

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

January 25, 2010

6:30 P.M.

CALL TO ORDER – Mayor Hanel

PLEDGE OF ALLEGIANCE – Mayor Hanel

INVOCATION – Councilmember Rich McFadden

ROLL CALL

MINUTES: January 11, 2010

COURTESIES: Billings Firefighters - Conoco Refinery Fire

PROCLAMATIONS

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 5 ONLY.

Speaker sign-in required. (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 -- SEPARATIONS:**
 - A. BID AWARDS:**
 - 1. Two (2) MET Paratransit Vans.** Recommend delay of bid award until February 8, 2010.
 - B. Approval of one-year Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc. dba Big Sky Ground Support Industries (3/1/10 - 2/28/11), with option to extend the term for one additional year contingent on the development status of the facility and the adjoining rental car wash facility; annual revenue - \$12,226.08.**
 - C. Amendment #1, West End Hangar Ground Lease with Moore, Scott, and Tostenrud, L.L.C., changing the Lessee's name to Moore, Palmersheim, and Tostenrud, L.L.C.**

- D. Amendment** to Development Agreement with Babcock LLC extending completion of Phase I Developer's improvements from 2/1/10 to 2/1/11 and acknowledging the Developer's written intention to complete Phases II and III as required by the Development Agreement.
- E. Amendment #3, W.O. 03-07: Alkali Creek Multi-Use Path**, Professional Services Contract, Dowl HKM, \$36,865.
- F. Memorandum of Understanding** with Beartooth RC&D Economic Development District, \$9,136 annual expense.
- G. Acceptance** of Recreational Trails Project Agreement for continuation of the Swords Park Trail through the east end of the park and connection to the existing bike/pedestrian Airport Road underpass, \$28,000; required City match - \$5,600.
- H. Approval** of application for an AmeriCorps VISTA Project, approximately \$230,000 - \$320,000 annually; and **authorization** for staff to negotiate and finalize the project if awarded.
- I. Approval** of application submittal for Misdemeanor Probation Domestic Violence Grant; required City of Billings match approximately \$18,000 (hard match-\$1,600; soft match-\$16,400)
- J. Contract** with GeoComm for development of a Radio System Implementation Plan; \$37,840.
- K. Approval** of Federal Legislative Agenda.
- L. Confirmation of Probationary Police Officer Shane Weinreis.**
- M. Bills and Payroll:**
 - 1. December 24, 2009

REGULAR AGENDA:

- 2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #860:** A zone change from Residential 6,000 to Controlled Industrial on the north two acres of Lot 5 in Section 9, T1 South, R26 East (unplatted), located at 439 South Billings Boulevard; Hanser Properties, LP, applicant; Ralph Hanser, representative. Zoning Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (**Action:** approval of disapproval of Zoning Commission recommendation.)
- 3. PUBLIC HEARING AND SPECIAL REVIEW #880:** A special review to allow a vehicle wrecking facility at 439 South Billings Boulevard in a proposed Controlled Industrial zone on an approximate 2-acre parcel described as the north two acres of Lot 5 in Section 9, T1 South, R26 East; Hanser Properties, LP, owner; Ralph Hanser, agent. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.)

4. **PUBLIC HEARING AND FIRST READING ORDINANCE** proposing a construction time limit on new and remodel residential and commercial construction projects. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
5. **SETTLEMENT AGREEMENT WITH POLICE OFFICERS AND MONTANA PUBLIC EMPLOYEES ASSOCIATION (MPEA), BILLINGS POLICE UNIT, FOR BACK PAY, OVERTIME, LONGEVITY, HOLIDAY AND OTHER TYPES OF PAY AS CALCULATED UNDER THE FAIR LABOR STANDARDS ACT FROM JANUARY 1, 2007, THROUGH JUNE 30, 2009. DELAYED FROM 1/11/2010.** Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. 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: 01/25/2010

TITLE: MET Transit Division Purchase of Two Paratransit Vans

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

Bids for the replacement of two MET paratransit vans were received on Tuesday, January 12, 2010. These vans are eligible for replacement under both Federal Transit Administration (FTA) Regulations and the City of Billings Equipment Replacement Program. These vehicles will replace vehicles that are over seven years old and/or have exceeded 100,000 miles. MET is replacing one 2002 Ford van and one 2003 Ford van. This replacement will maintain the integrity of our fleet. Bids were received from Intermountain Coach in the amount of \$138,666 (\$69,333 per van) and from Harlow's Bus Sales in the amount of \$149,300 (\$74,650 per van). After reviewing both bids, staff found inconsistencies with Intermountain Coach's response to the City's product specifications and is requesting delay of the bid award to allow additional time to review the bids.

ALTERNATIVES ANALYZED

The Council may:

- Delay bid award;
- Reject all bids; or
- Accept one of the bids.

FINANCIAL IMPACT

American Recovery and Reinvestment Act (ARRA) funds administered through the FTA Section 5307 Grant funding program will be used for the purchase of one of the vans. The other van will be purchased with the 2009 Omnibus Appropriations Act funds administered through the FTA Section 5309 Grant funding program. The ARRA grant is 100% Federal share and no local share. The Omnibus grant is funded 80% Federal (\$55,466.40) and 20% local share (\$13,866.60) which is budgeted in our capital line item.

RECOMMENDATION

Staff recommends that City Council delay the bid award until the meeting of February 8, 2010, to allow staff additional time to review the bids.

APPROVED BY CITY ADMINISTRATOR

Date: 01/25/2010

TITLE: Renewal of a Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., DBA Big Sky Ground Support Industries

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

On March 10, 2008, the Council approved a Limited Commercial Aviation Building and Ground Lease with Big Sky Ground Support Industries as Lessee, for the Airport facility commonly known as the former Operations/ARFF building, a warehouse-type facility located on the east end of the airfield. The 3,429 square foot warehouse comprises the north one-half of the building with the south one-half currently housing the rental car wash facilities.

Buck Smith, the owner/operator of Big Sky Ground Support Industries sold the business and its assets to Alpine Aviation, Inc., and the Lease was subsequently assigned to Alpine Aviation, Inc., DBA Big Sky Ground Support Industries on June 23, 2008. Alpine Aviation also leases IP-5, a large hangar facility in the Airport Business Park. Mr. Smith has remained with the company post sale and continues to be in charge of Alpine's maintenance services. The term of this Lease expired on February 28, 2009. However, the Lease had a provision giving the Lessee an option to extend the term for one additional year. Alpine Aviation exercised the option to extend the Lease, which now expires on February 28, 2010.

Alpine Aviation wishes to renew the Lease to continue its maintenance services. Staff has negotiated a new Lease with a one-year term commencing March 1, 2010, and ending February 28, 2011. The new Lease also contains an option to extend the term for one additional year, contingent on the development status of this facility and the adjoining rental car wash facility. This parcel is one of the last remaining development sites at the Airport that has direct access to the taxiway/runway infrastructure. The Airport anticipates constructing a new quick-turn rental car wash facility on the west end of the Airport sometime in 2010, and relocating the rental car companies' wash operations to the new facility when it is completed. The short-term Lease would allow Alpine Aviation to continue its maintenance operations without interruption until such time that a new use is found for this prime development site.

ALTERNATIVES ANALYZED

The Council may:

- (1) Approve the renewal of the Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., DBA Big Sky Ground Support Industries, or
- (2) Not approve the Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., DBA Big Sky Ground Support Industries and require Alpine Aviation to move its maintenance operations elsewhere.

