P.U.D.	1407613	269081 05/2010 15.96
11/09/2009	726450	NORTHWESTERN ENERGY	15771	21,464.99
150-2221-422.34-10	10/30/2009	FIRE6/ELEC/2800 KWH USED	0100477-9 09OCT	267864 04/2010 385.58
521-1595-493.34-10	10/30/2009	LEASE ELEC. 9/17-10/15/09	102009	270236 04/2010 236.24
521-1591-493.34-10	10/30/2009	P1 ELEC 9/17-10/15/09	102009A	270236 04/2010 2,230.51
521-1594-493.34-10	10/30/2009	P4 ELEC 9/17-10/19/09	102009B	270236 04/2010 1,449.10
260-5512-455.34-10	10/29/2009	ELECTRIC CHARGES	ACCT 0100467-7	F10009 04/2010 7,929.08
10-5127-451.34-10	11/03/2009	ELECTRIC CHARGES	0100506-5	270327 05/2010 1,175.78
502-7400-603.34-10	11/04/2009	MISC SERVICES	01004787 OCT09	270282 05/2010 504.16
150-2221-422.34-10	11/05/2009	NW FIRE	07125321	05/2010 23.10
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07125339	05/2010 93.16
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07125347	05/2010 13.63
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07125354	05/2010 198.90
10-5141-436.34-10	11/05/2009	NW PARK/REC/PL	07125388	05/2010 406.05
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07127913	05/2010 32.12
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07127954	05/2010 25.11
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07127970	05/2010 21.13
561-7117-711.34-10	11/05/2009	NW AVIATION/TRAN	07128051	05/2010 11.46
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07128135	05/2010 7.38
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07195431	05/2010 1,930.97
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07197593	05/2010 24.81
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07197601	05/2010 25.66
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07197619	05/2010 32.12
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07197627	05/2010 22.65
561-7113-711.34-10	11/05/2009	NW AVIATION/TRAN	07202963	05/2010 26.44
502-7400-603.34-10	11/05/2009	NW PUD-WATER TREAT	07222490	05/2010 2.46
502-7400-603.34-10	11/05/2009	NW PUD-WATER TREAT	07222706	05/2010 2,134.94
512-8500-625.34-10	11/05/2009	NW Parks	07233836	05/2010 93.12
512-8500-625.34-10	11/05/2009	NW PUD-WASTE WATER	07234040	05/2010 835.50
512-8500-625.34-10	11/05/2009	NW PUD-WASTE WATER	07238785	05/2010 241.12

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
872-5198-452.34-10	11/05/2009	NW PARK/REC/PL	08814550	05/2010 7.76
872-5198-452.34-10	11/05/2009	NW PARK/REC/PL	09718248	05/2010 .75
10-5112-452.34-10	11/05/2009	PARKS	09789173	05/2010 7.10
10-5129-451.34-10	11/05/2009	NW FIRE	09998071	05/2010 17.81
150-2171-441.34-10	11/05/2009	NW	11834835	05/2010 1,109.88
10-5112-452.34-10	11/05/2009	NW	12422226	05/2010 7.46
10-5112-452.34-10	11/05/2009	NW	12488631	05/2010 56.92
872-5198-452.34-10	11/05/2009	NW	15138001	05/2010 22.19
872-5198-452.34-10	11/05/2009	NW	15138027	05/2010 37.05
872-5198-452.34-10	11/05/2009	NW	15138043	05/2010 9.38
521-1524-493.34-10	11/05/2009	PARKING-LINC CEN LOT POLE	15696313	05/2010 45.43
10-5112-452.34-10	11/05/2009	PARKS 1	16926669	05/2010 4.60
512-8500-625.34-10	11/05/2009	WWTP	17040304	05/2010 26.23
211-3133-433.34-10	11/05/2009	STREETS/TRAFFIC	17403577	05/2010 .15
11/09/2009	726452	OSTERMILLER CONST	2839	65,250.66
840-0000-201.10-00	11/04/2009	WO0105 LAKE HILLS SW	RET RELEASE	263199 05/2010 18,832.69
210-0000-201.10-00	11/04/2009	WO0304 JACKSON ST SDWLKS	RET RELEASE	268420 05/2010 2,475.00
840-0000-201.10-00	11/04/2009	WO0304 JACKSON ST SDWLKS	RET RELEASE	268420 05/2010 257.40
205-0000-201.10-00	11/04/2009	WO0304 JACKSON ST SDWLKS	RET RELEASE	268420 05/2010 948.66
840-3184-431.93-10	11/05/2009	WO0105 LAKE HILLS STRM	7	263199 05/2010 29,327.36
205-3131-433.93-10	11/05/2009	WO0304 JACKSON ST SIDEWLK	2	268420 05/2010 11,781.99
840-3184-431.93-10	11/05/2009	WO0304 JACKSON ST SIDEWLK	2	268420 05/2010 1,627.56
11/09/2009	726459	PALM TREE CONSTRUCTION	2869	19,305.00
505-7515-609.36-71	11/05/2009	WATER SERVICE REPAIRS	272968	270332 05/2010 19,305.00
11/09/2009	726468	QWEST	13000	4,200.66
620-1911-482.34-52	06/30/2009	MISC SERVICES	CPE219960M	266671 12/2009 4,200.66
11/09/2009	726471	REBUILDING TOGETHER	17522	3,738.13
294-6677-463.72-75	11/04/2009	MISC SERVICES	FY09 FY10-1	270368 05/2010 658.00
295-6677-463.72-75	11/04/2009	MISC SERVICES	FY09 FY10-1	270368 05/2010 3,080.13
11/09/2009	726475	RIMROCK FOUNDATION	3210	7,662.80
246-1253-412.35-90	09/11/2009	IOP COUNSELORS - BAMDC	2010-3	268974 03/2010 10,705.05
246-1253-412.35-90	10/05/2009	INCORRECT AMT/IOP/BAMDC	2010-1	269350 04/2010 10,705.00-
246-1253-412.35-90	10/20/2009	DATA ENTRY ERROR ON NEGPO	2010-4	270316 04/2010 .05-
246-1253-412.35-90	11/05/2009	IOP COUNSELOR - BAMDC	2010-4	270317 05/2010 7,662.80
11/09/2009	726477	S & S MACHINE INC	11737	3,910.00
502-7400-603.24-50	11/04/2009	MISC SERVICES	24980	270349 05/2010 3,910.00
11/09/2009	726483	SKYLINE SERVICES INC	10740	5,965.00
561-7112-711.36-60	11/03/2009	MISC SERVICES	27929	267371 05/2010 1,680.00
521-1591-493.24-50	11/05/2009	P1 WINDOW CLEANING	28006	270434 05/2010 1,150.00
521-1592-493.24-50	11/05/2009	P2 WINDOW CLEANING	28007	270434 05/2010 1,575.00
521-1593-493.24-50	11/05/2009	P3 WINDOW CLEANING	28008	270434 05/2010 585.00
521-1594-493.24-50	11/05/2009	P4 WINDOW CLEANING	28009	270434 05/2010 975.00
11/09/2009	726488	STAR SERVICE INC	3553	170,237.07
10-5122-451.24-50	11/03/2009	REPLACE WATER HEATER	45159	270326 05/2010 1,082.50

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
416-7493-603.92-20	11/05/2009	WO0426 ZONE 4 RSVR	2	267993	05/2010	169,154.57	
11/09/2009	726501	TITAN MACHINERY INC	20569			7,636.12	
211-3134-433.23-20	10/29/2009	MP	1C02400	270215	04/2010	250.48	
211-3134-433.23-20	10/29/2009	MP	1C02560	270215	04/2010	220.78	
211-3134-433.23-20	10/29/2009	MP	1C02600	270215	04/2010	90.46	
211-3134-433.23-20	10/30/2009	MP	1C02462	270264	04/2010	6,747.98	
211-3134-433.23-20	11/02/2009	MP	1C02379	270306	05/2010	326.42	
11/09/2009	726502	TNT SPRINGS INC	3803			3,596.92	
541-3122-435.23-20	10/30/2009	MP	84272	270266	04/2010	1,047.56	
211-3134-433.23-20	10/30/2009	MP	84299	270266	04/2010	411.15	
601-0000-141.00-00	11/02/2009	MP	84424		05/2010	136.77	
541-3122-435.23-20	11/02/2009	MP	84407	270310	05/2010	695.72	
541-3123-435.23-20	11/02/2009	MP	84424	270310	05/2010	156.16	
541-3122-435.23-20	11/02/2009	MP	84433	270310	05/2010	63.70	
541-3122-435.23-20	11/02/2009	MP	84501	270310	05/2010	142.28	
601-0000-141.00-00	11/04/2009	MP	84607		05/2010	21.38	
541-3122-435.23-20	11/04/2009	MP	84451	270401	05/2010	285.00	
541-3122-435.23-20	11/04/2009	MP	84607	270401	05/2010	76.88	
541-3122-435.23-20	11/04/2009	MP	84840	270401	05/2010	514.82	
541-3122-435.23-20	11/04/2009	MP	84948	270401	05/2010	45.50	
11/09/2009	726503	TOTAL ASPHALT REPAIR INC	13249			3,102.00	
502-7500-609.36-80	11/04/2009	MISC SERVICES	3462	270285	05/2010	1,104.00	
502-7500-609.36-80	11/04/2009	MISC SERVICES	3463	270285	05/2010	1,034.00	
502-7500-609.36-80	11/04/2009	MISC SERVICES	3464	270285	05/2010	964.00	
11/09/2009	726504	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			58,579.50	
601-0000-141.71-41	10/29/2009	MP	66526		04/2010	15,253.08	
601-0000-141.00-00	10/30/2009	MP	66531		04/2010	2,992.13	
601-0000-141.00-00	10/30/2009	MP	67721		04/2010	5,198.63	
601-0000-141.00-00	10/30/2009	MP	69666		04/2010	2,633.07	
601-0000-141.00-00	11/03/2009	MP	66538		05/2010	17,727.26	
561-7118-711.23-13	11/02/2009	INVOICE #66527	66527	F10021	05/2010	9,528.82	
150-2226-422.23-10	11/05/2009	FIRE1/UNLEADED & DIESEL	67747 FIRE1	267496	05/2010	1,922.30	
150-2226-422.23-10	11/05/2009	FIRE2/DIESEL/453 GALLONS	67748 FIRE2	267496	05/2010	992.66	
150-2226-422.23-10	11/05/2009	FIRE3/DIESEL/326 GALLONS	67749 FIRE3	267496	05/2010	714.37	
150-2226-422.23-10	11/05/2009	FIRE5/DIESEL/441 GALLONS	67750 FIRE5	267496	05/2010	966.37	
150-2231-422.23-10	11/05/2009	FIRE6/DIESEL/297 GALLONS	67751 FIRE6	267496	05/2010	650.81	
11/09/2009	726514	USDA APHIS	17533			6,209.28	
561-7110-711.35-90	11/02/2009	BILL NUMBER 7330-10001	7330-10001	F10022	05/2010	6,209.28	
11/09/2009	726522	WINKLER EXCAVATING INC	20641			14,626.26	
205-3131-433.93-10	11/04/2009	WO0917 24TH ST W CONCRETE	FUND CORRECTION	269600	05/2010	5,364.41	
205-3131-433.93-10	11/04/2009	WO0917 24TH ST W CONCRETE	FUND CORRECTION	269600	05/2010	5,364.41	
205-3131-433.93-10	11/05/2009	WO0917 24TH ST W CONCRETE	2	269600	05/2010	9,530.07	
845-3186-431.93-10	11/05/2009	WO0917 24TH ST W CONCRETE	2	269600	05/2010	5,096.19	
11/09/2009	726523	YELLOWSTONE BANK	12435			5,000.00	
295-6680-463.72-75	11/04/2009	MISC SERVICES	NELSON, KYLE	270382	05/2010	5,000.00	

PREPARED 11/10/2009, 16:12:18
 PROGRAM: GM350L
 CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
 MINIMUM AMOUNT: 2,500.00
 FROM 11/09/2009 TO 11/09/2009

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BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
11/09/2009	726525	YELLOWSTONE COUNTY FINANCE DPT	16736				5,032.85
150-2111-421.35-90	10/30/2009	MISC SERVICES		9/09 MEDICAL	270238 04/2010		172.85
150-2111-421.35-90	10/30/2009	MISC SERVICES		9/09 PRISONER	270238 04/2010		4,860.00
11/09/2009	726526	YELLOWSTONE COUNTY GIS	10369				7,000.00
620-1913-482.35-90	11/03/2009	MISC SERVICES		09-63	270358 05/2010		7,000.00
DATE RANGE TOTAL *							2,116,326.43 *

Regular City Council Meeting

Consent : 1.O.2.

Date: 12/14/2009

TITLE: Payment of Claims, November 13, 2009.

Pat M. Weber, Financial

PRESENTED BY: Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$686,894.43 have been audited and are presented for your approval for payment. A complete listing of the claims dated November 13, 2009, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

- Approve the payment of claims; or
- Not approve the payment of claims.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [List of claims greater than \\$2500.](#)

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
11/13/2009	726534	A & I DISTRIBUTORS	16				8,796.10
601-0000-141.00-00	10/09/2009	MP	1850650		04/2010		1,970.32
10-5112-452.23-20	10/09/2009	MP	1850650	269074	04/2010		662.20
601-1553-481.26-50	10/09/2009	MP	1850650	269074	04/2010		.12-
601-1553-481.26-50	10/09/2009	MP	1852075	269074	04/2010		280.10
601-0000-141.00-00	10/22/2009	MP	1854628		04/2010		3,068.78
211-3132-433.23-10	10/22/2009	MP	1854628	269074	04/2010		235.51
601-0000-141.00-00	10/29/2009	MP	1857392		04/2010		1,743.06
601-1553-481.26-50	10/29/2009	MP	1857392	269074	04/2010		.31-
541-3122-435.23-20	11/04/2009	MP	1853009	269074	05/2010		462.08
211-3134-433.23-20	11/05/2009	MISC SERVICES	1854581	269074	05/2010		374.48
11/13/2009	726536	ADVANCED COMPUTER TECHNOLOGIES	20060				15,000.00
10-1220-412.35-53	11/12/2009	MAINTENANCE DCCM	2010-4	270580	05/2010		15,000.00
11/13/2009	726548	BIG SKY LINEN SUPPLY	387				8,216.94
150-2226-422.22-40	11/10/2009	FIRE6/LINEN/10-20-09	1076-S10816 FR6	270451	05/2010		1.66
150-2226-422.22-40	11/10/2009	FIRE1/LINEN/09-28-09	1076-23467 FR1	270451	05/2010		18.94
150-2225-422.24-50	11/10/2009	911 CTR/LINEN/09-28-09	1076-23468 911	270451	05/2010		23.73
150-2226-422.22-40	11/10/2009	FIRE2/LINEN/10-01-09	1076-24054 FR2	270451	05/2010		7.00
150-2226-422.22-40	11/10/2009	FIRE5/LINEN/10-01-09	1076-24102 FR5	270451	05/2010		13.75
150-2225-422.24-50	11/10/2009	FIRE7/LINEN/10-02-2009	1076-24295 FR7	270451	05/2010		8.37
150-2226-422.22-40	11/10/2009	FIRE7/LINEN/10-02-2009	1076-24295 FR7	270451	05/2010		6.99
150-2226-422.22-40	11/10/2009	FIRE3/LINEN/10-05-09	1076-24401 FR3	270451	05/2010		10.94
150-2226-422.22-40	11/10/2009	FIRE6/LINEN/10-6-09	1076-24500 FR6	270451	05/2010		9.34
150-2226-422.22-40	11/10/2009	FIRE4/LINEN/10-6-09	1076-24530 FR4	270451	05/2010		9.22
150-2226-422.22-40	11/10/2009	FIRE1/LINEN/10-12-09	1076-25133 FR1	270451	05/2010		18.94
150-2226-422.22-40	11/10/2009	911 CTR/LINEN/10-12-09	1076-25134 911	270451	05/2010		23.73
150-2226-422.22-40	11/10/2009	FIRE2/LINEN/10-15-09	1076-25722 FR2	270451	05/2010		7.00
150-2226-422.22-40	11/10/2009	FIRE5/LINEN/10-15-09	1076-25771 FR5	270451	05/2010		14.29
150-2225-422.24-50	11/10/2009	FIRE7/LINEN/10-16-09	1076-25954 FR7	270451	05/2010		15.36
150-2226-422.22-40	11/10/2009	FIRE3/LINEN/10-19-09	1076-26056 FR3	270451	05/2010		14.19
150-2226-422.22-40	11/10/2009	FIRE6/LINEN/10-20-09	1076-26159 FR6	270451	05/2010		9.81
150-2226-422.22-40	11/10/2009	FIRE4/LINEN/10-20-09	1076-26188 FR4	270451	05/2010		10.31
150-2226-422.22-40	11/10/2009	FIRE1/LINEN/10-26-09	1076-26799 FR1	270451	05/2010		18.94
150-2225-422.24-50	11/10/2009	911 CTR/LINEN/10-26-09	1076-26800 911	270451	05/2010		23.73
150-2226-422.22-40	11/10/2009	FIRE2/LINEN/10-29-09	1076-27375 FR2	270451	05/2010		7.00
150-2226-422.22-40	11/10/2009	FIRE5/LINEN/10-29-09	1076-27423 FR5	270451	05/2010		13.75
150-2226-422.22-40	11/10/2009	FIRE7/LINEN/10-30-09	1076-27614 FR7	270451	05/2010		15.36
502-7312-602.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		292.83
502-7314-602.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		30.07
502-7400-603.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		584.06
502-7500-609.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		418.21
512-8314-622.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		30.07
512-8400-623.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		539.65
512-8500-625.22-60	11/10/2009	AUGUST UNIFORMS	AUG 2009	270568	05/2010		418.21
502-7312-602.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010		366.01
502-7314-602.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010		37.61
502-7400-603.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010		645.65

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
502-7500-609.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010	433.20
512-8314-622.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010	37.61
512-8400-623.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010	640.72
512-8500-625.22-60	11/10/2009	OCTOBER UNIFORMS	OCT 2009	270568	05/2010	433.20
502-7312-602.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	326.20
502-7314-602.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	33.43
502-7400-603.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	568.80
502-7500-609.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	355.45
512-8314-622.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	33.43
512-8400-623.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	526.79
512-8500-625.22-60	11/10/2009	SEPTEMBER UNIFORMS	SEPT 2009	270568	05/2010	355.45
561-7112-711.22-60	11/06/2009	INVOICE #23849	110609	F10061	05/2010	99.00
561-7112-711.22-60	11/06/2009	INVOICE #24690	110609	F10061	05/2010	99.00
561-7112-711.22-60	11/06/2009	INVOICE #25506	110609	F10061	05/2010	99.00
561-7112-711.22-60	11/06/2009	INVOICE #26345	110609	F10061	05/2010	99.00
561-7112-711.22-60	11/06/2009	INVOICE #27179	110609	F10061	05/2010	99.00
561-7113-711.22-60	11/06/2009	INVOICE #23848	110609	F10061	05/2010	35.39
561-7113-711.22-60	11/06/2009	INVOICE #24688	110609	F10061	05/2010	35.39
561-7113-711.22-60	11/06/2009	INVOICE #25505	110609	F10061	05/2010	79.39
561-7113-711.22-60	11/06/2009	INVOICE #26343	110609	F10061	05/2010	35.39
561-7113-711.22-60	11/06/2009	INVOICE #27178	110609	F10061	05/2010	35.39
561-7112-711.22-40	11/06/2009	INVOICE #23850	110609	F10061	05/2010	29.32
561-7112-711.22-40	11/06/2009	INVOICE #24691	110609	F10061	05/2010	14.00
561-7112-711.22-40	11/06/2009	INVOICE #25507	110609	F10061	05/2010	17.00
561-7112-711.22-40	11/06/2009	INVOICE #26346	110609	F10061	05/2010	11.17
561-7112-711.22-40	11/06/2009	INVOICE #27180	110609	F10061	05/2010	20.50
11/13/2009	726558	BILLINGS TIMES	452			2,580.00
10-1313-413.33-60	11/12/2009	ADMINISTRATION	OCTOBER 2009		05/2010	66.40
10-1100-411.39-20	11/12/2009	ADMINISTRATION	OCTOBER 2009		05/2010	36.80
10-1100-411.32-30	11/12/2009	ADMINISTRATION	OCTOBER 2009		05/2010	44.00
10-1313-413.33-60	11/12/2009	BOARD OF ADJUSTMENT	OCTOBER 2009		05/2010	28.00
561-7110-711.32-10	11/12/2009	AIRPORT	OCTOBER 2009		05/2010	44.40
571-7141-713.33-10	11/12/2009	AIRPORT	OCTOBER 2009		05/2010	9.20
10-1314-413.21-90	11/12/2009	CITY CLERK	OCTOBER 2009		05/2010	282.00
240-4301-419.33-10	11/12/2009	CITY/COUNTY PLANNING	OCTOBER 2009		05/2010	107.10
295-6501-463.33-10	11/12/2009	COMMUNITY DEVELOPMENT	OCTOBER 2009		05/2010	198.40
670-3141-489.33-10	11/12/2009	ENGINEERING	OCTOBER 2009		05/2010	152.30
260-5511-455.32-90	11/12/2009	LIBRARY	OCTOBER 2009		05/2010	20.00
521-1521-493.33-70	11/12/2009	PARKING	OCTOBER 2009		05/2010	29.60
10-5112-452.32-90	11/12/2009	PARKS	OCTOBER 2009		05/2010	26.40
240-4301-419.33-10	11/12/2009	PLANNING	OCTOBER 2009		05/2010	20.00
240-4301-419.33-10	11/12/2009	PLANNING/COMMUNITY SERV	OCTOBER 2009		05/2010	80.50
150-2150-421.32-10	11/12/2009	POLICE DEPT	OCTOBER 2009		05/2010	284.00
541-3121-435.21-90	11/12/2009	SOLID WASTE	OCTOBER 2009		05/2010	44.80
211-3131-433.33-70	11/12/2009	STREETS	OCTOBER 2009		05/2010	32.80
462-3161-431.93-10	11/12/2009	FINANCE	OCTOBER 2009		05/2010	25.60
10-4321-419.35-85	11/12/2009	FINANCE	OCTOBER 2009		05/2010	24.80
571-7141-713.33-10	11/12/2009	TRANSIT	OCTOBER 2009		05/2010	15.40
502-7312-602.21-90	11/12/2009	PUBLIC UTILITIES/WORKS	OCTOBER 2009		05/2010	657.00

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
10-1313-413.33-60	11/12/2009	PUBLIC UTILITIES/WORKS	OCTOBER 2009		05/2010	21.60	
502-7211-601.33-10	11/12/2009	PUBLIC UTILITIES/WORKS	OCTOBER 2009		05/2010	10.00	
512-8211-621.33-10	11/12/2009	PUBLIC UTILITIES/WORKS	OCTOBER 2009		05/2010	10.00	
150-2170-441.32-10	11/12/2009	ANIMAL CONTROL	OCTOBER 2009		05/2010	256.00	
150-2170-441.32-10	11/12/2009	ANIMAL CONTROL	OCTOBER 2009		05/2010	16.10	
10-1750-417.33-70	11/12/2009	HUMAN RESOURCES	OCTOBER 2009		05/2010	36.80	
11/13/2009	726564	BRENNTAG PACIFIC INC	17236			11,473.34	
211-3137-433.47-20	11/09/2009	ROAD/HIGHWAY MATERIAL	BPI941967	270417	05/2010	5,744.50	
211-3137-433.47-20	11/09/2009	ROAD/HIGHWAY MATERIAL	BPI941969	270417	05/2010	5,728.84	
11/13/2009	726569	BUSINESS TAX SECTION	2449			3,027.44	
513-8591-625.93-40	11/10/2009	WO0801 2008 WTR&SWR SCH2	6	265603	05/2010	1,485.35	
205-3131-433.93-10	11/10/2009	SID 1386 E&W MACDONALD DR	2	268063	05/2010	114.90	
461-3161-431.93-10	11/10/2009	SID 1386 E&W MACDONALD DR	2	268063	05/2010	469.15	
840-3184-431.93-10	11/10/2009	SID 1386 E&W MACDONALD DR	2	268063	05/2010	58.54	
205-3131-433.93-90	11/10/2009	W10903 2009 PAVER	2	269536	05/2010	899.50	
11/13/2009	726571	CARDINAL TRACKING INC	10998			5,795.00	
521-1522-493.35-53	11/06/2009	TICKET TRAK 9 UPGRADE	92426	267950	05/2010	5,795.00	
11/13/2009	726572	CARMIKE CINEMA	11176			3,010.00	
10-1750-417.33-65	11/12/2009	MISC SERVICES	111209	270593	05/2010	3,010.00	
11/13/2009	726578	COMMUNITY SOLUTIONS INC	18339			12,661.54	
248-1262-412.35-10	11/12/2009	MISC SERVICES	2010-4	270592	05/2010	10,200.00	
248-1262-412.35-81	11/12/2009	MISC SERVICES	2010-4	270592	05/2010	2,461.54	
11/13/2009	726579	CONNOR'S GARAGE DOOR SERVICE	20573			3,408.50	
561-7112-711.36-60	11/06/2009	INVOICE #1071	1071/1026	F10060	05/2010	503.00	
561-7112-711.36-60	11/06/2009	INVOICE #1026	1071/1026	F10060	05/2010	2,905.50	
11/13/2009	726581	CUMMINS ROCKY MOUNTAIN LLC	924			12,051.58	
601-0000-141.00-00	11/06/2009	MP	94897		05/2010	88.08	
571-7144-713.23-20	11/06/2009	MP	004-95109	270450	05/2010	558.10	
541-3122-435.23-20	11/06/2009	MP	004-94930	270456	05/2010	88.08	
541-3122-435.23-20	11/09/2009	MP	95623	270470	05/2010	11,317.32	
11/13/2009	726586	DOWNTOWN BILLINGS PARTNERSHIP	13457			29,645.00	
202-1503-466.79-73	11/09/2009	PRIOR YEAR ENCUMBRANCES	2	255669	05/2010	5,000.00	
203-1513-466.79-46	11/09/2009	PRIOR YEAR ENCUMBRANCES	2	267513	05/2010	24,645.00	
11/13/2009	726590	EBSCO	1142			14,170.17	
260-5519-455.33-80	11/09/2009	PARMLY BILLINGS LIBRARY	INV 318649	270448	05/2010	9,654.68	
260-5519-455.33-80	11/09/2009	PARMLY BILLINGS LIBRARY	INV 318650	270448	05/2010	3,953.63	
260-5519-455.33-80	11/09/2009	PUBLICATIONS/AUDIOVISUAL	INV 95297	270448	05/2010	561.86	
11/13/2009	726596	FERGUSON ENTERPRISES INC	17215			2,803.02	
503-7591-609.93-40	11/10/2009	MISC SERVICES	CM042878	270571	05/2010	165.56	
503-7591-609.93-40	11/10/2009	MISC SERVICES	0535768	270571	05/2010	886.99	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
503-7591-609.93-40	11/10/2009	MISC SERVICES	0535858	270571	05/2010	851.76	
503-7591-609.93-40	11/10/2009	MISC SERVICES	0535927	270571	05/2010	1,138.07	
503-7591-609.93-40	11/10/2009	MISC SERVICES	0535991	270571	05/2010	91.76	
11/13/2009	726606	GREAT WEST ENGINEERING	18016			20,074.19	
544-3123-435.93-90	11/10/2009	WO0827 LANDFILL EXPANSION	9	263194	05/2010	20,074.19	
11/13/2009	726609	GUARDIAN SECURITY INC	12486			5,845.75	
260-5512-455.35-74	11/09/2009	10/1/09 - 10/31/09 SECURI	995054	F10065	05/2010	5,845.75	
11/13/2009	726611	HANSON CHEMICAL	1591			2,727.87	
502-0000-141.00-00	11/09/2009	WATER PARTS AND SUPPLIES	231626 231836		05/2010	1,486.60	
502-7314-602.22-40	11/09/2009	NONSTOCKING ITEMS-P.U.D.	231626 231836	270404	05/2010	310.31	
502-7314-602.24-50	11/09/2009	NONSTOCKING ITEMS-P.U.D.	231626 231836	270404	05/2010	310.32	
512-8314-622.22-40	11/09/2009	NONSTOCKING ITEMS-P.U.D.	231626 231836	270404	05/2010	310.32	
512-8314-622.24-50	11/09/2009	NONSTOCKING ITEMS-P.U.D.	231626 231836	270404	05/2010	310.32	
11/13/2009	726616	INGRAM BOOK COMPANY	1820			2,928.03	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	CORRECT NEG	269471	05/2010	45.05	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46743318	269471	05/2010	29.47	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46743318	269471	05/2010	15.33	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753503	269471	05/2010	45.05	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753503	1 269471	05/2010	45.05	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753504	269471	05/2010	29.58	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753505	269471	05/2010	204.06	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753506	269471	05/2010	24.31	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753506	269471	05/2010	14.72	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753507	269471	05/2010	29.50	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753507	269471	05/2010	24.30	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753508	269471	05/2010	11.79	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753509	269471	05/2010	79.34	
260-5519-455.32-41	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753509	269471	05/2010	14.74	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753510	269471	05/2010	59.34	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753510	269471	05/2010	61.61	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753511	269471	05/2010	14.97	
260-5519-455.32-42	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753512	269471	05/2010	54.44	
260-5519-455.32-55	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753512	269471	05/2010	5.97	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753513	269471	05/2010	15.93	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753514	269471	05/2010	113.99	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753514	269471	05/2010	87.60	
260-5519-455.32-55	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753514	269471	05/2010	10.02	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753515	269471	05/2010	14.13	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753516	269471	05/2010	33.04	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753517	269471	05/2010	128.03	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753518	269471	05/2010	13.57	
260-5519-455.33-33	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46753518	269471	05/2010	5.98	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46769304	269471	05/2010	9.57	
260-5519-455.33-82	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46769305	269471	05/2010	50.40	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46769306	269471	05/2010	14.74	
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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839940	269471	05/2010	52.49	
260-5519-455.33-33	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839940	269471	05/2010	31.83	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839941	269471	05/2010	156.65	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839942	269471	05/2010	9.57	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839943	269471	05/2010	38.29	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839944	269471	05/2010	24.75	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839945	269471	05/2010	32.53	
260-5519-455.32-41	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839945	269471	05/2010	58.90	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839946	269471	05/2010	41.30	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839946	269471	05/2010	8.39	
260-5519-455.32-41	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839946	269471	05/2010	8.99	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839947	269471	05/2010	12.95	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839947	269471	05/2010	9.60	
260-5519-455.32-42	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839947	269471	05/2010	203.85	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839948	269471	05/2010	11.37	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839949	269471	05/2010	17.70	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46839950	269471	05/2010	11.79	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860394	269471	05/2010	17.70	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860395	269471	05/2010	15.33	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860396	269471	05/2010	11.79	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860397	269471	05/2010	19.16	
260-5519-455.32-41	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860397	269471	05/2010	20.65	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860398	269471	05/2010	42.88	
260-5519-455.32-23	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860398	269471	05/2010	27.47	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860399	269471	05/2010	11.37	
260-5519-455.32-42	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860399	269471	05/2010	38.48	
260-5519-455.32-20	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860400	269471	05/2010	423.05	
260-5519-455.32-23	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860400	269471	05/2010	54.96	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860400	269471	05/2010	95.22	
260-5519-455.32-55	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860400	269471	05/2010	17.09	
260-5519-455.33-33	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860400	269471	05/2010	20.00	
260-5519-455.32-26	11/09/2009	PUBLICATIONS/AUDIOVISUAL	46860401	269471	05/2010	238.34	
11/13/2009	726619	J/N CONSTRUCTION LLC	20828			3,083.41	
	293-6554-463.72-75	MISC SERVICES	HEWITT, MARY	270542	05/2010	2,985.41	
	294-6554-463.72-75	MISC SERVICES	HEWITT, MARY	270542	05/2010	98.00	
11/13/2009	726620	JEM CONTRACTING, INC	18375			63,616.87	
	205-3131-433.93-10	SID 1386 E&W MACDONALD DR	2	268050	05/2010	11,375.58	
	461-3161-431.93-10	SID 1386 E&W MACDONALD DR	2	268050	05/2010	46,445.93	
	840-3184-431.93-10	SID 1386 E&W MACDONALD DR	2	268050	05/2010	5,795.36	
11/13/2009	726621	JIMS ELECTRIC SERVICE	1906			2,801.30	
	512-8500-625.23-60	MISC SERVICES	24044	270536	05/2010	2,801.30	
11/13/2009	726624	JTL GROUP INC DBA KNIFE RIVER	2417			3,279.77	
	502-0000-141.00-00	SYSTEMS	192222		05/2010	3,279.77	
11/13/2009	726628	LANYARD ENGINEERING SERVICES L	20267			19,416.00	
	512-8211-621.35-40	FLOATING ISLAND REHBERG	1	268075	05/2010	19,416.00	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
11/13/2009	726632	MAILING TECHNICAL SERVICES	12577			3,086.45	
502-7311-602.31-10	11/10/2009	MISC SERVICES	IVC09810	270527	05/2010	1,208.20	
502-7311-602.31-11	11/10/2009	MISC SERVICES	IVC09810	270527	05/2010	248.52	
512-8311-622.31-10	11/10/2009	MISC SERVICES	IVC09810	270527	05/2010	1,208.21	
512-8311-622.31-11	11/10/2009	MISC SERVICES	IVC09810	270527	05/2010	248.52	
502-7311-602.31-10	11/10/2009	MISC SERVICES	IVC09824	270527	05/2010	74.39	
502-7311-602.31-11	11/10/2009	MISC SERVICES	IVC09824	270527	05/2010	12.11	
512-8311-622.31-10	11/10/2009	MISC SERVICES	IVC09824	270527	05/2010	74.39	
512-8311-622.31-11	11/10/2009	MISC SERVICES	IVC09824	270527	05/2010	12.11	
11/13/2009	726638	MONTANA DAKOTA UTILITIES CO	2492			2,935.26	
293-6554-463.72-75	11/10/2009	MISC SERVICES	ACCT #73014 30	270541	05/2010	1,689.55	
150-2221-422.34-40	11/13/2009	FIRE	05003521		05/2010	89.20	
512-8500-625.34-40	11/13/2009	PUD	05023622		05/2010	28.09	
512-8500-625.34-40	11/13/2009	PUD	05211321		05/2010	67.62	
10-5122-451.34-40	11/13/2009	REC	05552021		05/2010	267.56	
150-2221-422.34-40	11/13/2009	FIRE	05597121		05/2010	587.94	
502-7400-603.34-40	11/13/2009	PUD	05780623		05/2010	50.25	
150-2221-422.34-40	11/13/2009	FIRE	05937321		05/2010	155.05	
11/13/2009	726639	MONTANA MUNICIPAL INTERLOCAL	20725			16,330.60	
630-1753-485.73-11	11/05/2009	MISC SERVICES	1009004	270424	05/2010	16,330.60	
11/13/2009	726647	NORTHWESTERN ENERGY	15771			38,920.58	
571-7143-713.34-10	11/06/2009	ACCOUNT# 0100473-8	110609	F10059	05/2010	2,422.99	
512-8500-625.34-10	11/10/2009	MISC SERVICES	17568932	270546	05/2010	70.49	
650-1567-487.34-10	11/12/2009	FACILITIES MANAGEMENT	01005073		05/2010	6,328.19	
150-2221-422.34-10	11/12/2009	NW FIRE	07125370		05/2010	639.43	
10-5122-451.34-10	11/12/2009	NW PARK/REC/PL	07126832		05/2010	83.51	
571-7148-713.34-10	11/12/2009	NW AVIATION/TRAN	07127640		05/2010	21.31	
561-7117-711.34-10	11/12/2009	NW AVIATION/TRAN	07127921		05/2010	478.60	
561-7117-711.34-10	11/12/2009	NW AVIATION/TRAN	07127996		05/2010	19.96	
561-7117-711.34-10	11/12/2009	NW AVIATION/TRAN	07128002		05/2010	1,154.77	
561-7113-711.34-10	11/12/2009	NW AVIATION/TRAN	07128093		05/2010	7.10	
561-7117-711.34-10	11/12/2009	NW AVIATION/TRAN	07128176		05/2010	29.96	
561-7113-711.34-10	11/12/2009	NW AVIATION/TRAN	07196165		05/2010	51.21	
521-1595-493.34-10	11/12/2009	NW FINANCE	07208291		05/2010	294.23	
521-1592-493.34-10	11/12/2009	NW FINANCE	07208341		05/2010	3,335.27	
150-2221-422.34-10	11/12/2009	NW FIRE	07208408		05/2010	236.54	
607-2235-486.34-10	11/12/2009	NW FIRE	07215809		05/2010	238.37	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222375		05/2010	12.72	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222474		05/2010	7.10	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222516		05/2010	232.98	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222540		05/2010	.16	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222557		05/2010	81.20	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222573		05/2010	653.96	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222607		05/2010	271.00	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222615		05/2010	25.37	
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222623		05/2010	21.75	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222631		05/2010	37.50
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222656		05/2010	75.14
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222664		05/2010	15.50
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222680		05/2010	6.55
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222698		05/2010	13.69
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222920		05/2010	10.35
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07222938		05/2010	18.98
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07229057		05/2010	9.48
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07229339		05/2010	119.83
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230352		05/2010	97.60
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230360		05/2010	8.63
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230378		05/2010	164.91
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230386		05/2010	29.06
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230428		05/2010	33.71
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230444		05/2010	577.53
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230485		05/2010	79.59
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230501		05/2010	135.78
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230527		05/2010	18.62
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230543		05/2010	369.32
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230550		05/2010	7.10
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230568		05/2010	17.57
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230576		05/2010	7.10
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230584		05/2010	21.59
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07230907		05/2010	8.30
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07231624		05/2010	7.10
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07231707		05/2010	992.62
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07236441		05/2010	7.10
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07236458		05/2010	7.10
211-3137-433.34-10	11/12/2009	NW PUBLIC WORKS	07240575		05/2010	151.83
260-5512-455.34-10	11/12/2009	NW LIBRARY	07244643		05/2010	79.61
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07894371		05/2010	18.83
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	07931348		05/2010	16.18
10-5112-452.34-10	11/12/2009	NW PARK/REC/PL	08317026		05/2010	7.25
521-1591-493.34-10	11/12/2009	P1 ELECTRIC	09182009		05/2010	1,441.34
521-1594-493.34-10	11/12/2009	P4 ELECTRIC	09182009A		05/2010	1,290.22
521-1595-493.34-10	11/12/2009	LEASE SPACE ELECTRIC	09182009B		05/2010	185.94
872-5198-452.34-10	11/12/2009	NW PARK/REC/PL	10590933		05/2010	169.75
10-5112-452.34-10	11/12/2009	NW	15220957		05/2010	303.44
521-1592-493.34-10	11/12/2009	PARK 2 GARAGE	15942824		05/2010	1,396.96
660-3110-431.34-10	11/12/2009	2224 MONTANA AVE	1741314-7	OCT09	05/2010	500.71
670-3141-489.34-10	11/12/2009	2224 MONTANA AVE	1741314-7	OCT09	05/2010	409.67
10-5127-451.34-10	11/13/2009	NW PARK/REC/PL	07123870		05/2010	37.22
10-5122-451.34-10	11/13/2009	NW PARK/REC/PL	07125362		05/2010	150.74
571-7143-713.34-10	11/13/2009	NW AVIATION/TRAN	07192255		05/2010	456.61
150-2221-422.34-10	11/13/2009	NW FIRE	07208176		05/2010	190.83
10-5122-451.34-10	11/13/2009	NW PARK/REC/PL	07208184		05/2010	30.47
10-5126-451.34-10	11/13/2009	NW PARK/REC/PL	07208218		05/2010	231.89
502-7400-603.34-10	11/13/2009	NW PUD-WATER TREAT	07222508		05/2010	7.10
502-7400-603.34-10	11/13/2009	NW PUD-WATER TREAT	07222649		05/2010	1,535.61
10-5112-452.34-10	11/13/2009	NW PARK/REC/PL	07222870		05/2010	292.62