FINANCIAL IMPACT

The initial year of this Lease will generate \$12,226.08 of rental revenue for the Airport. Should the renewal option be exercised, the subsequent year will be adjusted using the Consumer Price Index for all Urban Consumers (CPI-U) to keep pace with annual inflation.

RECOMMENDATION

Staff recommends that Council approve the one (1) year Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., DBA Big Sky Ground Support Industries for the term beginning March 1, 2010, and ending February 28, 2011.

APPROVED BY CITY ADMINISTRATOR

Date: 01/25/2010

TITLE: Amendment One to West End Hangar Ground Lease with Moore, Scott, and Tostenrud, L.L.C.

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

On April 22, 1996, the City of Billings as Lessor, entered into a West End Hangar Ground Lease with Martin Elshire as Lessee. On November 28, 2005, Mr. Elshire assigned and transferred all of his leasehold interest in the Lease to Moore, Scott, and Tostenrud, L.L.C. Staff was informed that the ownership of the company had changed, resulting in a name change. Amendment One changes the Lessee's name from Moore, Scott, and Tostenrud, L.L.C., to Moore, Palmersheim, and Tostenrud, L.L.C. to reflect the current name of the company.

ALTERNATIVES ANALYZED

The Council may:

- (1) Approve Amendment One to the West End Hangar Ground Lease to reflect the name change of the Lessee, or
- (2) Not approve Amendment One to the West End Hangar Ground Lease, retaining the former name of the Lessee.

FINANCIAL IMPACT

There is no financial impact resulting from Amendment One. All existing terms and conditions of the Lease remain in full force and effect. The Amendment changes only the name of the Lessee to reflect the company's new ownership and subsequent name change.

RECOMMENDATION

Staff recommends that Council approve Amendment One to the West End Hangar Ground Lease with Moore, Scott, and Tostenrud, L.L.C., changing the Lessee's name to Moore, Palmersheim, and Tostenrud, L.L.C.

APPROVED BY CITY ADMINISTRATOR

Date: 01/25/2010

TITLE: Amending Babcock Building Development Agreement to Extend Phase 1 & Acknowledging Receipt of Phase 2 and 3 Letter of Commitment

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

In November 2007, the City, the Downtown Billings Partnership (DBP) and The Babcock LLC entered into a Development Agreement to use \$1.9 million of Downtown Tax Increment Financing District (TIFD) funds as part of \$3.9 million plan to acquire and renovate the historic Babcock Theater at 124 28th St. into a mixed theater, residential and commercial project. The original agreement called for a 3-phase reconstruction project, with Phase 1 of construction and a Letter of Commitment for Phases 2 and 3 of the project both to be completed by Feb. 1, 2010. The Babcock LLC developers (Kay Foster, Mike Mathew and Don and Kim Olsen) now are requesting an extension of the Phase 1 deadline to February 1, 2011, and are offering a Letter of Commitment for Phases 2 and 3 that the City Council should acknowledge if it intends to continue with the project (Attachment 1). An amendment to the Development Agreement to extend the deadline for the Phase 1 completion has been attached for Council approval (Attachment 2).

The original Development Agreement also called for completion by Feb. 1, 2010, of a Condominium Agreement separating the theater, retail and residential units into three separate units. The paperwork for that agreement has been submitted to City and DBP staff for review, but will not be complete before Feb. 1, 2010. Of the eight major components in Phase 1 of the renovations, half are complete and the remainder are ready for retail build-out once the Condominium Agreement has been completed and additional tenants and financing can be secured. The theater currently is being operated by the developers. All of the residential space and two of the existing retail spaces are leased.

In addition, six of the eight projects in Phases 2 and 3 are at least half-complete. A list of all projects and their status is included in Attachment 1.

ALTERNATIVES ANALYZED

The Council may:

- Approve the amendment extending completion of Phase I of the Development Agreement to Feb. 1, 2011, and acknowledge receipt of the developers' Letter of Commitment for Phases 2 and 3 of the Babcock Development Agreement. This option will put a largely renovated Babcock Theater into the hands of the City or its designee by April 1, 2016, and leave the retail and residential space in private ownership; or
- Not approve the amendment and, 60 days after notifying the developers of a default, take control of the property.

FINANCIAL IMPACT

The City has paid 100% of the \$1.9 million of TIFD monies dedicated to the project. If the City acquires the unfinished building, it would have to sell the property as is or expend additional money to complete the renovation.

RECOMMENDATION

Staff recommends that the Council approve an amendment to the Development Agreement, extending completion of Phase I to Feb. 1, 2011, and acknowledge receipt of the Letter of Commitment for Phases 2 and 3 from The Babcock LLC.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Babcock Letter](#)

Link: [Agreement Amendment](#)

January 19, 2010

City of Billings
Downtown Billings Partnership
c/o Brent Brooks
Billings City Attorney
PO Box 1178
Billings, Montana 59103

Ladies and Gentlemen:

Hello and Happy New Year.

The purpose of this letter is twofold. First we need to request an extension of the completion date for Phase 1 of the Development Agreement for the Babcock project. Second we want to confirm and document our intention to continue proceeding with Phases 2 and 3.

Why an extension is required

- The Condominium Agreement has been completed but only recently delivered to City for their review. It is unlikely or impossible that this review, re-review, etc. will be complete by the required date of February 1, 2010.
- Of the construction items required for Phase 1 all are complete or essentially complete except for the storefront replacement and related cast stone columns. These will not be complete by February 1, 2010. This is due in part to the weather and in part to the need for financing which is contingent upon having the condominium agreement discussed above.

We would request that the Development Agreement be modified to change the required completion date for Phase 1 from February 1, 2010 to February 1, 2011. That said we intend to complete the condominium agreement as soon as possible. We will complete the storefront this spring and summer as weather and financing permits.

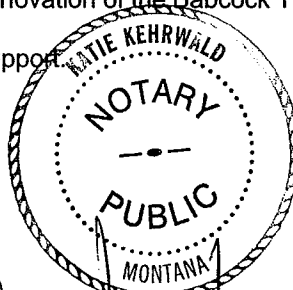
Letter of Commitment

- Section 3.6 of the Development Agreement provides that, prior to February 1, 2010, The Babcock, LLC should provide a letter of commitment to proceeding with Phases 2 & 3 or request a one year extension. The Babcock, LLC waives the need for this one year extension. The Babcock, LLC absolutely and without qualification commits to completing both Phases 2 and 3 of the Development Agreement. Required Member Guaranty is attached. It should be noted that many Phase 2 and 3 components are complete and / or underway. An assessment of project completion status is attached.

In summary we request an extension to the completion date for Phase 1 as outlined above. Additionally this letter is intended to serve as the required written commitment to proceeding with the completion of Phases 2 & 3 of the renovation of the Babcock Theatre Building.