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
502-7400-603.34-10	11/13/2009	NW PUD-WATER TREAT	07230402		05/2010	2,235.10	
10-5112-452.34-10	11/13/2009	NW PARK/REC/PL	07230451		05/2010	427.15	
502-7400-603.34-10	11/13/2009	NW PUD-WATER TREAT	07230592		05/2010	17.31	
10-5112-452.34-10	11/13/2009	NW PARK/REC/PL	08134892		05/2010	25.26	
150-2221-422.34-10	11/13/2009	NW FIRE	08715468		05/2010	570.35	
502-7400-603.34-10	11/13/2009	NW PUD	11164522		05/2010	240.71	
561-7117-711.34-10	11/13/2009	NW PUD	11389269		05/2010	66.94	
502-7400-603.34-10	11/13/2009	NW Parks	11422532		05/2010	153.18	
650-1566-487.34-10	11/13/2009	ACCOUNTS PAYABLE	11608023		05/2010	676.34	
650-1566-487.34-10	11/13/2009	ACCOUNTS PAYABLE	11608049		05/2010	2,663.37	
502-7400-603.34-10	11/13/2009	NW Pud	11608072		05/2010	15.06	
872-5198-452.34-10	11/13/2009	NW parks	11759727		05/2010	144.74	
10-5112-452.34-10	11/13/2009	NW	11914041		05/2010	10.57	
650-1566-487.34-10	11/13/2009	NW	12693917		05/2010	2,942.86	
502-7400-603.34-10	11/13/2009	NW	13466735		05/2010	4.92	
872-5198-452.34-10	11/13/2009	NW	15143886		05/2010	7.96	
10-5112-452.34-10	11/13/2009	SOUTH PARK CONCESSION	15882624		05/2010	7.10	
571-7148-713.34-10	11/13/2009	MET DOWNTOWN TRANS CENTER	17847567		05/2010	187.38	
211-3133-433.34-10	11/13/2009	STREETS/TRAFFIC	17488966		05/2010	.30	
211-3133-433.34-10	11/13/2009	STREETS/TRAFFIC	17978289		05/2010	3.64	
11/13/2009	726649	ONE EIGHTY COMMUNICATIONS	15590			4,905.63	
561-7110-711.34-50	11/12/2009	ONE EIGHTY OCT 2009	AIRPORT 2948370		05/2010	40.60	
606-1931-484.34-50	11/12/2009	ONE EIGHTY OCT 2009	ACCT 00018768		05/2010	542.87	
606-1931-484.34-50	11/12/2009	ONE EIGHTY OCT 2009	ACCT 00001906		05/2010	3,121.61	
10-5112-452.34-50	11/12/2009	ONE EIGHTY OCT 2009	867-7275		05/2010	46.00	
670-3141-489.34-50	11/12/2009	ONE EIGHTY OCT 2009	DEPOT ONE HALF		05/2010	400.00	
660-3110-431.34-50	11/12/2009	ONE EIGHTY OCT 2009	DEPOT ONE HALF		05/2010	400.00	
260-5518-455.35-90	11/12/2009	ONE EIGHTY OCT 2009	INTERNET LIB		05/2010	259.00	
620-1911-482.34-52	11/12/2009	ONE EIGHTY OCT 2009	IT INTERNET		05/2010	79.95	
150-2225-422.34-50	11/12/2009	ONE EIGHTY OCT 2009	LONG DISTANCE		05/2010	15.60	
11/13/2009	726655	PRISTINE WATER SOLUTIONS	20868			3,037.50	
502-7400-603.22-20	11/09/2009	NONSTOCKING ITEMS-P.U.D.	14562	269612	05/2010	3,037.50	
11/13/2009	726656	PTM EQUIPMENT INC	20822			6,334.81	
710-2133-421.21-20	11/09/2009	MISC SERVICES	20090021	270458	05/2010	3,125.00	
710-2133-421.21-20	11/09/2009	MISC SERVICES	20090025	270459	05/2010	3,209.81	
11/13/2009	726657	PUBLIC UTILITIES	5022			6,752.71	
541-0000-115.01-00	11/06/2009	Pmt transf from SW #20286	CIS-BRAD ZINS		04/2010	249.30	
561-7110-711.34-20	11/13/2009	1901 AIRPORT TERM CIR	68407759		05/2010	6,491.51	
512-8500-625.34-20	11/13/2009	2229 BLUE CREEK RD	13670319854		05/2010	11.90	
11/13/2009	726665	RIMROCK FOUNDATION	3210			3,489.48	
248-1262-412.35-90	11/12/2009	MISC SERVICES	2010-4	270596	05/2010	3,489.48	
11/13/2009	726666	RIVERSTONE HEALTH	20210			11,250.00	
10-1411-414.39-31	11/12/2009	MISC SERVICES	11092009	270594	05/2010	11,250.00	
11/13/2009	726669	SHIPTONS SUPPLY CO	3420			2,782.95	
541-3122-435.22-60	11/05/2009	COLD WEATHER GEAR SW	187746	269502	05/2010	2,094.99	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
541-3123-435.22-60	11/05/2009	COLD WEATHER GEAR LF	187746	269502	05/2010	687.96	
11/13/2009	726670	SIRSIDYNIX	19890			20,653.73	
260-5518-455.36-90	11/09/2009	MISC SERVICES	INVMT17270	270449	05/2010	20,653.73	
11/13/2009	726686	TOTAL ASPHALT REPAIR INC	13249			6,248.00	
502-7500-609.36-80	11/10/2009	MISC SERVICES	3477	270528	05/2010	600.00	
503-7591-609.93-40	11/10/2009	MISC SERVICES	3482	270528	05/2010	3,390.00	
503-7591-609.93-40	11/10/2009	MISC SERVICES	3484	270528	05/2010	2,258.00	
11/13/2009	726687	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			12,627.55	
601-0000-141.00-00	11/06/2009	MP	67826		05/2010	7,732.55	
561-7118-711.23-13	11/06/2009	INVOICE #69739	69739	F10053	05/2010	4,895.00	
11/13/2009	726689	TRACTOR & EQUIPMENT	3775			3,387.77	
541-3122-435.23-20	11/09/2009	MP	BLW00112686	270500	05/2010	630.12	
541-3122-435.23-20	11/09/2009	MP	BLW00112686	270500	05/2010	2,054.14	
211-3132-433.23-20	11/09/2009	MP	BLW00112720	270500	05/2010	363.91	
541-3122-435.23-20	11/09/2009	MP	BLW00112721	270500	05/2010	339.60	
11/13/2009	726699	WATCO, INC	3977			3,642.92	
10-5126-451.36-90	10/08/2009	POOL COVERS	9619	269590	04/2010	4,044.39	
10-5126-451.36-90	11/05/2009	CHARGES ARE WRONG	9419	270328	05/2010	4,044.39	
10-5126-451.36-90	11/05/2009	POOL COVERS	9535	270328	05/2010	3,642.92	
11/13/2009	726706	WESTERN MUNICIPAL CONSTRUCTION	11742			147,050.00	
513-8591-625.93-40	11/10/2009	WO0801 2008 WTR&SWR SCH2	6	265602	05/2010	147,050.00	
11/13/2009	726709	Z & Z SEAL COATING INC	20793			89,050.66	
205-3131-433.93-90	11/10/2009	W10903 2009 PAVER	2	269534	05/2010	89,050.66	
DATE RANGE TOTAL *						638,898.42 *	

Date: 12/14/2009

TITLE: Payment of Claims, November 20, 2009.

Pat M. Weber, Financial

PRESENTED BY: Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,317,511.62 have been audited and are presented for your approval for payment. A complete listing of the claims dated November 20, 2009, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

- Approve the payment of claims; or
- Not approve the payment of claims.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [List of claims greater than \\$2500.](#)

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
11/20/2009	726727	ARROW STRIPING & MANUFACTURING	9617			11,593.90	
561-7113-711.36-60	11/18/2009	MISC SERVICES	21936	269362	05/2010	11,593.90	
11/20/2009	726730	BALCO UNIFORM CO INC	6003			6,400.00	
150-2112-421.22-60	11/17/2009	MISC SERVICES	18914	269817	05/2010	1,401.00	
150-2112-421.22-60	11/17/2009	MISC SERVICES	18905	269818	05/2010	4,999.00	
11/20/2009	726738	BILLINGS GAZETTE	420			10,567.03	
10-1750-417.33-70	11/18/2009	MET	OCTOBER 2009		05/2010	1,008.64	
10-1411-414.33-10	11/18/2009	ONLINE BANNER	OCTOBER 2009		05/2010	565.71	
10-1411-414.39-39	11/18/2009	CITY LINK	OCTOBER 2009		05/2010	4,593.40	
541-3122-435.33-70	11/18/2009	SOLID WASTE	OCTOBER 2009		05/2010	2,872.25	
10-5140-436.33-10	11/18/2009	CEMETERY	OCTOBER 2009		05/2010	281.09	
260-5519-455.33-80	11/18/2009	LIBRARY SUBSCRIPTION	#3728		05/2010	237.30	
512-8211-621.33-10	11/18/2009	PW WASTEWATER	OCTOBER 2009		05/2010	1,008.64	
11/20/2009	726745	BORDER STATES ELECTRIC	509			14,868.46	
512-8400-623.23-60	10/05/2009	NONSTOCKING ITEMS-P.U.D.	99941203	269076	04/2010	28.75	
512-8400-623.23-60	10/08/2009	NONSTOCKING ITEMS-P.U.D.	99942321	269076	04/2010	2,289.45	
512-8400-623.23-60	10/08/2009	NONSTOCKING ITEMS-P.U.D.	99942330	269076	04/2010	4,999.20	
502-7400-603.23-60	10/08/2009	NONSTOCKING ITEMS-P.U.D.	99952162	269076	04/2010	76.56	
571-7143-713.36-60	10/08/2009	INVOICE# 99941361	99941361	F09894	04/2010	97.76	
571-7143-713.36-60	10/08/2009	INVOICE# 99941884	99941361	F09894	04/2010	109.98	
512-8400-623.23-60	10/09/2009	NONSTOCKING ITEMS-P.U.D.	99958465	269076	04/2010	55.13	
211-0000-141.31-83	10/14/2009	STREET LIGHTS	99958094		04/2010	598.50	
512-8400-623.23-60	10/22/2009	NONSTOCKING ITEMS-P.U.D.	900013447	269076	04/2010	417.25	
512-8400-623.23-60	10/22/2009	NONSTOCKING ITEMS-P.U.D.	900013450	269076	04/2010	8.00	
512-8400-623.23-60	10/22/2009	NONSTOCKING ITEMS-P.U.D.	900024876	269076	04/2010	123.60	
512-8400-623.23-60	10/22/2009	NONSTOCKING ITEMS-P.U.D.	900030913	269076	04/2010	39.68	
512-8400-623.23-60	10/22/2009	NONSTOCKING ITEMS-P.U.D.	900044241	269076	04/2010	981.36	
512-8400-623.23-60	10/27/2009	NONSTOCKING ITEMS-P.U.D.	900061352	269076	04/2010	.80	
512-8400-623.23-60	10/27/2009	NONSTOCKING ITEMS-P.U.D.	900067728	269076	04/2010	74.10	
512-8400-623.23-60	10/29/2009	NONSTOCKING ITEMS-P.U.D.	900073468	269076	04/2010	9.40	
512-8400-623.23-60	10/29/2009	NONSTOCKING ITEMS-P.U.D.	900078870	269076	04/2010	267.86	
502-0000-141.00-00	11/02/2009	WATER PARTS AND SUPPLIES	900091526		05/2010	950.93	
502-7400-603.23-60	11/02/2009	NONSTOCKING ITEMS-P.U.D.	900090977	269076	05/2010	78.25	
211-0000-141.31-83	11/04/2009	STREET LIGHTS	900091058		05/2010	403.90	
211-3132-433.23-20	11/04/2009	MISC SERVICES	900036724	269076	05/2010	105.43	
211-3132-433.23-20	11/04/2009	MISC SERVICES	900044242	269076	05/2010	58.85	
211-3136-433.24-30	11/04/2009	MISC SERVICES	900047752	269076	05/2010	132.77	
512-8400-623.23-60	11/04/2009	NONSTOCKING ITEMS-P.U.D.	900090726	269076	05/2010	94.84	
512-8400-623.23-60	11/04/2009	NONSTOCKING ITEMS-P.U.D.	900091533	269076	05/2010	178.57	
150-2226-422.23-60	10/31/2009	LIGHT BULBS/FIRE2/	900079505	FIRE1	05/2010	154.80	
512-8400-623.23-60	11/18/2009	NONSTOCKING ITEMS-P.U.D.	900038671	269076	05/2010	2,502.99	
512-8400-623.23-60	11/19/2009	NONSTOCKING ITEMS-P.U.D.	99942229	269076	05/2010	102.85	
512-8500-625.23-60	11/19/2009	NONSTOCKING ITEMS-P.U.D.	99951733	269076	05/2010	44.60	
11/20/2009	726747	BRENNTAG PACIFIC INC	17236			11,329.79	
211-3134-433.47-20	11/18/2009	ROAD/HIGHWAY MATERIAL	BPI941513	270595	05/2010	5,501.77	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
211-3134-433.47-20	11/18/2009	ROAD/HIGHWAY MATERIAL	BPI941514	270595	05/2010	5,828.02	
11/20/2009	726751	BUSINESS TAX SECTION	2449			7,860.89	
513-8491-623.93-90	11/10/2009	TP0046 WELL PUMP REPLCMNT	4	266262	05/2010	180.54	
503-7591-609.93-40	11/10/2009	MISC SERVICES	2544	270114	05/2010	5.00	
205-3131-433.93-10	11/13/2009	WO0917 24TH ST W CONCRETE	CORRECTION	269602	05/2010	1,239.15-	
205-3131-433.93-10	11/13/2009	WO0917 24TH ST W CONCRETE	CORRECTION	269602	05/2010	1,239.15	
845-3186-431.93-10	11/13/2009	WO0917 24TH ST W CONCRETE	RET CORRECTION	269602	05/2010	.00	
544-3123-435.93-90	11/17/2009	WO0827 LANDFILL PHSE 4	3	268002	05/2010	2,690.09	
840-3184-431.93-10	11/17/2009	WO0820 STORM DRAIN TRBLE	3	268419	05/2010	140.71	
409-0000-201.10-00	11/18/2009	RETAINAGE RELEASE	PAY REQ #5FINAL	266563	05/2010	410.96	
409-7126-711.96-80	11/18/2009	MISC SERVICES	ARRA RSG #5	266563	05/2010	437.34	
521-1591-493.24-50	11/18/2009	GARAGE PAINTING	FINAL ACOM	270730	05/2010	3,996.25	
11/20/2009	726757	CARQUEST AUTO PARTS	3890			4,012.53	
502-0000-141.00-00	10/02/2009	WATER PARTS AND SUPPLIES	1935127468		04/2010	305.28	
502-7500-609.23-20	10/02/2009	NONSTOCKING ITEMS-P.U.D.	1935127492	269077	04/2010	53.94	
502-7312-602.23-20	10/02/2009	NONSTOCKING ITEMS-P.U.D.	1935127533	269077	04/2010	33.79	
502-0000-141.00-00	10/05/2009	WATER PARTS AND SUPPLIES	1935127648		04/2010	30.70	
502-7500-609.23-20	10/07/2009	NONSTOCKING ITEMS-P.U.D.	1935128271	269077	04/2010	28.85	
601-0000-141.00-00	10/09/2009	MP	1910-157031		04/2010	95.52	
502-0000-141.00-00	10/13/2009	WATER PARTS AND SUPPLIES	1935128666		04/2010	585.32	
512-8400-623.23-20	10/09/2009	NONSTOCKING ITEMS-P.U.D.	1935128420	269077	04/2010	205.22	
502-7500-609.23-20	10/09/2009	NONSTOCKING ITEMS-P.U.D.	1935128557	269077	04/2010	12.99	
209-4452-428.23-20	10/13/2009	MP	1910-157164	269077	04/2010	24.39	
541-3122-435.23-20	10/13/2009	MP	1910-157242	269077	04/2010	24.40	
512-8500-625.23-20	10/13/2009	NONSTOCKING ITEMS-P.U.D.	1935128662	269077	04/2010	13.96	
541-3122-435.23-20	10/14/2009	MP	1910-156897	269077	04/2010	59.86	
502-7500-609.23-20	10/14/2009	MP	1910-157033	269077	04/2010	12.87	
502-7400-603.24-50	10/14/2009	NONSTOCKING ITEMS-P.U.D.	1935129172	269077	04/2010	22.96	
502-7400-603.23-20	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1935129390	269077	04/2010	59.99	
512-8500-625.23-20	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1935129570	269077	04/2010	2.97	
150-2223-422.22-90	10/20/2009	KNOX BOX PROJECT/WIRE	1910-158338 FRB	269077	04/2010	92.01	
502-7500-609.23-20	10/20/2009	NONSTOCKING ITEMS-P.U.D.	1935129845	269077	04/2010	45.24	
502-7500-609.23-20	10/20/2009	NONSTOCKING ITEMS-P.U.D.	1935129944	269077	04/2010	17.98	
601-0000-141.00-00	10/22/2009	MP	1910-158688		04/2010	71.64	
502-0000-141.00-00	10/22/2009	WATER PARTS AND SUPPLIES	1935130067		04/2010	245.07	
211-3133-433.23-20	10/22/2009	MP	1910-158453	269077	04/2010	5.27	
211-3133-433.23-20	10/22/2009	MP	1910-158453	269077	04/2010	55.46	
512-8400-623.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1935129407	269077	04/2010	81.56	
502-7400-603.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1935130026	269077	04/2010	27.68	
502-0000-141.00-00	10/23/2009	WATER PARTS AND SUPPLIES	1935130003		04/2010	42.00	
502-7400-603.23-20	10/23/2009	NONSTOCKING ITEMS-P.U.D.	1935130003	269077	04/2010	33.88	
512-8500-625.23-20	10/23/2009	NONSTOCKING ITEMS-P.U.D.	1935130277	269077	04/2010	9.32	
512-8500-625.23-20	10/23/2009	NONSTOCKING ITEMS-P.U.D.	1935130423	269077	04/2010	27.15-	
502-7500-609.24-10	10/23/2009	NONSTOCKING ITEMS-P.U.D.	1935130479	269077	04/2010	11.00	
512-8500-625.23-20	10/23/2009	NONSTOCKING ITEMS-P.U.D.	2833143590	269077	04/2010	23.47	
601-0000-141.00-00	10/26/2009	MP	1910-157525		04/2010	138.55	
601-0000-141.00-00	10/26/2009	MP	1910-157802		04/2010	17.82	
601-0000-141.00-00	10/26/2009	MP	1910-158087		04/2010	65.88	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT			
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
150-2112-421.23-20	10/26/2009	MP	1910-157525	269077	04/2010	33.22	
541-3122-435.23-20	10/26/2009	MP	1910-157810	269077	04/2010	42.69	
601-1553-481.26-50	10/26/2009	MP	1910-157811	269077	04/2010	3.47	
150-2223-422.22-90	10/26/2009	WIRE/SCREWS/TIES/KNOX BX	1910-158776	FPB	269077	04/2010	40.67
150-2223-422.22-90	10/26/2009	PRIMARY WIRE/KNOX BX PJT	1910-158822	FPB	269077	04/2010	13.96
150-2223-422.22-90	10/26/2009	WIRE/CABLE/KNOX BX PROJCT	1910-158997	FPB	269077	04/2010	11.00
502-0000-141.00-00	10/28/2009	WATER PARTS AND SUPPLIES	1935131001		04/2010	172.56	
512-8400-623.23-20	10/29/2009	NONSTOCKING ITEMS-P.U.D.	1935131044	269077	04/2010	3.97	
601-0000-141.00-00	10/30/2009	MP	1910-158851		04/2010	40.78	
601-0000-141.00-00	10/30/2009	MP	1910-159160		04/2010	20.39	
541-3123-435.23-20	10/30/2009	MP	1910-157320	269077	04/2010	36.40	
150-2226-422.23-20	10/30/2009	MP	1910-158507	269077	04/2010	80.26	
150-2226-422.23-20	10/30/2009	MP	1910-159253	269077	04/2010	7.78	
512-8400-623.23-20	10/30/2009	NONSTOCKING ITEMS-P.U.D.	1935131166	269077	04/2010	51.43	
502-7400-603.24-50	11/02/2009	NONSTOCKING ITEMS-P.U.D.	1935131167	269077	05/2010	13.65	
502-7400-603.24-50	11/02/2009	NONSTOCKING ITEMS-P.U.D.	1935131262	269077	05/2010	3.49	
502-7311-602.23-20	11/02/2009	NONSTOCKING ITEMS-P.U.D.	1935131362	269077	05/2010	14.38	
601-0000-141.00-00	11/04/2009	MP	1910-158084		05/2010	32.45	
601-0000-141.00-00	11/04/2009	MP	1910-158867		05/2010	8.40	
601-0000-141.00-00	11/04/2009	MP	1910-158964		05/2010	9.90	
601-0000-141.00-00	11/04/2009	MP	1910-159064		05/2010	30.00	
601-0000-141.00-00	11/04/2009	MP	1910-159068		05/2010	107.94	
601-0000-141.00-00	11/04/2009	MP	1910-159068		05/2010	54.60	
601-0000-141.00-00	11/04/2009	MP	1910-159646		05/2010	30.08	
211-3134-433.23-20	11/04/2009	MP	1910-158123	269077	05/2010	9.57	
10-5112-452.23-20	11/04/2009	MP	1910-158209	269077	05/2010	14.54	
150-2112-421.23-20	11/04/2009	MP	1910-158649	269077	05/2010	95.22	
150-2112-421.23-20	11/04/2009	MP	1910-158848	269077	05/2010	185.77	
10-5112-452.23-20	11/04/2009	MP	1910-158964	269077	05/2010	2.97	
601-1553-481.26-50	11/04/2009	MP	1910-158964	269077	05/2010	5.98	
541-3122-435.23-20	11/04/2009	MP	1910-159064	269077	05/2010	5.27	
150-2112-421.23-20	11/04/2009	MP	1910-159089	269077	05/2010	21.33	
150-2112-421.23-20	11/04/2009	MP	1910-159130	269077	05/2010	9.68	
150-2112-421.23-20	11/04/2009	MP	1910-159132	269077	05/2010	5.27	
150-2112-421.23-20	11/04/2009	MP	1910-159132	269077	05/2010	6.98	
601-1553-481.26-50	11/04/2009	MP	1910-159317	269077	05/2010	58.26	
541-3122-435.23-20	11/04/2009	MP	1910-159380	269077	05/2010	13.27	
601-1553-481.26-50	11/04/2009	MP	1910-159383	269077	05/2010	14.97	
601-1553-481.26-50	11/04/2009	MP	1910-159387	269077	05/2010	14.97	
10-5112-452.23-20	11/04/2009	MP	1910-159648	269077	05/2010	170.87	
512-8400-623.24-50	11/04/2009	NONSTOCKING ITEMS-P.U.D.	1935131286	269077	05/2010	9.27	
512-8314-622.24-50	11/19/2009	NONSTOCKING ITEMS-P.U.D.	1935127547	269077	05/2010	24.82-	
11/20/2009	726761	CIRCUIT ELECTRIC CO	10635			4,995.00	
606-1931-484.34-50	11/16/2009	MISC SERVICES	91128	269531	05/2010	4,995.00	
11/20/2009	726762	CMG CONSTRUCTION, INC.	17342			266,319.37	
544-3123-435.93-90	11/17/2009	WO0827 LANDFILL PHSE 4	3	267999	05/2010	266,319.37	
11/20/2009	726765	CONNOR'S GARAGE DOOR SERVICE	20573			3,867.50	
561-7113-711.36-60	11/17/2009	INVOICE #1089	1089	F10121	05/2010	3,867.50	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
11/20/2009 521-1591-493.24-50	726768 11/18/2009	CTA ARCHITECTS P1 CONDITION AUDIT	920 79855	270734	05/2010	3,000.00 3,000.00	
11/20/2009 209-4451-428.21-20 150-2221-422.29-25 620-1911-482.29-25 660-3110-431.29-25	726774 10/30/2009 11/01/2009 11/06/2009 11/10/2009	DELL COMPUTER L P MISC SERVICES MISC SERVICES MISC SERVICES XDFX26256	13426 XDFPC22M2 XDFPWDR51 XDFXPKCJ3 XDJ2JC291	270248 270163 270164 270421	05/2010 05/2010 05/2010 05/2010	12,855.50 154.99 9,799.92 1,429.56 1,471.03	
11/20/2009 840-3184-431.39-90	726775 11/13/2009	DEPT OF ENVIRONMENTAL QUALITY STORMWATER DISCHARGE PRMT	15307	SW DISCHARGE 270645	05/2010	7,500.00 7,500.00	
11/20/2009 150-2231-422.26-90	726801 11/18/2009	GENERAL SERVICES ADMINISTRATIO FIRE SHELTERS & BACKPAKS	14336	E0026872 / FIRE 270744	05/2010	3,266.00 3,266.00	
11/20/2009 502-7211-601.35-40 416-7493-603.93-40 840-3184-431.93-10	726814 11/10/2009 11/12/2009 11/17/2009	HDR INC DRINKING WATER SOURCE STD PL0049 BACKUP ER POWER WO0709 BLGS STRMWTR MSTR	1544 144410-H 153013-H 25	258046 249305 251610	05/2010 05/2010 05/2010	6,147.75 3,752.74 1,848.67 546.34	
11/20/2009 205-3131-433.93-10	726817 11/17/2009	HKM ENGINEERING INC WO0821 LAKE ELMO DR	10883	10 261940	05/2010	22,051.43 22,051.43	
11/20/2009 900-0000-209.99-20	726819 11/20/2009	IAFF PAYROLL SUMMARY	20196	20091120	05/2010	4,267.35 4,267.35	
11/20/2009 407-7128-711.94-97	726823 11/16/2009	INTERMOUNTAIN SWEEPER CO MISC SERVICES	20739	79440 268509	05/2010	187,329.00 187,329.00	
11/20/2009 840-3184-431.93-10	726826 11/17/2009	J & J CONCRETE WO0820 STORM DRAIN TRBLE	15244	3 268418	05/2010	13,930.46 13,930.46	
11/20/2009 502-7311-602.36-30 512-8311-622.36-30	726827 11/10/2009 11/10/2009	JACK HENRY & ASSOCIATES INC COMPUTER HARDWARE COMPUTER HARDWARE	20831	0588783 0588783 269978 269978	05/2010 05/2010	3,444.16 1,722.08 1,722.08	
11/20/2009 502-0000-141.00-00	726834 11/17/2009	JWC ENVIRONMENTAL WASTEWATER PARTS & SUPPLY	5460	31289	05/2010	14,012.69 14,012.69	
11/20/2009 561-7115-711.22-60	726840 11/18/2009	L N CURTIS MISC SERVICES	12107	3093516-00 270724	05/2010	30,905.00 30,905.00	
11/20/2009 541-3123-435.35-81 541-3123-435.35-81 541-3123-435.35-81	726841 11/13/2009 11/16/2009 11/19/2009	LABOR READY INC LABOR AT LANDFILL LABOR AT LANDFILL LABOR AT LANDFILL	13199	43051115 43501115 43901115 270473 270476 270482	05/2010 05/2010 05/2010	7,231.20 1,269.60 3,312.00 2,649.60	
11/20/2009 240-4301-419.31-10	726845 11/18/2009	MAILING TECHNICAL SERVICES MISC SERVICES	12577	OCTOBER 09 270721	05/2010	5,586.16 507.40	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
521-1522-493.31-10	11/18/2009	MISC SERVICES	OCTOBER 09	270721	05/2010	64.17
605-1515-483.31-10	11/18/2009	MISC SERVICES	OCTOBER 09	270721	05/2010	5,014.59
11/20/2009	726857	MONTANA DEPARTMENT OF	17643			3,950.87
512-8211-621.34-95	11/10/2009	EMISSIONS FEES FOR 2008	5A1000182	270549	05/2010	3,148.59
150-2171-441.24-50	11/19/2009	EMMISSIONS FEE 2009	5A1000166	270761	05/2010	802.28
11/20/2009	726859	MONTANA DEPT OF TRANSPORTATION	2496			13,597.00
205-3131-433.93-10	11/17/2009	W00325 RIMROCK RD- SHILOH	AR# 28030	270658	05/2010	13,597.00
11/20/2009	726860	MONTANA PETERBILT	20331			3,698.87
541-3122-435.23-20	11/10/2009	MP	H293100034	270573	05/2010	69.64
630-1753-485.73-10	11/13/2009	MISC SERVICES	H293090051	270626	05/2010	1,629.23
541-3122-435.23-20	11/17/2009	MP	H293150019	270706	05/2010	2,000.00
11/20/2009	726863	MONTANA STATE FIREMAN'S ASSOC	20195			2,657.36
900-0000-209.99-24	11/20/2009	PAYROLL SUMMARY	20091120		05/2010	2,657.36
11/20/2009	726868	MORRISON MAIERLE INC	2572			13,859.68
409-7126-711.96-80	11/18/2009	MISC SERVICES	91889	266564	05/2010	13,859.68
11/20/2009	726877	NORTHWEST PIPE FITTINGS	2758			43,233.14
502-7400-603.24-50	10/02/2009	NONSTOCKING ITEMS-P.U.D.	1454239	269083	04/2010	250.77
502-7314-602.24-50	10/02/2009	NONSTOCKING ITEMS-P.U.D.	1454293	269083	04/2010	195.00
512-8314-622.24-50	10/02/2009	NONSTOCKING ITEMS-P.U.D.	1454293	269083	04/2010	195.00
502-7400-603.24-50	10/02/2009	NONSTOCKING ITEMS-P.U.D.	1544470	269083	04/2010	22.11
211-3134-433.22-90	10/06/2009	MISC SERVICES	1454758	269083	04/2010	4.80
211-3134-433.22-90	10/06/2009	MISC SERVICES	1455656	269083	04/2010	17.23
512-8314-622.24-50	10/08/2009	NONSTOCKING ITEMS-P.U.D.	1457893	269083	04/2010	12.00
502-7400-603.24-50	10/08/2009	NONSTOCKING ITEMS-P.U.D.	1457938	269083	04/2010	27.00
512-8500-625.23-80	10/13/2009	NONSTOCKING ITEMS-P.U.D.	1459923	269083	04/2010	43.36
503-7391-602.93-40	10/13/2009	NONSTOCKING ITEMS-P.U.D.	1438728	269706	04/2010	10,294.00
211-3132-433.23-20	10/16/2009	MP	1458985	269083	04/2010	175.80
502-7400-603.24-50	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1440085	269083	04/2010	624.30
503-7591-609.93-40	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1461637	269083	04/2010	370.90
502-7400-603.24-50	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1461995	269083	04/2010	252.75
502-7400-603.24-50	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1462019	269083	04/2010	88.52
502-7500-609.24-10	10/19/2009	NONSTOCKING ITEMS-P.U.D.	1462590	269083	04/2010	31.62
502-0000-141.00-00	10/20/2009	SYSTEMS	14177923		04/2010	17.98
502-0000-141.00-00	10/20/2009	WATER PARTS AND SUPPLIES	1462044		04/2010	1,189.91
502-0000-141.00-00	10/20/2009	WATER PARTS AND SUPPLIES	1462123		04/2010	905.66
502-0000-141.00-00	10/20/2009	SYSTEMS	1462123		04/2010	667.46
502-0000-141.00-00	10/20/2009	SYSTEMS	1462680		04/2010	672.78
502-0000-141.00-00	10/22/2009	WATER PARTS AND SUPPLIES	1462168		04/2010	397.12
502-0000-141.00-00	10/22/2009	WATER PARTS AND SUPPLIES	1464608		04/2010	363.82
502-0000-141.00-00	10/22/2009	SYSTEMS	1464608		04/2010	278.64
502-7312-602.23-80	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1453893	269083	04/2010	2,000.00
512-8400-623.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1461479	269083	04/2010	226.72
502-7400-603.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1463189	269083	04/2010	218.73
502-7400-603.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1463285	269083	04/2010	490.44

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT			
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
502-7400-603.24-50	10/22/2009	NONSTOCKING ITEMS-P.U.D.	1463724	269083	04/2010	64.80	
502-0000-141.00-00	10/23/2009	WATER PARTS AND SUPPLIES	1465738		04/2010	7.30	
502-0000-141.00-00	10/23/2009	WATER PARTS AND SUPPLIES	1462696		04/2010	21,076.32	
502-0000-141.00-00	10/26/2009	WATER PARTS AND SUPPLIES	14620441		04/2010	37.68	
502-0000-141.00-00	10/26/2009	WATER PARTS AND SUPPLIES	14621231		04/2010	59.50	
502-7400-603.23-60	10/26/2009	NONSTOCKING ITEMS-P.U.D.	1456643	269083	04/2010	72.43	
502-7500-609.23-80	10/26/2009	NONSTOCKING ITEMS-P.U.D.	1462559	269083	04/2010	91.33	
502-0000-141.00-00	10/27/2009	WATER PARTS AND SUPPLIES	14621232		04/2010	102.60	
502-7400-603.24-50	10/27/2009	NONSTOCKING ITEMS-P.U.D.	1467399	269083	04/2010	36.54	
502-0000-141.00-00	10/28/2009	SYSTEMS	14621233		04/2010	46.53	
512-8400-623.24-50	10/29/2009	NONSTOCKING ITEMS-P.U.D.	1461709	269083	04/2010	880.00	
512-8400-623.23-60	10/29/2009	NONSTOCKING ITEMS-P.U.D.	1467299	269083	04/2010	15.06	
512-8400-623.24-50	10/29/2009	NONSTOCKING ITEMS-P.U.D.	1468124	269083	04/2010	384.29	
503-7591-609.93-40	10/30/2009	NONSTOCKING ITEMS-P.U.D.	1468565	269083	04/2010	159.42	
502-7400-603.24-50	11/04/2009	NONSTOCKING ITEMS-P.U.D.	1468289	269083	05/2010	38.92	
502-7400-603.24-50	11/19/2009	NONSTOCKING ITEMS-P.U.D.	1463190	269083	05/2010	126.00	
11/20/2009	726880	NORTHWESTERN ENERGY	15771			24,924.10	
561-7117-711.34-10	11/16/2009	1341288-7	111609	F10095	05/2010	275.38	
561-7117-711.34-10	11/16/2009	1341289-5	111609	F10095	05/2010	33.56	
561-7117-711.34-10	11/16/2009	1341291-1	111609	F10095	05/2010	239.93	
561-7117-711.34-10	11/16/2009	1341295-2	111609	F10095	05/2010	329.85	
561-7113-711.34-10	11/16/2009	1647695-4	111609	F10095	05/2010	30.09	
561-7117-711.34-10	11/16/2009	1669567-8	111609	F10095	05/2010	486.39	
561-7117-711.34-10	11/16/2009	1264299-7	111609	F10095	05/2010	523.31	
561-7113-711.34-10	11/16/2009	0100483-7	111609	F10095	05/2010	2,490.88	
561-7113-711.34-10	11/16/2009	0100484-5	111609	F10095	05/2010	1,855.06	
150-2221-422.34-10	11/18/2009	FIRE1/ELE/26,280KWH	0100476-1	09NOV	267531	05/2010	2,031.38
521-1595-493.34-10	11/18/2009	DWNTWN SUBS	1724723	0	270736	05/2010	648.32
561-7117-711.34-10	11/19/2009	NW AVIATION/TRAN	07127921		05/2010	375.47	
561-7117-711.34-10	11/19/2009	NW AVIATION/TRAN	07127996		05/2010	27.39	
561-7117-711.34-10	11/19/2009	NW AVIATION/TRAN	07128002		05/2010	1,088.83	
561-7113-711.34-10	11/19/2009	NW AVIATION/TRAN	07128093		05/2010	7.10	
561-7117-711.34-10	11/19/2009	NW AVIATION/TRAN	07128176		05/2010	75.37	
561-7113-711.34-10	11/19/2009	NW AVIATION/TRAN	07196165		05/2010	51.09	
607-2235-486.34-10	11/19/2009	NW FIRE	07215809		05/2010	203.81	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222375		05/2010	16.09	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222474		05/2010	7.10	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222540		05/2010	.16	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222557		05/2010	81.02	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222573		05/2010	182.79	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222607		05/2010	59.08	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222656		05/2010	.08	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222664		05/2010	7.20	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222698		05/2010	7.10	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222920		05/2010	10.33	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07222938		05/2010	17.43	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07229057		05/2010	7.38	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07229339		05/2010	95.52	
10-5112-452.34-10	11/19/2009	NW PARK/REC/PL	07230352		05/2010	88.61	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	CHECK AMOUNT
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230360		05/2010	8.72	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230378		05/2010	157.65	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230428		05/2010	30.47	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230444		05/2010	7.65	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230543		05/2010	7.84	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230550		05/2010	7.10	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230568		05/2010	16.75	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230576		05/2010	7.10	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230584		05/2010	7.29	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07230907		05/2010	8.30	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07231624		05/2010	7.10	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07231707		05/2010	89.29	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07236441		05/2010	7.10	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07236458		05/2010	7.10	
211-3137-433.34-10					11/19/2009	NW PUBLIC WORKS	07240575		05/2010	144.57	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07894371		05/2010	17.41	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	07931348		05/2010	13.64	
211-3133-433.34-10					11/19/2009	NW PUBLIC WORKS	08554040		05/2010	8.30	
10-5112-452.34-10					11/19/2009	NW PARK/REC/PL	09254962		05/2010	355.00	
650-1566-487.34-10					11/19/2009		09758087		05/2010	407.06	
10-5112-452.34-10					11/19/2009	NW	15220957		05/2010	247.81	
650-1567-487.34-10					11/19/2009	FACILITIES MANAGEMENT	01005073		05/2010	6,554.86	
521-1592-493.34-10					11/19/2009	NW FINANCE	07208341		05/2010	3,616.51	
872-5198-452.34-10					11/19/2009	NW PARK/REC/PL	10590933		05/2010	186.94	
521-1592-493.34-10					11/19/2009	PARK 2 GARAGE	15942824		05/2010	1,649.44	
11/20/2009	726890	NORTHWESTERN ENERGY	15784							128,319.02	
211-3136-433.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE SIGNALS		05/2010	10,190.68	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712544-6		05/2010	424.62	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712545-3		05/2010	446.98	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712546-1		05/2010	1,271.42	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0721276-4		05/2010	3,358.64	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0721277-2		05/2010	1,654.39	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712553-7		05/2010	1,042.25	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712554-5		05/2010	77.38	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712556-0		05/2010	331.05	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712557-8		05/2010	12,409.36	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712558-6		05/2010	1,347.46	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712559-4		05/2010	2,223.29	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712560-2		05/2010	1,519.08	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712561-0		05/2010	3,750.24	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712562-8		05/2010	146.68	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712563-6		05/2010	807.02	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712564-4		05/2010	189.89	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712565-1		05/2010	498.45	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712566-9		05/2010	2,749.69	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712567-7		05/2010	196.37	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712568-5		05/2010	128.52	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712570-1		05/2010	2,136.20	
810-3183-431.34-10					11/30/2009	LIGHT MAINT TRANSFER	NWE 0712571-9		05/2010	162.29	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712572-7		05/2010	284.82
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712573-5		05/2010	830.75
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712574-3		05/2010	332.29
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712575-0		05/2010	166.16
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712576-8		05/2010	608.57
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712577-6		05/2010	426.00
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712578-4		05/2010	284.82
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712579-2		05/2010	122.69
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712580-0		05/2010	735.82
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712581-8		05/2010	199.36
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712582-6		05/2010	460.07
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712583-4		05/2010	446.28
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712584-2		05/2010	395.10
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712585-9		05/2010	314.98
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712586-7		05/2010	640.86
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712587-5		05/2010	213.62
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712588-3		05/2010	496.07
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712589-1		05/2010	23.62
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712590-9		05/2010	405.71
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712591-7		05/2010	308.56
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712592-5		05/2010	397.09
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712593-3		05/2010	1,157.42
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712594-1		05/2010	649.14
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712595-8		05/2010	545.92
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712596-6		05/2010	3,715.36
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712597-4		05/2010	466.57
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712598-2		05/2010	1,054.88
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712599-0		05/2010	427.24
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712600-6		05/2010	791.14
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712601-4		05/2010	688.34
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712602-2		05/2010	924.55
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712603-0		05/2010	617.13
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712604-8		05/2010	912.86
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712605-5		05/2010	50.87
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712607-1		05/2010	324.57
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712608-9		05/2010	759.54
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712609-7		05/2010	202.87
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712610-5		05/2010	486.85
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712611-3		05/2010	460.07
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712612-1		05/2010	1,014.30
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712613-9		05/2010	851.99
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712614-7		05/2010	283.99
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712615-4		05/2010	36.33
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712616-2		05/2010	223.15
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712617-0		05/2010	446.28
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712618-8		05/2010	304.29
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712619-6		05/2010	1,447.87
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712620-4		05/2010	507.14
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712621-2		05/2010	1,014.31
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712622-0		05/2010	324.57

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712623-8		05/2010	121.72
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712624-6		05/2010	498.69
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712625-3		05/2010	202.87
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712626-1		05/2010	243.42
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712627-9		05/2010	202.87
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712628-7		05/2010	1,054.88
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712629-5		05/2010	362.37
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712630-3		05/2010	263.71
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712631-1		05/2010	649.14
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712632-9		05/2010	206.36
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712633-7		05/2010	171.96
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712634-5		05/2010	55.44
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712635-2		05/2010	55.44
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712636-0		05/2010	101.43
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712637-8		05/2010	59.13
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712638-6		05/2010	426.00
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712639-4		05/2010	634.32
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712640-2		05/2010	14.78
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712641-0		05/2010	296.73
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712642-8		05/2010	29.06
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712643-6		05/2010	283.99
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712644-4		05/2010	324.57
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712645-1		05/2010	216.18
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712646-9		05/2010	466.57
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712647-7		05/2010	66.52
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712648-5		05/2010	36.97
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712649-3		05/2010	36.97
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712650-1		05/2010	22.18
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712651-9		05/2010	403.63
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712652-7		05/2010	121.72
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712657-6		05/2010	88.69
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712658-4		05/2010	1,525.91
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712659-2		05/2010	323.30
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712660-0		05/2010	236.71
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712661-8		05/2010	581.06
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712662-6		05/2010	688.34
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712663-4		05/2010	356.04
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712664-2		05/2010	830.75
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712665-9		05/2010	498.45
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712666-7		05/2010	2,159.95
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712667-5		05/2010	644.81
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712668-3		05/2010	379.21
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712669-1		05/2010	405.01
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712670-9		05/2010	128.97
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712671-7		05/2010	344.86
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712672-5		05/2010	12.51

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712675-8		05/2010	527.82
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712677-4		05/2010	94.94
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712678-2		05/2010	72.75
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712679-0		05/2010	284.82
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0712681-6		05/2010	2,073.30
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0718734-7		05/2010	2,349.85
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1301786-8		05/2010	16.50
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0719001-0		05/2010	156.82
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0718801-4		05/2010	3,367.82
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0719162-0		05/2010	474.71
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0719644-7		05/2010	1,648.96
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0719763-5		05/2010	116.64
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0720813-5		05/2010	122.47
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0720360-7		05/2010	678.55
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0720606-3		05/2010	2,231.80
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1301786-8		05/2010	15.23
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0720810-1		05/2010	1,059.30
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0720716-0		05/2010	750.11
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0721427-3		05/2010	127.25
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0721684-9		05/2010	44.85
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0833098-7		05/2010	60.18
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0906944-4		05/2010	339.18
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0905005-5		05/2010	2,417.85
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 0926386-4		05/2010	173.44
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1058710-3		05/2010	711.11
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1087619-1		05/2010	180.57
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1124127-0		05/2010	52.55
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810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1079722-3		05/2010	287.07
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1172743-5		05/2010	291.26
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1206985-2		05/2010	289.64
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1296582-8		05/2010	204.49
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1246537-3		05/2010	93.06
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1303978-9		05/2010	431.42
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1685375-6		05/2010	271.10
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1433921-2		05/2010	113.58
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1481532-8		05/2010	522.18
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1481534-4		05/2010	202.87
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1481535-1		05/2010	405.71
810-3183-431.34-10	11/30/2009	LIGHT MAINT TRANSFER	NWE 1481536-9		05/2010	94.94

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810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1481537-7		05/2010	1,090.38
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1481539-3		05/2010	182.57
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1481540-1		05/2010	162.29
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1662840-6		05/2010	346.62
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1687005-7		05/2010	1,533.12
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1607534-3		05/2010	408.20
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1695873-8		05/2010	746.99
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 1740353-6		05/2010	495.43
810-3183-431.34-10	11/30/2009			LIGHT MAINT TRANSFER	NWE 0712569-3		05/2010	42.90
11/20/2009	726894	PALM TREE CONSTRUCTION	2869					3,040.00
505-7515-609.36-71	11/12/2009			MISC SERVICES	272972	270591	05/2010	3,040.00
11/20/2009	726897	PEARPOINT INC	13043					2,599.50
211-3133-433.23-20	11/18/2009			MISC SERVICES	CD124596	270191	05/2010	2,599.50
11/20/2009	726907	QWEST COMMUNICATIONS	6319					9,610.73
225-2232-422.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	252-1190		05/2010	8,972.13
521-1592-493.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	252-2041		05/2010	42.93
601-1550-481.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	256-5047		05/2010	44.43
10-1212-412.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	256-6082		05/2010	45.55
561-7110-711.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	256-7070		05/2010	43.98
660-3110-431.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	259-7758 1/2		05/2010	63.20
670-3141-489.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	259-7758 1/2		05/2010	63.19
225-2232-422.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	651-0282		05/2010	42.93
150-2111-421.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	656-1046		05/2010	42.93
150-2111-421.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	656-3671		05/2010	192.84
240-4301-419.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	656-9578		05/2010	28.31
240-4301-419.34-50	11/12/2009			QWEST NOV 2009 2ND PAY	656-9604		05/2010	28.31
11/20/2009	726915	RIVERSIDE SAND & GRAVEL INC	19447					83,981.51
409-0000-201.10-00	11/18/2009			Retainage release	PAY REQ #5FINAL	266562	05/2010	40,685.35
409-7126-711.96-80	11/18/2009			MISC SERVICES	ARRA RSG #5	266562	05/2010	43,296.16
11/20/2009	726916	RUTHERFORD & ASSOC	3286					4,700.00
205-3131-433.93-10	11/18/2009			WO0015 GRAND 8TH TO 12TH	FILE# 0908	270725	05/2010	4,700.00
11/20/2009	726922	SHERMAN & HOWARD L.L.C.	3414					7,141.35
10-1611-416.35-60	11/19/2009			CONSULTANT SERVICES	477403	270663	05/2010	7,141.35
11/20/2009	726925	SKYCON INC	19639					4,618.50
561-7112-711.36-60	11/16/2009			INVOICE #212	212	F10093	05/2010	4,618.50
11/20/2009	726933	ST VINCENT OCCUPATIONAL HEALTH	3535					39,904.25
10-1750-417.35-72	11/13/2009			MISC SERVICES	17546	270624	05/2010	1,570.00
150-2112-421.35-10	11/13/2009			MISC SERVICES	17546	270624	05/2010	77.25
211-3131-433.22-60	11/13/2009			MISC SERVICES	17546	270624	05/2010	70.00
502-7500-609.35-10	11/13/2009			MISC SERVICES	17546	270624	05/2010	70.00
512-8500-625.35-10	11/13/2009			MISC SERVICES	17546	270624	05/2010	70.00
541-3121-435.35-10	11/13/2009			MISC SERVICES	17546	270624	05/2010	70.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
561-7113-711.35-10	11/13/2009	MISC SERVICES	17546	270624	05/2010	70.00	
571-7142-713.35-10	11/13/2009	MISC SERVICES	17546	270624	05/2010	110.00	
601-1553-481.35-10	11/13/2009	MISC SERVICES	17546	270624	05/2010	165.00	
627-1752-417.51-60	11/13/2009	MISC SERVICES	17546	270624	05/2010	37,632.00	
11/20/2009	726934	STAR SERVICE INC	3553			17,874.20	
513-8491-623.93-90	11/10/2009	TP0046 WELL PUMP REPLCMNT	4	266261	05/2010	17,874.20	
11/20/2009	726937	SUTPHEN CORP	10918			7,343.34	
150-2226-422.23-20	11/16/2009	MP	12157947	270676	05/2010	5,544.58	
150-2226-422.23-20	11/16/2009	MP	12157947	270676	05/2010	87.20	
150-2226-422.23-20	11/16/2009	MP	12158006	270676	05/2010	25.68	
150-2226-422.23-20	11/16/2009	MP	12158006	270676	05/2010	8.50	
150-2226-422.23-20	11/16/2009	MP	12158231	270676	05/2010	1,464.76	
150-2226-422.23-20	11/16/2009	MP	12158231	270676	05/2010	120.00	
150-2226-422.23-20	11/16/2009	MP	12158232	270676	05/2010	83.52	
150-2226-422.23-20	11/16/2009	MP	12158232	270676	05/2010	9.10	
11/20/2009	726940	THE BABCOCK LLC	20214			40,756.17	
202-1503-466.79-73	11/18/2009	PRIOR YEAR ENCUMBRANCES	FINAL	260372	05/2010	40,756.17	
11/20/2009	726944	TIRE-RAMA	1864			14,107.40	
211-3132-433.23-90	10/19/2009	MP	1050-149834	269088	04/2010	130.00	
670-3141-489.23-90	10/19/2009	MP	1050-150047	269088	04/2010	40.00	
670-3141-489.23-90	10/19/2009	MP	1050-150047	269088	04/2010	277.44	
211-3134-433.23-90	10/19/2009	MP	1050-150203	269088	04/2010	25.95	
541-3123-435.23-90	10/20/2009	TIRES AND REPAIRS LF	1050150207	269088	04/2010	675.75	
541-3122-435.23-90	10/20/2009	TIRES AND REPAIRS SW	1050150213	269088	04/2010	7,133.00	
541-3122-435.23-90	10/20/2009	CREDIT ON PO	1050150216	269088	04/2010	598.54-	
541-3122-435.23-90	10/20/2009	TIRES AND REPAIRS SW	1050150270	269088	04/2010	4,217.85	
541-3122-435.23-90	10/20/2009	TIRES AND REPAIRS SW	1050150282	269088	04/2010	1,842.00	
150-2226-422.23-90	10/29/2009	235/45TR17 TIRE/FIRE/4098	1040075345 FR1	269088	04/2010	176.45	
571-7144-713.23-90	11/18/2009	AUTO &TRUCK MAINT.ITEMS	1050150560	269088	05/2010	187.50	
11/20/2009	726947	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			76,367.27	
601-0000-141.00-00	11/12/2009	MP	69709		05/2010	22,837.86	
601-0000-141.71-41	11/13/2009	MP	68864		05/2010	4,643.40	
561-7118-711.23-13	11/16/2009	INVOICE #68894 - AIRPORT	68894/66532	F10088	05/2010	3,467.94	
561-7113-711.23-10	11/16/2009	INVOICE #66532	68894/66532	F10088	05/2010	11,334.27	
601-0000-141.71-41	11/17/2009	MP	69721		05/2010	15,115.16	
601-0000-141.00-00	11/17/2009	MP	69723		05/2010	13,411.20	
601-0000-141.00-00	11/18/2009	MP	68963		05/2010	5,557.44	
11/20/2009	726951	UGRIN, ALEXANDER, ZADICK, & HIG	20866			4,749.25	
10-1611-416.35-60	11/19/2009	CONSULTANT SERVICES	13132	270666	05/2010	4,749.25	
11/20/2009	726963	WINGFOOT COMMERCIAL TIRE	15322			3,897.53	
150-2231-422.23-90	10/05/2009	FLAT REPR:BRSH1(4083)FIRE	176-1028862 BR1	269090	04/2010	26.89	
150-2226-422.23-90	10/09/2009	MP	176-1028871	269090	04/2010	663.42	
211-3134-433.23-90	10/09/2009	MP	176-1028892	269090	04/2010	76.94	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT	
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT	
211-3132-433.23-90	10/19/2009	MP	176-1028924	269090 04/2010 44.89	
211-3132-433.23-90	10/19/2009	MP	176-1028924	269090 04/2010 300.00	
211-3136-433.23-90	10/19/2009	MP	176-1028941	269090 04/2010 25.92	
150-2226-422.23-90	10/23/2009	SNOWTIRES/4080/TATUM/FIRE	176-1028966 FR1	269090 04/2010 72.63	
150-2226-422.23-90	10/23/2009	SNOWTIRES/4081/SPINI	176-1028969 FR1	269090 04/2010 72.63	
150-2226-422.23-90	10/23/2009	SNOWTIRES/4077/MCCULLOUGH	176-1028974 FR1	269090 04/2010 72.63	
211-3132-433.23-90	11/05/2009	MP	176-1028988	269090 05/2010 25.92	
150-2226-422.23-90	11/13/2009	SNOW TIRES/FIRE UNIT4098	176-1028967 FR1	269090 05/2010 72.63	
150-2226-422.23-90	11/13/2009	CREDIT/FIRE/UNIT 4098	176-1028967CR	269090 05/2010 72.63-	
211-3134-433.23-90	11/18/2009	MP	176-1028870	269090 05/2010 454.23	
211-3134-433.23-90	11/18/2009	MP	176-1028870	269090 05/2010 1,988.80	
150-2226-422.23-90	11/18/2009	SNOW TIRES/UNIT 4076	176-1028976 FR1	269090 05/2010 72.63	
11/20/2009	726964	WINKLER EXCAVATING INC	20878		2,604.96
502-7314-602.21-20	11/12/2009	NONSTOCKING ITEMS-P.U.D.	A210518	270410 05/2010	1,599.97
512-8314-622.21-20	11/12/2009	NONSTOCKING ITEMS-P.U.D.	A210518	270410 05/2010	1,004.99
205-3131-433.93-10	11/13/2009	WO0917 24 ST W CONCRETE	CORRECTION	269600 05/2010	122,675.83-
205-3131-433.93-10	11/13/2009	WO0917 24TH ST W CONCRETE	CORRECTION	269600 05/2010	122,675.83
845-3186-431.93-10	11/13/2009	WO0917 24TH ST W CONCRETE	RET CORRECTION	269600 05/2010	.00
11/20/2009	726967	YELLOWSTONE COUNTY WEED DISTRI	12396		2,538.91
10-5112-452.36-50	11/19/2009	TREATED WEEDS	CPR09-2	270667 05/2010	1,901.22
10-5112-452.36-50	11/19/2009	TREATED WEEDS	CPR10-2	270667 05/2010	637.69
DATE RANGE TOTAL *					1,223,416.08 *

Date: 12/14/2009

TITLE: Public Hearing and Resolution for Vacation of the Alley within Block 141 Billings Old Town

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Riverstone Health owns the land abutting both sides of the alley within Block 141, Billings Old Town and has petitioned the city to vacate the alley for its building expansion. This alley is bounded by 1st Avenue South, 2nd Avenue South, South 26th Street, and South 27th Street. Previously, 2nd Avenue South and South 26th Street were vacated to Riverstone Health. This vacation request is at staff's request due to the fact that Riverstone Health is proposing to build a plaza over the alley. The only city utility within the alley right of way is a sanitary sewer line, which will revert to Riverstone Health if the vacation is approved.

ALTERNATIVES ANALYZED

The Council may:

- After holding a public hearing, approve the vacation of the above-mentioned right-of-way; or
- Not approve the vacation of the right-of-way.

FINANCIAL IMPACT

There is no financial impact to setting the public hearing. Attached are two letters from Riverstone Health. The first letter establishes the value of the right of way at \$2.49/sf for a total of \$14,940.00. The second letter is a request from Riverstone Health for the City to give the right of way to Riverstone Health. Vacating right of way for an established value is consistent with past practice for profit and not for profit organizations.

RECOMMENDATION

Staff recommends that Council approve the vacation of the alley within Block 141, Billings Old Town for the established value of \$14,940.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Letter Establishing Value](#)

Link: [Letter from Riverstone Health](#)

Link: [Exhibit of ROW](#)

Link: [Resolution to Vacate](#)

October 7, 2009

Billings City Council
c/o Tina Volek, Billings City Administrator
210 North 27th street
Billings, MT 59101

Re: RiverStone Health – New Office Building, Alley Vacation Request by Yellowstone Health Partnership, a 501(c)(3) subsidiary of Yellowstone City – County Health Department, dba RiverStone Health

Dear City Council and Administrator Volek:

As requested, we are providing herein an estimate of fair market value as part of the Request to Vacate Public Right of Way based on the value of the previously vacated 2nd Avenue South. That section of street was purchased by the Yellowstone City – County Health Department in 2004 and is currently owned by Yellowstone Health Partnership, a 501(c)(3) entity whose sole member is Yellowstone City – County Health Department (now doing business as RiverStone Health.)

Yellowstone Health Partnership is submitting this estimate as a requirement for the application. Please refer, though, to the attached letter from the Yellowstone Health Partnership Board Chair, Dr. Douglas Carr dated September 25, 2009. That letter represents the formal request for the vacation and asks Council to consider gifting the vacated alley at no cost in recognition that Yellowstone City – County Health Department, dba RiverStone Health, is a governmental entity created under an interlocal agreement to which the City of Billings, along with the City of Laurel and Yellowstone County, is a sponsoring party.

Please also recall that Council vacated most of South 26th Street between 1st Avenue South and 2nd Avenue South at no cost to the same entity for the same reason.

Per the direction of City staff, we understand that this will suffice for a fair market valuation of the property.

- 2nd Ave. South value at time of sale in 2004: $\$60,000 / 24,069 \text{ SF} = \$2.49 / \text{SF}$
- Valuation of Public Right of Way: $5,965 \text{ SF} \times \$2.49 / \text{SF} = \$14,852$

Respectfully,



John Felton, Board Member
Yellowstone Health Partnership

September 25, 2009

Billings City Council
c/o Tina Volek, Billings City Administrator
210 North 27th Street
Billings, MT 59101

Dear City Council and Administrator Volek:

I am writing today on behalf of the Board of Health, the governing body for Yellowstone City – County Health Department (dba RiverStone Health). As you will recall, RiverStone Health is a multi-jurisdictional service district, a governmental entity created in 1998 under the terms of an interlocal agreement by and between the City of Billings, Yellowstone County, and the City of Laurel. The twelve-member Board of Health includes two members appointed by Billings City Council (currently Michael Young and Rod Ostermiller). In addition to its role as the local public health agency, RiverStone Health serves a vital public interest for Yellowstone County as a safety net provider of health services for indigent, uninsured, and otherwise underserved and vulnerable populations through nearly 30 programs and services delivered by a staff over 300 dedicated public servants.

RiverStone Health is consolidating its operations at its main campus located on Billings' South Side at the intersection of South 27th Street and 1st Avenue South through the construction of four-story, 43,000 square foot office building. This \$8.4 million project is a significant economic benefit to the community as well as offering a vast improvement in the efficiency and effectiveness of services offered.

As part of this project, City officials have required RiverStone Health to "request" that the City vacate the alley located between 1st Avenue South to the north and the already vacated 2nd Avenue South to the south. This vacation will also require RiverStone Health to take ownership and ongoing responsibility for the existing sanitary sewer that occupies the space under this alley.

Although it is our preference that the City retains responsibility for ownership, maintenance, and upkeep for the alley and underlying sewer subject to a mutually acceptable access agreement, we understand the City's position on this matter and recognize that requiring the owner of space that entirely encompasses the unused alley to take ownership thereof is standard practice. Accordingly, we are herewith making a "request" that City Council consider vacating the alley and transferring ownership and responsibility for the property and the underlying sewer to Yellowstone City – County Health Department, dba RiverStone Health. In addition, we have taken it upon ourselves, at our organization's considerable expense, to make arrangements to replace the existing clay tile sewer with a new PVC sewer line during our current project. Should the alley be vacated, RiverStone Health will undertake the responsibility for upkeep and maintenance of this new sewer line.

Billings City Council
September 25, 2009

Given that this "request" to vacate the alley is made at the behest of City officials, that we are making a substantial investment in improving otherwise public infrastructure, and that RiverStone Health is a public entity that serves the public good and is sponsored in part by the City itself by virtue of its participation in the interlocal agreement, we are requesting that the alley vacation be granted and further that this be accomplished by gifting the property to RiverStone Health at no cost to the health district.

Please note this same type of request was made and graciously granted when the City vacated South 26th Street between 1st Avenue South and 2nd Avenue South several years ago. Upon vacation, as promised, please recall that RiverStone Health incurred the cost of improving and maintaining that section of South 26th Street.

I believe RiverStone Health has proven itself to be a good public citizen and a fine example of the significant benefits to a community's health and well-being that public agencies can provide through partnerships with both public and private stakeholders. We enjoy a positive and productive working relationship with the City. I believe that Council's decision to vacate this alley at no cost to RiverStone Health will demonstrate our mutual commitment to effective, efficient, and collaborative public service.

Respectfully,



F. Douglas Carr, MD
Chairman, Board of Health

RESOLUTION NO. 09-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING AND VACATING **the alley in Block 141, Billings Old 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 **the alley in Block 141, Billings Old 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., **the alley in Block 141, Billings Old Town** more particularly described as follows:

A alley right of way situated in Billings Old Town, Block 141 in Billings, Yellowstone County, Montana, more particularly described as:

Beginning at the southwesterly corner of Lot 1 of Block 141, Billings Old Town, said plat being on file in the office of the Clerk and Recorder, Yellowstone County, Montana; thence southwesterly along the northerly line of that portion of 2nd Avenue South vacated by Resolution No. 04-18147, to the southeasterly corner of Lot 24 of said Block 141, thence northwesterly along the easterly lines of Lots 13-24 to the northeasterly corner of Lot 13; thence northeasterly along the southerly right of way of 1st Avenue South to the northwesterly corner of Lot 12; thence southeasterly along the westerly lines of Lots 1-12 of said Block 141 to the southwesterly corner of said Lot 1 and the Point of Beginning, containing approximately 6,000 square feet.

Is hereby discontinued, abandoned and vacated and shall revert to adjacent property owners of Block 141, Billings Old Town.

- 2. PUBLIC INTEREST. The discontinuance, vacation and abandonment of the above described **the alley in Block 141, Billings Old 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 14th day of December 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

Date: 12/14/2009

TITLE: SID 1389 Clubhouse Way Public Hearing and Resolution Creating District and Contract for Professional Services

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Ron Hill, owner of 36 of the 46 lots proposed in the SID 1389 district boundary, has the desire to construct public improvements on Clubhouse Way between Greenbriar Road and Cherry Hills Road. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, and street improvements to Clubhouse Way. The storm drain improvements include construction of storm drain within Clubhouse Way, Cherry Hills Road, and Gleneagles Boulevard to be connected to a pond to be constructed in the future on Lake Hills Golf Course per the Lake Hills Storm Drain Feasibility Study. There are 44 properties within the drainage basin of the storm drain proposed to be constructed with this project. All 44 properties will be assessed for the storm drain. Only the properties along Clubhouse Way will be assessed for street, curb and gutter, water, and sanitary sewer improvements. Ron Hill will be paying a cash contribution for his lots which represents 66% of the total cost of the SID. This is necessary to meet the requirements of the City's Raw Land District Requirements (Resolution No. 87-15592). In addition to the creation of the SID, Mayor and Council are asked to consider authorizing and executing a Contract for Professional Services with Sanderson Stewart to provide engineering design and construction administration for SID 1389. The contract is in the amount of \$114,801.80. Sanderson Stewart was selected from a pre-qualified list of consultants for work of this type.

ALTERNATIVES ANALYZED

The Council may:

- After holding a public hearing, approve the Resolution Creating SID 1389 and the Professional Services Contract with Sanderson Stewart; or
- After holding a public hearing, do not approve the Resolution Creating SID 1389 and the Professional Services Contract with Sanderson Stewart.

FINANCIAL IMPACT

The total estimated costs of the Improvements are \$674,964.38. The costs of the Improvements are to be paid from the following sources: (1) \$232,000.00 of Special Improvement District bonds; and (2) \$442,964.38 of cash contribution by Ron Hill, owner of 36 of the 46 lots in the District. The Professional Services Contract with Sanderson Stewart is for \$114,801.80 and will be paid out of the SID 1389 Funds.

RECOMMENDATION

Staff recommends that Council approve the Resolution Creating SID 1389 and the Professional Services Contract for SID 1389 with Sanderson Stewart in the amount of \$114,801.80.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Boundary of Proposed Special Improvement District](#)

Link: [SID 1389 Resolution Creating District](#)

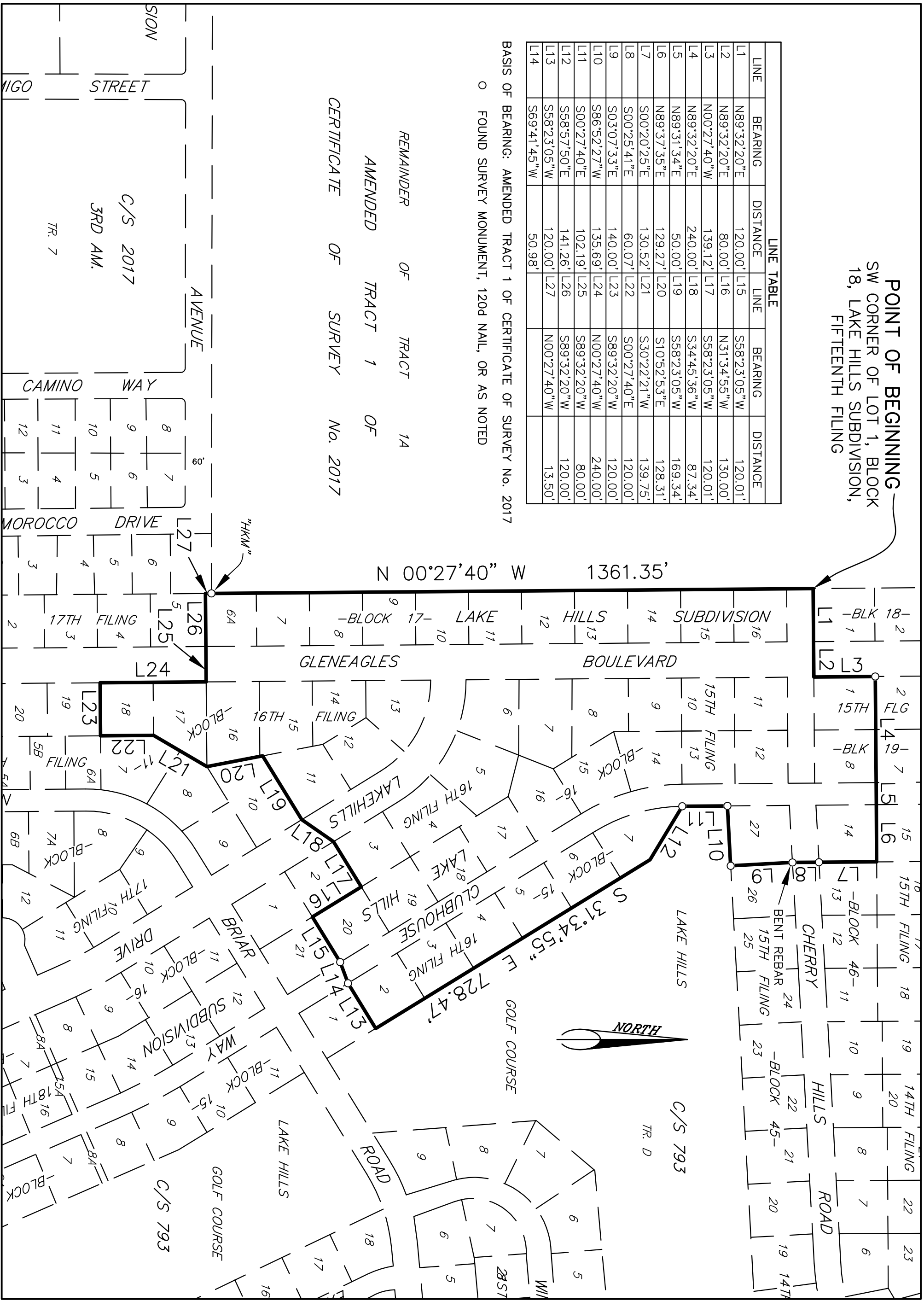
Link: [SID 1389 Contract for Professional Services](#)

POINT OF BEGINNING
 SW CORNER OF LOT 1, BLOCK
 18, LAKE HILLS SUBDIVISION,
 FIFTEENTH FILING

LINE TABLE					
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N89°32'20"E	120.00'	L15	S58°23'05"W	120.01'
L2	N89°32'20"E	80.00'	L16	N31°34'55"W	130.00'
L3	N00°27'40"W	139.12'	L17	S58°23'05"W	120.01'
L4	N89°32'20"E	240.00'	L18	S34°45'36"W	87.34'
L5	N89°31'34"E	50.00'	L19	S58°23'05"W	169.34'
L6	N89°37'35"E	129.27'	L20	S10°52'53"E	128.31'
L7	S00°20'25"E	130.52'	L21	S30°22'21"W	139.75'
L8	S00°25'41"E	60.07'	L22	S00°27'40"E	120.00'
L9	S03°07'33"E	140.00'	L23	S89°32'20"W	120.00'
L10	S86°52'27"W	135.69'	L24	N00°27'40"W	240.00'
L11	S00°27'40"E	102.19'	L25	S89°32'20"W	80.00'
L12	S58°57'50"E	141.26'	L26	S89°32'20"W	120.00'
L13	S58°23'05"W	120.00'	L27	N00°27'40"W	13.50'
L14	S69°41'45"W	50.98'			

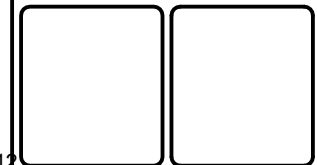
BASIS OF BEARING: AMENDED TRACT 1 OF CERTIFICATE OF SURVEY No. 2017
 O FOUND SURVEY MONUMENT, 120D NAIL, OR AS NOTED

REMAINDER OF TRACT 14
 AMENDED TRACT 1 OF
 CERTIFICATE OF SURVEY No. 2017



CAD: KNO/ANDB
 DATE: 11/03/09
 REVISIONS:
 APPROVED BY:
 QUALITY ASSURANCE:
 SCALE: 1"=200'
 FILE: GOLFHOUSE BOUNDARY 4
 PROJECT NO.: 78165.B1
 SHEET 1 OF 1

SID 1389
 PROVIDING WATER, SANITARY SEWER, STORM DRAIN AND
 SURFACE IMPROVEMENTS TO PORTIONS OF LAKE HILLS SUBDIVISION
 BILLINGS, MONTANA
 BOUNDARY EXHIBIT



SANDERSON STEWART
 www.sandersonstewart.com

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 09-_____, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1389; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on **December 14, 2009**, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

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

WITNESS my hand officially this _____ day of _____.