Thank you for your consideration and support

Sincerely The Babcock, LLC



Katie Groeples
Notary Public, State of Montana
Katie Groeples
residing at Billings, MT
My Commission expires 7/19/2010

Kay Foster
Kay Foster

Mike Mathew
Mike Mathew

Kim Olsen
Kim Olsen AIA

Don Olsen
Don Olsen AIA

BABCOCK THEATRE BUILDING RESTORATION

PHASE PROGRESS ITEMIZATION

PHASE 1

1A	REROOF / INSULATION	COMPLETE
1B	FAÇADE	BRICK COMPLETE STOREFRONT / CAST STONE BY SUMMER
1C	RESTORE STAGE	COMPLETE
1D	RETAIL PREP	COMPLETE
1E	HVAC GENERAL	COMPLETE
	HVAC RETAIL	READY FOR TENANT BUILD OUT
	HVAC THEATRE	COMPLETE
1F	MAIN PLUMBING	COMPLETE
1G	RETAIL ELECTRICAL	READY FOR TENANT BUILD OUT
1H	ENVIRONMETAL REMEDIATION	COMPLETE

PHASE 2

2A	MISCELLANEOUS CODE	80% COMPLETE
2B	SECOND FLOOR UPGRADE	75% COMPLETE
2C	RETAIL FIRE SPRINKLERS	IN DESIGN FOR COMPLETION MARCH
2D	LOBBY / RESTROOMS	50% COMPLETE

PHASE 3

3A	EXISTING THEATRE RESTROOMS	COMPLETE
3B	THEATRE ELECTRICAL	COMPLETE
3C	THEATRE CEILING	IN DESIGN
3D	THEATRE FIRE SPRINKLERS	99% COMPLETE

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

This First Amendment to Development Agreement ("Amendment") is entered into this ___ day of January, 2010 by and between the City of Billings, a municipality of the State of Montana ("City"), Downtown Billings Partnership, Inc., an I.R.C. §501(c)(4) Montana non-profit corporation, ("DBP"), and The Babcock, LLC, a Montana limited liability company ("Developer").

WHEREAS, on September 22, 2008, City, DBP and Developer entered into that certain Development Agreement ("Development Agreement") to establish the terms and conditions for completion of the Babcock Theater Project as an urban renewal project.

WHEREAS, Developer has requested that City and DBP extend the Phase 1 completion date and related provisions of the Performance Schedule under the Development Agreement to February 1, 2011, to permit sufficient time to complete the façade renovation of the Babcock Building.

WHEREAS, Developer has provided City and DBP with its written commitment to complete Phases 2 and 3 of the Project, together with the Member Guarantees of Developer's individual limited liability company members, according to the terms of the Development Agreement.

NOW, THEREFORE, City, DBP and Developer hereby agree as follows:

1. Amendments to Development Agreement:

(A) The first sentence, following the title, of Section 3.6 of the Development Agreement shall be deleted and replaced with the following:

Developer shall complete Phase 1 of the Developer's Improvements, to the satisfaction of DBP and City, by the Phase 1 completion date of February 1, 2011, set forth in the Performance Schedule.

(B) The Performance Schedule attached as Exhibit 6 to the Development Agreement is hereby amended to reflect the Phase 1 completion date of February 1, 2011.

2. Effective Date:

This Amendment shall be effective as of January 25, 2010.

3. Effectiveness of Development Agreement:

Except as expressly provided herein, the Development Agreement and City Deed of Trust remain valid and effective, and nothing in this Amendment shall be deemed to waive or modify any of the provisions of the Development Agreement or the City Deed of Trust. In the event of any conflict between the Development Agreement, this Amendment, or any other

"Developer"

The Babcock, LLC

By: _____
Michael S. Mathew, Member Manager

By: _____
Catherine G. Foster, Member Manager

By: _____
Kimberly A. Olsen, Member Manager

By: _____
Donald J. Olsen, Member Manager

STATE OF MONTANA)
 :SS
County of Yellowstone)

This instrument was acknowledged before me on _____, 2010 by Michael S. Mathew, Catherine G. Foster, Kimberly A. Olsen and Donald J. Olsen, as the Authorized Member Managers of The Babcock, LLC.

(SEAL)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

Date: 01/25/2010

TITLE: W.O. 03-07—Alkali Creek Multi-Use Path, Amendment #3 to Dowl HKM Contract

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The City of Billings and Dowl HKM (HKM) agreed to a Professional Services Contract on June 9, 2003, for the Design Study phase of the Alkali Creek Multi-Use Path project (W.O. 03-07), which included extensive coordination and public input for selection of the path alignment. Amendment One was approved December 23, 2003. Amendment Two, approved July 23, 2007, provided services for a bicycle/pedestrian tunnel under Main Street at Alkali Creek and a path on the west side of Main Street connecting the tunnel to the at grade sidewalk. Staff is recommending Amendment Three to update and rebid the project that was initially bid in September, 2008. Amendment Three also includes designing and incorporating into the project approximately 1,100 feet of additional trail from the east side of the tunnel through Earl Guss Park, updating and confirming all required permits, and expanding the construction administration to include staking and inspection of the entire project and compliance with all ARRA (American Recovery and Reinvestment Act) requirements.

ALTERNATIVES ANALYZED

The Council may:

- Approve Amendment 3 to the Professional Services Agreement with HKM for the rebid of the Main Street Tunnel and design, bidding, and construction administration of a new path from the tunnel through Earl Guss Park; or
- Not approve Amendment 3 to the Professional Services Agreement with HKM.

FINANCIAL IMPACT

The project is being funded by a variety of sources, including ARRA, a Transportation and Community and System Preservation Pilot Program (TCSP) grant, the Community Transportation Enhancement Program (CTEP), and multiple local donors and grants. Professional services for this project are funded by the TCSP grant, which is a federal aid program funded through the Federal Highway Administration and administered by MDT. Amendment No. 3 represents an increase in the amount of the contract by \$40,465.00. There are TCSP funds available to cover the increase.

Original Contract Amount: \$ 90,495.00

Approved Amounts

Amendment 1: \$ 0.00

Amendment 2: \$168,000.00

Requested Amount

Amendment 3: \$ 40,465.00

Total Revised Contract Amount: \$298,960.00

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute Amendment No. 3 to the Professional Services Contract with Dowl HKM in the amount of \$40,465.00.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Amendment](#)

AMENDMENT NO. 3
TO
CONTRACT FOR PROFESSIONAL ARCHITECTURAL AND
ENGINEERING SERVICES
CITY OF BILLINGS WORK ORDER 03-07,
ALKALI CREEK MULTI-USE PATH

THIS AGREEMENT, made and entered into on this _____ day of _____, 2010, by and between the following:

CITY OF BILLINGS, a Municipal Corporation,
Billings, Montana 59103,
Hereinafter designated the City

and

DOWL HKM
PO Box 31318
Billings, Montana 59101-1318
hereinafter designated the Contractor, Consultant and/or Engineer

WITNESSETH:

WHEREAS, the City and Consultant have entered into a contract dated May 27, 2003, Contract Amendment No. 1 dated December 23, 2003 and Contract Amendment No. 2 dated July 23, 2007, for Consultant to provide engineering services to the City for Work Order 03-07, Alkali Creek Multi-Use Path, and;

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the City has authority to contract for consulting engineering services, and;

WHEREAS, the Consultant represents that he is qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

Part I, Section 2.A is amended as follows:

Changes to the scope of work for design and construction administration services are attached as Appendix A to this amendment.

Part I, Section 3.C is amended as follows:

The contract shall terminate at midnight on December 31, 2011.

Appendix A, Section 3B is amended as follows:

Engineering Design Sections 1 through 3, Amendment No. 2 have been completed. Additional services are stipulated in Appendix A, attached to and made a part of this amendment.

Appendix B, Section 1 is amended as follows:

Include the fee information shown Appendix B, attached to and made a part of this amendment.

Appendix D is amended as follows:

Delete the existing HKM Professional Services Fee Schedule dated 2/1/07 and replace with the DOWL HKM Professional Services Fee Schedule dated 05/01/09.

Appendix F is amended as follows:

The Consultant will provide updated insurance certificates to Billings prior to amendment approval.