Cari Martin

CITY CLERK

RESOLUTION NO. 09-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1389; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Passage of Resolution of Intention. This Council, on **November 23, 2009**, adopted Resolution No. **09-18899** (the "Resolution of Intention"), pursuant to which this Council declared its intention to create a special improvement district, designated as Special Improvement District No. **1389** of the City, under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds drawn on the District (the "Bonds"), the creating and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with the law, and on **December 14, 2009**, this Council conducted a public hearing on the creation or extension of the District and the making of the Improvements. The meeting of this Council at which this resolution was adopted is the first regular meeting of the Council following the expiration of the period ended 15 days after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period").

Section 3. Protests. Within the Protest Period, _____ protests were filed with the City Clerk and not withdrawn by the owners of property in the District subject to assessment for ____% of the total costs of the Improvements or representing ____% of the area of the District to be assessed for the cost of the Improvements. **The protest represents ____% of the assessed cost.**

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period, if any, are hereby found to be insufficient. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

Section 5. Reimbursement Expenditures.

5.01. **Regulations.** The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage

Contract for Professional Architectural and Engineering Services

Project SID 1389 Clubhouse Way

In consideration of the mutual promises herein, City of Billings and Sanderson Stewart agree as follows. This Contract consists of:

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of 8 pages (Basic Services of Consultant);

Appendix B consisting of 1page (Methods and Times of Payment);

Appendix C consisting of 1page (Additional Services of Consultant);

Appendix D consisting of 1page (Schedule of Professional Fees);

Appendix E consisting of 1page (Project Schedule);

Appendix F consisting of 1page (Certificate(s) of Insurance); and

PART I SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

- A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
- B. "Billings" means the City of Billings.
- C. "Consultant" means Sanderson Stewart

Section 2. Scope of Services.

- A. The Consultant shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
- B. Billings shall pay the Consultant in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.
- C. Billings shall not allow any claim for services other than those described in this Section. However, the Consultant may provide, at its own expense, any other services that are consistent with this Contract.

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Consultant shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on January 1, 2011.

Section 4. Compensation; Method of Payment.

- A. Subject to the Consultant's satisfactory performance, Billings shall pay the Consultant no more than One Hundred and Fourteen Thousand Eight Hundred and One DOLLARS and Eighty Cents (\$114,801.80) in accordance with this Section.
- B. Billings shall pay the Consultant in accordance with the progress payment schedule attached hereto as Appendix B and incorporated herein by reference.
- C. Each month, or at the conclusion of each phase of the Work for which payment is due, as negotiated on a per-task basis, the Consultant shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Consultant's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Consultant of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Consultant within 30 days of receiving an acceptable invoice.

Section 5. Termination of the Consultant's Services.

The Consultant's services under Section 2 of this Part may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of Billings, provided that Billings notifies the Consultant in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party where the other party fails in any material way to perform its obligations under this Contract. Termination under this Subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within 30 days after receiving the notice.

Section 6. Duties Upon Termination

- A. If Billings terminates the Consultant's services for convenience, Billings shall pay the Consultant for its actual costs reasonably incurred in performing before termination and Billings shall pay for services rendered prior to termination. Payment under this Subsection shall never exceed the total compensation allowable under Section 4 of this Part. All finished and unfinished documents and materials prepared by the Consultant shall become the property of Billings.

- B. If the Consultant's services are terminated for cause, Billings shall pay the Consultant the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by Billings because of the Consultant's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed ninety percent (90%) of the total compensation allowable under Section 4 of this Part. Any finished or unfinished documents or materials prepared by the Consultant under this Contract shall become the property of Billings at its option.
- C. If the Consultant receives payments exceeding the amount to which it is entitled under Subsections A or B of this Section, he shall remit the excess to the Administrator within 30 days of receiving notice to do so.
- D. The Consultant shall not be entitled to any compensation under this Section until the Consultant has delivered to the Administrator all documents, records, Work product, materials and equipment owned by Billings and requested by the Administrator.
- E. If the Consultant's services are terminated for whatever reason the Consultant shall not claim any compensation under this Contract, other than that allowed under this Section.
- F. If a final audit has not been performed before the Consultant's services are terminated, Billings may recover any payments for costs disallowed as a result of the final audit.
- G. Except as provided in this Section, termination of the Consultant's services under Section 5 of this Part does not affect any other right or obligation of a party under this Contract.

Section 7. Insurance.

- A. The Consultant shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Consultant shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Consultant shall provide the following insurance:
 - 1. Workers' compensation and employer's liability coverage as required by Montana law.
 - 2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
 - 3. Commercial automobile liability -- \$500,000 per accident.
 - 4. Professional liability in the amount of \$1,500,000 per claim.
- C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
- D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

Section 8. Assignments.

Unless otherwise allowed by this Contract or in writing by the Administrator, any assignment by the Consultant of its interest in any part of this Contract or any delegation of duties under this Contract shall be void, and an attempt by the Consultant to assign any part of its interest or delegate duties under this Contract shall give Billings the right immediately to terminate this Contract without any liability for Work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

- A. Except as otherwise provided herein, all data, documents and materials produced by the Consultant under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Consultant shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Consultant shall have the right to include photographic or artistic representations of the design and construction of the Project among the Consultant's promotional and professional materials. The Consultant's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Consultant in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Consultant with Contract funds: See Appendix A, Section 3. Scope of Work.
- C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Consultant from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation, and the original Consultant's or subConsultant's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

Section 10. Notices.

Any notice required pertaining to the subject matter of this Contract shall be either sent via facsimile (FAX), e-mail, or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Billings: City Engineer (Debi Meling, PE)
City of Billings
Public Works/Engineering
2224 Montana Avenue
Billings, Montana 59101

FAX: (406) 237-6291

Consultant: Rick Leuthold, PE
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

FAX: (406) 656-0967

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or 5 days after proof of proper posting.

Section 11. Contract Budget.

In connection with its performance under this Contract, the Consultant shall not make expenditures other than as provided in line items in the Contract budget.

Section 12. Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:
 - 1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
 - 2. Strikes or Work stoppages.
 - 3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
 - 4. Order of court, administrative agencies or governmental officers other than Billings.

Section 13. Financial Management System.

The Consultant shall establish and maintain a financial management system that:

- A. Provides accurate, current, and complete disclosure of all financial transactions relating to the Contract;
- B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Consultant's performance under this Contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
- C. Effectively controls and accounts for all municipal funds and Contract property;
- D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
- E. Allocates administrative costs to direct service delivery units;
- F. Minimizes the time between receipt of funds from Billings and their disbursement by the Consultant;
- G. Provides accounting records supported by source documentation; and

- H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this Contract should impose additional requirements upon Billings for the use of those funds, the Consultant agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Billings.

Section 15. Subcontracts.

The Consultant may enter into subcontracts for the purchase of goods and services necessary for the performance of this Contract, provided:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.
- B. Every subcontract under which the Consultant delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Consultant.
- C. Every subcontract in an amount exceeding \$1,000 shall require reasonable access to business records of the subConsultant relating to the purchase of goods or services pursuant to the subcontract.

PART II
GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Consultant shall perform its obligations hereunder as an independent Consultant of Billings. Billings may administer the Contract and monitor the Consultant's compliance with its obligations hereunder. Billings shall not supervise or direct the Consultant other than as provided in this Section.

Section 2. Nondiscrimination.

- A. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Consultant agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Consultant shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The Consultant shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
- D. The Consultant shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such subConsultant or vendor of the Consultant under this Contract.
- E. The Consultant shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.

Section 3. Permits, Laws, and Taxes.

The Consultant shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the Consultant under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Consultant shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this Contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

- A. This Contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this Contract was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this Contract, the only authorized representatives of the parties are:

Consultant: Rick Leuthold, or Authorized Signatory
(President)

Billings: City Council or Authorized Designee

- C. Any attempt to amend, modify, or change this Contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this Contract shall be brought in the District Court for the Thirteenth Judicial District of the State of Montana, Billings. The law of the State of Montana shall govern the rights and obligations of the parties under this Contract.

Section 7. Severability.

Any provision of this Contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the Contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

The Consultant shall indemnify, defend, save, and hold Billings harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Consultant or any agent, employee or subConsultant as a result of the Consultant's or any subConsultant's performance pursuant to this Contract.

- A. The Consultant shall not indemnify, defend, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.
- B. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Consultant, the Consultant shall indemnify, defend, save, and hold Billings harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from the Consultant's or any subConsultant's wrongful or negligent acts occurring as a result from the Consultant's performance pursuant to this Contract.

Section 10. Inspection and Retention of Records.

The Consultant shall, at any time during normal business hours and as often as Billings may deem necessary, make available to Billings, for examination, all of its records with respect to all matters covered by this Contract for a period ending three years after the date the Consultant is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Consultant shall submit such other information and reports relating to its activities under this Contract, to Billings, in such form and at such times as Billings may reasonably require. The Consultant shall permit Billings to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Contract. Billings may, at its option, permit the Consultant to submit its records to Billings in lieu of the retention requirements of this Section.

Section 11. Availability of Funds.

Payments under this Contract may require funds from future appropriations. If sufficient funds are not appropriated for payments required under this Contract, this Contract shall terminate without penalty to Billings; and Billings shall not be obligated to make payments under this Contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this Contract on the date and at the place shown below.

City of Billings

Consultant

City Council or Designee

Date: _____

Name: Rick Leuthold

Title: President

Date: _____

ATTEST:

IRS Tax ID # 47-0680568

Cari Martin
City Clerk

APPROVED AS TO FORM:

Date: _____

By _____

BRENT BROOKS, City Attorney

STATE OF MONTANA)
 :ss.
COUNTY OF YELLOWSTONE)

On this ____ day of _____, 2009, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of _____, and acknowledged to me that they executed the foregoing instrument on behalf of said corporation having first been authorized to do so.

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

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

Note: Final contract documents will require the Consultant's signature to be notarized.

Appendix A

Basic Services of Engineer

Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and bi-weekly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project, the Task Director designated for the Engineer is Kjersten Olson, P.E.

Section 2. Billings Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- B. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is Chris Hertz, P.E.

Section 3. Scope of Work.

The Engineer shall perform the work outlined within this agreement that includes the completion of design, bidding, and construction administration services for the installation of improvements for Cherry Hills Road between Annandale Road and Clubhouse Way.

Completion of said scope of work shall include the following tasks:

- A. Preliminary Services (60% Design).
1. Conduct Preliminary Field Review (PFR) to determine major design features, project-related issues, and any potential problems, insuring that the design considers all operational aspects relative to safety and efficiency.
 2. Research property ownership within the project limits to update and supplement existing records.
 3. Prepare and distribute a mailing to all affected property owners explaining the project, including points of contact for both the Engineer and Billings.
 4. Confirm locations of utilities, public and private, within project limits. Information to be obtained from review of available as-built drawings, field investigations, and the Montana One Call System. The Engineer is cautioned that all utilities are not on this system.
 5. Conduct a preliminary soils survey and geotechnical investigation to evaluate the soil conditions within the project limits. The investigation may include:
 - a. soil strata;
 - b. bearing capacity;
 - c. ground water;
 - d. pavement thickness design;
 - e. criteria for utility installations; and
 - f. Construction recommendations for the above.

6. Review existing reports that include, but are not limited to hydrologic/hydraulic reports, subdivision plats, *Billings Urban Area Transportation Plan*, *Heritage Trail*, and other associated master plans relating to the project.
7. Conduct preliminary surveys that may include but not be limited to:
 - a. existing field conditions (topography, vegetation, existing structures, and road design features, etc.);
 - b. drainage features;
 - c. existing field landmarks;
 - d. existing utilities (above and below ground);
 - e. existing right-of-way markers and property lines; and
 - f. alignment and cross section of any existing intersecting roads and driveways within or adjacent to the project limits.
8. Prepare a Storm Water Management Design (SWMD) Report.
9. Prepare preliminary plan/profile sheets for the project. As appropriate for the project, the plan and profile sheets may include:
 - a. all topographical data from the field survey;
 - b. all relevant existing on-the-ground survey information;
 - c. plan views of underground utilities;
 - d. in profile view, crossing elevations of underground utilities;
 - e. existing centerline elevations; and
 - f. ADA curb ramp location and orientation as well as any other design features for disabled access.
10. Provide to Billings two (2) copies of the SWMD Report, three (3) copies of the PER, and three (3) complete copies of the preliminary plan/profile sheets for review and approval.
11. Provide to the Yellowstone County Water District of Billings Heights (Heights Water) two (2) complete copies of the preliminary plan/profile sheets for review and approval.
12. Following receipt of written review comments from Billings and Heights Water, facilitate a 60% design review meeting, as required, with Billings staff to discuss review comments on these Preliminary Services.

B. Final Design Services (95% & Final Design).

1. Prepare and furnish to Billings four (4) copies of a complete 95% PS&E package for review and approval.

2. Provide to Heights Water two (2) complete copies of a complete 95% Design PS&E package for review and approval.
3. Following receipt of written review comments from Billings and Heights Water, facilitate a 95% design review meeting, as required, with Billings staff to discuss review comments on the 95% review documents.
4. Prepare and furnish to Billings three (3) hard copies accompanied by one (1) disk containing the appropriate computer files for the plan (AutoCAD format, *.dwg) and specification (Microsoft Word format, *.doc) information of a complete final PS&E package. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge.
5. Prepare and furnish to Billings two (2) hard copies of a complete final plans and specifications package and appropriate processing fees for the water main and sewer main certified checklist submittals to the Montana Department of Environmental Quality. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge.
6. Prepare and furnish to Heights Water one (1) hard copy of a complete final PS&E package. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge.

C. Bidding Services.

1. Prepare and furnish full size (24x36-inch) plans and specifications for bidding purposes (up to 20 sets).
2. Stamp and sign all plans and specifications with the seal of the Professional Engineer in responsible charge for the design.
3. Schedule and hold a pre-bid conference.
4. Prepare any required addenda to plans and specifications. Addenda shall be approved by Billings.
5. Attend construction bid opening.
6. Analyze bid proposals and make a recommendation on awarding a construction contract for the proposed work based upon the lowest responsive bid submitted by a responsible bidder as set forth in the specifications and final plans.
7. Prepare and provide to Billings a bid tabulation and recommendation package that includes a recommendation on award, bid tabulation sheet, and bid proposal sheets.

D. Construction Services.

1. Prepare and provide to Billings and the successful contractor for the project a notice of award and notice to proceed.
2. Schedule and hold a pre-construction conference.
3. Notify Billings before the work is started. The Engineer recognizes that all work is subject to Billings inspection and approval at any time.
4. Construction Layout and Control.
 - a. Provide personnel, equipment, and supplies for construction layout and control. Construction layout shall include, but not be limited to, measurements, lines, locations, and grades necessary for construction (stake each item one time).
 - b. Reference and preserve all existing survey monuments and benchmarks. All monuments installed with the project shall be punched and elevations shown on record drawings.
5. Inspection and Testing.
 - a. Coordinate appropriate testing of materials intended for incorporation into the project and require documentation of testing results.
 - b. Provide general review of construction to check the Contractor's work for compliance with the drawings, specifications, and other applicable documents, codes, or standards. Review of work shall be made on a full-time basis (to be based on the Contractor's work schedule) while any major item of work is in progress. Major items of work shall be water, sanitary sewer, storm drain, and irrigation utilities; subgrade preparation; gravel base course preparation; concrete pouring and finishing; and paving. The Engineer shall provide a minimum of **48** hours notice for Billings personnel when specific inspections or testing require their presence on the project. Each daily review shall be documented in permanent reproducible form and kept in consecutive order with the project file. Copies of the daily review reports shall be furnished to Billings as requested during construction. Engineer will notify Billings immediately of contract problems or deviation from approved plans.
 - c. Provide the services of a qualified materials engineering technician who will observe construction and provide representative tests. Provide direct coordination of laboratory and field quality assurance testing and geotechnical engineering between the project engineer, field inspector, and a project construction materials engineer. Geotechnical and materials engineering shall include interpretation and recommendations for the Engineer and Billings based upon field observation. The services of a qualified geotechnical consultant will be utilized for all materials testing and geotechnical engineering for this Contract.
6. Submittal Review and Document Preparation.

- a. Review the construction operations and the traffic controls for construction, prior to the start of work. Engineer shall ascertain that the Contractor has all needed permits to accomplish his work during construction.
- b. Check shop drawings, samples, equipment, asphaltic concrete mix design, concrete mix design, aggregate, and other data submitted by the Contractor for compliance with drawings and specifications.
- c. Prepare change orders that do not require additional engineering design or inspection. The Engineer will obtain prior written approval from Billings for all changes in specifications, addition of work, and significant changes in quantities.
- d. Prepare monthly pay estimates and final pay estimates for construction and prepare contract administration forms on a monthly basis. These will be submitted in Billings approved format. The pay estimates shall include the actual bid item quantities.
- e. Issue notice to the Contractor to suspend work in whole or in part when, in the opinion of the Engineer, work is not being, or cannot be performed in accordance with the contract documents and specifications.
- f. Contact Billings for any proposed plan or specification changes when required due to initial design and engineering deficiencies in order to complete the project in its original concept. Plan and specification changes shall be prepared by the design engineer. The Engineer will obtain prior written approval from Billings for all changes in design.
- g. Prepare and recommend work change directives and change orders when necessary due to conditions encountered during construction. The Engineer is not authorized to order additional work without the approval of Billings' Task Director. Any work resulting in contract overages will be processed by approved change orders using Billings' standard forms.

E. Final Services.

1. Prepare record drawings and furnish Billings with one (1) complete hard copy for review and comment.
2. Following receipt of review comments from Billings, make necessary changes and furnish Billings with two (2) sets of reproducible mylars accompanied by one (1) disk containing the appropriate computer files for the record drawings (AutoCAD format, *.dwg).
 - a. Record drawings to show offset distances from centerline of rights-of-way to all public storm drains, water mains, and sanitary sewers.
 - b. Also shown will be any invert elevations for manholes, structures, and connections thereto. Elevations shall be shown at each street or right-of-way crossing plus any additional locations requested by the City Engineer or authorized representative.

- c. All above elevations shall be referenced to a permanent benchmark elevation – clearly shown on the plans.
 - d. Record drawings and traffic control submissions are due within 60 days of Contractor's final payment and before final payment to the Engineer.
- 3. Provide one (1) bound copy (may include multiple volumes) of a project manual through final completion to Billings within 90 days of final project acceptance. At a minimum, the project manual shall include: project specifications and contract documents, pay estimates, correspondence, any change orders, Contractor submittals, test reports, daily inspection reports, public involvement documentation, and other appropriate project records and documentation as determined by Billings.
- 4. Schedule and make final inspection with Billings and certify to Billings all construction items were constructed according to plans and specifications and are acceptable to the Engineer.
- 5. Provide certification of completion in accordance with the approved plans and record drawings as necessary for submittal to the Montana Department of Environmental Quality within 90 days of project completion.
- 6. Schedule and make an inspection with Billings prior to the expiration of the construction warranty period and provide a certification of final acceptance. If any problems are found, send a list of deficiencies to Billings and Contractor and continue until acceptable.
- 7. For a period of three years after the certification of final acceptance furnished pursuant to the preceding paragraph, respond to requests and answer complaints for information concerning engineering aspects of the project, and provide engineering designs and plans if necessary to correct any design deficiencies.

Appendix B

Methods and Times of Payment

Section 4. Payments for Basic Services.

Billings shall authorize payment to the Consultant for services performed under Appendix A of this Agreement. Partial payment shall be due the Consultant upon receipt of the Consultant's pay estimate, said estimate being proportioned to the work completed by the Consultant.

Partial payment shall be made to the Consultant upon receipt of the Consultant's pay estimate, said estimate being proportioned to the work completed by the Consultant. The final payment shall be made only after acceptance of final documents by Billings, and determination that the scope of work has been satisfactorily completed.

- A. For services rendered prior to construction, Appendix A, the Consultant shall be paid based upon actual time accrued, but not to exceed \$114,801.80.
- B. Final payment shall be the above stated basic fee less all previous payments.

Section 5. Payments for Extra Services when Authorized by Billings.

Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study shall be paid for on a negotiated price.

Section 6. Corrections.

Costs of Billings work that is required for corrections to the Consultant's work which requires redoing by Billings shall be deducted from any payments due the Consultant, if the Consultant fails to make the required corrections.

Section 4. Fee Increases

For contracts and services that are expected to require more than one (1) year to complete, the above stated basic services payments may be reviewed and adjusted annually by mutual agreement of the parties, based upon documented evidence that the Consultant's costs have increased for all comparable clients.

Appendix C

Additional Services of Consultant

Extra Services of the Consultant will be paid only with written prior authorization by Billings.

- A. Field and laboratory testing of materials and reports.
- B. Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study.
- C. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by CONSULTANT or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond CONSULTANT's control.
- D. Services required as a result of OWNER's providing incomplete or incorrect Project information .
- E. Providing renderings or models for OWNER's use.
- F. Furnishing services of CONSULTANT's Consultants for other than Basic Services.
- G. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
- H. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.
- I. Other services performed or furnished by CONSULTANT not otherwise provided for in this Agreement.

Appendix D

Schedule of Professional Fees

Not used on this Contract.

Appendix E

Project Schedule

Based on a notice to proceed by Billings date no later than January 1, 2010, the completion date for the Consultant's work through final design shall be:

- | | |
|---------------------------|-------------------|
| A. 60% Submittal | February 15, 2010 |
| B. 95% Submittal | March 15, 2010 |
| C. Final Design Submittal | March 30, 2010 |

Delays affecting the completion of the work within the time specified of more than ninety (90) days, not attributable to or caused by the Parties hereto, may be considered as cause for the renegotiation or termination of this Contract.

If the Consultant is behind on this Contract due to no fault of Billings, then the Consultant hereby acknowledges the right of Billings to withhold future Contracts to the Consultant in addition to any other remedy until this Contract is brought back on schedule or otherwise resolved.

Appendix F

Certificate(s) of Insurance

(Attach Certificate(s) of Insurance)

Date: 12/14/2009

TITLE: Public Hearing for Donation of Sahara Park Pool Site to the Better Billings Foundation

PRESENTED BY: Mike Whitaker

Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

Resolution No. 09-18799 (The adoption of Sahara Park Master Plan) required the Better Billings Foundation to submit a Family Aquatic Center Funding and Development Agreement to the City by November 29, 2009, or Alternate B would become the preferred master plan for Sahara Park.

Sahara Park is a 9.26-acre property that was acquired through parkland dedications of the Sahara Sands Subdivision between 1975 and 1977. The park is bordered on the west by Aronson Avenue and on the north by Caravan Avenue.

Park master planning was facilitated in 2008-9 by PRPL Staff, with assistance from the Better Billings Foundation. The plan was developed with the intent that Sahara Park would function as a large urban or special use park (on the scale of Pioneer Park) with facilities that would meet the needs of the entire city. The plan's major element includes a Family Aquatic Facility. The master plan has an alternate (known as Alternate Plan B) which is based on the premise that Sahara Park would be developed as a subdivision park without an Aquatic Facility component. The Alternate B plan includes open spaces for multi-use and programmable activities such as sports and practice areas, a picnic shelter, play structures, volleyball and basketball courts. As the master plan with its alternative was being developed, public meetings were held November 20, 2008, and January 15 and 27, 2009, at the Billings Community Center to discuss the master plan and alternative B and receive comments from interested citizens. The master plan was presented to the Billings Park, Recreation, and Cemetery Board, at the February 11, 2009, meeting, and the Board voted to recommend adoption of Sahara Park Master Plan to the City Council with the stipulation that the original plan have a 5-year time limit and that Alternate Plan B be considered only after all avenues for development of the Family Aquatic Facility are exhausted through formal discussion and agreement with the Better Billings Foundation.

The City Council approved the master plan on March 23, 2009, and gave the Better Billings Foundation six months to provide a development agreement for the Aquatic Facility. At its October 13, 2009, meeting, the City Council extended the deadline to November 29, 2009.

The Foundation submitted two different Funding and Development Agreements to the City prior to the November 29 deadline (Attachments A1 and A2). One agreement would donate or sell the land to the Foundation. The other agreement would lease the land to the Foundation. City staff has reviewed both agreements with the Better Billings Foundation, and has recommended that both agreements be amended (Attachments B1 and B2) to require the Foundation to provide the City with a \$100,000 Irrevocable Standby Letter of Credit that could be used to repair or raze the pool in the event that all improvements (including buildings and accessory structures) and the Aquatic Project Land would revert back to the City. After much discussion, the Parks, Recreation and Cemetery Board recommended, at its November 18, 2009, meeting, that the land be donated to the Better Billings Foundation.

ALTERNATIVES ANALYZED

Council may:

- Sell or donate the site to the Better Billings Foundation;
- Lease the site to the Foundation; or
- Decline the Foundation's request.

FINANCIAL IMPACT

There is no immediate financial impact to the City.

RECOMMENDATION

For liability reasons, staff would recommend that the City approve Amendment B1 and donate or sell the pool site (approximately 6.7 acres) to the Better Billings Foundation for the project.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Better Billings Foundation Sale/Donation Proposal](#)

Link: [Better Billings Foundation Lease Proposal](#)

Link: [City of Billings Sale/Donation Proposal](#)

Link: [City of Billings Lease Proposal](#)

Link: [Irrevocable Letter of Credit](#)

FUNDING AND DEVELOPMENT AGREEMENT

This Funding and Development Agreement (the “Agreement”) is made and entered into this ____ day of November, 2009, by and between the City of Billings, a Montana municipal corporation (the “City”) and the Better Billings Foundation, a Montana nonprofit corporation (the “Foundation”).

Recitals

A. The Foundation proposes to design a family aquatic center (the “Aquatic Project”) and provide for the funding (by donation and/or borrowed funds) of the same on a site presently owned by the City.

B. On March 24, 2009, the City Council adopted two Master Plans, Master Plan A and Master Plan B. Master Plan A approves the Aquatic Project Land (described below) as a site for the project and is subject to the contingencies that the Foundation (a) complete this Agreement by September 24, 2009 or after such extension as allowed by the City Council, and (b) demonstrate that it can fund the Aquatic Project (the “Funding Contingency”).

C. The Foundation has obtained that certain Feasibility Study of Ballard*King and Associates (the “Study”) and presented the same to the City Council. Following significant input from the Parks, Recreation and Public Lands staff, that Foundation has obtained that certain Aquatic Site Plan prepared by Aquatic Excellence (the “Design”) and presented the same to the City Council. The Study and the Design are attached as Exhibit A.

D. The City has required that the Park Land (described below) be reserved for use as a neighborhood park rather than for use in the Aquatic Project.

E. If this Agreement is entered into on or before November 29, 2009 or after such extension as allowed by the City Council and the Funding Contingency is satisfied, the Foundation will construct the Aquatic Project using the Master Plan A design and will operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City.

F. The City and the Foundation desire to set forth their respective obligations in connection with the Aquatic Project pursuant to the terms and conditions of this Agreement.

Agreement

In consideration of the foregoing, and in consideration of the mutual promises hereinafter set forth, the parties mutually agree as follows:

1. Site. The City has adopted a Master Plan for the land described on the attached Exhibit B. The portion of such land to be used for the Aquatic Project is highlighted and described more particularly on the attached Exhibit B (the “Aquatic Project Land”). The portion

of such land to be used for a neighborhood park is also highlighted and described more particularly on the attached Exhibit B (the “Park Land”).

2. Survey or Amended Plat. The Foundation shall, at its sole expense, complete, as required either (a) a land survey sufficient for purposes of Montana Code Annotated Section 76-3-402 or (b) an amended subdivision plat. The land survey or amended subdivision plat shall describe the Aquatic Project Land and the Park Land in a manner consistent with Section 1 of this Agreement.

3. Subdivision. As soon as practicable following the completion of the land survey or amended subdivision plat described in Section 2 of this Agreement, the City, as owner and subdivider, or the Foundation, as subdivider, at the election of the City Public Works Director, shall complete a minor subdivision creating two (2) lots, one (1) lot for the Aquatic Project Land and one (1) lot for the Park Land. The Foundation shall reimburse the City for any fees incurred by the City with respect to such subdivision. If the Foundation acts as subdivider, the City shall complete all necessary consents, as owner, and take all other necessary actions to assist the Foundation in completing the subdivision described in this Section.

4. Transfer of Property. Pursuant to City Code Section 22-902, the City shall sell or donate the Aquatic Project Land to the Foundation and retain the Park Land. The notice required by City Code Section 22-902(2) shall describe the proposed use as a family aquatic facility consistent with the Master Plan adopted by the City Council in Resolution No. 09-18799. The terms of such sale or donation shall also include a (a) condition subsequent in any sale agreement and deed that the Aquatic Project Land shall only be used for the construction of a family aquatic center, and (b) reversion of the land and all improvements in fee simple to the City if the Aquatic Project Land is not used in satisfaction of such condition subsequent.

5. Design and Specification. The Foundation agrees to contract with licensed design professionals necessary for the preparation of design and specifications for the Aquatic Project. The Foundation shall continuously consult with Park, Recreation and Public Lands staff and the final design, which shall be substantially similar to the Design, shall be reviewed by the City’s Parks, Recreation and Cemetery Board and the Foundation shall consider any recommendations made by the City’s Parks, Recreation and Cemetery Board.

6. Aquatic Project Cost and Water. The Foundation agrees to pay all costs incurred in connection with the design and construction of the Aquatic Project.

7. Satisfaction of Funding Contingency. Within three (3) years from the date of this Agreement, the Foundation shall satisfy the Funding Contingency. The Funding Contingency shall be deemed satisfied upon the Foundation providing written documentation to the City that it has sufficient cash (by donation and/or loan) and pledges equal to the cost of the Aquatic Project. Within thirty (30) days following satisfaction of the Funding Contingency, the Foundation shall begin the process of the construction of the Aquatic Project as a private owner. If the Funding Contingency is not satisfied, this Agreement shall terminate and become null and void.

8. Construction. The Foundation shall proceed as owner of the Aquatic Project and enter into contracts with licensed professionals, contractors and material providers as may be required for the construction of the Aquatic Project to Completion (as defined in Section 9 of this Agreement). Prior to the commencement of construction and unless waived in writing by the City Public Works Director, the Foundation shall obtain a payment and performance bond equal to the cost of the Aquatic Project. Such bonds shall name the City as the insured.

9. Final Completion. The Aquatic Project shall be complete upon the earlier of (a) the issuance of a certificate of occupancy, or (b) the first day of operation of the Aquatic Project (the "Completion"). The Completion shall occur within one (1) year from commencement of construction, unless extended by a writing subscribed to by both parties. If the Aquatic Project is not completed within such time period, this Agreement shall terminate and become null and void.

10. Operation, Management and Maintenance. The Foundation, or a single-member limited liability company owned solely by the Foundation, shall operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City including, but not limited to, parking areas, sidewalks, fencing and storm water detention. Except as set forth in the final sentence of this Section, such operation, management and maintenance shall be conducted at the sole expense of the Foundation and the Foundation shall retain all proceeds from the operation of the Aquatic Project for use in furtherance of its tax-exempt purposes. The Foundation shall be responsible for payment of water and all other utilities serving the Aquatic facility. The Foundation shall have no responsibility to maintain the adjacent Park Land owned by the City. The Foundation shall maintain a Capital Replacement Fund consistent with the Study, specifically page 39 of the Study. In the event that all improvements (including buildings and accessory structures) and the Aquatic Project Land revert to the City pursuant to Section 4 of this Agreement, an applicable sale agreement, deed or otherwise, the Foundation shall transfer such Capital Replacement Fund to the City.

11. No Joint Entity. This Agreement does not create a partnership, joint venture, joint enterprise, or other joint entity between the City and the Foundation.

12. Mediation and Arbitration. The parties shall use their respective best efforts to resolve any controversy or claim arising out of or relating to this Agreement or breach thereof by non-binding mediation. If the parties are not able to resolve any controversy or claim arising out of or relating to this Agreement or breach thereof by non-binding mediation, any controversy or claim arising out of or relating to this Agreement or breach thereof, shall be settled by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof.

13. Compliance with Laws and Regulations. The Foundation agrees that it will comply with all local, state and federal laws and regulations applicable to the planning, contracting, construction, operation and maintenance and use of all government grants and donated funds concerning the Aquatic Project including but not limited to building codes and prevailing wage laws, if applicable, and will indemnify and defend and hold harmless the City from any failure to do so as provided in the indemnification in Section 14 of this Agreement.

14. Indemnification and Insurance. The Foundation shall indemnify, defend and hold harmless the City from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses, including reasonable attorneys' fees, incurred by the City arising from the negligent or intentional acts or omissions of the Foundation while performing its obligations under this Agreement.

The City shall indemnify, defend and hold harmless the Foundation from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses including reasonable attorneys' fees incurred by the Foundation arising from the negligent or intentional acts or omissions of the City while performing its obligations under this Agreement.

The Foundation agrees that it will provide liability, workers compensation and property damages insurance naming the City as primary, non-contributory insured on all construction contracts executed related to the Aquatic Project. Liability and property damage insurance shall be in the minimum amount of \$1.5 million each occurrence and the statutorily required amount of Workers Compensation insurance shall also be provided.

15. Amendment. This Agreement may be amended only in writing subscribed by both parties.

16. Notices and Demands. Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered only if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

as to the City:

City of Billings, Montana
Attn: Mike Whitaker, Director of Parks, Recreation
& Cemetery Board
390 North 23rd Street
Billings, MT 59101

as to the Foundation:

Better Billings Foundation
Attn: Chuck Barthuly
PO Box 50489
Billings, MT 59105

or at such other address with respect to any party as that party may, from time to time, designate in writing.

17. Entire Agreement. This Agreement contains all terms, conditions and agreements agreed upon by the parties to this Agreement relating to the subject of this Agreement and supersedes all prior agreements, negotiations, understandings or communications, whether written or oral.

In testimony whereof, the parties have hereunto set their hands the date and year first above written.

Better Billings Foundation

By: _____
Pam Ask, its Chairperson

Attest: _____
Ken Woosley, its Secretary

City of Billings

By: _____
Ron Tussing, its Mayor

FUNDING AND DEVELOPMENT AGREEMENT

This Funding and Development Agreement (the “Agreement”) is made and entered into this ____ day of November, 2009, by and between the City of Billings, a Montana municipal corporation (the “City”) and the Better Billings Foundation, a Montana nonprofit corporation (the “Foundation”).

Recitals

A. The Foundation proposes to design a municipal Aquatic Center (the “Aquatic Project”) and provide for the funding (by donation and/or borrowed funds) of the same on a site owned by the City.

B. On March 24, 2009, the City Council adopted two Master Plans, Master Plan A and Master Plan B. Master Plan A approves the Land (described below) as a site for the Aquatic Project and is subject to the contingencies that the Foundation (a) complete this Agreement by September 24, 2009 or after such extension as allowed by the City Council, and (b) demonstrate that it can fund the Aquatic Project (the “Funding Contingency”).

C. The Foundation has obtained that certain Feasibility Study of Ballard*King and Associates (the “Study”) and presented the same to the City Council. Following significant input from the Parks, Recreation and Public Lands staff, that Foundation has obtained that certain Aquatic Site Plan prepared by Aquatic Excellence (the “Design”) and presented the same to the City Council. The Study and the Design are attached as Exhibit A.

D. The City has required that a portion of the Land be reserved for use as a neighborhood park rather than for use in the Aquatic Project.

E. If this Agreement is entered into on or before November 29, 2009 or after such extension as allowed by the City Council and the Funding Contingency is satisfied, the Foundation will construct the Aquatic Project using the Master Plan A design and will operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City.

F. The City and the Foundation desire to set forth their respective obligations in connection with the Aquatic Project pursuant to the terms and conditions of this Agreement.

Agreement

In consideration of the foregoing, and in consideration of the mutual promises hereinafter set forth, the parties mutually agree as follows:

1. Site and Lease. The City has adopted a Master Plan for the construction of the Aquatic Project on the land described on the attached Exhibit B (the “Land”). The City shall lease the portion of the Land for use in the Aquatic Project as highlighted on the attached Exhibit

B (the “Aquatic Project Land”) to the Foundation pursuant to a mutually acceptable lease agreement for an initial term of ten (10) years from execution of such lease agreement. Such lease agreement shall also include at least one (1) option for the Foundation to renew such lease upon the same terms and conditions. Upon execution of the lease agreement, the Foundation shall (a) pay a nominal rent of \$10 per year, and (b) own all improvements constructed on the Aquatic Project Land including, without limitation, the Aquatic Project. The lease agreement shall include a provision that if the Aquatic Project Land and improvements cease to be operated as an aquatic facility, all improvements (including buildings and accessory structures) and the Aquatic Project Land shall revert back to and be owned by the City in fee simple without cost to the City.

2. Survey or Amended Plat. The Foundation shall, at its sole expense, complete, as required either (a) a land survey sufficient for purposes of Montana Code Annotated Section 76-3-402 and file a Certificate of Survey sufficient for purposes of Montana Code Annotated Section 76-3-404 or (b) an amended plat. The Certificate of Survey or amended plat shall describe the Aquatic Project Land in a manner consistent with Section 1 of this Agreement.

3. Review. As soon as practicable following the filing of the Certificate of Survey or amended plat described in Section 2 of this Agreement, the City shall comply with Montana Code Annotated Section 76-3-208 with respect to necessary review and approval. The Foundation shall reimburse the City for any fees incurred by the City with respect to such preparation, review and approval.

4. Transfer. The City shall proceed with City Code Section 22-902 and lease of the Aquatic Project Land to the Foundation, subject to the terms and conditions of this Agreement.

5. Design and Specification. The Foundation agrees to contract with licensed design professionals necessary for the preparation of design and specifications for the Aquatic Project. The Foundation shall continuously consult with Park, Recreation and Public Lands staff and the final design, which shall be substantially similar to the Design, shall be reviewed by the City’s Parks, Recreation and Cemetery Board and the Foundation shall consider any recommendations made by the City’s Parks, Recreation and Cemetery Board.

6. Aquatic Project Cost. The Foundation agrees to pay all costs incurred in connection with the design and construction of the Aquatic Project.

7. Satisfaction of Funding Contingency. Within three (3) years from the date of this Agreement, the Foundation shall satisfy the Funding Contingency. The Funding Contingency shall be deemed satisfied upon the Foundation providing written documentation to the City that it has sufficient cash (by donation and/or loan) and pledges equal to the cost of the Aquatic Project described in the Study. Within thirty (30) days following satisfaction of the Funding Contingency, the Foundation shall begin the process of the construction of the Aquatic Project as a private owner. If the Funding Contingency is not satisfied, this Agreement shall terminate and become null and void.

8. Construction. The Foundation shall proceed as owner of the Aquatic Project and enter into contracts with licensed professionals, contractors and material providers as may be required for the construction of the Aquatic Project to Completion. Prior to the commencement of construction and unless waived in writing by the City Public Works Director, the Foundation shall obtain a payment and performance bond equal to the cost of the Aquatic Project. Such bonds shall name the City as the insured.

9. Final Completion. The Aquatic Project shall be complete upon the earlier of (a) the issuance of a certificate of occupancy, or (b) the first day of operation of the Aquatic Project (the "Completion"). The Completion shall occur within one (1) year from commencement of construction, unless extended by a writing subscribed to by both parties. If the Aquatic Project is not completed within such time period, this Agreement shall terminate and become null and void.

10. Operation, Management and Maintenance. The Foundation, or a single-member limited liability company owned solely by the Foundation, shall operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City. Such operation, management and maintenance shall be conducted at the sole expense of the Foundation and the Foundation shall retain all proceeds from the operation of the Aquatic Project for use in furtherance of its tax-exempt purposes. The Foundation shall maintain a Capital Replacement Fund consistent with the Study, specifically page 39 of the Study. In the event that all improvements (including buildings and accessory structures) and the Aquatic Project Land revert to the City pursuant to Section 1 of this Agreement, the Lease or otherwise, the Foundation shall transfer such Capital Replacement Fund to the City.

11. No Joint Entity. This Agreement does not create a partnership, joint venture, joint enterprise, or other joint entity between the City and the Foundation.

12. Mediation and Arbitration. The parties shall use their respective best efforts to resolve any controversy or claim arising out of or relating to this Agreement or breach thereof by non-binding mediation. Any controversy or claim arising out of or relating to this Agreement or breach thereof, shall be settled by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof.

13. Compliance with Laws and Regulations. The Foundation agrees that it will comply with all local, state and federal laws and regulations applicable to the planning, contracting, construction, operation and maintenance and use of all government grants and donated funds concerning the Aquatic Project including but not limited to building codes and prevailing wage laws, if applicable, and will indemnify and defend and hold harmless the City from any failure to do so as provided in the indemnification in Section 14 of this Agreement.

14. Indemnification and Insurance. The Foundation shall indemnify, defend and hold harmless the City from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses, including reasonable attorneys' fees, incurred by the City arising from the negligent or intentional acts or omissions of the Foundation while performing its obligations under this Agreement.

The City shall indemnify, defend and hold harmless the Foundation from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses including reasonable attorneys' fees incurred by the Foundation arising from the negligent or intentional acts or omissions of the City while performing its obligations under this Agreement.

The Foundation agrees that it will provide liability, workers compensation and property damages insurance naming the City as primary, non-contributory insured on all construction contracts executed related to the Aquatic Project and the continuing operation and maintenance of the Aquatic Project Land and improvements after the completion of the Aquatic Project Construction. Liability and property damage insurance shall be in the minimum amount of \$1.5 million each occurrence and the statutorily required amount of Workers Compensation insurance shall also be provided.

15. Amendment. This Agreement may be amended only in writing subscribed by both parties.

16. Notices and Demands. Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered only if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

as to the City:

City of Billings, Montana
Attn: Mike Whitaker, Director of Parks, Recreation
& Cemetery Board
390 North 23rd Street
Billings, MT 59101

as to the Foundation:

Better Billings Foundation
Attn: Chuck Barthuly
PO Box 50489
Billings, MT 59105

or at such other address with respect to any party as that party may, from time to time, designate in writing.

17. Entire Agreement. This Agreement, and the Lease, contains all terms, conditions and agreements agreed upon by the parties to this Agreement relating to the subject of this Agreement and supersedes all prior agreements, negotiations, understandings or communications, whether written or oral.

In testimony whereof, the parties have hereunto set their hands the date and year first above written.

Better Billings Foundation

By: _____
Pam Ask, its Chairperson

Attest: _____
Ken Woosley, its Secretary

City of Billings

By: _____
Ron Tussing, its Mayor

DRAFT

FUNDING AND DEVELOPMENT AGREEMENT

This Funding and Development Agreement (the “Agreement”) is made and entered into this ____ day of ~~November~~, 2009, by and between the City of Billings, a Montana municipal corporation (the “City”) and the Better Billings Foundation, a Montana nonprofit corporation (the “Foundation”).

Recitals

A. The Foundation proposes to design a family aquatic center (the “Aquatic Project”) and provide for the funding (by donation and/or borrowed funds) of the same on a site presently owned by the City known and named as Sahara Park.

B. On March 24, 2009, the City Council adopted two alternative Sahara Park Master Plans; Master Plan A and Master Plan B. Master Plan A approves the Aquatic Project Land (described below) as a site for the project and is subject to the contingencies that the Foundation (a) complete this Agreement by September 24, 2009 or after such extension as allowed by the City Council, and (b) demonstrate that it can fund the Aquatic Project (the “Funding Contingency”).

C. The Foundation has obtained that certain Feasibility Study of Ballard*King and Associates (the “Study”) and presented the same to the City Council. Following significant input from the Parks, Recreation and Public Lands staff, that Foundation has obtained that certain Aquatic Site Plan prepared by Aquatic Excellence (the “Design”) and presented the same to the City Council. The Study and the Design are attached as Exhibit A.

D. The City has required that the adjacent Park Land (described below) be reserved for use as a neighborhood park rather than for use in the Aquatic Project.

E. If this Agreement is entered into on or before November 29, 2009 or after such extension as allowed by the City Council and the Funding Contingency is satisfied, the Foundation will construct the Aquatic Project using the Master Plan A design and will operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City.

F. The City and the Foundation desire to set forth their respective obligations in connection with the Aquatic Project pursuant to the terms and conditions of this Agreement.

Agreement

In consideration of the foregoing, and in consideration of the mutual promises hereinafter set forth, the parties mutually agree as follows:

1. Site. The City has adopted a Sahara Park Master Plan for the land described on the attached Exhibit B. The portion of such land to be used for the Aquatic Project is highlighted and described more particularly on the attached Exhibit B containing approximately 6.7 acres. (the “Aquatic Project Land”). The portion of such land to be used for a neighborhood park is also highlighted and described more particularly on the attached Exhibit B (the “Park Land”).

2. Survey or Amended Plat and Review. The Foundation shall, at its sole expense, complete, as required ~~either (a) a land survey sufficient for purposes of Montana Code Annotated Section 76-3-402 or (b) an amended subdivision plat.~~ The land survey or ~~The~~ amended subdivision plat shall describe the Aquatic Project Land and the Park Land in a manner consistent with Section 1 of this Agreement.~~3. — Subdivision.~~ As soon as practicable following the completion of the ~~land survey or~~ amended subdivision plat described in Section 2 of this Agreement, the City, as owner and subdivider, or the Foundation, as subdivider, at the election of the City ~~Public Works Director,~~ shall complete a minor subdivision creating two (2) lots, one (1) lot for the Aquatic Project Land and one (1) lot for the Park Land. The Foundation shall reimburse the City for any fees incurred by the City with respect to such subdivision. If the Foundation acts as subdivider, the City shall complete all necessary consents, as owner, and take all other necessary actions to assist the Foundation in completing the subdivision described in this Section.

~~4.3.~~ Transfer of Property. Pursuant to City Code Section 22-902, the City shall engage in the process of ~~consider the sale sell or donation of~~ the Aquatic Project Land to the Foundation and if such sale or donation is approved by the City Council, the City shall transfer the Aquatic project land in fee simple by warranty deed to the Foundation and retain the Park Land. The notice required by City Code Section 22-902(2) shall describe the proposed use as a family aquatic facility consistent with the Master Plan adopted by the City Council in Resolution No. 09-18799. The terms of such sale or donation shall also include a (a) condition subsequent in any sale agreement and deed that the Aquatic Project Land shall only be used for the construction and operation of a family aquatic center, and (b) reversion of the land and all improvements in fee simple to the City if the Aquatic Project Land is not continuously used in satisfaction of such condition subsequent.

If the City council approves a sale or donation of the Aquatic Project Land, until such time as ownership of the property is transferred by warranty deed, the City shall be responsible for all maintenance and control of the property including access by the public consistent with other City park land. When transfer of ownership to the Foundation is accomplished, the Foundation shall be solely responsible for all control, maintenance, and liability for the Aquatic Project Land.

If the City Council does not approve the sale or donation of the Aquatic Project Land, this Agreement is null and void. However, nothing prevents the parties from entering into a subsequent lease Agreement concerning this Aquatic Project Land.

5.4. Design and Specification. The Foundation agrees to contract with licensed design professionals necessary for the preparation of design and specifications for the Aquatic Project. The Foundation shall continuously consult with Park, Recreation and Public Lands staff and the final design, which shall be substantially similar to the Design, shall be reviewed by the City’s

Parks, Recreation and Cemetery Board and the Foundation shall consider any recommendations made by the City's Parks, Recreation and Cemetery Board; The addition or elimination of any fixed amenity shall be reviewed by the Board and Park's Department staff prior to such action by the Foundation. The Aquatic Project currently proposed to be constructed in phases described as Phase One and Phase two. This Agreement describes and covers only Phase One. Should this Agreement be executed by the City and the Foundation, Phase Two is planned by the Foundation to include ~~NEED BRIEF GENERAL DESCRIPTION OF PHASE TWO HERE~~ _____?

6.5. Aquatic Project Cost and Water. The Foundation agrees to pay all costs incurred in connection with the design and construction of the Aquatic Project.

7.6. Satisfaction of Funding Contingency. Within three (3) years from the date of this Agreement, the Foundation shall satisfy the Funding Contingency for Phase One. The Funding Contingency for Phase One shall be deemed satisfied upon the Foundation providing written documentation to the City that it has sufficient cash (by donation and/or loan), ~~and~~ pledges and in-kind donations equal to the cost of the Aquatic Project which has been established by the Foundation as Four Million (\$4,000,000.00) Dollars.

Within sixty (60) days written notice to the City by the Foundation that the Funding Contingency has been met, the City shall transfer ownership of the Aquatic Project land to the Foundation by warranty deed.

Within ~~thirty (30)~~ Ninety (90) days following the transfer of the land through a warranty deed, satisfaction of the Funding Contingency, the Foundation shall begin the process of the construction of the Aquatic Project Phase One as a private owner.

If the Funding Contingency is not satisfied, this Agreement shall terminate and become null and void. ~~and no.~~

8.7. Construction. The Foundation shall proceed as owner of the Aquatic Project and enter into contracts with licensed professionals, contractors and material providers as may be required for the construction of the Aquatic Project to Completion (as defined in Section 9 of this Agreement). Prior to the commencement of construction and unless waived in writing by the City ~~Public Works Director~~, the Foundation shall obtain a payment and performance bond equal to the cost of the Aquatic Project. Such bonds shall name the City as the insured.

9.8. Final Completion. The Aquatic Project shall be complete upon ~~the earlier of (a)~~ the issuance of a certificate of occupancy, ~~or (b) the first day of operation of the Aquatic Project~~ (the "Completion"). The Completion shall occur within one (1) year from commencement of construction, unless extended by a writing subscribed to by both parties. ~~If the Aquatic Project is not completed within such time period, this Agreement shall terminate and become null and void.~~

10.9. Operation, Management and Maintenance. The Foundation, or a single-member limited liability company owned solely by the Foundation, shall operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated,

managed and maintained by the City including, but not limited to, parking areas, sidewalks, fencing and storm water detention. ~~Except as set forth in the final sentence of this Section, such~~ ~~Operation, management and maintenance shall be conducted at the sole expense of the Foundation which may subcontract such operation, management and maintenance with a third party experienced in aquatic operations. The swimming pool portion of the Aquatic project shall be open to the public for a minimum of Ten (10) weeks each year. ¶The Foundation shall retain all proceeds from the operation of the Aquatic Project for use in furtherance of its tax-exempt purposes. The Foundation shall be responsible for payment of water and all other utilities serving the Aquatic facility. The Foundation shall have no responsibility to maintain the adjacent Park Land owned by the City. The Foundation shall maintain a Capital Replacement Fund consistent with the Study, specifically page 39 of the Study. To secure ongoing performance of its obligations under this Agreement, the Foundation shall maintain an annually renewed Irrevocable Standby Letter of Credit in the amount of One Hundred Thousand Dollars (\$100,000.00) in the form as provided in the attached Exhibit C. In the event that all improvements (including buildings and accessory structures) and the Aquatic Project Land revert to the City pursuant to Section 3 of this Agreement, an applicable sale agreement, deed or otherwise, the City shall in its sole and singular discretion be entitled and authorized to execute upon and present for payment this Irrevocable Standby letter of Credit up to and including the full amount in order to make repairs or other expenditures to the Aquatic Project. The necessity to execute upon this security shall be determined in the sole discretion of the City. the Foundation shall transfer such Capital Replacement Fund to the City. not object to, obstruct, impair, impede or institute any legal proceeding challenging the execution upon or payment of funds provided in the attached Irrevocable Standby Letter of Credit.~~

~~11.10. No Joint Entity.~~ This Agreement does not create a partnership, joint venture, joint enterprise, or other joint entity between the City and the Foundation.

~~12.11. Mediation and Arbitration.~~ Prior to commencing any litigation concerning this Agreement, ~~the parties shall use their respective best efforts to resolve any controversy or claim arising out of or relating to this Agreement or breach thereof by non-binding mediation. If the parties are not able to resolve any controversy or claim arising out of or relating to this Agreement or breach thereof by non-binding mediation, any controversy or claim arising out of or relating to this Agreement or breach thereof, shall be settled by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof. (This is a policy decision by the Administrator and City council, however, as I have expressed on several previous occasions, I do not recommend arbitration as the sole, final method of dispute resolution which excludes litigation).~~

~~13.12. Compliance with Laws and Regulations.~~ The Foundation agrees that it will comply with all local, state and federal laws and regulations applicable to the planning, contracting, construction, operation and maintenance and use of all government grants and

donated funds concerning the Aquatic Project including but not limited to building codes and prevailing wage laws, if applicable, and will indemnify and defend and hold harmless the City from any failure to do so as provided in the indemnification in Section 14 of this Agreement.

~~14. 13.~~ Indemnification and Insurance. The Foundation shall indemnify, defend and hold harmless the City from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses, including reasonable attorneys' fees, incurred by the City arising from the negligent or intentional acts or omissions of the Foundation while performing its obligations under this Agreement.

The City shall indemnify, defend and hold harmless the Foundation from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses including reasonable attorneys' fees incurred by the Foundation arising from the negligent or intentional acts or omissions of the City while performing its obligations under this Agreement.

~~The Foundation agrees that it will provide liability, workers compensation, builder's risk, and other applicable property damages insurance naming the City as primary, non-contributory insured on all construction contracts executed related to the Aquatic Project. Liability and property damage insurance shall be in the minimum amount of \$1.5 million each occurrence and the statutorily required amount of Workers Compensation insurance shall also be provided.~~

~~15. 14.~~ Choice of law and Jurisdiction. Any civil action arising from this Agreement shall be brought in the District court of the Thirteenth Judicial District of the State of Montana, Billings, Yellowstone County, Montana. The laws of the State of Montana shall govern the rights and obligations of the parties.

~~16. 15.~~ Default, termination and Nonwaiver. If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations of the default is not cured within thirty (30) days after written notice is provided to the defaulting party. The notice shall specify the items to be cured. The non-defaulting party may bring suit for damages, specific performance or any other remedy provided by law. These remedies are cumulative and not exclusive and use of one does not preclude use of the others.

~~17. 16.~~ Amendment. This Agreement may be amended only in writing subscribed by both parties.

~~18. 17.~~ Notices and Demands. Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered only if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

as to the City:

City of Billings, Montana

Attn: Mike Whitaker, Director of Parks, Recreation
& Cemetery Board
390 North 23rd Street
Billings, MT 59101

as to the Foundation:

Better Billings Foundation
Attn: Chuck Barthuly
PO Box 50489
Billings, MT 59105

or at such other address with respect to any party as that party may, from time to time, designate in writing.

17. Entire Agreement. This Agreement contains all terms, conditions and agreements agreed upon by the parties to this Agreement relating to the subject of this Agreement and supersedes all prior agreements, negotiations, understandings or communications, whether written or oral.

In testimony whereof, the parties have hereunto set their hands the date and year first above written.

Better Billings Foundation

By: _____
Pam Ask, its Chairperson

Attest: _____
Ken Woosley, its Secretary

City of Billings

By: _____
Ron Tussing, its Mayor

FUNDING AND DEVELOPMENT AGREEMENT

This Funding and Development Agreement (the “Agreement”) is made and entered into this ____ day of _____ ~~November~~, 2009, by and between the City of Billings, a Montana municipal corporation (the “City”) and the Better Billings Foundation, a Montana nonprofit corporation (the “Foundation”).

Recitals

A. The Foundation proposes to design a municipal Aquatic Center (the “Aquatic Project”) and provide for the funding (by donation and/or borrowed funds) of the same on a site owned by the City.

B. On March 24, 2009, the City Council adopted two alternative Sahara Park Master Plans; Master Plan A and Master Plan B. Master Plan A approves the Land (described below) as a site for the Aquatic Project and is subject to the contingencies that the Foundation (a) complete this Agreement by September 24, 2009 or after such extension as allowed by the City Council, and (b) demonstrate that it can fund the Aquatic Project (the “Funding Contingency”).

C. The Foundation has obtained that certain Feasibility Study of Ballard*King and Associates (the “Study”) and presented the same to the City Council. Following significant input from the Parks, Recreation and Public Lands staff, that Foundation has obtained that certain Aquatic Site Plan prepared by Aquatic Excellence (the “Design”) and presented the same to the City Council. The Study and the Design are attached as Exhibit A.

D. The City has required that a portion of the adjacent Park Land be reserved for use as a neighborhood park rather than for use in the Aquatic Project.

E. If this Agreement is entered into on or before November 29, 2009 or after such extension as allowed by the City Council and the Funding Contingency is satisfied, the Foundation will construct the Aquatic Project using the Master Plan A design and will operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City.

F. The City and the Foundation desire to set forth their respective obligations in connection with the Aquatic Project pursuant to the terms and conditions of this Agreement.

Agreement

In consideration of the foregoing, and in consideration of the mutual promises hereinafter set forth, the parties mutually agree as follows:

1. Site and Lease. The City has adopted a Sahara Park Master Plan for the construction of the Aquatic Project on the land described on the attached Exhibit B (the “Land”). The City shall lease the portion of the Land for use in the Aquatic Project as highlighted on the

attached Exhibit B (the “Aquatic Project Land”) to the Foundation pursuant to a mutually acceptable lease agreement for an initial term of ten (10) years from execution of such lease agreement. Such lease agreement shall also include at least one (1) option for the Foundation to renew such lease upon the same terms and conditions. Upon execution of the lease agreement, the Foundation shall (a) pay a nominal rent of \$10 per year, and (b) own all improvements constructed on the Aquatic Project Land including, without limitation, the Aquatic Project. The lease agreement shall include a provision that if the Aquatic Project Land and improvements cease to be operated as an aquatic facility, all improvements (including buildings and accessory structures) and the Aquatic Project Land shall revert back to and be owned by the City in fee simple without cost to the City.

2. Survey or Amended Plat and Review. The Foundation shall, at its sole expense, complete, as required either (a) a land survey sufficient for purposes of Montana Code Annotated Section 76-3-402 and file a Certificate of Survey sufficient for purposes of Montana Code Annotated Section 76-3-404 or (b) an amended plat. The Certificate of Survey or amended plat shall describe the Aquatic Project Land in a manner consistent with Section 1 of this Agreement.

3. ~~Review.~~ As soon as practicable following the filing of the Certificate of Survey or amended plat described in Section 2 of this Agreement, ~~the~~ The City shall comply with Montana Code Annotated Section 76-3-208 with respect to necessary review and approval. The Foundation shall reimburse the City for any fees incurred by the City with respect to such preparation, review and approval.

4.3. Transfer. The City shall proceed with City Code Section 22-902 and ~~consider the engage in the process of the lease of the Aquatic Project Land to the Foundation, subject to the terms and conditions of this Agreement. If the lease is approved by the City Council, the Foundation and City shall into a separate lease agreement. The Foundation shall require and submit to the City current certificate(s) of professional liability insurance from all engineering, architectural and other design professionals providing services to the Aquatic project. The professional liability insurance shall be in the minimum amount of \$ 1.5 million (\$1,500,000.00) per claim. Until such time as this separate lease agreement is entered into and executed by the parties, the City shall be responsible for all maintenance and control of the Aquatic Project Land including the right to allow public access consistent with other City park land. When the separate lease document is approved and executed by both parties, the Foundation shall thereafter be responsible for control, maintenance and liability insurance on the Aquatic Project land and shall have in place the liability insurance referenced in Section~~

If the lease is not approved by the City Council, this Agreement shall be null and void. However, nothing prevents the parties from entering into a subsequent agreement to sell or donate this Aquatic Project Land to the Foundation.

5.4. Design and Specification. The Foundation agrees to contract with licensed design professionals necessary for the preparation of design and specifications for the Aquatic Project. The Foundation shall continuously consult with Park, Recreation and Public Lands staff and the final design, which shall be substantially similar to the Design, shall be reviewed by the City’s Parks, Recreation and Cemetery Board and the Foundation shall consider any recommendations made by the City’s Parks, Recreation and Cemetery Board. The addition or elimination of any

fixed amenity shall be reviewed by the Board and Par's department staff prior to such action by the Foundation. The Aquatic Project currently is proposed to be constructed in phases described as Phase One and Phase two. This Agreement describes and covers only Phase One. Should this Agreement and a separate lease agreement be approved and executed by the City and the Foundation, Phase Two is planned by the Foundation to include _____?

6.5. Aquatic Project Cost. The Foundation agrees to pay all costs incurred in connection with the design and construction of the Aquatic Project.

7.6. Satisfaction of Funding Contingency. Within three (3) years from the date of this Agreement, the Foundation shall satisfy the Funding Contingency for Phase One. The Funding Contingency for Phase One shall be deemed satisfied upon the Foundation providing written documentation to the City that it has sufficient cash (by donation and/or loan), ~~and~~ pledges and in-kind donations equal to the cost of the Aquatic Project which has been established by the Foundation as Four Million (\$4,000,000.00) Dollars, described in the Study. Within ~~thirty ninety~~ (390) days of providing written notice to the City that the Funding Contingency has been met, ~~following satisfaction of the Funding Contingency a,~~ the Foundation shall begin the process of the construction of the Aquatic Project Phase One as a private lessee owner. If the Funding Contingency is not satisfied, this Agreement shall terminate and become null and void.

8.7. Construction. The Foundation shall proceed as owner of the Aquatic Project and enter into contracts with licensed professionals, contractors and material providers as may be required for the construction of the Aquatic Project to Completion. Prior to the commencement of construction and unless waived in writing by the City Public Works Director, the Foundation shall obtain a payment and performance bond equal to the cost of the Aquatic Project. Such bonds shall name the City as the insured.

9.8. Final Completion. The Aquatic Project shall be complete upon ~~the earlier of (a)~~ the issuance of a certificate of occupancy, ~~or (b) the first day of operation of the Aquatic Project~~ (the "Completion"). The Completion shall occur within one (1) year from commencement of construction, unless extended by a writing subscribed to by both parties. ~~If the Aquatic Project is not completed within such time period, this Agreement shall terminate and become null and void.~~

~~10.9.~~ Operation, Management and Maintenance. The Foundation, or a single-member limited liability company owned solely by the Foundation, shall operate, manage and maintain the Aquatic Project in a manner similar to other aquatic centers and City parks operated, managed and maintained by the City. Accordingly, the swimming pool portion of the Aquatic project shall be open to the public for a minimum of Ten (10) weeks each year. Such operation, management and maintenance shall be conducted at the sole expense of the Foundation which may subcontract with a third party experienced in aquatic operations, ~~and~~ ~~†~~ The Foundation shall retain all proceeds from the operation of the Aquatic Project for use in furtherance of its tax-exempt purposes. ~~The Foundation shall maintain a Capital Replacement Fund consistent with the Study, specifically page 39 of the Study.~~ To secure the ongoing performance of its obligations under this Agreement, the Foundation shall maintain an annually renewed Irrevocable Standby Letter of Credit in the amount of One Hundred Thousand Dollars

(\$100,000.00) in the form as provided in the attached Exhibit C. In the event that all improvements (including buildings and accessory structures) and the Aquatic Project Land revert to the City pursuant to: Section 1 of this Agreement, the Lease or otherwise, the City shall in its sole and singular discretion be entitled and authorized to execute upon this Irrevocable Standby Letter of Credit up to the full amount in order to make necessary repairs or other expenditures to the Aquatic Project. The necessity to execute upon this security shall be determined in the sole discretion of the City. Foundation shall not object to, obstruct, impair or impede informally or formally, through written or oral communication or through legal proceedings such as but not limited to litigation, the City's execution upon this irrevocable Letter of Credit. ~~transfer such Capital Replacement Fund to the City.~~

~~11.10. No Joint Entity.~~ This Agreement does not create a partnership, joint venture, joint enterprise, or other joint entity between the City and the Foundation.

~~12.11. Mediation and Arbitration. Prior to commencing any litigation concerning this Agreement, the parties shall use their respective best efforts to resolve any controversy or claim arising out of or relating to this Agreement or breach thereof by non-binding mediation. Any controversy or claim arising out of or relating to this Agreement or breach thereof, shall be settled by mediation under the Construction Industry Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction hereof. (As stated in the "sale" version, this is a policy decision by the Administrator and City Council, however, as I have expressed on several previous occasions, I do not recommend arbitration as the sole, final method of dispute resolution which excludes litigation. Also, I do not understand why "Construction Industry Mediation or Arbitration Procedures apply to a development agreement).)~~

~~13.12. Compliance with Laws and Regulations.~~ The Foundation agrees that it will comply with all local, state and federal laws and regulations applicable to the planning, contracting, construction, operation and maintenance and use of all government grants and donated funds concerning the Aquatic Project including but not limited to building codes and prevailing wage laws, if applicable, and will indemnify and defend and hold harmless the City from any failure to do so as provided in the indemnification in Section 14 of this Agreement.

~~14. 13. Indemnification and Insurance.~~ The Foundation shall indemnify, defend and hold harmless the City from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses, including reasonable attorneys' fees, incurred by the City arising from the negligent or intentional acts or omissions of the Foundation while performing its obligations under this Agreement.

The City shall indemnify, defend and hold harmless the Foundation from and against any and all claims, liabilities, judgments, damages, lawsuits of any type, costs and expenses including

reasonable attorneys' fees incurred by the Foundation arising from the negligent or intentional acts or omissions of the City while performing its obligations under this Agreement.

The Foundation agrees that it will provide liability, workers compensation and property damages insurance naming the City as primary, non-contributory insured on all construction contracts executed related to the Aquatic Project. The Foundation shall also maintain liability, property and workers compensation insurance covering the continuing operation and maintenance of the Aquatic Project Land and improvements after the completion of the Aquatic Project Construction. Liability and property damage insurance shall be in the minimum amount of \$1.5 million each occurrence and the statutorily required amount of Workers Compensation insurance shall also be provided by the Foundation.

15. 14. Choice of Law and Jurisdiction. Any civil action arising from this Agreement shall be brought in the District court of the Thirteenth Judicial District of the State of Montana, Billings, Yellowstone County, Montana. The laws of the State of Montana shall govern the rights and obligations of the parties.

16. 15. Default, Termination and Nonwaiver. If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured with Thirty (30) days after written notice is provided to the defaulting party. The notice shall specify the items to be cured. The non-defaulting party may bring suit for damages, specific performance or any other remedy provided by law. These remedies are cumulative and not exclusive and use of one does not preclude use of the others.

17. 16. Amendment. This Agreement may be amended only in writing subscribed by both parties.

18. 17. Notices and Demands. Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered only if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally:

as to the City:

City of Billings, Montana
Attn: Mike Whitaker, Director of Parks, Recreation
& Cemetery Board
390 North 23rd Street
Billings, MT 59101

as to the Foundation:

Better Billings Foundation
Attn: Chuck Barthuly
PO Box 50489
Billings, MT 59105

or at such other address with respect to any party as that party may, from time to time, designate in writing.

19.18. Entire Agreement. This Agreement, and the Lease, contains all terms, conditions and agreements agreed upon by the parties to this Agreement relating to the subject of this Agreement and supersedes all prior agreements, negotiations, understandings or communications, whether written or oral.

In testimony whereof, the parties have hereunto set their hands the date and year first above written.

Better Billings Foundation

By: _____
Pam Ask, its Chairperson

Attest: _____
Ken Woosley, its Secretary

City of Billings

By: _____
Ron Tussing, its Mayor

DRAFT

BANK LETTERHEAD
BANK ADDRESS

IRREVOCABLE STANDBY LETTER OF CREDIT NO.

(Sample — **EXACT** wording required)

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

RE: Better Billings Foundation
Deposit as Security for continuing performance of Sahara Park Development Agreement

Dear Sir:

We hereby issue in your favor this Irrevocable Standby Letter of Credit (hereinafter called the Letter of Credit) in an amount up to but not exceeding ONE HUNDRED THOUSAND DOLLARS (\$100,000.00 at the request of our customer, Better Billings Foundation, effective immediately and expiring at this bank on _____ date _____. The purpose of this Letter of Credit is to create a primary obligation on the part of the bank to the City of Billings, Montana, (hereinafter called the City) relating to the above captioned matter. This instrument is not a guaranty and is independent of any subsequent contract or rights thereunder between the Better Billings Foundation and the City of Billings.

This Letter of Credit shall be deemed automatically extended without amendment for one year from the expiration date hereof, or any future expiration date in subsequent years, unless ninety (90) calendar days prior to any expiration date we shall notify you by Registered Mail or Express Courier that we elect not to consider this Letter of Credit renewed for any such additional period. Notice of non-renewal will be sent to the City Administrator, City of Billings, Montana.

Funds are available at any time prior to the expiration date, and we agree to honor this Letter of Credit upon receipt of a properly dated and signed letter demanding payment similar to the attached sample. No other documentation or substantiation will be requested or required. Our check for the amount requested will be transmitted within ten (10) calendar days of the receipt of your letter so long as it is presented at our bank on or before the close of business on or before the expiration date.