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT

NAME: _____

BY: _____

TITLE: _____

DATE: _____

CITY OF BILLINGS, MONTANA

BY: _____

Thomas W. Hanel, Mayor

DATE: _____

APPROVED AS TO FORM:

BY: _____

Brent Brooks, City Attorney

Appendix A

Sections 1 through 3 of the Engineering Design phase defined under Amendment No. 2 have been completed. Additional services covered by Amendment No. 3 include:

1. Designing and incorporating approximately 1,100 lineal feet of additional trail into the project. The new trail segment will traverse Earl Guss Park and connect the east side of the new tunnel with an existing path that provides access to the METRA parking lot.
 - a. Coordination with the City, the City's existing consultant, and Montana Department of Transportation (MDT) to implement the trail extension in conjunction with a new 6th Avenue to Bench Blvd. bridge that is currently under design.
2. Updating the plans, specifications and opinion of cost for rebidding of the original project.
 - a. Specifications will be modified to comply with requirements for funding from the American Recovery and Reinvestment Act (ARRA), including designation of federal Davis-Bacon wage rates, certification of construction contractor payrolls, and coordination with and receiving approval of respective agencies.
 - b. Project will be set up to bid with three separate schedules—1) the tunnel under Main Street; 2) the path from the Main Street sidewalk down to the west side of the tunnel; 3) the path from the east side of the tunnel, through Earl Guss Park, and tied into the existing METRA trail.
 - c. Distribute final plans and specifications to all required and requested agencies.
3. Updating and confirming all required permits, particularly the MDT Encroachment Permit.
4. Expanding all services under Section 4, Construction Administration.
 - a. Coordinate with affected agencies/companies regarding existing utilities in project vicinity.
 - b. Provide staking on entire project, including additional trail segment.
 - c. Provide construction inspection on entire project, including additional trail segment.
 - d. Provide necessary reporting documentation and submittals for compliance with ARRA funding.

Appendix B

Update contract documents, MDT Encroachment Permit, etc. Trail Design Updated opinion of cost Rebid project	\$ 25,345
Construction Administration, including staking and inspection	<u>\$ 15,120</u>
Amendment No. 3 Total	\$ 40,465

The amounts shown above increase the current contract total for design and bidding services from \$105,000 to \$130,345 and the amount for construction administration services from \$63,000 to \$78,120.

Appendix D

DOWL HKM - MT/WY 2010

PROFESSIONAL SERVICES FEE SCHEDULE (Effective 5/1/09; See Note 1)

TASK DESCRIPTION	PRICE/UNIT	UNIT
JOB SUPERVISION AND LABOR		
Senior Manager	\$ 150.00	Hour
Engineer V	\$ 135.00	Hour
Engineer IV	\$ 115.00	Hour
Engineer III	\$ 95.00	Hour
Engineer II	\$ 85.00	Hour
Engineer I	\$ 72.00	Hour
Engineering Technician III *	\$ 85.00	Hour
Engineering Technician II *	\$ 70.00	Hour
Engineering Technician I *	\$ 50.00	Hour
Geologist III	\$ 115.00	Hour
Geologist II	\$ 75.00	Hour
Laboratory Manager	\$ 85.00	Hour
Laboratory Technician *	\$ 50.00	Hour
Inspector *	\$ 85.00	Hour
Professional Land Surveyor *	\$ 95.00	Hour
Crew Chief *	\$ 70.00	Hour
Survey Technician *	\$ 50.00	Hour
Accounting Technician *	\$ 55.00	Hour
Marketing Assistant *	\$ 60.00	Hour
Administrative Assistant *	\$ 55.00	Hour

*Subject to overtime at 1.5 times above rates.

TRAVEL , MILEAGE & MISC.

Per diem (per man-day MT/WY)	\$ 39.00	Day**
Lodging	Cost	Night
Airfare	Cost	
Vehicle Usage: Autos	\$ 0.75	Mile
Pickups & Suburbans	\$ 1.00	Mile
Printing / Supplies / Phone / Fax / Postage	Note 2	
Specialized Software/Hardware	Note 3	
Subcontractors	Cost + 10%	
Laboratory Analysis	Cost + 10%	
Other/Miscellaneous	Cost + 10%	

** Per diem will be billed after six (6) hours in field when more than 50 miles from office as follows:

\$9.75 or 1/4 of the current GSA reimbursement rate for every full quarter-day (6 hours) or portion of a quarter-day greater than 3 hours. For the day of departure, the day begins at time of departure. For the day of return, the day ends when employee arrives at authorized point of destination (office, home, etc.)

EQUIPMENT, MATERIALS & SUPPLIES

ATV's	\$ 150.00	Day
Boat and Trailer	\$ 150.00	Day
GPS Equipment (Dual Frequency)		
Cost per Receiver Deployed	\$ 100.00	1/2 Day
	\$ 200.00	Day
	\$ 800.00	Week
	\$ 2,400.00	Month

Note 1: DOWL HKM's Professional Services Fee Schedule is subject to adjustment each year (May 1st) or at the end of a contract period, which ever is appropriate. Should adjustments be anticipated or required, such adjustments will not affect existing contracts without prior agreement between Customer and DOWL HKM.

Note 2: Costs included in overhead rate for reasonable requests. Requests beyond those considered reasonable by the project manager billed at Cost + Agreed Upon Mark-up.

Note 3: Specialized computer software or hardware necessary for a unique application for a client will be billed at a negotiated rate or unit cost.

Date: 01/25/2010

TITLE: Beartooth R C & D Memorandum of Understanding

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City of Billings annually approves a Memorandum of Understanding (MOU) with the Beartooth RC&D Economic Development District (District). The 2009 MOU was approved by Council on January 12, 2009. The District presented an overview of its organization and a summary of its 2009 projects at the work session on January 19, 2010.

The MOU and the funding provided by the City (\$9,136) ensures the City's participation in and access to the District's economic development/grant writing service. The City appoints one member to the District, and that position is presently occupied by Councilmember Ulledalen.

ALTERNATIVES ANALYZED

City Council may:

- Approve the MOU and funding; or
- Not approve the MOU and funding.

FINANCIAL IMPACT

The 2010 assessment is \$9,136. The City budgeted \$8,500 for this expense. The overage will not require a budget amendment.

RECOMMENDATION

Staff recommends that Council approve the Beartooth RC&D Economic Development District Memorandum of Understanding.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Memorandum of Understanding](#)

A
MEMORANDUM OF UNDERSTANDING
between
Yellowstone County Commissioners
and
the Beartooth RC&D Economic Development District

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this ____ day of _____, 2010, by and between the **Beartooth RC&D, Economic Development District**, whose principal business address is P.O. Box 180, Joliet, Montana 59041, hereinafter referred to as “Beartooth RC&D” and **Yellowstone County Commissioners (in cooperation with the City of Billings, City of Laurel, and Big Sky EDA)**, and hereinafter referred to as “**the Entity**”.

WHEREAS, The Beartooth RC&D has been formally recognized by the U.S. Department of Commerce, Economic Development Administration (EDA) as a designated Economic Development District (EDD), and As a District, the Beartooth RC&D has been awarded funding to carry out its Comprehensive Economic Development Strategy (CEDS). This funding will provide a staff person, administrative support and operating costs. This is a continual grant, renewable based on successful program operation and availability of federal funds. Local match is required.

WHEREAS, Each entity participating in the District will designate a representative and an alternate to the regional Economic Development Committee. This individual will convey the needs and development goals of the local entity to the committee. Regular meetings will be held every two months to assess project status, assign workload and evaluate progress.