This Letter of Credit is drafted and issued in accordance with the terms and provisions of the Uniform Commercial Code as enacted in the State of Montana (Sections 30-5-101, MCA, et seq.).

This Letter of Credit is subject to and governed by the uniform customs and practice for documentary credits International Chamber of Commerce Publication no. 500 and the laws of the state of Montana. In the event of any conflict the laws of the state of Montana will control with venue in Yellowstone County, Montana.

Yours truly,
BANK NAME
By: Authorized Bank Rep.

(Need to have bank notarize this LOC with certificate indicating authority of officer signing above).

SAMPLE DEMAND LETTER

_____, _____
(month, day, year)

Bank President
Bank Name
Address

RE: Irrevocable Standby Letter of Credit No. _____
dated _____, _____

Dear Sir:

This letter is a demand for payment as required by your Irrevocable Standby Letter of Credit captioned above. The City of Billings is hereby drawing on said Letter of Credit and demanding that you pay the City forthwith the amount of \$ _____. Your check for that amount must be transmitted to our office within ten (10) days of your receipt of this letter.

Sincerely,

Tina Volek
Billings City Administrator

CERTIFICATE

____ Name _____ certifies: That he/she is the duly authorized representative of the City of Billings; that he/she has authority to take all necessary and proper action on behalf of the City of Billings including execution and delivery of the above demand letter; and that the above demand letter is a proper exercise of his/her authority on behalf of the City.

DATED this _____ day of _____, _____.

By: _____
Cari Martin
City Clerk
City of Billings

(Notary Seal)

Notary Public for State of Montana
Residing at Billings, Montana.
My commission expires on _____.

Date: 12/14/2009

TITLE: Public Hearing on Downtown Library Facility Project Options

PRESENTED BY: Mary Murphrey, Library

Department: Library

Information

PROBLEM/ISSUE STATEMENT

On November 23, 2009, City Council delayed action on a new Library in order to allow more time to explore options and hold a public hearing on the three options for a downtown Library facility presented to the City Council at its November 2, 2009 Work Session.

At its October 8, 2009, meeting, the Library Board of Trustees approved recommending to the City Council that the Library be moved to an expanded and renovated Gainan's building, with a project cost of \$14,749,000. Construction would be funded through issuance of federal ARRA Recovery Zone bonds at an effective rate estimated to be 3.7%. This option would permit the current Library facility and parking lots to be sold for development.

Staff also presented to the Council at its November 2 Work Session an option to renovate the existing Library facility, with a project cost of \$15,000,000. Construction again would be funded through issuance of federal ARRA Recovery Zone bonds at an effective rate estimated to be 3.7%. Library unobligated cash reserves of \$1,000,000 would pay costs to move Library operations to leased operating and storage space during construction and to move back to the renovated building after its completion. This option would not permit the Library facility and parking lots to be sold for development. It also would require leasing of space that the Library cannot use in the current downtown facility to an appropriate tenant.

Staff also presented to the Council at its November 2 Work Session an option to demolish the existing Library facility and build a new one on the site already owned, with a project cost of \$17,340,000, including \$500,000 in demolition costs. Construction would be funded through issuance of federal ARRA Recovery Zone bonds at an effective rate estimated to be 3.7%. Library unobligated cash reserves of \$1,000,000 would pay costs to move Library operations to leased operating and storage space during construction and to move back to the renovated building after its completion. This option would not permit the Library facility and parking lots to be sold for development.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve Resolution 1, agreeing with the Library Board recommendation to hold a March 2010 election on the proposed move of the Library to an expanded and renovated Gainan's building at an estimated cost of \$14,479,000; or Approve a March 2009 election on the proposed renovation of the existing Library facility at an estimated cost of \$15,000,000; or
- Approve Resolution 2 to hold a March 2010 election on the proposed renovation of the existing Library at an estimated cost of \$15,000,000.; or
- Approve Resolution 3 to hold a March 2010 election to demolish the current Library and build a new Library on the existing site at an estimated cost of \$17,340,000; or
- Approve another alternative; or
- Take no action.

FINANCIAL IMPACT

Total cost of Option 1 over the 20-year life of the debt service of bonds at 3.7% and annual contract for deed payments is estimated to be \$22,100,000. This takes into account use of \$1,000,000 in Library unobligated cash reserves to reduce the project cost, but does not take into account the revenue that would be realized from sale of the existing building and parking lots, which is currently unknown.

Total cost of Option 2 over the 20-year life of the debt service of bonds at 3.7% is estimated to be \$22,900,000. This takes into account use of \$1,000,000 in Library unobligated cash reserves to pay for temporary leased space and moving costs during construction.

Total cost of Option 3 over the 20-year life of the debt service of bonds at 3.7% is estimated to be \$26,200,000. This takes into account use of \$1,000,000 in Library unobligated cash reserves to pay for temporary leased space and moving costs during construction.

BACKGROUND

The Library Board toured the Gainan's facility in late 2008 and subsequently directed staff to evaluate the feasibility of the Library moving into the space when Gainan's vacates it in approximately two years. The Library contracted with CTA Architects to conduct a feasibility study, conceptual design and cost estimates, which were presented to the Library Board at its meeting on May 18, 2009. At its October 8, 2009, meeting, the Library Board of Trustees approved recommending to the City Council that the Library be moved to an expanded and renovated Gainan's building.

This recommendation was compatible with the City's approved CIP for the past several years, which currently includes \$13,383,684 for upgrading, remodeling, expanding or replacing the current facility in fiscal year (FY) 2012. To this number, an estimated additional cost of \$1,250,000 for renovation of the 4th floor must be added, for a total project cost of \$14,633,684. This cost does not include any funding for moving to leased space and back after the renovation. These estimates are based upon a study for renovating the current Library facility that the City Council contracted for with A&E Architects, which completed it in February 2004.

The 2004 study was in response to the defeat of a general obligation bond election for a new downtown Library facility in 2002. Prior to the election the City Council rejected the six recommended sites in the vicinity of the current Library facility and directed staff to secure a buy/sell agreement between 4th and 3rd Avenues North and North 25th and 26th Streets, which was accomplished. The bond issue for the total project costs including site acquisition was estimated to be \$12,000,000. Immediately prior to the election, the City Council rejected the buy/sell agreement, so there was no site identified at the time of the election.

STAKEHOLDERS

A forward-thinking approach to improving the Downtown Library was one of the strategies developed by the Council in response to the Citizen Survey and Community Conversations. The Library Board of Trustees recommends the Gainan's project as the lowest-cost option to meet the demand for an improved downtown library building as expressed by the Citizen Survey, Community Conversations and the current Library Strategic Planning process.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

As mentioned earlier, the CIP currently calls for remodeling of the Library in FY 2012. An expedited election schedule is being requested because ARRA bonds must be issued no later than December 31, 2010. It is anticipated that construction would begin in December 2011 and conclude in December 2012. The recommended relocation of the Library to the former Gainan's site would free the current, valuable location for sale, which has been a long-desired goal of the City Council.

RECOMMENDATION

Staff recommends that Council approve the Library Board of Trustees recommendation to place the Gainan's project option on the ballot in March, as the least expensive of the three options.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Gainan's Option](#)

Link: [Remodel Current Building Option](#)

Link: [Build New Current Site Option](#)

Option 1 – Gainan’s

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Yellowstone County, Montana (the “City”), hereby certify that the attached resolution is a true copy of a Resolution entitled: “A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF IMPOSING A MILL LEVY SUFFICIENT TO PROVIDE FUNDS TO PAY ANNUAL INSTALLMENTS OWING UNDER A CONTRACT TO ACQUIRE LAND, BUILDINGS, AND IMPROVEMENTS LOCATED AT 502 30TH STREET IN THE CITY AND COMMONLY KNOWN AS GAINAN’S AND ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO NINE MILLION TWO HUNDRED FORTY-NINE THOUSAND AND NO/100 DOLLARS (\$9,249,000.00) TO PAY COSTS OF IMPROVING THE PROPERTY AS A PUBLIC LIBRARY, RELOCATING THE PARMLY BILLINGS LIBRARY FROM ITS CURRENT LOCATION TO THE PROPERTY, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY AMOUNTS OWING UNDER THE FOREGOING” (the “Resolution”), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on November [23], 2009, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

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

(SEAL)

City Clerk

RESOLUTION NO. 09-_____

A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF IMPOSING A MILL LEVY SUFFICIENT TO PROVIDE FUNDS TO PAY ANNUAL INSTALLMENTS OWING UNDER A CONTRACT TO ACQUIRE LAND, BUILDINGS, AND IMPROVEMENTS LOCATED AT 502 30TH STREET IN THE CITY AND COMMONLY KNOWN AS GAINAN'S AND ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO NINE MILLION TWO HUNDRED FORTY-NINE THOUSAND AND NO/100 DOLLARS (\$9,249,000.00) TO PAY COSTS OF IMPROVING THE PROPERTY AS A PUBLIC LIBRARY, RELOCATING THE PARMLY BILLINGS LIBRARY FROM ITS CURRENT LOCATION TO THE PROPERTY, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY AMOUNTS OWING UNDER THE FOREGOING

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

Section 1. Recitals.

1.01. Authorization.

(a) A city or town is authorized pursuant to 7-7-4101, M.C.A., to contract an indebtedness on behalf of a city or town, upon the credit of the town, by borrowing money, entering into leases, entering into lease-purchase agreements, or entering into installment purchase contracts for the purpose of acquiring land for and designing and erecting public buildings, and pursuant to Section 7-7-4221, M.C.A., to issue general obligation bonds pledging the general credit of the City for the purpose of acquiring land for and designing and erecting public buildings, upon approval of the electorate of the city or town, provided that such indebtedness will not cause the total indebtedness of the city to exceed 2.5% of the total assessed valuation of taxable property of the city, determined as provided in Section 15-8-111, M.C.A., ascertained by the last assessment for state and county taxes. A city council is authorized pursuant to Section 15-10-425, M.C.A., to call a mill levy election and pursuant to Section 7-7-4223, M.C.A., to call a bond election by adopting a resolution to that effect.

(b) Under the City Charter, except as otherwise authorized, the Council shall not levy more than 74 mills on real and personal property for all purposes, unless there is an affirmative vote of majority of votes cast in an election on the question of whether the mill levy may be increased above the 74 mills.

1.02. Proposed Library Project.

(a) The City, based on the recommendations of the Library Board and public input, has proposed that the City relocate the Parmlly Billings Library owned by the City

(the "Library"), from its current location at 510 N. Broadway in the City to the property located at 502 30th Street in the City and commonly known as Gainan's (the "Property"), which is currently owned by Big Sky Floral Supply L.L.P. and C.K. Gainan L.L.P. (collectively, "Gainan's").

(b) The City proposes that it will (i) enter into a contract with Gainan's to acquire the Property, (ii) improve the Property as a public library, (iii) relocate the Library to the Property, and (iv) undertake necessary related improvements (collectively, the "Project").

(c) The City further proposes to impose a mill levy to pay the costs of acquiring the Property over time in annual installments and to issue general obligation bonds to pay a portion of the costs of improving the Property.

1.03. Estimated Cost. The estimated costs of the Project and costs associated with the sale and issuance of such bonds, exclusive of interest, are \$14,749,000, \$1,000,000 of which would be paid from amounts the City has on hand and available therefor.

1.04. Mill Levy; Bonds. It is the judgment of the Council that, in order to undertake the Project, it is necessary and desirable for the City to impose a mill levy in an amount to raise approximately \$[_____] per year for up to 20 years to pay costs of acquiring the Property and to issue general obligation bonds in the aggregate sum of Nine Million Two Hundred Forty-Nine Thousand Dollars (\$9,249,000.00) payable during a term not to exceed twenty (20) years (the "Bonds") to pay costs of improving the Property.

1.05. Debt Limitation. The Council has determined that the arrangement for acquiring the Property and the issuance of the Bonds will not cause the City to exceed its general statutory indebtedness limitation, which in November 2009, is calculated to be \$[97,242,227].

1.06. Mills. If approved by the voters, there will be a levy of additional mills over a period of 20 years as may be required to pay (i) the annual installments of principal and interest in respect of acquiring the Property, and (ii) the principal of and interest on the Bonds. Based on the current taxable valuation of the City, it is estimated that [7.00] additional mills per year would be needed to pay the aggregate amount of the foregoing, assuming the interest rate on the obligation to acquire the Property is [_____] % per annum and on the Bonds is [3.70] % per annum.

1.07. Election. The Council has determined there should be submitted to the electors of the City qualified to vote at bond elections the question of whether the Council shall be authorized to impose a mill levy to pay over time the purchase price of the Property, and to issue and sell the Bonds of the City to obtain funds to improve the Property as a public library and to pay costs associated with the sale and issuance of the Bonds.

Section 2. Calling of the Election. The Council of the City hereby calls and directs a special city election to be held on March [___], 2010, to be conducted by mail ballot, for the purpose of voting on the following question:

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to impose a mill levy sufficient to raise up to \$_____ per year for a term

not to exceed twenty (20) years to provide funds to pay annual installments owing under a contract to acquire land, buildings, and improvements located at 502 30th Street in the City and commonly known as Gainan's (the "Property") and to issue and sell general obligation bonds of the City in one or more series in the amount of up to Nine Million Two Hundred Forty-Nine Thousand Dollars (\$9,249,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years to pay costs of improving the Property as a public library, relocating the Parmly Billings Library from its current location to the Property, and costs associated with the sale and issuance of the bonds (collectively, the "Project"); and authorizing the levy of [approximately 7.00] additional mills over the City Charter limit in an amount sufficient to pay amounts owing under the foregoing?

Section 3. Conduct of Election. All qualified electors of the City shall be entitled to vote at the bond election. The City Clerk is hereby authorized and directed to give notice of the call and details of this election to the Yellowstone County Election Administrator at least 70 days before the election. The Yellowstone County Election Administrator is requested to give notice of the close of registration and thereafter prepare printed lists of the qualified electors in the City entitled to vote in the election in the City and to conduct the election in the form and manner prescribed by law and consistent with the Mail Ballot Plan, as follows:

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on [February __], 2010, and must be returned by each voter, to the Yellowstone County Election Administrator's Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, [February __], 2010 through [March __], 2010.

On Election Day, March [__], 2010, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on March [__], 2010.

A qualified voter who will be absent from the City during the time the election is being conducted may:

(a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on [February __], 2010; or

(b) make a written request prior to noon on [February __], 2010, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than [February __], 2010.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

(a) signing an affidavit form stating the reason for the request for replacement;
and

(b) if the reason given for replacement is “spoiled ballot,” by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

Section 4. Notice of Election. The City Clerk is hereby authorized and requested to cause notice of the call and holding of the election to be given by publishing notice at least once a week for the three consecutive weeks before the election in the *Billings Times*, a newspaper of general circulation in Yellowstone County. The notice of election as published shall read substantially as shown on Exhibit A hereto (which is incorporated by reference and made a part hereof).

Section 5. Form of Ballot. The ballot shall be printed in substantially the following form:

OFFICIAL BALLOT
CITY OF BILLINGS, MONTANA
MILL LEVY AND GENERAL OBLIGATION BOND ELECTION
MARCH [___], 2010

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words “MILL LEVY AND GENERAL OBLIGATION BONDS--YES” if you wish to vote for the proposition; if you are opposed to the proposition, make an X or similar mark in the square before the words “MILL LEVY AND GENERAL OBLIGATION BONDS--NO”.

Shall the City Council (the “Council”) of the City of Billings, Montana (the “City”) be authorized to impose a mill levy sufficient to raise up to \$_____ per year for a term not to exceed twenty (20) years to provide funds to pay annual installments owing under a contract to acquire land, buildings, and improvements located at 502 30th Street in the City and commonly known as Gainan’s (the “Property”) and to issue and sell general obligation bonds of the City in one or more series in the amount of up to Nine Million Two Hundred Forty-Nine Thousand Dollars (\$9,249,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years to pay costs of improving the Property as a public library, relocating the Parmly Billings Library from its current location to the Property, and costs associated with the sale and issuance of the bonds (collectively, the “Project”); and authorizing the levy of [approximately 7.0] additional mills over the City Charter limit in an amount sufficient to pay amounts owing under the foregoing?

If approved, based on 2009 assessed values of taxable property in the City, a term of 20 years, and an interest rate on the contract to acquire the Property of [___]% per annum and on the bonds of [3.70]% per annum, the additional mills would result in an estimated increase in the annual tax on a home with an assessed market value of \$100,000 of \$[_____] and on a home with an assessed market value of \$200,000 of \$ [_____].

MILL LEVY AND GENERAL OBLIGATION BONDS — YES

MILL LEVY AND GENERAL OBLIGATION BONDS — NO

Section 7. Notice to County Election Administrator. A copy of this resolution will be provided to the Yellowstone County Election Administrator as soon as possible after its adoption and approval in order to inform him of the details of the election and the pertinent requests and authorizations as to the conduct of the election.

Section 8. Reimbursement Expenditures.

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

(b) Other than (i) expenditures to be paid or reimbursed from sources other than the bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the project have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) The City reasonably expects to reimburse the expenditures made for costs of the project out of the proceeds of bonds up to an estimated maximum aggregate principal amount of Nine Million Two Hundred Forty-Nine Thousand Dollars (\$9,249,000.00) after the date of payment of all or a portion of the costs of the project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

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

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

PASSED by the City Council of Billings, Montana, this [23rd] day of November, 2009.

CITY OF BILLINGS, MONTANA

Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT A

NOTICE OF MILL LEVY AND GENERAL OBLIGATION BOND ELECTION
City of Billings, Montana
March [___], 2010

NOTICE IS HEREBY GIVEN by the City Council (the “Council”) of the City of Billings, Montana (the “City”), that pursuant to a certain resolution duly adopted at a regular meeting of the Council on November [23], 2009, a special city election of the registered voters of the City will be held on March [___], 2010, conducted by mail ballot, for the purpose of voting on the following question:

Shall the City Council (the “Council”) of the City of Billings, Montana (the “City”) be authorized to impose a mill levy sufficient to raise up to \$_____ per year for a term not to exceed twenty (20) years to provide funds to pay annual installments owing under a contract to acquire land, buildings, and improvements located at 502 30th Street in the City and commonly known as Gainan’s (the “Property”) and to issue and sell general obligation bonds of the City in one or more series in the amount of up to Nine Million Two Hundred Forty-Nine Thousand Dollars (\$9,249,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years to pay costs of improving the Property as a public library, relocating the Parmly Billings Library from its current location to the Property, and costs associated with the sale and issuance of the bonds (collectively, the “Project”); and authorizing the levy of [approximately 7.0] additional mills over the City Charter limit in an amount sufficient to pay amounts owing under the foregoing?

If approved, based on 2009 assessed values of taxable property in the City, a term of 20 years, and an interest rate on the contract to acquire the Property of [___]% per annum and on the bonds of [3.70]% per annum, the additional mills would result in an estimated increase in the annual tax on a home with an assessed market value of \$100,000 of \$[_____] and on a home with an assessed market value of \$200,000 of \$ [_____].

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on [February ___], 2010, and must be returned by each voter, to the Yellowstone County Election Administrator’s Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, [February ___], 2010 through [March ___], 2010.

On Election Day, March [___], 2010, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on March [___], 2010.

A qualified voter who will be absent from the City during the time the election is being conducted may:

(a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on [February __], 2010; or

(b) make a written request prior to noon on [February __], 2010, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than [February __], 2010.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

(a) signing an affidavit form stating the reason for the request for replacement; and

(b) if the reason given for replacement is “spoiled ballot,” by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

DATED this ____ day of November, 2009.

City Clerk

Publish: _____

Option 2 – Renovating Existing Building

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Yellowstone County, Montana (the “City”), hereby certify that the attached resolution is a true copy of a Resolution entitled: “A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00) FOR THE PURPOSE OF PAYING COSTS OF RENOVATING THE BILLINGS PARMLY LIBRARY, RELATED IMPROVEMENTS, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY PRINCIPAL OF AND INTEREST ON THE BONDS” (the “Resolution”), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on November 23, 2009, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

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

(SEAL)

City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00) FOR THE PURPOSE OF PAYING COSTS OF RENOVATING THE BILLINGS PARMLY LIBRARY, RELATED IMPROVEMENTS, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY PRINCIPAL OF AND INTEREST ON THE BONDS

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

Section 1. Recitals.

1.01. Authorization. (a) A city or town is authorized pursuant to Section 7-7-4221, M.C.A., to issue general obligation bonds pledging the general credit of the City for the purpose of acquiring land for and designing and erecting public buildings, upon approval of the electorate of the city or town, provided that such indebtedness will not cause the total indebtedness of the city to exceed 2.5% of the total assessed valuation of taxable property of the city, determined as provided in Section 15-8-111, M.C.A., ascertained by the last assessment for state and county taxes. A city council is authorized pursuant to Section 7-7-4223, M.C.A., to call a bond election by adopting a resolution to that effect.

(b) Under the City Charter, except as otherwise authorized, the Council shall not levy more than 74 mills on real and personal property for all purposes, unless there is an affirmative vote of majority of votes cast in an election on the question of whether the mill levy may be increased above the 74 mills.

1.02. Proposed Library Project. The City, based on the recommendations of the Library Board and public input, has proposed that the City issue general obligation bonds to pay for the costs of renovating the Billings Parmly Library owned by the City and to make related improvements (the “Project”).

1.03. Estimated Cost. The estimated costs of the Project and costs associated with the sale and issuance of the bonds are \$16,000,000.00. Costs of the Project in excess of the proceeds of the bonds are expected to be paid from cash reserves and other sources available to or obtained by the City.

1.04. Debt Limitation. The Council has determined that the issuance of general obligation bonds up to the total aggregate amount of Fifteen Million Dollars (\$15,000,000.00) will not cause the City to exceed its general statutory indebtedness limitation, which in November 2009, is calculated to be \$[97,242,227].

1.05. Mills. If approved by the voters, there will be a levy of additional mills over a period of 20 years as may be required to pay the principal of and interest on \$15,000,000 general obligation bonds for the Project. Based on the current taxable valuation of the City, it is estimated that [7.0] additional mills per year would be needed to pay the principal of and interest on the Bonds over a 20 year period, assuming a [3.70]% interest rate.

1.06. Election. The Council has determined there should be submitted to the electors of the City qualified to vote at bond elections the question of whether the Council shall be authorized to issue and sell general obligation bonds of the City in order to obtain funds for the Project, paying costs associated with the sale and issuance of the bonds, and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds.

1.07. Bonds. It is the judgment of the Council that the aggregate sum of Fifteen Million Dollars (\$15,000,000.00) in bonds will be necessary to carry out the purposes set forth above. It is also the judgment and determination of the Council that each series of bonds will be payable during a term not to exceed twenty (20) years.

Section 2. Calling of the Election. The City Council of the City hereby calls and directs a special city election to be held on March [___], 2010, to be conducted in accordance with the provisions of Title 13, Chapter 19, Parts 1-3, M.C.A. (the "Mail Ballot Act"), for the purpose of voting on the following question:

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Fifteen Million Dollars (\$15,000,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of renovating the Billings Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Section 3. Conduct of Election. All qualified electors of the City shall be entitled to vote at the bond election. The City Clerk is hereby authorized and directed to give notice of the call and details of this election to the Yellowstone County Election Administrator at least 70 days before the election. The Yellowstone County Election Administrator is requested to give notice of the close of registration and thereafter prepare printed lists of the qualified electors in the City entitled to vote in the election in the City and to conduct the election in the form and manner prescribed by law and consistent with the Mail Ballot Plan, as follows:

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on February [___], 2010, and must be returned by each voter, to the Yellowstone County Election Administrator's Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, February [___], 2010 through March [___], 2010.

On Election Day, March [__], 2010, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on March [__], 2010.

A qualified voter who will be absent from the City during the time the election is being conducted may:

(a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on February [__], 2010; or

(b) make a written request prior to noon on February [__], 2010, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than February [__], 2010.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

(a) signing an affidavit form stating the reason for the request for replacement; and

(b) if the reason given for replacement is “spoiled ballot,” by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

Section 4. Notice of Election. The City Clerk is hereby authorized and requested to cause notice of the call and holding of the election to be given by publishing notice at least once a week for the three consecutive weeks before the election in the *Billings Times*, a newspaper of general circulation in Yellowstone County. The notice of election as published shall read substantially as shown on Exhibit A hereto (which is incorporated by reference and made a part hereof).

Section 5. Form of Ballot. The ballot shall be printed in substantially the following form:

OFFICIAL BALLOT
CITY OF BILLINGS, MONTANA
GENERAL OBLIGATION BOND ELECTION
MARCH [__], 2010

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words “GENERAL OBLIGATION BONDS--YES” if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words “GENERAL OBLIGATION BONDS --NO”.

Shall the City Council (the “Council”) of the City of Billings, Montana (the “City”) be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Fifteen Million Dollars (\$15,000,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of renovating the Billings Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Costs of the Project in excess of the proceeds of the bonds, if any, are expected to be paid from cash reserves and other sources available to or obtained by the City.

- GENERAL OBLIGATION BONDS — YES
- GENERAL OBLIGATION BONDS — NO

Section 7. Notice to County Election Administrator. A copy of this resolution will be provided to the Yellowstone County Election Administrator as soon as possible after its adoption and approval in order to inform him of the details of the election and the pertinent requests and authorizations as to the conduct of the election.

Section 8. Reimbursement Expenditures.

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

(b) Other than (i) expenditures to be paid or reimbursed from sources other than the bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the project have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) The City reasonably expects to reimburse the expenditures made for costs of the project out of the proceeds of bonds up to an estimated maximum aggregate principal amount of Fifteen Million Dollars (\$15,000,000.00) after the date of payment of all or a portion of the costs of the project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

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

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

PASSED by the City Council of Billings, Montana, this 23rd day of November, 2009.

CITY OF BILLINGS, MONTANA

Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT A

NOTICE OF GENERAL OBLIGATION BOND ELECTION

City of Billings, Montana

March [__], 2010

NOTICE IS HEREBY GIVEN by the City Council (the “Council”) of the City of Billings, Montana (the “City”), that pursuant to a certain resolution duly adopted at a regular meeting of the Council on November 23, 2009, a special city election of the registered voters of the City will be held on March [__], 2010, conducted by mail ballot, for the purpose of voting on the following question:

Shall the City Council (the “Council”) of the City of Billings, Montana (the “City”) be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Fifteen Million Dollars (\$15,000,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of renovating the Billings Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Costs of the Project in excess of the proceeds of the bonds, if any, are expected to be paid from cash reserves and other sources available to or obtained by the City.

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on February [__], 2010, and must be returned by each voter, to the Yellowstone County Election Administrator’s Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, February [__], 2010 through March [__], 2010.

On Election Day, March [__], 2010, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on March [__], 2010.

A qualified voter who will be absent from the City during the time the election is being conducted may:

(a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on February [__], 2010; or

(b) make a written request prior to noon on February [__], 2010, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be

mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than February [___], 2010.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

(a) signing an affidavit form stating the reason for the request for replacement; and

(b) if the reason given for replacement is “spoiled ballot,” by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

DATED this ____ day of November, 2009.

City Clerk

Publish:

Option 3 – Replacing Existing Building

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Yellowstone County, Montana (the “City”), hereby certify that the attached resolution is a true copy of a Resolution entitled: “A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO SEVENTEEN MILLION THREE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$17,340,000.00) FOR THE PURPOSE OF PAYING COSTS OF DESIGNING, CONSTRUCTING AND EQUIPPING A NEW LIBRARY BUILDING IN REPLACEMENT OF THE BILLINGS PARMLY LIBRARY, RELATED IMPROVEMENTS, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY PRINCIPAL OF AND INTEREST ON THE BONDS” (the “Resolution”), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on November 23, 2009, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

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

(SEAL)

City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO SEVENTEEN MILLION THREE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$17,340,000.00) FOR THE PURPOSE OF PAYING COSTS OF DESIGNING, CONSTRUCTING AND EQUIPPING A NEW LIBRARY BUILDING IN REPLACEMENT OF THE BILLINGS PARMLEY LIBRARY, RELATED IMPROVEMENTS, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY PRINCIPAL OF AND INTEREST ON THE BONDS

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

Section 1. Recitals.

1.01. Authorization. (a) A city or town is authorized pursuant to Section 7-7-4221, M.C.A., to issue general obligation bonds pledging the general credit of the City for the purpose of acquiring land for and designing and erecting public buildings, upon approval of the electorate of the city or town, provided that such indebtedness will not cause the total indebtedness of the city to exceed 2.5% of the total assessed valuation of taxable property of the city, determined as provided in Section 15-8-111, M.C.A., ascertained by the last assessment for state and county taxes. A city council is authorized pursuant to Section 7-7-4223, M.C.A., to call a bond election by adopting a resolution to that effect.

(b) Under the City Charter, except as otherwise authorized, the Council shall not levy more than 74 mills on real and personal property for all purposes, unless there is an affirmative vote of majority of votes cast in an election on the question of whether the mill levy may be increased above the 74 mills.

1.02. Proposed Library Project. The City, based on the recommendations of the Library Board and public input, has proposed that the City issue general obligation bonds to pay for the costs of designing, constructing and equipping a new library building in replacement of the Billings Parmley Library owned by the City and to make related improvements (the “Project”).

1.03. Estimated Cost. The estimated costs of the Project and costs associated with the sale and issuance of the Bonds are Eighteen Million Three Hundred Forty Thousand Dollars (\$18,340,000.00). Costs of the Project in excess of the proceeds of the bonds are expected to be paid from cash reserves and other sources available to or obtained by the City.

1.04. Debt Limitation. The Council has determined that the issuance of general obligation bonds up to the total aggregate amount of Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00) will not cause the City to exceed its general statutory indebtedness limitation, which in November 2009, is calculated to be \$[97,242,227].

1.05. Mills. If approved by the voters, there will be a levy of additional mills over a period of 20 years as may be required to pay the principal of and interest on \$17,340,000 general obligation bonds for the Project. Based on the current taxable valuation of the City, it is estimated that [7.0] additional mills per year would be needed to pay the principal of and interest on the Bonds over a 20 year period, assuming a [3.70]% interest rate.

1.06. Election. The Council has determined there should be submitted to the electors of the City qualified to vote at bond elections the question of whether the Council shall be authorized to issue and sell general obligation bonds of the City in order to obtain funds for the Project, paying costs associated with the sale and issuance of the bonds, and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds.

1.07. Bonds. It is the judgment of the Council that the aggregate sum of Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00) in bonds will be necessary to carry out the purposes set forth above. It is also the judgment and determination of the Council that each such series of bonds will be payable during a term not to exceed twenty (20) years.

Section 2. Calling of the Election. The City Council of the City hereby calls and directs a special city election to be held on March [___], 2010, to be conducted in accordance with the provisions of Title 13, Chapter 19, Parts 1-3, M.C.A. (the "Mail Ballot Act"), for the purpose of voting on the following question:

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing, and equipping a new library building in replacement of the Billings Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Section 3. Conduct of Election. All qualified electors of the City shall be entitled to vote at the bond election. The City Clerk is hereby authorized and directed to give notice of the call and details of this election to the Yellowstone County Election Administrator at least 70 days before the election. The Yellowstone County Election Administrator is requested to give notice of the close of registration and thereafter prepare printed lists of the qualified electors in the City entitled to vote in the election in the City and to conduct the election in the form and manner prescribed by law and consistent with the Mail Ballot Plan, as follows:

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on February [___], 2010, and must be returned by each voter, to the Yellowstone County Election Administrator's Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107,

during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, February [___], 2010 through March [___], 2010.

On Election Day, March [___], 2010, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on March [___], 2010.

A qualified voter who will be absent from the City during the time the election is being conducted may:

(a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on February [___], 2010; or

(b) make a written request prior to noon on February [___], 2010, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than February [___], 2010.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

(a) signing an affidavit form stating the reason for the request for replacement; and

(b) if the reason given for replacement is “spoiled ballot,” by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

Section 4. Notice of Election. The City Clerk is hereby authorized and requested to cause notice of the call and holding of the election to be given by publishing notice at least once a week for the three consecutive weeks before the election in the *Billings Times*, a newspaper of general circulation in Yellowstone County. The notice of election as published shall read substantially as shown on Exhibit A hereto (which is incorporated by reference and made a part hereof).

Section 5. Form of Ballot. The ballot shall be printed in substantially the following form:

OFFICIAL BALLOT
CITY OF BILLINGS, MONTANA
GENERAL OBLIGATION BOND ELECTION
MARCH [__], 2010

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words “GENERAL OBLIGATION BONDS--YES” if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words “GENERAL OBLIGATION BONDS--NO”.

Shall the City Council (the “Council”) of the City of Billings, Montana (the “City”) be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing, and equipping a new library building in replacement of the Billings Parnly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Costs of the Project in excess of the proceeds of the bonds, if any, are expected to be paid from cash reserves and other sources available to or obtained by the City.

- GENERAL OBLIGATION BONDS — YES
- GENERAL OBLIGATION BONDS — NO

Section 7. Notice to County Election Administrator. A copy of this resolution will be provided to the Yellowstone County Election Administrator as soon as possible after its adoption and approval in order to inform him of the details of the election and the pertinent requests and authorizations as to the conduct of the election.

Section 8. Reimbursement Expenditures.

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

(b) Other than (i) expenditures to be paid or reimbursed from sources other than the bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the project have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) The City reasonably expects to reimburse the expenditures made for costs of the project out of the proceeds of bonds up to an estimated maximum aggregate principal amount of Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00) after the date of payment of all or a portion of the costs of the project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

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

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

PASSED by the City Council of Billings, Montana, this 23rd day of November, 2009.

CITY OF BILLINGS, MONTANA

Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT A

NOTICE OF GENERAL OBLIGATION BOND ELECTION

City of Billings, Montana

March [__], 2010

NOTICE IS HEREBY GIVEN by the City Council (the “Council”) of the City of Billings, Montana (the “City”), that pursuant to a certain resolution duly adopted at a regular meeting of the Council on November 23, 2009, a special city election of the registered voters of the City will be held on March [__], 2010, conducted by mail ballot, for the purpose of voting on the following question:

Shall the City Council (the “Council”) of the City of Billings, Montana (the “City”) be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing, and equipping a new library building in replacement of the Billings Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Costs of the Project in excess of the proceeds of the bonds, if any, are expected to be paid from cash reserves and other sources available to or obtained by the City.

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on February [__], 2010, and must be returned by each voter, to the Yellowstone County Election Administrator’s Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, February [__], 2010 through March [__], 2010.

On Election Day, March [__], 2010, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on March [__], 2010.

A qualified voter who will be absent from the City during the time the election is being conducted may:

(a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on February [__], 2010; or

(b) make a written request prior to noon on February [__], 2010, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than February [__], 2010.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

(a) signing an affidavit form stating the reason for the request for replacement; and

(b) if the reason given for replacement is “spoiled ballot,” by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

DATED this ____ day of November, 2009.