NOW THEREFORE IT IS UNDERSTOOD AS FOLLOWS:

ARTICLE 1: SCOPE OF WORK:

Beartooth RC&D employs an Economic Development Coordinator to assist in Economic Development efforts in the region. The Coordinator’s time will be allocated consistent with the goals in the Comprehensive Economic Development Strategy by the regional Economic Development Committee. The Committee is composed of one representative and an alternate from Big Horn, Carbon, Stillwater, Sweet Grass and Yellowstone Counties, Crow Tribe and Big Sky Economic Development Authority. Input to this Committee by local entities is essential for obtaining the services of the Coordinator.

Higher priority will be assigned projects of regional scope or projects with strong local leadership. Grant funding for this position is from EDA, therefore, emphasis will be on regional economic development planning and projects which have a correlation to job creation. Matching funds are from participating entities and emphasis will be placed on their specified projects. Specific items of work for this project year are detailed in the attached “Annual Report and Update”. It is understood that this Annual Report will be presented each year.

Annual Evaluation:

The performance of the Economic Development Coordinator will be evaluated annually by local entities participating on the regional Economic Development Committee. Progress and/or

accomplishments on each program/project will be evaluated to ensure resources are being utilized in the most effective and efficient manner possible.

ARTICLE 2: PERIOD OF PERFORMANCE:

The term of this Memorandum of Understanding shall be from the date it is signed through **December 31, 2010**, unless extended by mutual agreement by both parties. Such extension must be in writing, signed by authorized representatives of both parties, and made a part of the original Memorandum of Understanding by modification reference. This Memorandum of Understanding supersedes the prior Memorandum for participation in the Economic Development District.

ARTICLE 3: PAYMENT:

The Entity's annual contribution will be **\$3,500.00** as a "Membership" fee plus a per capita assessment of **.1537** cents per person. These funds will provide the necessary match to obtain the \$52,000.00 in federal funds. Entities who do not participate financially in the match requirement will not receive services from the Economic Development Coordinator. The calculated fee for **Yellowstone County** is **\$25,379.00** this figure is based from the **\$3,500.00** county fee plus **\$21,879.00** based on a per capita formula whereby a population of **142,348** was used from the 2008 Estimated Census population estimate. Yellowstone County's full payment of **\$25,379.00** will be separated into a four-way payment system. Each entity within the county will pay a percentage (%) similar to the previous year. Big Sky EDA- 34% or **\$8,629.00**, City of Billings- 36% or **\$9,136.00**, City of Laurel- 6% or **\$1,523.00**, and Yellowstone County- 24% or **\$6,091.00**.

Annually, the Beartooth RC&D/EDD staff will provide a comprehensive report of the past year's activity. A new Memorandum of Understanding will be prepared and a request for the following year's match submitted. Entities will be billed for match funds after January 1, 2010, for the current year's assessment.

Payment as provided in this section shall be full compensation for work performed, services rendered and for all materials, supplies, equipment, and incidentals necessary to complete the.

ARTICLE 4: EXAMINATION OF RC&D RECORDS:

The Entities or their representatives shall have the right to examine any books, records, or other documents of the Beartooth RC&D directly relating to costs when such costs are the basis of compensation hereunder.

ARTICLE 5: OWNERSHIP AND USE OF DOCUMENTS:

Reproducible copies of all documents and other materials produced by the Beartooth RC&D in connection with the services rendered under this memorandum of understanding shall be provided to the Entity for the Entity's use whether the project for which they are made is executed or not. The Beartooth RC&D shall be permitted to retain originals, including reproducible originals, of drawings and specifications for information, reference and use in connection with Beartooth RC&D's endeavors.

ARTICLE 6: WARRANTY:

The Beartooth RC&D warrants that all services performed herein shall be performed using that degree of skill and care ordinarily exercised in and consistent with generally accepted practices for the nature of the services and shall conform to all requirements of this Memorandum of Understanding.

ARTICLE 7: SAFETY:

The Beartooth RC&D agrees to fully comply with the Occupational Safety and Health Act of 1970, all regulations issued there under and all state laws and regulations enacted and adopted pursuant thereto. The Beartooth RC&D shall take all necessary precautions in performing the services hereunder to prevent injury to persons or damage to property.

ARTICLE 8: APPLICABLE LAW:

This Memorandum of Understanding shall be governed in all respects by the laws of the State of Montana. No changes, amendments or modifications of any of the terms and conditions hereof shall be valid unless agreed to in writing. Venue of any proceeding arising hereunder shall be the Thirteenth Judicial District.

ARTICLE 9: COMPLIANCE WITH LAWS:

The Beartooth RC&D shall in performing the services contemplated by this Memorandum of Understanding, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this Memorandum of Understanding.

ARTICLE 10: CHANGES:

The parties, by mutual agreement, may, at any time during the term of this Memorandum of Understanding and without invalidating the Memorandum of Understanding, make changes within the general scope of the Memorandum of Understanding. The Beartooth RC&D agrees to perform such changed services. The Entity's priority list for project work within their county can be changed at any time. In such case, Beartooth RC&D will be informed of this change at the Entity's earliest convenience.

ARTICLE 11: TERMINATION:

This Memorandum of Understanding may be terminated in whole or in part, in writing, by either party in the event of substantial failure by the other party to fulfill its obligations under this Memorandum of Understanding through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

Upon such termination the Entity shall pay the Beartooth RC&D amounts due and unpaid for services rendered as of the effective date of termination, and the Beartooth RC&D shall provide to

the Entity all materials, surveys, reports, data, and other information performed or prepared as of such date.

ARTICLE 12: INDEMNIFICATION:

The Beartooth RC&D agrees to and does hereby indemnify and save the Entities, their officers, officials and employees, harmless against and from:

1. Any and all claims and liabilities, including but not limited to costs, expenses, and attorney fees arising from injury to, or death of, persons (including claims and liabilities for care or loss of services in connection with any bodily injury or death) and including injuries, sickness, disease, or death to Beartooth RC&D employees occasioned by a negligent act, omission, or failure of the Beartooth RC&D;
2. Any and all claims and liabilities, including costs and expenses, for loss or destruction of or damage to any property belonging to the Beartooth RC&D or the Entities caused by a negligent act, omission, or failure of the Beartooth RC&D and;
3. Any fines, penalties, or other amounts assessed against the Entities by reason of the Beartooth RC&D's failure to comply with all health, safety, and environmental laws and regulations applicable to the services; resulting directly or indirectly from, or occurring in the course of the Beartooth RC&D's performance of the services. However, this indemnity shall not extend to claims and liabilities for (i) injury or death to persons or (ii) loss of or damage to property to the extent that these claims and liabilities result directly from the Entity's negligence or willful misconduct.

ARTICLE 13: INSURANCE:

The Beartooth RC&D shall maintain and demonstrate the following types of insurance:

1. The Beartooth RC&D agrees that its employees and particularly the employees designated to work on this memorandum of understanding are covered by applicable Worker's Compensation provisions. The Beartooth RC&D further agrees that if the Entities should legally incur any costs whatsoever under the Worker's Compensation laws by reason of the Beartooth RC&D employees' injury or death while engaged in the contract work, the RC&D will indemnify and hold harmless the Entities' for such costs which the Entities' may be legally be required to pay to employees of the Beartooth RC&D.
2. Comprehensive general liability insurance for bodily injury, death, or loss of or damage to property of third persons or other liability due to the negligent acts of the Beartooth RC&D in the minimum amounts of \$500,000 per occurrence and \$1,000,000 aggregate for personal injury; and \$500,000 per occurrence/aggregate for property damage. Proof of coverage as required by this section shall be delivered to the Entity within fifteen (15) days of execution of this Agreement.
3. Professional liability errors and omissions insurance in a minimum amount of \$100,000.00.

ARTICLE 14: NONDISCRIMINATION:

The Beartooth RC&D will not discriminate against any employee or applicant for employment relating to this project on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap or national origin. All hiring associated with any project shall be on the basis of merit and qualifications related to the requirements of the particular position being filled.

ARTICLE 15: INDEPENDENT CONTRATOR:

The Beartooth RC&D and the Entity agree that the Beartooth RC&D is an independent contractor with respect to the services provided pursuant to this Memorandum of Understanding. Nothing in this Memorandum of Understanding shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Beartooth RC&D nor any employee of the Beartooth RC&D shall be entitled to any benefits accorded Entity employees by virtue of the services provided under this Memorandum of Understanding. The Entity shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state Worker's Compensation program, nor shall the Entity be deemed in any way to assume the duties of an employer with respect to the Beartooth RC&D, or any employee of the Beartooth RC&D.

ARTICLE 16: ASSIGNMENT:

The Beartooth RC&D shall not sublet or assign any of the services covered by this Memorandum of Understanding without the express written consent of the Entity.

ARTICLE 17: NON-WAIVER:

Waiver by the County of any provision of this memorandum of understanding or any time limitation provided for in this memorandum of understanding shall not constitute a waiver of any other provision.

ARTICLE 18: NOTICES:

Any Notice to be served hereunder may be served upon the parties personally or served by certified mail, return receipt. Notice served by mail shall be deemed complete upon deposit of said notice in any United States Post Office, postage prepaid, directed to the party to be served, at the following addresses:

ENTITY: City of Billings
 PO Box 1178
 Billings, MT 59101

RC&D: Beartooth RC&D
 P.O. Box 180
 Joliet, MT 59041

ARTICLE 19: INTEGRATED AGREEMENT:

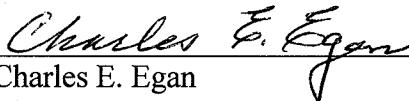
This Memorandum of Understanding together with attachments or addenda represents the entire and integrated Agreement between the Entity and the Beartooth RC&D and supersedes all prior negotiations, representations, or agreements, written or oral. This Memorandum of Understanding may be amended only by written instrument signed by both the Entity and the Beartooth RC&D.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals to this Memorandum of Understanding the day and year in this instrument first above written.

CITY OF BILLINGS

BEARTOOTH RC&D/EDD

Thomas W. Hanel
Mayor



Charles E. Egan
Chairman

Date: 01/25/2010

TITLE: Recreational Trails Program Grant Agreement for Swords Park Trail, Phase 2

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The City of Billings applied to the Montana Department of Fish, Wildlife and Parks for the Recreational Trails Program Grant for the year 2009 for completion of the trail development through Swords Park, Phase 2. This trail segment will connect the existing Swords Park Trail to the west of the park with the bike/pedestrian Airport Road underpass that was built as part of the Airport Road project. The trail in this corridor runs through public parkland. The grant application was approved by the City Council and submitted in June of 2009. The grant award was for \$28,000 and requires a 20% match or \$5,600 that can be matched with the Energy and Efficiency Conservation Block Grant. Since the grant is to be used for City trail improvements, the City Council must accept the Recreational Trails Program Grant and direct the Mayor to sign the agreement.

ALTERNATIVES ANALYZED

The City Council may:

1. Approve of the grant and direct the Mayor to sign the grant agreement
2. Not approve the grant and direct the Mayor to sign the grant agreement. If the City Council does not approve the grant, the \$28,000 in grant funds may not be provided to the City for the project and other funding sources will be needed to complete this project.

FINANCIAL IMPACT

This Recreational Trails Program Grant was submitted to provide \$28,000 in funding for the second phase of the Swords Park Trail. This grant provides reimbursement after monies have been expended and requires a 20% match, or \$5,600. The match can be provided from the Energy and Efficiency Conservation Block Grant, which the City recently received and has allocated a portion of for completion of this project.

RECOMMENDATION

Staff recommends that the City Council approve the grant and direct the Mayor to sign the Recreational Trails Program Agreement for a total of \$28,000 in reimbursement for the second phase of the Swords Park Trail Project.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [RTPG Agreement](#)

RECREATIONAL TRAILS PROJECT AGREEMENT #RTP FY2010 – 03

THIS AGREEMENT, entered into this **28th** day of **December, 2009** by and between FISH, WILDLIFE AND PARKS, the governmental agency of the State of Montana designated to act for the State of Montana, for the purpose of implementing the Recreational Trails Program, with its principal place of business at Helena, Montana, hereafter called the "Department," and City of Billings, hereinafter referred to as the "Sponsor".

WITNESSETH:

WHEREAS, the Sponsor desires to conduct a trail project called Swords Park Trail – Phase Two for the purpose of public outdoor trail recreation, and to comply with the reimbursement requirements as a recipient of the amount approved by the Department for this trails project; and,

WHEREAS, it is the desire of the Department to administer the grant to the Sponsor of said project and to determine satisfactory completion and performance;

NOW, THEREFORE, in consideration of the covenants to be performed by each party on behalf of the other, as hereinafter set forth, it is hereby understood and agreed by and between the parties hereto as follows:

1. That the Sponsor will conduct the following described trail project in accordance with the plans and specifications approved with Project Application submitted to the Department.

This project will consist of development of a connector trail through the east end of Swords Park.

2. That the Sponsor will initiate promptly and diligently complete said project on or before **October 15, 2012**. In the event that the Sponsor desires to extend the contract completion date for good cause (for a maximum of one year), be advised that the Department has a Contract Extension Form that first needs to be completed and signed by both parties. A letter requesting an extension should be received at FWP's office in Helena no later than 6 months prior to original contract completion date.

3. The Sponsor guarantees that it has funds necessary for the implementation of this project, that it will pay for said project, and will request reimbursement for allowable costs only. Upon receipt of satisfactory billing documentation from the Sponsor, the Department agrees to reimburse the Sponsor the allowable funds expended by the Sponsor. The Department will then submit the grantees' documentation to the Federal Highways Administration for reimbursement. The state share approved at this time shall not exceed **\$28,000**. The sponsor will provide an amended Part B, Project Cost Information, from their RTP application showing adjustments based upon the grant amount identified herein, and explaining any changes in the scope of the project in the description text following said amended Part B. The amended Part B, if applicable, will be completed by the Sponsor and returned to the Department with the signed Project Agreement.

4. The National Recreational Trails Fund is an 80% recreational trails program/20% Sponsor cost-share program. At the time/s of request for reimbursement by the Sponsor, the Sponsor will account for Sponsor funds expended and value of in-kind contributions, with the Sponsor's share being not less than 20% of costs incurred.

5. It is understood and agreed by both parties hereto that the mandates of the Recreational Trails Program are hereby incorporated into this Agreement by this reference and that the same shall be binding upon both parties hereto, and that modification of this Agreement, and special terms and conditions to the project may be established by the Department upon agreement by the Department and the Sponsor.