City Clerk

Publish: _____

Date: 12/14/2009

TITLE: Motor Power Equipment Tax Incentive Application

Bruce McCandless, Asst. City

PRESENTED BY: Administrator

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Motor Power Equipment Company, located at 4941 Midland Road, has applied for a property tax abatement under City Resolution No. 05-18377 and Montana Code Annotated (MCA) Section 15-24-1501. This program abates a portion of the property tax on commercial building expansion, remodeling or reconstruction during the construction period and for the following four (4) tax years. The owner started constructing a large building expansion in April, 2009 and plans to complete it in January, 2010. In order for the City Council to grant the abatement, it must conduct a public hearing and adopt the attached resolution that conditionally approves the abatement. Recommended conditions of approval are that the applicant provide all of the application information and approvals, complete the building expansion as described in the application, document the building completion and value with the Big Sky Economic Development Authority (BSEDA) and apply to the Montana Dept. of Revenue for the appropriate tax abatement.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the resolution and the tax abatement
- Disapprove the resolution and the tax abatement

FINANCIAL IMPACT

The applicant reports that the existing property is valued at \$1,900,000 and the improvements will add \$2,000,000 of market value to the property. If approved, this abatement applies only to the new investment. If the Montana Dept of Revenue values the property the same as the owner reported value, it would have a taxable value of approximately \$47,432 (tax year 2010). This abatement program exempts the added value from city and school district levies, but not the county, state or other levies. The estimated tax on the new taxable value would be \$16,900 in the first year. The building addition's taxable value will be exempt from the specified taxes for an additional three years. The improvement's full value is taxable in the fifth year after completion and for all subsequent years

RECOMMENDATION

Staff recommends that Council conduct a public hearing and conditionally approve the tax abatement for Brumar Corporation, owner and Motor Power Equipment, operator under City Resolution No. 05- and MCA 15-24-1501.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [MPE application](#)

**APPLICATION FORM FOR TAX REDUCTION
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**

(As allowed under Yellowstone County Resolution 89-56, City Council Resolution and 15-24-1501, 15-24-1502 or 15-24-1601 MCA)

1. Name of business: Brumar Corporation (owner) Motor Power Equipment Co. (operator)

2. _____ Building Remodel or Reconstruction: Start of construction (date) _____
End of construction (date) _____

3. Building Expansion: Start of construction (date) April 2009
End of construction (date) Jan 2010

4. Address of business: 4941 Midland Road
Actual location of business: Same
Tax Code: see attached document
Within city limits of Billings YES NO

5. Person representing business and responsible for application:
Name: Bruce Sunwall Title: President
Address: PO Box 80030, Billings, MT Telephone: 406-252-5651

6. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$ 2,000,000.00 (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).

7. Approximate market value of building prior to remodel, reconstruction, or expansion:
\$ 1,900,000.00

8. Explain business activity – what business does: _____
Heavy truck and trailer dealership - truck and trailers sales, parts sales, service sales.

9. How long has this business been located in Billings and/or Yellowstone County?
Since 1941

10. As of the date of this application, how many employees does the business have:
54 Full-time 1 Part-time

11. How many employees will the applicant have within 2 years after completion of construction:
62 Full-time 2 Part-time

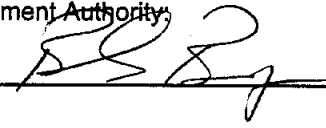
12. Describe job skills required for all new employees both full and part-time: _____
See attached job descriptions
-
13. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): See attached documentation
14. Other Economic impacts of capital investment: Increased sales, Increased employment, Increased tax revenues for government.
15. Planned hiring schedule: Dependent on market conditions
-
16. List other property tax benefits business currently receives or has applied for: None
-
17. Building permit (attach copy or explain absence): See attached copy
-
18. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.
19. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32nd Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearing.
20. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.
21. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met.
22. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.
23. Signature of applicant/representative: *Brian P. Summers* VP-Operations
24. Date of application: _____
25. County Commissioner's Public hearing held (date): _____
26. City Council's Public hearing held (date): _____

Recommendation by the Big Sky Economic Development Authority:

Approve

Deny

Signature: _____



Date: _____

8/25/09

County Board of Planning or Laurel-Yellowstone City-County Planning Board certifies that business conforms to zoning regulations:

Signature: _____ Date: _____

If a non-public water or sewer system is used (i.e., septic tank and water well) County Health Department certifies that system conforms to acceptable standard, or will do so on completion of construction:

Signature: _____ Date: _____

County Treasurer's Office certifies that City and County taxes have been paid in full or otherwise satisfied:

Signature: _____ Date: _____

City Finance office certifies that the business has applied for the appropriate City business license:

Signature: _____ Date: _____

Action by Board of County Commissioners:

Approve

Deny

Chair: _____

Date: _____

Member: _____

Date: _____

Member: _____

Date: _____

**APPLICATION TO THE DEPARTMENT OF REVENUE
BUILDING REMODEL, RECONSTRUCTION OR EXPANSION
(Title 15- Chapter 24 – Part 14 MCA)**

To: Assessor
Yellowstone County

Name of Applicant: Brumar Corporation

Mailing Address: PO Box 2192, Billings, Montana 59103-2192

Legal description of affected property: see attached document

Date construction permit issued: 4/03/2009

(If no permit is required, specify the date when certificate in lieu of building permit was issued).

This application covers the (expansion/new) construction of the _____ plant.

A public hearing on this matter of Building Expansion, Remodel, or Reconstruction was held at the
Yellowstone County Courthouse at _____ (am/pm) on the _____ day of _____, 20_____

Due notice as defined in 76-15-103 was given. True and exact copies of said notices are attached to this
application. _____ Yes _____ No

The statutory \$100,000 investment requirement for expansion or modernization has been met.
_____ Yes _____ No

The statutory 2.5% increase in value requirement for new improvements has been met.
_____ Yes _____ No

The qualifying property consists of the following: see attached documents

(Attach site plats, construction prints, and detailed equipment list identifying the qualifying property.)

This application is made under the provisions of 15-24-1501 or 1601 MCA, and by resolution adopted by
the Commissioners of Yellowstone County, on the 29th day of August 1989. A copy of the same is
attached.

(Owner/Agent)

We, the undersigned, Commissioners of Yellowstone County, (approve/disapprove) this application for
_____. We find that it (does/does not) conform to the criteria
as set forth in the resolution adopted by this Board on the 29th day of August 1989.

Name

Title

Name

Title

Name

Title

TAX CODE- C12073 7

LEGAL DESCRIPTION

CEREUS SUB
1.643 AC

3 1
(96)

TAX CODE- C12071 3

LEGAL DESCRIPTION

CEREUS SUB
1.707 AC

1 1
(96)

TAX CODE- D01880 3

LEGAL DESCRIPTION

** C/S 1768 AMND TR 1
IN NE4 (LESS .187 AC HWY) 17 IS 26E
4.023 AC (92)

TAX CODE- C12072 1

LEGAL DESCRIPTION

CEREUS SUB
1.677 AC

2 1
(96)



CITY OF BILLINGS
 510 North Broadway • 4th Floor
 Billings, Montana 59101

Office (406) 657-8270
 Fax (406) 657-8252

PUBLIC WORKS DEPARTMENT
Building & Safety Division

PERMIT

Billings Pride City-wide

Job Address: 4411 WILLIAM BL
 Application No: 0400000000

PERMIT NO: 44-0000000000
 PERMIT TYPE: MECC
 ISSUE DATE: 4/03/00
 EXPIRES: 07/03/00
 TAX ID: 000000

Subdivision (S) PROJECT NO: 1100000000
 Zoning: 000

Job Description: ADDITION

Owner/Address
 BRUMAR CORPORATION
 1500 BENHARTY DR
 BILLINGS MT 59102

Contractor/Address
 JONES CONSTRUCTION, INC
 123 1500 ST
 BILLINGS MT 59102
 (406) 233-2450

Other Name: PROJECT STREET HOTEL INC

PERMIT: MECHANICAL PLUMBING AND HEATING PERMITS
 ALL Fees

QTY	UNIT	DESCRIPTION	RATE	TOTAL
1.00	PERMIT	MECHANICAL PLUMBING AND HEATING PERMITS	300.00	300.00
1.00	PERMIT	MECHANICAL PLUMBING AND HEATING PERMITS	15.00	15.00
0.00	PERMIT	MECHANICAL PLUMBING AND HEATING PERMITS	0.00	0.00
3.00	PERMIT	MECHANICAL PLUMBING AND HEATING PERMITS	15.00	45.00
2.00	PERMIT	MECHANICAL PLUMBING AND HEATING PERMITS	22.50	45.00
1.00	PERMIT	MECHANICAL PLUMBING AND HEATING PERMITS	22.50	22.50

Remarks/Special Conditions:

addition and renovation to existing
 truck shop

Engineering permit is to be issued

Other fees: ENGINE COMPLIANCE PERMIT 15.00

Permit fee: 300.00
 Total paid: 300.00

RECEIPT # 2000000000

AGREEMENT

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, VENTILATING OR AIR CONDITIONING, AND ENGINEERING.

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.

THE UNDERSIGNED HEREBY AGREES THAT THE PROPOSED WORK SHALL BE DONE IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS AND STATEMENT HEREWITH SUBMITTED AND IN CONFORMITY WITH THE PROVISIONS OF THE CITY ORDINANCES PERTAINING TO THE ERECTION OF BUILDINGS. CURB, GUTTER AND SIDEWALK WILL BE INSTALLED. DEMOLITION WORK TO BE COMPLETED IN 30 DAYS UNLESS OTHERWISE NOTED UNDER REMARKS.

[Signature]

4/3/00

[Signature]

APPLICANT

DATE

201

BUILDING OFFICIAL

DATE



**** THIS CARD MUST BE POSTED AT THE JOB SITE ****

Ph. 657-8270

PERMIT No. *C92007*

BUILDING PERMIT INSPECTION RECORD

JOB ADDRESS: *4941 Midland Rd*

NATURE OF WORK: <i>add / remodel</i>	TYPE	GROUP
USE OF BUILDING: <i>Comm</i>	<i>VR</i>	<i>B</i>
OWNER: <i>Breman Prop LLP</i>		
CONTRACTOR: <i>Jones Const Inc</i>	DATE ISSUED <i>4/21/3/09</i>	

INSPECTOR MUST SIGN ALL SPACES PERTAINING TO THIS JOB

INSPECTION	DATE	INSPECTOR
COMPACTION/SITE PREPARATION	<i>Need copys</i>	<i>4-22-09 Todd</i>
FOOTING FORMS/SETBACKS		<i>over →</i>
FOUNDATION FORMS		
DO NOT POUR CONCRETE OR COVER WORK UNTIL INSPECTION IS SIGNED		
FOUNDATION WATERPROOF (Prior to backfill)		
PLUMBING (Ground Work)	<i>Shop Area 5-13-09 Todd</i>	<i>Office Area 5-14-09 Todd</i>
FLOOR FRAME (Prior to Subfloor)		
BACKFILL COMPACTION		
ROUGH ELECTRICAL	<i>Underground Electrical OK 5-21-09 P</i>	<i>Underground Complete 5-26-09 P</i>
ROUGH PLUMBING		
ROUGH GAS PIPING		
ROUGH HEATING AND VENTILATION		
ROUGH FRAMING		
INSULATION		
SHEETROCK (Commercial/Multi-Family)		
DO NOT COVER WORK UNTIL INSPECTION IS SIGNED		
FINAL		
ELECTRICAL		
PLUMBING		
GAS PIPING		
HEATING AND VENTILATION		
BUILDING		

OCCUPANCY IS PROHIBITED UNTIL CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED

Footings 7A to J8 & 7D to ~~7E~~ E1

Footings E1 to K1 & K1 to 9J

Footings East & South 4-27-09 Todd

Walls 7A, J8, 7D, E1, K1 9J 4-27-09 Todd

walls EAST & North side. 5-1-09 Scott
E1 TO K1 & K1 TO 9J

East & South office found walls 5-4-09 Todd

Shop blue board 5-4-09 Todd

OFFICE blueboard 5-6-09 Todd

Shop column pads 5-8-09 Todd

Date: 12/14/2009

TITLE: Prestige Toyota Tax Incentive Application

Bruce McCandless, Asst. City

PRESENTED BY: Administrator

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Prestige Toyota, located at 1532 Grand Avenue, has applied for a property tax abatement under City Resolution No. 05-18377 and Montana Code Annotated (MCA) Section 15-24-1501. This program abates a portion of the property tax on remodeling, expanding or reconstructing commercial buildings during the construction period and for the following four (4) tax years. The property owner demolished the former building in 2007 and built a new structure in 2008. In order for the City Council to grant the abatement, it must conduct a public hearing and adopt the attached resolution that conditionally approves the abatement. Recommended conditions of approval are that the applicant must provide all of the application information and approvals, document the building completion and value with the Big Sky Economic Development Authority (BSEDA) and apply to the Montana Dept. of Revenue for the appropriate tax abatement.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the resolution and the tax abatement
- Disapprove the resolution and the tax abatement

FINANCIAL IMPACT

The applicant reports that the demolished building had a value of \$780,000 and the new building cost \$4,212,000 to build, or a net difference of \$3,432,000. If approved, this abatement applies only to the net investment. If the Montana Dept of Revenue values the property the same as the reported value, the net difference in value would have a taxable value of approximately \$81,394 (tax year 2010). This abatement program exempts the added value from city and school district levies, but not the county, state or other levies. The city and school tax on the added taxable value would be approximately \$29,000 in the first year (2010). The new building's net taxable value will be exempt from the specified taxes for an additional two (2) years. The abatement would normally be for the construction period and four years following completion, but this application is being considered for approval late in tax year 2009. Therefore, the property is not eligible for the abatement during construction (tax year 2008) or for the first year following completion (tax year 2009). The improvement's value is fully taxable after the abatement period expires.

RECOMMENDATION

Staff recommends that Council conduct a public hearing and conditionally approve the tax abatement for R, M & S, LLC, owner and Prestige Toyota, operator under City Resolution No. 05- and MCA 15-24-1501.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Prestige Toyota application](#)

**APPLICATION FORM FOR TAX REDUCTION
BUILDING REMODEL, EXPANSION OR RECONSTRUCTION**

(As allowed under Yellowstone County Resolution 89-56, City Council Resolution and 15-24-1501,
15-24-1502 or 15-24-1601 MCA)

1. Name of business: Prestige Toyota (Real Estate owned in AN LLC, RM&S, LLC)
2. Building Remodel or Reconstruction: Start of construction (date) Oct. of 2007
End of construction (date) Sept. of 2008
3. Building Expansion: Start of construction (date) _____
End of construction (date) _____
4. Address of business: 1532 Grand Ave. Billings, MT 59102
Actual location of business: 1532 Grand Ave. Billings, MT 59102
Tax Code: A06386A-A09160-A19574A-D01306-D01307-D01310
- Within city limits of Billings YES NO
5. Person representing business and responsible for application:
Name: Annie Beaudry Title: Asst. General Manager
Address: 1532 Grand Ave. Billings, MT 59102 Telephone: (406) 245-7141
6. Amount of capital investment for Expansion, Remodel or Reconstruction in Billings / Yellowstone County: \$4,808,660 (attach detailed costs of materials and labor and dates of construction. County Commissioners and/or City Council may request further information, such as financial statements, business references, or other documents prior to acting on this request).
7. Approximate market value of building prior to remodel, reconstruction, or expansion:
\$ 780,000
8. Explain business activity - what business does: retail Toyota franchise and retail Toyota service & parts departments
9. How long has this business been located in Billings and/or Yellowstone County?
Raymond McLean became an owner in 1990
10. As of the date of this application, how many employees does the business have:
48 Full-time 2 Part-time
11. How many employees will the applicant have within 2 years after completion of construction:
60 Full-time 3 Part-time

12. Describe job skills required for all new employees both full and part-time: we are looking to expand all departments with the growth of our sales, service, parts and lube express
13. What is the hourly pay scale of both full and part-time employees to include benefits (new employees only): anywhere from \$9.50/hourly to \$14.00/hour
14. Other Economic impacts of capital investment: as we expand and grow we will be adding new employees which will boost local economy
15. Planned hiring schedule: will be hiring new sales people, flat-rate technicians and other production employees as business grows
16. List other property tax benefits business currently receives or has applied for: none
17. Building permit (attach copy or explain absence): ATTACHED
18. A non-refundable fee of \$500 must accompany this application to cover the cost of application administration. Make checks payable to the Big Sky Economic Development Authority.
19. All items on this application must be addressed. Upon completion and accompanied by the application fee, the original can be submitted to the Big Sky Economic Development Authority, 222 N. 32nd Street, Suite 200, Billings, Montana 59101 (telephone 256-6871). If the application is complete, a duly advertised public hearing will be scheduled, after which the Commissioners and/or City Council, in their discretion, will decide whether to approve or deny the application. The applicant, or a representative of the applicant, must appear in person at the public hearing.
20. The application to the Department of Revenue, which is part of this application, must also be completed and signed by the applicant.
21. The Board of County Commissioners and/or City Council may review this applicant's tax incentive program at any time and terminate further reductions at their discretion if they find the provisions of Resolution are not being met.
22. In order for this incentive program to apply to the applicant's current year taxes, Yellowstone County must receive the properly completed application by March of the year in which the reduction is desired. If within the city of Billings, City Council must approve the application by March of the year in which the reduction is desired.
23. Signature of applicant/representative: [Signature]
24. Date of application: 3/30/2009
25. County Commissioner's Public hearing held (date): _____
26. City Council's Public hearing held (date): _____

**APPLICATION TO THE DEPARTMENT OF REVENUE
BUILDING REMODEL, RECONSTRUCTION OR EXPANSION
(Title 15- Chapter 24 – Part 14 MCA)**

To: Assessor
Yellowstone County

DBA

Name of Applicant:

Prestige Toyota (Grand Ave Auto, Inc.)

Mailing Address:

1532 Grand Ave. Billings, MT 59102

Legal description of affected property:

see attached

Date construction permit issued: _____

(If no permit is required, specify the date when certificate in lieu of building permit was issued).

This application covers the (expansion/new) construction of the _____ plant.

A public hearing on this matter of Building Expansion, Remodel, or Reconstruction was held at the
Yellowstone County Courthouse at _____ (am/pm) on the _____ day of _____, 20____

Due notice as defined in 76-15-103 was given. True and exact copies of said notices are attached to this
application. _____ Yes _____ No

The statutory \$100,000 investment requirement for expansion or modernization has been met.

Yes _____ No


The statutory 2.5% increase in value requirement for new improvements has been met.

_____ Yes _____ No

The qualifying property consists of the following: _____

(Attach site plats, construction prints, and detailed equipment list identifying the qualifying property.)

This application is made under the provisions of 15-24-1501 or 1601 MCA, and by resolution adopted by
the Commissioners of Yellowstone County, on the 29th day of August 1989. A copy of the same is
attached.