6. The Sponsor agrees to provide the Department with all reports and certifications, including accounting reports, receipts and vouchers as requested and in the form and upon the dates requested either prior to commencement of the project or at any time during the project. The Sponsor also agrees to follow accounting procedures satisfactory to the Department and to provide, upon request at any time during the project, a financing commitment indicating that continued funds will be available for completion of the project as proposed in the referenced plans and specifications, and to reimburse the Department for any and all overpayments on this project. In addition, the Sponsor agrees to allow Federal, Legislative, Department or State Auditors access to its records for the purpose of determining that this grant is administered in accordance with grant terms and conditions and, upon request, to provide the Department with a copy of any such audit.

7. Requests for reimbursement by the Sponsor may be made **no more than two times per year** or at project completion. Financial reimbursement will be contingent upon the Sponsor satisfying the Department that expenditures are consistent with the project agreement. Reimbursement information may be found on the FWP website at <http://fwp.mt.gov/recreation/grants/rtp/reimbursement.html>).

8. Purchase of Goods or Services. Goods and services for trails projects typically include purchase of such things as equipment, equipment parts, equipment repairs, trailhead or trailside facilities, signs, rental of equipment or facilities, contracted labor for grooming, maintaining, rehabilitating, planning, engineering, developing or building trails.

- a. Goods or Services costing \$5,000 or less may be purchased without bids. However, it is recommended that price comparisons be made to ensure the best buy.
- b. Goods or services costing \$5,000 to \$25,000 require limited solicitation. This should include cost proposals, by fax or written format, from at least three prospective vendors if possible. If there are fewer than three potential vendors available, that must be documented. The sponsor must forward documentation of this limited solicitation, results and a copy of the contract/agreement to the Trails Programs Office, FWP prior to any request for reimbursement.
- c. For goods or services costing more than \$25,000, the sponsor must solicit for bids or proposals. This includes notifying prospective vendors directly and advertising in a publication of area significance and allowing at least 30 days for submittal of proposals. The sponsor must forward documentation of this solicitation, results and a copy of the contract/agreement to the Trails Programs Office, FWP prior to any request for reimbursement.
- d. For any equipment purchased with Recreational Trails Program funds, that equipment may only be used for the specific purposes identified in the project application and agreement for the following five years (see Condition 8f), and the grant sponsor must provide a maintenance schedule for that equipment prior to requesting reimbursement for purchase or operation of that equipment. Prior to purchase, the grant sponsor, in consultation with the Department, must produce a cost-benefit analysis to determine if renting or leasing equipment would provide a cost advantage over purchase.

- e. No employee, officer or agent of the Sponsor shall participate in the selection, award or administration of a contract supported by Recreational Trails Program funds if a real or apparent conflict of interest would be involved. Goods or services may not be purchased by the Sponsor from any business in which the Sponsor, an officer or agent has a financial or other interest.
 - f. Equipment purchased with Recreational Trails Program funds will not be used for personal gain or purposes. Equipment that costs more than \$1,000 may not be traded or sold by the Sponsor in less than five (5) years without prior written approval by the Department. Any income received by the Sponsor from the sale of equipment purchased with Recreational Trails Program funds must be reinvested in the project for which the equipment was purchased or a similar project that benefits public trails.
9. The Department may unilaterally terminate this agreement upon refusal by the Sponsor to allow access to records necessary to carry out the legislative audit and analysis function set forth in Title 2, Section 7, Part 5, Montana Codes Annotated.
10. The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
11. The Sponsor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
12. The Sponsor further agrees to permit inspection of the project by the Department or its employees or agents at any and all reasonable times during or after project completion.
13. The Sponsor further agrees that this trail project will be available to the general public.
14. It is understood and agreed by both parties that a failure to comply with any of the points listed above can result in a voiding of this Agreement and a loss of further Recreational Trails Program assistance.
15. The Sponsor further agrees to protect, defend, and save the state, its elected and appointed officials, agents and employees, while acting within the scope of their duties as such, harmless from and against all claims demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Sponsor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of service performed or omissions of services or in any way resulting from the acts or omissions of the Sponsor and/or its agents, employees, subcontractors, representatives, or the state under this Agreement.

IN WITNESS WHEREOF, the Department has caused its name to be subscribed thereunto duly authorized and the Sponsor has caused its name to be subscribed by its proper officers, thereunto duly authorized, on the day and year first above written.

BY: _____
FISH, WILDLIFE and PARKS

DATE _____

BY: _____
PROJECT SPONSOR

DATE _____

(Sponsor's Federal I.D.# _____)

Date: 01/25/2010

TITLE: Application Submittal for an AmeriCorps VISTA Project, Second Year

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The Community Development Division has been approached by the Corporation for National and Community Services regarding sponsoring a VISTA project for a second year to build capacity in Billings to impact poverty and homelessness. Funding for the project would be provided by the Corporation for National and Community Service. The project would be funded on a year-to-year basis, and expected to cover a three- to four-year period. The deadline for the application is March 2, 2010.

The Billings Metro VISTA Project would place up to ten AmeriCorps VISTA members serving to reduce of risk of homelessness and create the tools people in poverty need to build sustainable futures. This aligns with goals of the Mayor’s Committee on Homelessness’s ten-year plan to impact homelessness, Welcome Home Billings, and the Governor’s Council on Homelessness. The Billings Metro VISTA Project will join four other projects throughout the state: MT Legal Services Association; Department of Public Health and Human Services - Prevention Resource Center; Richland County Health Department - Communities in Action; and University of MT - MT Campus Compact. The goal of all of these projects is to address poverty-related issues of hunger, housing and mentoring and each one expects to make an important impact in efforts to end poverty in the state of Montana.

City Council approval for the application would allow the Community Development Division to assist in application preparation and administration of activities on behalf of several community agencies, including agencies such as Family Service, Inc., the Billings Area Resource Network, Volunteers of America, Salvation Army, United Way, Family Support Network, and Second Chance Homes.

ALTERNATIVES ANALYZED

The Council may:

- Submit an application for the AmeriCorps VISTA Project; or
- Not submit an application for the AmeriCorps VISTA Project.

FINANCIAL IMPACT

The City is not required to commit funding to the project and may receive approximately \$20,000-\$30,000 per year to support project coordination and administration costs. Each VISTA placement’s personnel value is estimated at \$30,000, and seven to ten VISTA placements are being requested (\$230,000 - \$320,000 grant per year). City match offered in the application includes \$3,500 in in-kind office space and equipment per volunteer, if the position is filled. An additional \$15,000 over three years in administrative costs may be allocated as the Community Development administrative budget allows. This is negotiable on an annual basis with the Corporation for National and Community Service.

RECOMMENDATION

Staff recommends that Council authorize submission of an application for an AmeriCorps VISTA Project and authorize City staff to negotiate and finalize the project if awarded.

APPROVED BY CITY ADMINISTRATOR

Date: 01/25/2010

TITLE: Application Submittal & Finalization of Grant-STOP Violence Against Women Act - RFP #10-02-W

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

An RFP from the Montana Board of Crime Control was posted in late December, 2009. We would like to pursue this subgrant for Domestic Violence training and continuation of the "Domestic Violence Investigator" program for the 9th year. The amount for this grant totals \$62,862.00. The application is due by February 19, 2010. Staff is asking Council's approval to submit the application and finalize the grant.

ALTERNATIVES ANALYZED

The City Council may:

- Approve application submittal and finalization of STOP Violence Against Women Act; or
- Do not approve application submittal and finalization of STOP Violence Against Women Act.