(Owner/Agent)

~~~~~

We, the undersigned, Commissioners of Yellowstone County, (approve/disapprove) this application for  
\_\_\_\_\_. We find that it (does/does not) conform to the criteria  
as set forth in the resolution adopted by this Board on the 29<sup>th</sup> day of August 1989.

\_\_\_\_\_  
Name

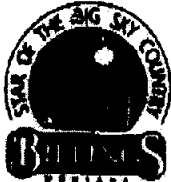
\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title



Billings Pride City-wide

CITY OF BILLINGS

510 North Broadway • 4th Floor  
Billings, Montana 59101

Office (406) 657-8270  
Fax (406) 657-8252

PUBLIC WORKS DEPARTMENT  
Building & Safety Division

PERMIT

Joe Arnold 1532 GRAND AVE

Permit Nbr: 07-00001407  
Permit Type: BLDG  
Issue Date: 11/09/07  
Geo: 03092705214130000  
Tax ID: A09160

Block/Section/Block/Lot: HOD 000 002

Description: COM NEW STORES/SERVICES

Owner Address

P M AND S PROPERTY LLC  
1532 GRAND AVE  
BILLINGS MT 59102

Contractor/Address

JONES CONSTRUCTION, INC  
123 REGAL ST  
BILLINGS MT 59101  
(406) 252-6298

Structure Information: NEW CAR DEALERSHIP/SERVICE

Const Type: IIB Occupancy Type: B

Other structure information:

|                       |     |                       |       |
|-----------------------|-----|-----------------------|-------|
| BEDROOMS              | NA  | LOT COVERAGE          | 30%   |
| NUMBER OF DWELLING UN | NA  | OCCUPANT LOAD         | 325   |
| PARKING PROVIDED      | 104 | PARKING REQUIRED      | 104   |
| SPRINKLER             | YES | SQAURE FOOTAGE MAIN F | 29694 |
| NUMBER OF STORIES     | 2   |                       |       |

Permit: BUILDING PERMIT COMMERCIAL Valuation: 3,000,000

Checks/Special Conditions:

NEW BUILDING WITH METAL FRAME, METAL MDU  
PANEL INSULATED AND UNINSULATED. TILT  
UP CONCRETE LOW SLOPE ROOF.

Engineering ROW permit # 34667 is to be issued  
ADA & MUTCD Guidelines require that when existing  
pedestrian access routes are blocked by construction or  
otherwise, alternate pedestrian access routes must be  
provided. Your work requires that a traffic control plan be  
submitted in compliance with current ADA and MUTCD  
Guidelines for the alternate pedestrian route around your  
project.

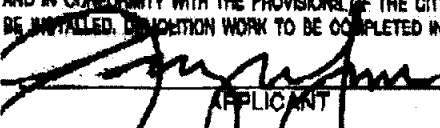

Curbwalk style drive approach required. The approach is to  
be constructed in accordance with the current ADA Standards  
and Specifications for curbwalk-style drive approaches.  
Must install everything as shown.

|            |             |           |            |            |
|------------|-------------|-----------|------------|------------|
| Permit Fee | Plan CK Fee | Total Fee | Total Paid | Amount Due |
| 7539.50    | 4900.68     | 12440.18  | 12440.18   | .00        |

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, VENTILATING OR AIR CONDITIONING, AND ENGINEERING.

THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.

THE UNDERSIGNED HEREBY AGREES THAT THE PROPOSED WORK SHALL BE DONE IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS AND STATEMENT HEREWITH SUBMITTED AND IN CONFORMITY WITH THE PROVISIONS OF THE CITY ORDINANCES PERTAINING TO THE ERECTION OF BUILDINGS IN THE CITY OF BILLINGS. CURB, GUTTER AND SIDEWALK WILL BE INSTALLED. CONSTRUCTION WORK TO BE COMPLETED IN 30 DAYS UNLESS OTHERWISE NOTED OTHERWISE.

APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_ BUILDING OFFICIAL \_\_\_\_\_ DATE 11-8-07

# CITY OF BILLINGS CERTIFICATE OF OCCUPANCY

The structure as described below, has been inspected for compliance with the regulations of this code for the occupancy and use stated herein.

Address 1532 Grand Ave Permit 07-1489 DATE 10/20/2008

Description New car dealership/service

Owner R M and S Property LLC Owner Address 1532 Grand Ave.

Use/Occupancy B Type of Construction IIB Code Edition 2006 Sprinkler NA

Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Inspector \_\_\_\_\_ Building Official Kim Palmieri



Post in conspicuous place

| GRAND AVENUE AUTO DIVA PRESTIGE TOYOTA<br>RM & S PROPERTY LLC CONSTRUCTION IN PROGRESS<br>ALLOCATION OF NEW BUILDING |                                                               |                        |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|----------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------------|-------------------------|----------------------------|------------|-------------------------------------|-----------------------------|----------------------------|--------------------------------|---------------------------------|------------------------|-------------------|--------------|--------------|-------------------|
| ITEM NO                                                                                                              | DESCRIPTION OF WORK                                           | COMPLETED PER SCHEDULE | SPECIAL ALLOCABLE ITEMS | TOTAL FOR ALLOC BY EXPENSE | % TO TOTAL | CONSTR PROFIT & OVERHEAD ALLOC BY % | ALLOCATE SPECIAL ITEMS BY % | PRESTIGE CONST IN PROGRESS | CONSTR PER INTEREST ALLOC BY % | PAVING/LOT LIGHTING TO PRESTIGE | RM&S TOTAL AFTER ALLOC | LAND IMPROVEMENTS | BUILDINGS    | MACH & EQUIP | OFFICE FURN & FIX |
| 1                                                                                                                    | Amount for Special Allocation                                 | 96,500.66              | (96,500.66)             |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
| 2                                                                                                                    | General Conditions                                            | 567,304.65             |                         | 567,304.65                 | 0.0000%    | 39,029.44                           | 39,029.44                   |                            | 18,641.84                      | (650,875.92)                    | 0.00                   |                   |              |              |                   |
| 3                                                                                                                    | Site Utilities                                                | 89,585.00              |                         | 89,585.00                  | 2.2824%    | 6,198.69                            | 6,198.69                    |                            | 2,962.35                       |                                 | 103,963.65             |                   |              |              |                   |
| 4                                                                                                                    | Landscaping, Irrigation                                       | 58,069.00              |                         | 58,069.00                  | 1.4788%    | 4,038.20                            | 4,038.20                    |                            | 1,929.21                       |                                 | 68,165.98              |                   |              |              |                   |
| 5                                                                                                                    | Earth Retention                                               | 60,740.00              |                         | 60,740.00                  | 1.5442%    | 4,222.45                            | 4,222.45                    |                            | 2,077.25                       |                                 | 71,276.76              |                   |              |              |                   |
| 6                                                                                                                    | Utility Relocation                                            | 13,126.31              |                         | 13,126.31                  | 0.3337%    | 917.51                              | 917.51                      |                            | 435.94                         |                                 | 15,403.37              |                   |              |              |                   |
| 7                                                                                                                    | Concrete Foundations, Slabs, Demolition                       | 221,787.37             |                         | 221,787.37                 | 5.6388%    | 15,418.08                           | 15,890.22                   |                            | 7,365.84                       |                                 | 280,261.52             |                   |              |              |                   |
| 8                                                                                                                    | Insulated Concrete Panels                                     | 169,800.30             |                         | 169,800.30                 | 4.3189%    | 11,809.64                           | 12,018.09                   |                            | 5,641.94                       |                                 | 199,349.97             |                   |              |              |                   |
| 9                                                                                                                    | Masonry                                                       | 10,800.00              |                         | 10,800.00                  | 0.2746%    | 750.79                              | 764.04                      |                            | 358.89                         |                                 | 12,673.51              |                   |              |              |                   |
| 10                                                                                                                   | Structural Steel, Rebar, Joists & Deck, Erection              | 328,151.97             |                         | 328,151.97                 | 8.3427%    | 22,912.27                           | 23,314.92                   |                            | 10,898.34                      |                                 | 365,077.40             |                   |              |              |                   |
| 11                                                                                                                   | Roofing                                                       | 88,356.29              |                         | 88,356.29                  | 2.2466%    | 6,143.00                            | 6,251.42                    |                            | 2,954.78                       |                                 | 103,695.47             |                   |              |              |                   |
| 12                                                                                                                   | Roofing                                                       | 184,438.00             |                         | 184,438.00                 | 4.6978%    | 12,921.65                           | 13,047.96                   |                            | 6,125.42                       |                                 | 216,433.64             |                   |              |              |                   |
| 13                                                                                                                   | Thermal & Sound Insulation                                    | 10,534.00              |                         | 10,534.00                  | 0.2678%    | 732.30                              | 745.22                      |                            | 349.85                         |                                 | 12,361.37              |                   |              |              |                   |
| 14                                                                                                                   | Aluminum Composite Panels                                     | 247,647.00             |                         | 247,647.00                 | 6.2960%    | 17,215.78                           | 17,519.65                   |                            | 8,224.67                       |                                 | 280,607.10             |                   |              |              |                   |
| 15                                                                                                                   | Aluminum Siding                                               | 179,200.00             |                         | 179,200.00                 | 4.5559%    | 12,457.52                           | 12,677.40                   |                            | 5,951.46                       |                                 | 210,286.38             |                   |              |              |                   |
| 16                                                                                                                   | Metal Soffit Panels                                           | 17,400.00              |                         | 17,400.00                  | 0.4510%    | 1,233.24                            | 1,255.01                    |                            | 589.17                         |                                 | 20,817.41              |                   |              |              |                   |
| 17                                                                                                                   | Overhead Doors & Operators, Fire Doors                        | 42,549.00              |                         | 42,549.00                  | 1.0817%    | 2,957.90                            | 3,010.11                    |                            | 1,413.11                       |                                 | 49,930.11              |                   |              |              |                   |
| 18                                                                                                                   | Doors, Frames & Hardware                                      | 44,661.00              |                         | 44,661.00                  | 1.1359%    | 3,106.11                            | 3,160.93                    |                            | 1,483.91                       |                                 | 52,431.95              |                   |              |              |                   |
| 19                                                                                                                   | Driveway & Landscaping                                        | 57,763.00              |                         | 57,763.00                  | 1.4685%    | 4,015.53                            | 4,066.41                    |                            | 1,916.38                       |                                 | 67,783.33              |                   |              |              |                   |
| 20                                                                                                                   | General Labor & Supervision                                   | 145,251.91             | (145,251.91)            |                            | 0.0000%    |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
| 21                                                                                                                   | Painting                                                      | 73,373.00              |                         | 73,373.00                  | 1.8654%    | 5,100.70                            | 5,190.73                    |                            | 2,436.61                       |                                 | 86,101.24              |                   |              |              |                   |
| 22                                                                                                                   | Acoustical Ceilings                                           | 40,700.00              |                         | 40,700.00                  | 1.0347%    | 2,829.36                            | 2,879.30                    |                            | 1,351.70                       |                                 | 47,760.36              |                   |              |              |                   |
| 23                                                                                                                   | Cabinetry, Casework, Millwork                                 | 23,300.00              |                         | 23,300.00                  | 0.5924%    | 1,619.76                            | 1,646.36                    |                            | 773.42                         |                                 | 27,341.92              |                   |              |              |                   |
| 24                                                                                                                   | Window Treatments                                             |                        |                         |                            | 0.0000%    |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
| 25                                                                                                                   | Appliances                                                    |                        |                         |                            | 0.0000%    |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
| 26                                                                                                                   | Ceramic Tile                                                  | 51,114.00              |                         | 51,114.00                  | 1.2895%    | 3,531.31                            | 3,516.03                    |                            | 1,697.66                       |                                 | 59,980.91              |                   |              |              |                   |
| 27                                                                                                                   | Concrete Floor Slabs                                          | 15,327.00              |                         | 15,327.00                  | 0.3937%    | 1,062.49                            | 1,064.30                    |                            | 509.03                         |                                 | 17,895.62              |                   |              |              |                   |
| 28                                                                                                                   | Floorcoverings                                                | 43,025.00              |                         | 43,025.00                  | 1.1142%    | 3,046.60                            | 3,100.36                    |                            | 1,455.48                       |                                 | 51,427.46              |                   |              |              |                   |
| 29                                                                                                                   | Electrical                                                    | 44,260.00              |                         | 44,260.00                  | 1.1202%    | 3,076.84                            | 3,151.15                    |                            | 1,469.93                       |                                 | 51,937.92              |                   |              |              |                   |
| 30                                                                                                                   | Specialties, Tidal Partitions, Fire Extinguishers, Roof Hatch | 6,724.00               |                         | 6,724.00                   | 0.1709%    | 467.44                              | 475.95                      |                            | 223.31                         |                                 | 7,880.43               |                   |              |              |                   |
| 31                                                                                                                   | Medical Systems                                               | 4,578.00               |                         | 4,578.00                   | 0.1183%    | 318.11                              | 323.73                      |                            | 151.97                         |                                 | 5,369.81               |                   |              |              |                   |
| 32                                                                                                                   | Postal System                                                 | 204,200.00             |                         | 204,200.00                 | 5.1915%    | 14,194.45                           | 14,446.02                   |                            | 6,791.14                       |                                 | 239,623.21             |                   |              |              |                   |
| 33                                                                                                                   | Painting                                                      | 120,180.00             |                         | 120,180.00                 | 3.0544%    | 8,544.60                            | 8,502.07                    |                            | 3,951.33                       |                                 | 141,028.00             |                   |              |              |                   |
| 34                                                                                                                   | Fire Sprinkler                                                | 81,100.00              |                         | 81,100.00                  | 2.0618%    | 5,637.86                            | 5,737.37                    |                            | 2,693.43                       |                                 | 95,168.67              |                   |              |              |                   |
| 35                                                                                                                   | Heating Ventilation, Air Conditioning                         | 351,459.00             |                         | 351,459.00                 | 8.9355%    | 24,433.21                           | 24,864.48                   |                            | 11,672.72                      |                                 | 412,439.43             |                   |              |              |                   |
| 36                                                                                                                   | Electrical, Tele/Data, Cameras, Paging                        | 487,945.88             |                         | 487,945.88                 | 12.4027%   | 33,913.77                           | 34,512.37                   |                            | 16,201.96                      |                                 | 572,473.79             |                   |              |              |                   |
| 37                                                                                                                   | Buildings Risk & Liability Insurance                          | 23,000.00              |                         | 23,000.00                  | 0.0000%    |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
| 38                                                                                                                   | Permits, Plan Review Fees                                     | 13,512.88              |                         | 13,512.88                  | 0.0000%    |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Furniture & Fixtures                                          |                        |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Shops Machinery & Equipment                                   |                        |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | TOTAL JONES CONSTRUCTION                                      | 4,211,651.72           | (278,265.25)            | 3,933,386.47               | 1.00       | 273,438.82                          | 278,265.25                  |                            | 130,632.77                     | (658,675.92)                    | 3,957,047.99           | 66,650.13         | 3,470,548.54 | 252,893.46   | 78,769.38         |
|                                                                                                                      | Construction Profit & Overhead                                | 273,438.82             |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Total per Payment Application Schedule from Jones             | 4,485,090.54           |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | RECONCILIATION OF JONES CONSTRUCTION                          |                        |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Paid in 2007                                                  | 13,386.36              |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Reimbursed in 2006 with TMCC loan                             | 41,937.38              |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Paid in 2006 thru TMCC                                        | (41,937.38)            |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | TOTAL JONES CONSTRUCTION                                      | 4,471,701.18           |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | PROJECT SUMMARY                                               | 4,485,090.54           |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Jones Construction                                            | 4,211,651.72           | (278,265.25)            | 3,933,386.47               | 1.00       | 273,438.82                          | 278,265.25                  |                            | 130,632.77                     | (658,675.92)                    | 3,957,047.99           | 66,650.13         | 3,470,548.54 | 252,893.46   | 78,769.38         |
|                                                                                                                      | A & E Architects 2007                                         | 16,112.31              |                         | 16,112.31                  |            |                                     |                             |                            |                                |                                 | 16,112.31              |                   |              |              |                   |
|                                                                                                                      | Jani's Cleaning 2007                                          | 1,280.00               |                         | 1,280.00                   |            |                                     |                             |                            |                                |                                 | 1,280.00               |                   |              |              |                   |
|                                                                                                                      | Women Assoc (former miscel) 2007                              | 1,000.00               |                         | 1,000.00                   |            |                                     |                             |                            |                                |                                 | 1,000.00               |                   |              |              |                   |
|                                                                                                                      | A & E Architects 2008                                         | 47,547.50              |                         | 47,547.50                  |            |                                     |                             |                            |                                |                                 | 47,547.50              |                   |              |              |                   |
|                                                                                                                      | Reimburse bank for Stewart Tile (replaced)                    | 5,000.00               |                         | 5,000.00                   |            |                                     |                             |                            |                                |                                 | 5,000.00               |                   |              |              |                   |
|                                                                                                                      | Newport Shop Equipment (Repairs & Lubr steel)                 | 82,070.00              |                         | 82,070.00                  |            |                                     |                             |                            |                                |                                 | 82,070.00              |                   |              |              |                   |
|                                                                                                                      | Reporter Big Sky Office (Office furniture)                    | 115,000.00             |                         | 115,000.00                 |            |                                     |                             |                            |                                |                                 | 115,000.00             |                   |              |              |                   |
|                                                                                                                      | Comtech (Security system, audio, visual)                      | 17,035.00              |                         | 17,035.00                  |            |                                     |                             |                            |                                |                                 | 17,035.00              |                   |              |              |                   |
|                                                                                                                      | Signature Signs (new signage)                                 | 1,285.00               |                         | 1,285.00                   |            |                                     |                             |                            |                                |                                 | 1,285.00               |                   |              |              |                   |
|                                                                                                                      | Signature Signs (new signage)                                 | 3,597.50               |                         | 3,597.50                   |            |                                     |                             |                            |                                |                                 | 3,597.50               |                   |              |              |                   |
|                                                                                                                      | McDowell & Assoc net of credit on tank                        | 1,738.90               |                         | 1,738.90                   |            |                                     |                             |                            |                                |                                 | 1,738.90               |                   |              |              |                   |
|                                                                                                                      | Display Warehouse (parts display racks)                       | 11,609.00              |                         | 11,609.00                  |            |                                     |                             |                            |                                |                                 | 11,609.00              |                   |              |              |                   |
|                                                                                                                      | Frame Hat (wall coverings)                                    | 7,222.79               |                         | 7,222.79                   |            |                                     |                             |                            |                                |                                 | 7,222.79               |                   |              |              |                   |
|                                                                                                                      | Power Service of Montana                                      | 5,388.72               |                         | 5,388.72                   |            |                                     |                             |                            |                                |                                 | 5,388.72               |                   |              |              |                   |
|                                                                                                                      | Cool River Coffee Roasting                                    | 3,185.60               |                         | 3,185.60                   |            |                                     |                             |                            |                                |                                 | 3,185.60               |                   |              |              |                   |
|                                                                                                                      | Shop Specialties (heater)                                     | 1,583.00               |                         | 1,583.00                   |            |                                     |                             |                            |                                |                                 | 1,583.00               |                   |              |              |                   |
|                                                                                                                      | A & I Distributors rebate                                     |                        |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | Risks Office Rental                                           | 2,934.50               |                         | 2,934.50                   |            |                                     |                             |                            |                                |                                 | 2,934.50               |                   |              |              |                   |
|                                                                                                                      | Total Construction in Progress                                | 4,806,660.36           | (278,265.25)            | 4,259,956.29               | 1.00       | 273,438.82                          | 278,265.25                  |                            | 130,632.77                     | (658,675.92)                    | 4,280,817.21           | 67,860.13         | 3,440,208.56 | 252,773.08   | 78,769.38         |
|                                                                                                                      | CONSTRUCTION PERIOD INTEREST                                  | 130,632.77             |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | PAVING & LIGHTING TRANSFERRED TO PRESTIGE                     | (658,675.92)           |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |
|                                                                                                                      | NEW BUILDING ON RM & S LLC                                    | 4,280,817.21           |                         |                            |            |                                     |                             |                            |                                |                                 |                        |                   |              |              |                   |

Date: 12/14/2009

TITLE: Public Hearing and First Reading Ordinance - Municipal Infractions Ordinance

PRESENTED BY: Brent Brooks

Department: Legal

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### Information

#### PROBLEM/ISSUE STATEMENT

City Administrator Tina Volek directed the City Attorney's office to research decriminalization of certain minor misdemeanor criminal offenses. The City Administrator and several City departments including Municipal Court, City Attorneys, Police and Planning have met on multiple occasions to evaluate and refine the ordinance and the listed decriminalized offenses.

Montana Code Annotated section 7-1-4150 (2007) permits a municipality to decriminalize certain state and city offenses, which then become civil infractions as opposed to criminal law violations. An infraction can be presented in court by the officer who issued the citation or ticket, and the infraction must be proven by a preponderance of the evidence, as opposed to the higher criminal standard of beyond a reasonable doubt.

The procedure at trial is less formal than a criminal trial and more similar to a small claims court procedure. The accused is entitled to a bench (non-jury) trial on the merits, but not a jury trial. A person charged with a municipal infraction is not facing the possibility of jail time, but can only be sentenced to a fine and, in some cases, a specific order of abatement. For the offenses specified in the attached draft ordinance, it is more appropriate to charge individuals with civil infractions for minor offenses such as certain code violations and parking violations, as opposed to charging them with a criminal offense.

If the ordinance is approved and formally adopted by the City Council, procedures will be developed to allow defendants to mail in fines in lieu of contesting a violation in person, which will make the process less cumbersome for those who don't wish to contest a traffic ticket.

If the first reading is approved by the Council, a second reading will be scheduled for the consent agenda of January 11, 2009. The ordinance would go into effect 30 days after approval on the second reading.

#### ALTERNATIVES ANALYZED

Council must hold a public hearing and then may:

- Approve Ordinance on first reading; or
- Not approve Ordinance on first reading.

#### FINANCIAL IMPACT

There is little anticipated cost to the City to enact this ordinance. There may be minor printing costs if a separate citation form is deemed appropriate and helpful. This new ordinance is intended to expedite the processing of many minor offenses through the court system and free up resources in the Municipal Court and City Attorney's Office. Surcharge revenue for the City will not change, as surcharges currently collected and forwarded to the City general fund on any criminal offenses will be collected and forwarded in the same manner after designated offenses are decriminalized. Surcharges currently collected and forwarded to the State pursuant to State Law will be collected and forwarded to the State in the same manner after designated offenses are decriminalized.

#### RECOMMENDATION

Staff recommends that the Council approve the Municipal Infraction Ordinance upon first reading.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Muni Infraction Ordinance Final](#)

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ORDINANCE NO.

AN ORDINANCE AMENDING THE BILLINGS CITY CODE BY ADDING A NEW ARTICLE 18-1200 TO BE KNOWN AS MUNICIPAL INFRACTIONS, REPEALING MULTIPLE SECTIONS, ADDING NEW SECTIONS, AND AMENDING MULTIPLE SECTIONS TO PROVIDE FOR CIVIL PENALTIES.

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

Section 1. That the Billings, Montana City Code be amended by revising Sections 1-110, 4-303, 4-309, 4-403, 4-404, 4-406, 4-409, 4-437, 4-438, 4-501, 6-206, 10-402, 10-403, 21-202, 22-405, 22-408, 22-433, 24-445, 24-458, 24-467, 24-1011, 25-306, 27-601, 27-604, 27-607, 27-615, 27-706, 27-1604, repealing sections 4-411, 24-327, 24-343, 24-354, adding new sections 4-310, 4-454, 7-204, 7-321, 7-1215, 13-305, 18-404, 22-409, 22-449, 24-355, 24-473, 27-745 designating specific offenses as municipal infractions, and adding an Article to be numbered 18-1200, to read as follows:

Sec. 1-110. Violations; penalty.

(a) Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code or any ordinance of this city or any rule or regulation adopted pursuant to this Code, shall be guilty of a misdemeanor, and any person convicted of a misdemeanor under this Code or any ordinance of this city, shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code or any ordinance of this city, is committed, continued or permitted by any such person, and he/she shall be punished accordingly.

(b) In addition to the above penalty the city may abate any condition which is in violation of this Code.

(c) Any person found to have committed an offense specifically designated as a municipal infraction shall be subject to civil penalties as specified in Section 18-1204.

Sec. 4-303. Rabbitry.

(a) Whenever the term "rabbitry" is used in this section it shall be deemed to mean any premises or property of any kind or description where more than one female rabbit or hare is kept for purposes of breeding, or where more than one litter of rabbits or hares is kept for purposes of sale.

(b) No person shall keep or maintain a rabbitry on premises controlled by such person.

Sec. 4-309. Roadside and flea market sales.

(a) It shall be unlawful for any person to sell, trade, or barter a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(b) This section does not apply to:

- (1) An agent of a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets;
- (2) An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; or
- (3) A tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

#### Sec. 4-310. Penalties

Violations of Sections 4-302 through 4-309 are designated as municipal infractions and punishable by civil penalties as specified in Section 18-1204.

#### Sec. 4-403. Female small animals.

Every person having under his/her control any female small animal in heat (i.e., in the oestral period) shall confine such small animal in a house, garage or other enclosed area. The female small animal shall be contained in such a manner that the female cannot come into contact with a male of the same species except for planned breeding. Such female not so confined is a public nuisance, and the owner or other person in control of such small animal shall be subject to civil penalties as specified in Section 18-1204. The animal control officer or any police officer shall immediately abate every such nuisance by impounding such small animal.

#### Sec. 4-404. Noisy animals.

Every person who keeps, feeds, harbors or allows to stay about any premises occupied or controlled by such person, any animal which unreasonably annoys or disturbs any person by continuous and habitual barking, howling, yelping, whining or other noise is responsible for maintaining a public nuisance and shall be subject to civil penalties as specified in Section 18-1204. This section does not apply to an animal that is owned, kept, or harbored as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation.

The complainant must identify himself or herself by name, address and telephone number. To constitute a violation for prosecution under this section, a written complaint must be received by the animal control officer which shall include but not be limited to a summary of the nature and duration of the animal noise and any other information as may be required by the animal control officer to establish a violation of this section.

#### Sec. 4-406. Small animals at large.

No small animal shall be allowed to run at large in the city. No owner shall allow or permit any small animal to be at large off the owner's property unless restrained by leash, cord, chain, fence or other physical means of control; provided, that an obedience trained dog shall be allowed to participate in obedience training, field trials, dog shows or competition. In all individual obedience training within the city, the small animal shall not be allowed to be separated from its owner or trainer by more than six (6) feet except on private property with owner permission or on public property as referenced in section 4-407. Any small animal found to be running at large in the city or on private property in violation of this section is a public nuisance and shall be

impounded in the animal shelter. Persons found to have committed a violation of this section shall be subject to civil penalties as specified in Section 18-1204.

Sec. 4-409. Vaccination of dogs/cats for rabies.

The owner of every dog/cat kept, harbored or maintained within the city which is three (3) months old or older shall, at the owner's expense, cause the dog/cat to be vaccinated for rabies by a licensed veterinarian, and the owner of any such dog/cat who for thirty (30) days willfully fails to have such dog/cat vaccinated shall be subject to civil penalties as specified in Section 18-1204. The veterinarian shall retain a copy of the vaccination receipt for such period as the health officer of the city shall prescribe. The owner of such dog/cat when applying for registration required by section 4-431 shall present the vaccination receipt as proof of current and valid vaccination.

Sec. 4-437. Tags and collars.

(a) Upon payment of the registration fee under this division, the animal control officer or agent designated as herein provided shall issue to the owner a registration certificate in the form of a receipt and a metallic tag for each dog/cat so registered. The tag shall have stamped thereon the year for which it was issued and the number appearing on the certificate. The dog/cat is required to display a registration and vaccination tag when off of the owner's property.

(b) No registration provided for in this chapter is transferable, and no registration tag shall be fastened to any dog/cat other than the one for which it was issued.

(c) Any person who knowingly fastens a registration tag or a vaccination tag to any dog or cat other than the one for which such tag was issued or who willfully permits such dog or cat to wear any registration tag or vaccination tag issued for another dog or cat shall be subject to civil penalties as specified in Section 18-1204. The animal control officer shall impound every dog or cat found bearing a registration tag or vaccination tag not issued for that dog or cat, and shall dispose of such dog or cat as provided by section 4-450.

(d) In case a registration tag is lost or destroyed, the owner of the dog/cat shall apply to the animal control officer for a duplicate tag and the animal control officer shall issue a duplicate tag upon presentation of the receipt showing payment for the registration for the current year and upon payment of a fee.

(e) In case a vaccination receipt is lost or destroyed, the owner of the dog or cat shall apply to the veterinarian who vaccinated the dog or cat for a duplicate receipt.

Sec. 4-438. Unregistered dogs/cats.

Every person who knowingly keeps, feed, harbors or allows to stay about any premises occupied or controlled by such person, any unregistered dog/cat or upon which no registration tag current and valid vaccination tag are kept as required by section 4-437 shall be subject to civil penalties as specified in Section 18-1204.

Sec. 4-454. Penalties

Violations of Sections 4-403, 4-404, 4-406, 4-407, 4-409, 4-437, and 4-438 are designated as municipal infractions and punishable by civil penalties as specified in Section 18-1204.

Sec. 4-501. Running at large prohibited.

No person owning or having control of a horse, donkey, bovine, sheep, goat, swine, chicken, duck, turkey, or other livestock animals, shall allow any such animal to be at large. A violation of this section is designated as a municipal infraction and punishable by civil penalties as specified in Section 18-1204.

Sec. 6-206. Violations.

Violation of the model technical codes or Administrative Rules of Montana, as adopted in section 6-201, or any other provision of articles 6-200, 6-300, 6-400, and 6-500, is a municipal infraction and punishable by civil penalties as specified in Section 18-1204. Each day that the violation continues is a separate offense, and shall be punished accordingly.

(Ord. No. 94-4961, § 3, 5-23-94)

Sec. 7-204. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 7-321. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 7-1215. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 10-402. Establishment of municipal court disposition administrative fee.

There is hereby established administrative fees and charges to be assessed by the municipal court as part of the disposition of all citations, complaints, and municipal infractions, criminal, civil, and traffic, for which there is a conviction, bond forfeiture, finding or admission of violation, nolo contendere plea, or plea of guilty entered. An administrative processing fee for any citation or complaint in the city municipal court of ten dollars (\$10.00) shall be assessed each citation or complaint in addition to the regular fines, surcharges and fees at the time of disposition. The amount of the administrative processing fee may be modified by resolution of the city council.

Sec. 10-403. Establishment of municipal court time pay contract administrative fee.

The municipal court shall assess a fee on all time payment contracts allowed the defendant for payment of fines, costs, civil penalties, and charges in municipal court on an installment basis at an amount of ten dollars (\$10.00). The amount of the administrative processing fee may be modified by resolution of the city council.

Sec. 13-305. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 18-404. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 21-202. Duty of owner or occupant.

(a) It shall be the duty of the owner or occupant of any premises within the city limits to keep such premises and one-half of the alley immediately adjacent thereto and the gutter in front of or adjoining his or her property clean, open and free of wastepaper, cans, leaves or any unhealthy materials of any kind.

(b) Before a complaint can be filed charging a violation of this section, the person to be charged must first be given written notice of the violation, setting forth in the notice the nature of the violation, and a period of five (5) days after receiving such notice to remedy the violation.

(c) A violation of this section is designated as a municipal infraction and punishable by civil penalties as specified in Section 18-1204.

Sec. 22-405. Awnings.

Any person placing or maintaining any awning upon a street or avenue of the city, unless the same is attached firmly to the front or sides of a building by means of iron brackets or iron framework, and is supported without posts, so that the lowest part of the awning is elevated at least seven (7) feet above the surface of the sidewalk, shall be subject to civil penalties as specified in Section 18-1204.

Sec. 22-408. Failure to remove obstructions.

Any person who shall willfully and unnecessarily obstruct any sidewalk, street or alley without first obtaining permission of the city or who shall fail to remove any obstruction placed in or upon any street, sidewalk or alley whenever any permission previously granted shall have been withdrawn, or when notified to do so by the city, shall be subject to civil penalties as specified in Section 18-1204.

Sec. 22-409. Penalties

Violations of this article, division 1 are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 22-433. Vehicle owner's responsibility.

It shall be the duty of the owner of any motor vehicle to remove the vehicle parked along through streets at any time that accumulations of snow, ice or sleet are greater than two (2) inches.

Should the owner fail or refuse to remove the vehicle, the city shall impound the vehicle and it will only be released to the owner upon the city being reimbursed for towing charge and the posting of an appearance bond. Persons found to have committed a violation of this section shall be subject to civil penalties as specified in Section 18-1204.

Sec. 22-449. Penalties

Violations of this article, division 4 are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 24-355. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 24-445. Penalty.

A person who parks a motor vehicle in violation of this division shall be subject to a civil penalty of \$100. However, a person charged with violating this division shall not be subject to any penalty if within twenty-four (24) hours the person produces in court or the office of the arresting officer a special parking permit that was previously issued to the person and that was valid at the time the citation was issued.

Sec. 24-458. Slug deposit or injury to meter prohibited.

- (a) It is unlawful to deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a coin of the United States.
- (b) It is unlawful for any person to deface, injure, tamper with or open or wilfully break, destroy or impair the usefulness of any parking meter installed under the terms of this division.
- (c) Every person who violates this section shall be subject to civil penalties as specified in Section 18-1204.

Sec. 24-467. Failure to pay parking fees.

A person who parks in a non-metered city parking space is required to pay an hourly or monthly parking fee in the manner and at the time set by the city. A person who fails to pay the required parking fee when due shall be subject to civil penalties as specified in Section 18-1204. Each day that a violation occurs is a separate offense.

Sec. 24-473. Penalties

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 24-1011. Penalty for violations.

The City Administrator or designee shall establish a bond schedule for parking violations subject to the maximum penalties established in Section 1-110 and Section 18-1204.

Sec. 25-306. Failure to comply municipal infraction.

A violation of the provisions of this article shall be a municipal infraction. Persons found to have committed a violation of this article shall be subject to civil penalties as specified in Section 18-1204.

Sec. 27-601. Parking and storage restrictions.

(c) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in Section 18-1204.

Sec. 27-604. Fences, walls and hedges.

(i) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in Section 18-1204.

Sec. 27-607. Livestock and fowl.

(e) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in Section 18-1204.

Sec. 27-615. Visibility at intersections.

(e) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in Section 18-1204.

Sec. 27-706. Special circumstance signs.

(8) *Penalty*. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in Section 18-1204.

Sec. 27-745 Penalties.

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in Section 18-1204.

Sec. 27-1604. Penalties for violation.

(a) A violation of this act or any chapter adopted pursuant thereto, other than offenses specifically declared to be municipal infractions, is hereby declared to be a misdemeanor and shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment in the county jail not exceeding six (6) months, or both, and in addition shall pay all costs and expenses involved. Each day such violation continues shall be considered to be a separate offense.

(b) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this act, or of any resolution/ordinance made under authority conferred hereby, the proper authorities of the city or county may institute any appropriate action or proceedings, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land to prevent any illegal act, conduct, business, or use in or about such premises.

New Article:

## **ARTICLE 18-1200. MUNICIPAL INFRACTIONS**

### **Sec. 18-1201. Definitions**

**MUNICIPAL INFRACTION:** Any violation of this Code which has been specifically declared to be a municipal infraction under provisions of this Code.

**OFFICER:** Any employee or official authorized to enforce provisions of this Code, as amended.

**REPEAT VIOLATION:** A recurring violation of the same section of this Code within a twelve (12) month period.

### **Sec. 18-1202. Civil Citations: Service and Requirements**

- A. Any officer may issue a civil citation to a person who commits a municipal infraction.
- B. The citation may be served on the alleged violator by any one of the following methods:
  - 1. Personal service; or
  - 2. By certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested; or
  - 3. By publication, in the manner described in rule 4D(5) of the Montana rules of civil procedure.
- C. A copy of the citation must be retained by the issuing officer and one copy be sent to or filed with the clerk of the Billings Municipal Court.
- D. The citation shall serve as notification that a municipal infraction has been committed and shall contain the following information:
  - 1. The name and address of the defendant;
  - 2. The name or description of the infraction attested to by the officer issuing the citation;
  - 3. The location and time of the infraction;
  - 4. The amount of the civil penalty to be assessed or the alternative relief sought, or both;
  - 5. The manner, location and time in which the penalty may be paid;
  - 6. The time and place of court appearance; and
  - 7. The penalty for failure to appear in court.

### **Sec. 18-1203. Court Proceedings**

- A. If the total amount of civil penalties does not exceed three thousand dollars (\$3,000.00), the matter shall be tried before the Municipal Court Judge in the same manner as a small claim. If the total amount of civil penalties assessed exceeds three thousand dollars (\$3,000.00), the matter must be tried before a District Court Judge.
- B. The City has the burden of proof that the municipal infraction occurred and that the defendant committed the infraction. The proof must be by clear and convincing evidence.
- C. The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the municipality and produce evidence or witnesses on the defendant's behalf.

- D. The defendant may be represented by counsel of the defendant's own choosing and at the defendant's own expense.
- E. The defendant may answer by admitting or denying the infraction.
- F. If a municipal infraction is proven, the court shall enter judgment against the defendant. If the infraction is not proven, the court shall dismiss the charges. If the action is dismissed by the court, the municipality is liable for the court costs and court fees.
- G. If the person named in the citation is shown to have been served with the civil citation in the proper manner and, without good cause, fails to appear in response to the citation, judgment shall be entered against the person by the court.

**Sec. 18-1204. Penalties**

- A. A municipal infraction is a civil offense and for a proven violation, a civil penalty may be imposed.
- B. For a first violation, a civil penalty of not more than three hundred dollars (\$300.00) shall be imposed.
- C. For each repeat violation, a civil penalty not to exceed five hundred dollars (\$500.00) shall be imposed. Each day that a violation occurs or is permitted to exist constitutes a separate and distinct infraction.
- D. Seeking a civil penalty as authorized in this article does not preclude the City from seeking alternative relief from the court in the same action.
- E. Statutory surcharges and required City surcharges must be imposed, as provided in MCA Sections 3-1-317(1)(a), 3-1-318(1), and 46-18-236(6), on municipal infractions that are criminal offenses under state law, and the amounts must be distributed as provided in those sections.
- F. All penalties and forfeitures collected by the Municipal Court for a municipal infraction shall be remitted to the City in the same manner as fines and forfeitures collected for criminal offenses.
- G. A defendant against whom judgment is entered shall pay court costs and fees as in small claims court under Title 25, Chapter 35 of the Montana Code Annotated in addition to the penalties imposed by the court.
- H. In addition to the imposition of civil penalties authorized by law against a defendant, the court may impose alternative relief in the same action. Alternative relief may consist of any of the following:
  - 1. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court:

2. Order the defendant to abate or cease the violation:
3. Authorize the City to abate or correct the violation:
4. Order the City's costs for abatement or correction of the violation be entered as a judgment against the defendant or assessed against the property where the violation occurred or both.

I. The Municipal Court may assess or enter judgment for costs of abatement or correction in any amount not to exceed the jurisdictional amount for a money judgment in a civil action under MCA Section 3-11-103. If the City seeks abatement or correction costs in excess of this amount, the matter shall be referred to District Court for hearing and entry of an appropriate order. The procedure for hearing in the District Court shall be the same procedure as that for a small claims appealed under MCA Section 25-35-803.

J. A defendant who willfully violates the terms of an order imposed by the Municipal Court is guilty of contempt.

#### **Sec. 18-1205. Appeals Following Judgment**

A. The defendant or the City may file a motion for a new trial or may appeal the decision to District Court.

B. A factual determination made by the trial court, supported by substantial evidence as shown on the record, is binding for purposes of appeal relating to the violation at issue, but is not admissible or binding as to any future violations for the same or similar ordinance provision by the same defendant.

#### **Sec. 18-1206. Issuance of Civil Citations Not Grounds for Further Legal Action**

Except for willful or wanton misconduct on the part of the City, the issuance of a civil citation for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

#### **Sec. 18-1207. Environmental Actions**

An action brought by the City for an environmental violation does not preclude, and is in addition to, any other enforcement action that may be brought under State law.

#### **Sec. 18-1208. Designated Offenses**

In addition to those code sections specifically identified as municipal infractions, violations of the following code sections are hereby designated as municipal infractions and subject to civil penalties as specified in Section 18-1204.

Section 24-101

-The following Title 61, M.C.A. offenses adopted and incorporated by reference into B.M.C. Section 24-101

Certificates of Ownership, Registration and Taxation of Motor Vehicles--Registration

61- 3-301. Registration--License plate required--Display

61- 3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden

61- 3-322. Certificates of registration--Issuance

Traffic Regulation--General Provisions:

61- 8-104. Required obedience to traffic laws

61- 8-105. Obedience to police officers and highway patrolmen

61- 8-106. Responsibility of public officers and employees

61- 8-108. Traffic laws applicable to persons driving animal-drawn vehicles

Traffic Regulations--Traffic-Control Devices:

61- 8-201. Obedience to traffic-control devices

61- 8-207. Traffic-control signal legend

61- 8-208. Pedestrian control signals

61- 8-209. Flashing signals

61- 8-210. Display of unauthorized signs, signals or markings

Traffic Regulations--Vehicle Operating Requirements:

61- 8-302. Careless driving (misdemeanor)

61- 8-311. Minimum speed regulations

61- 8-312. Special speed limitations on trucks, truck-tractors, motor-driven cycles, and vehicles towing house trailers

61- 8-313. Special speed limitations

61- 8-321. Drive on right side of roadway--Exceptions

61- 8-322. Passing vehicles proceeding in opposite directions

61- 8-323. Overtaking a vehicle on the left

61- 8-324. When overtaking on right is permitted

61- 8-325. Limitations on overtaking on the left

61- 8-328. Driving on roadways laned for traffic

61- 8-329. Following too closely

61- 8-330. Driving on divided highways

61- 8-331. Restricted and controlled access

61- 8-332. Restrictions on use of controlled-access roadway

61- 8-333. Required position and method of turning at intersection--Bicycle turn procedures--Signs

61- 8-334. Turning on curve or crest of grade prohibited

61- 8-335. Starting parked vehicle

61- 8-336. Turning movements and required signals

61- 8-337. Signals by hand and arm or signal device

61- 8-338. Method of giving hand-and-arm signals

61- 8-339. Vehicle approaching or entering intersection

- 61- 8-340. Vehicle turning left at intersection
- 61- 8-342. Vehicle approaching "yield" sign
- 61- 8-343. Vehicle entering highway from private road, driveway, or public approach ramp
- 61- 8-344. Vehicles to stop at stop signs
- 61- 8-345. Stop before emerging from alley, driveway, or building
- 61- 8-347. Obedience to signal indicating approach of train
- 61- 8-348. All vehicles to stop at certain railroad grade crossings
- 61- 8-349. Certain vehicles to stop at all railroad grade crossings
- 61- 8-350. Moving heavy equipment at railroad grade crossings
- 61- 8-351. Meeting or passing school bus
- 61- 8-352. Prohibited operation of special lighting equipment on school buses
- 61- 8-354. Stopping, standing or parking prohibited in specified places
- 61- 8-355. Additional parking regulations
- 61- 8-356. Prohibition against parking or leaving vehicles on public property
- 61- 8-357. Unattended motor vehicles
- 61- 8-358. Limitations on backing
- 61- 8-359. Riding on motorcycles
- 61- 8-360. Obstruction to driver's view or driving mechanism
- 61- 8-362. Coasting prohibited
- 61- 8-363. Following fire apparatus prohibited
- 61- 8-364. Crossing firehose
- 61- 8-365. Putting refuse on highway prohibited
- 61- 8-366. Riding on fenders or running boards prohibited
- 61- 8-367. Riding in housetrailer
- 61- 8-368. Opening and closing vehicle doors
- 61- 8-369. Shooting from or across highway

#### Traffic Regulations--Pedestrian Traffic:

- 61- 8-501. Pedestrians subject to traffic regulations
- 61- 8-502. Pedestrians' right-of-way in crosswalk
- 61- 8-503. Crossing at other than crosswalks
- 61- 8-504. Drivers to exercise due care
- 61- 8-505. Pedestrians to use right half of crosswalk
- 61- 8-506. Pedestrians on roadways
- 61- 8-507. Pedestrians soliciting rides or business
- 61- 8-508. Intoxicated pedestrian
- 61- 8-509. Pedestrians' right-of-way on sidewalks

#### Traffic Regulations--Bicycle Traffic:

- 61- 8-601. Effect of regulations
- 61- 8-602. Traffic laws applicable to persons operating bicycles
- 61- 8-603. Riding on bicycles
- 61- 8-604. Clinging to vehicles
- 61- 8-605. Riding on roadways and bicycle paths
- 61- 8-606. Carrying articles
- 61- 8-607. Lamps and other equipment on bicycles

61- 8-608. Bicycles on sidewalks

Vehicle Equipment--General Provisions:

- 61- 9-104. Required obedience to traffic laws
- 61- 9-105. Obedience to police officers and highway patrolmen
- 61- 9-107. Traffic laws applicable to persons driving animal-drawn vehicles
- 61- 9-109. Driving vehicle in unsafe condition prohibited--Applicability of chapter

Vehicle Equipment--Lighting Equipment:

- 61- 9-201. When lighted lamps are required
- 61- 9-202. Visibility distance and mounted height of lamps
- 61- 9-203. Headlamps on motor vehicles
- 61- 9-204. Taillamps
- 61- 9-205. New motor vehicles to be equipped with reflectors
- 61- 9-206. Stop lamps--When required
- 61- 9-207. Application of succeeding sections
- 61- 9-208. Additional equipment required on certain vehicles
- 61- 9-209. Color of clearance lamps, side marker lamps, reflectors, and back-up lamps
- 61- 9-210. Mounting of reflectors, clearance lamps, and side marker lamps
- 61- 9-211. Visibility of reflectors, clearance lamps, and marker lamps
- 61- 9-212. Obstructed lights not required
- 61- 9-213. Lamp or flag on projecting load
- 61- 9-214. Lamps on parked vehicles
- 61- 9-215. Lamps on farm tractors, farm equipment, and implements of husbandry
- 61- 9-216. Lamps on other vehicles and equipment
- 61- 9-217. Spot lamps and auxiliary lamps
- 61- 9-218. Signal lamps and signal devices
- 61- 9-219. Additional lighting equipment
- 61- 9-220. Multiple-beam road-lighting equipment
- 61- 9-221. Use of multiple-beam road-lighting equipment
- 61- 9-222. Single-beam road-lighting equipment
- 61- 9-223. Lighting equipment on motor-driven cycles
- 61- 9-225. Number of driving lamps required or permitted
- 61- 9-226. Special restrictions on lamps
- 61- 9-227. Blinker-type red light on fireman's private vehicle--Use--Identification card
- 61- 9-228. Standards for lights on snow-removal equipment

Vehicle Equipment--Brakes:

- 61- 9-301. Brake equipment required
- 61- 9-302. Service brakes--Adequacy
- 61- 9-303. Parking brakes--Adequacy
- 61- 9-304. Brakes required on all wheels--Exceptions
- 61- 9-305. Automatic trailer brake application upon breakaway
- 61- 9-306. Tractor brakes protected
- 61- 9-307. Trailer air reservoirs safeguarded
- 61- 9-308. Two means of emergency brake operation

- 61- 9-309. Single control to operate all brakes
- 61- 9-310. Reservoir capacity and check valve
- 61- 9-311. Warning devices
- 61- 9-312. Performance ability of brakes
- 61- 9-313. Maintenance of brakes

Vehicle Equipment--Miscellaneous Regulations:

- 61- 9-401. Horns and warning devices
- 61- 9-403. Mufflers--Prevention of noise
- 61- 9-404. Mirrors
- 61- 9-405. Windshields to be unobstructed and equipped with wipers
- 61- 9-406. Restrictions as to tire equipment
- 61- 9-407. Fenders, splash aprons, or flaps required on certain vehicles--Dimension and location
- 61- 9-408. Safety glazing material in motor vehicles
- 61- 9-409. Seatbelts required in new vehicles
- 61- 9-411. Certain vehicles to carry flares or other warning devices
- 61- 9-412. Display of warning devices when vehicle disabled
- 61- 9-413. Vehicles transporting explosives
- 61- 9-414. Logging trucks
- 61- 9-415. Slow-moving vehicles
- 61- 9-417. Headgear required for minor motorcycle riders
- 61- 9-418. Motorcycle noise suppression devices
- 61- 9-420. Child safety restraint systems--Standards—Exemptions

Vehicle Equipment--Enforcement--Penalties:

- 61- 9-503. Owners and drivers to comply with inspection laws
- 61- 9-514. Unauthorized use of firefighter's private vehicle—Penalty

Size--Weight--Load--Standards, Permits, and Fees:

- 61-10-101. Standards of maximum dimensions, weights, etc.
- 61-10-102. Width
- 61-10-103. Height
- 61-10-104. Length
- 61-10-106. Measuring distance between axles
- 61-10-107. Maximum gross weight--When permit required
- 61-10-108. Reduction under special circumstances
- 61-10-109. Operation without special permits prohibited
- 61-10-144. Violation of standards--Tolerance

Section 2. Effective Date. This ordinance shall be effective March 1, 2010.

Section 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this \_\_\_th day of \_\_\_\_\_, 2009.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_th day of \_\_\_\_\_, 2010.

CITY OF BILLINGS

By: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

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

Cari Martin, City Clerk

**Regular City Council Meeting**

**Regular : 9.**

**Date: 12/14/2009**

**TITLE: City Council Email Access Resolution and Policy**

**PRESENTED BY:** Brent Brooks

**Department:** Legal

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Mayor and City Council have previously considered a policy that would provide public access to emails sent to or from the Mayor and City Council members. The most recent previous discussions occurred during the October 5 and 19, 2009, City Council Work sessions. During the October 19, 2009, work session, Council Member Veis offered changes to the draft policy and accompanying Resolution adopting the policy. The Council directed staff to make these changes and present them at a Regular City Council meeting for consideration and approval. The attached City Council Email Access Policy and Resolution reflect the numerous discussions of the Council on this matter.

**ALTERNATIVES ANALYZED**

The Council may in its discretion:

- Approve;
- Disapprove; or
- Amend the resolution and policy.

**FINANCIAL IMPACT**

There is no financial impact if this resolution and Policy are adopted. However, there will be increased staff time due to the daily review of Council emails.

**RECOMMENDATION**

Staff recommends that the Council approve the attached Resolution and Policy establishing public access to Council emails.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Email Access resolution](#)

Link: [Email Access Policy](#)

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RESOLUTION No. 09-

A RESOLUTION OF THE BILLINGS, MONTANA CITY COUNCIL ADOPTING A CITY COUNCIL E-MAIL ACCESS POLICY AND AUTHORIZING THE CITY ADMINISTRATOR TO ENACT RULES AND PROCEDURES IMPLEMENTING THE POLICY.

WHEREAS, evolving and emerging electronic communications technology provides the Billings City Council an opportunity to provide the public with additional forums for accessing public information sent to or from the Billings City Council; and

WHEREAS, principles of open government, right of public participation and observation require that most communications sent to or from the Billings City Council be provided to the public for review; and

WHEREAS, the Billings City Council desires to adopt a policy together with appropriate procedures allowing for the access to City Council e-mails as public documents subject to public access and inspection as provided by Montana law; and

WHEREAS, the Billings City Council desires to direct the City Administrator to construct an efficient process for public access to all e-mail sent to or from the Billings City Council that are not subject to the right of privacy or the attorney-client privilege or other statutory privileges;

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

That the City of Billings hereby adopts the *City Council E-mail Access Policy* which is provided in Attachment "A".

APPROVED AND PASSED by the City Council of the City of Billings, Montana this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

THE CITY OF BILLINGS

By: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_

Cari Martin, CITY CLERK

***ATTACHMENT “A”***

**CITY OF BILLINGS**

**CITY COUNCIL EMAIL ACCESS POLICY**

**December 14, 2009**

**Policy Summary**

The City of Billings City Council E-mail Access Policy is intended to allow public access to e-mails sent to or from the Mayor and all City Council members collectively as a group. With few exceptions, the public cannot expect confidentiality when communicating via email with the Mayor and City Council members individually or collectively on matters of City business. Similarly, the Mayor and City Council cannot expect confidentiality when communicating via email with the public or each other on matters of city business. The Mayor and City Council acknowledge and expect certain categories of emails to be excluded from public access such as but not limited to attorney-client communications between the Mayor and City Council or emails containing right of privacy information such as but not limited to personal health or medical information or other personal information.

**Policy**

**CITY COUNCIL E-MAIL ACCESS POLICY**

1. All emails sent to and from the Mayor and all City Council members collectively as a group shall be made available to the public through access via the official City of Billings website unless that e-mail contains content pertaining to the right of privacy, is excluded by law or attorney-client relationship from being made public or contains private health care or medical information. Emails sent to the Mayor and all City Council members will be reviewed once each business day by City staff to determine if they contain any content protected from disclosure by law. If no protected content is found, the emails will be posted to the designated City website location.
2. The Mayor and all members of the City Council are strongly encouraged to obtain an email address and account from the City of Billings and use the account for City business conducted via email. If the Mayor or a City Council member chooses to use a personal email account they should be aware that it is possible that the account or portions of it may be subject disclosure in accordance with Montana law.

3. The Mayor and City Council members are encouraged to conduct personal business on their personal email account(s). However, it is permissible for the Mayor and City council members to forward or briefly reply to personal emails that are sent to a City email account unprompted
4. Emails to or from the Mayor or any City Council member concerning a land use or other quasi-judicial issue shall be made available to the public through access via the official City of Billings website. Land use or quasi-judicial issues include but are not limited to: preliminary or final subdivision plat approval, zone changes, special reviews, variance requests, annexations/de-annexations and street or right of way vacations.
5. The City Administrator shall implement and supervise this policy utilizing appropriate rules such as but not limited to Administrative Orders and other procedures to ensure the most efficient and expeditious posting of Mayor and City Council emails.
6. The City Administrator is also authorized to provide input and suggested amendments as necessary to this Policy.
7. Nothing within this Policy is intended to restrict the public's right to obtain documents pursuant to Montana Code Annotated sections 2-6-101, et seq.
8. This Policy shall be reviewed by the City Council on or before three years from the date of approval.