FINANCIAL IMPACT

This grant requires a 25% match of hard and/or soft cash. The City of Billings will contribute approximately \$18,000.00, which includes a hard match of \$1,600 and a soft match of \$16,400.00. The hard match will be included in the FY 11 Training budget and consists of the City paying \$1,300 toward the instructor cost and \$300 for refreshments for the training. The soft match includes supervision, data analysis, and case management of the grant; use of patrol vehicle, telephone cost, office space for DV Investigator on second floor of City Hall; and use of Police training facility at PD1 for domestic violence investigator training.

BACKGROUND

Through the cooperative efforts of the Police Department and the City Attorney's office, a significant need for more intensive investigation was identified in domestic violence cases. Once again, we would like to apply for STOP Violence Against Women Act grant. In 2005, the scope of the grant changed from focusing solely on training, to include funds to pay for follow-up investigation of domestic violence cases being prosecuted through the City Attorney's Office.

This change has allowed the city prosecutors to have Billings Police Department Officers available specifically for domestic violence follow-up investigation and case management that was previously unavailable due to manpower restrictions.

Grant money is requested to pay officers to work as domestic violence follow-up investigators in the form of overtime assignments (during their off-time). These investigators are selected from a pool of volunteer officers who have previously received domestic violence training offered through prior Domestic Violence grants funded by the Montana Board of Crime Control.

For the past nine years the Billings Police Department's Training Division has applied for the Domestic Violence grant through the Board of Crime Control. For the past five years this grant has included funds to pay Domestic Violence Investigators. This addition of manpower has proven to be very helpful to both the victims of domestic violence as well as the city prosecutors.

This year we would like to continue to apply for funds for both the Domestic Violence training as well as funding for investigators.

RECOMMENDATION

Staff recommends Council’s approval in pursuing the Misdemeanor Probation – Domestic Violence grant application and when notified of its acceptance, City staff be authorized to finalize the grant.

APPROVED BY CITY ADMINISTRATOR

Date: 01/25/2010

TITLE: Contract with GeoComm for Radio Implementation Plan

PRESENTED BY: Paul Dextras

Department: Fire

Information

PROBLEM/ISSUE STATEMENT

In 2009 the City of Billings contracted with GeoComm to study the current 800 MHz radio system and provide recommendations for future radio communications systems. The City of Billings Radio Assessment was completed in July 2009 and four options for radio system replacement were presented. GeoComm consultant Lex Rutter discussed these options with the City Council at a work session on November 16, 2009. The most cost effective proposal was to replace the existing 800 MHz radio system with VHF equipment that is part of the Interoperability Montana project , coordinated with other agencies, and operated as a digital, simulcast trunked radio system. The complexities of defining such a system in an RFP require professional and technical consultation. The City of Billings utilized the State of Montana Master Contract and Cooperative Purchasing arraignment when it selected GeoComm to perform the Radio Assessment and through that arraignment, we are authorized to continue to engage GeoComm for technical assistance in the development of an Implementation Plan. The Implementation Plan will provide specific information that will enable the City of Billings to prepare a Request for Proposal for a VHF digital, simulcast radio system.

The Implementation Plan will provide detailed information pertinent to:

- System Design
- Radio Coverage
- Contingency Planning
- Radio Console Functionality
- System Recording
- Training Requirements
- Interoperability Considerations
- Technology Standards
- System Integration
- Funding Opportunities and Options
- Proposed Replacement Project Schedule

ALTERNATIVES ANALYZED

City Council may:

- Approve the contract with GeoComm for a radio system Implementation Plan; or
- Not approve the contract with GeoComm for a radio system Implementation Plan.

FINANCIAL IMPACT

GeoComm has agreed to prepare an Implementation Plan for \$37,840. These funds are available in a contingency line item in the 800 MHz Radio budget.

RECOMMENDATION

Staff recommends the City Council approve the contract with GeoComm for a radio system Implementation Plan for the amount of \$37,840.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [GeoComm Contract](#)

Project Agreement

This Project Agreement is made by and between the **City of Billings** organized under the laws of the state of Montana and **GeoComm Inc.**, a Minnesota corporation with its principal offices at 601 West St. Germain Street, St. Cloud, MN, 56301.

In this agreement the party who is contracting to receive the professional services shall be referred to as “the Customer” and the party who will be providing the services shall be referred to as “GeoComm.”

GeoComm has an established background in communications engineering, geographic information systems development, cartography, software development, and professional project management and is willing to provide those services to the Customer based on this background.

The Customer desires to have services provided by GeoComm. Therefore, the parties agree as follows:

Section 1 - Description of Service

Beginning upon contract signing GeoComm will provide the following goods and services (collectively the Services): Refer to the itemized Exhibits herein and made part of this agreement:

- Radio Implementation Plan

Section 2 - Payment

The Customer will pay a fee to GeoComm of **\$37,840.00** for services as described in this agreement and provided under this agreement by GeoComm. The Customer agrees to pay GeoComm on the following schedule:

\$ 7,568.00	Invoiced net 45 upon contract signing
\$ 7,568.00	Invoiced net 45 beginning the first of the month following contract signing and continuing for three months
\$ 7,568.00	Invoiced net 45 upon completion of project

Section 3 - Late Payment Fee

All invoices issued under this contract shall be submitted to the Customer net 45 days. A 1.5% service charge shall be assessed to all invoices not paid within 45 calendar days from date of invoice.

Section 4 - Expense Reimbursement

GeoComm shall pay all “out-of-pocket” expenses and shall not be entitled to reimbursement from the Customer except by mutual prior agreement.

Section 5 - Performance of Services

GeoComm will work as many hours as is necessary to fulfill its obligations under this agreement. GeoComm will provide an acceptance form within five days of submission of a contracted deliverable. The customer will, within 10 days of receipt of the form, either (a) provide GeoComm with its written acceptance of the completed deliverable, or (b) identify to GeoComm in writing, the failure to comply

with the specifications, listing any errors and omissions in reasonable detail. If the client fails to notify GeoComm of any failures within the applicable acceptance period, the deliverable is deemed accepted. Upon GeoComm's receipt of written notice of rejection GeoComm shall have 10 business days, or such other time as the customer and GeoComm may agree is reasonable, to correct all such failures and resubmit the acceptance form.

Section 6 - Standards of Work

GeoComm agrees that the performance of work described in this Agreement and pursuant to this Agreement shall be done in a professional manner and shall conform to employ the care and skill ordinarily used by members of GeoComm's profession.

Section 7 - Statement of Work

The Customer shall, in addition to responsibilities described elsewhere in this Agreement, perform the following coincident with the performance of this Agreement:

- Designate a Project Coordinator and reserve the right to change this appointment

Section 8 - Changes in the Work

The Customer may, at any time by written order, make changes within the general scope of the work including but not limited to, revisions of, additions to, or subtractions from, and or portions of the work.

If any change order causes an increase or decrease in the cost of or time required for the performance of any part of the work under this Agreement, an adjustment based on the exhibits, shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified in writing accordingly.

Section 9 - Excusable Delays

GeoComm shall not be responsible for delays or lack of performance resulting from action or inaction beyond the reasonable control of the company and/or its employees and agents. Such delays may cause an impact on the schedules included in this agreement. Any delays beyond GeoComm's control, or any services required that fall outside of the scope of services contained herein may result in additional charges. Additionally, significant project delays of more than 90 days may result in the client incurring a maintenance fee of \$500 per month plus any additional work that GeoComm may be required to perform as a result of the delay. GeoComm's consulting rates for such work is \$125 per hour plus actual expenses.

Section 10 - Taxes

The Customer as a taxing authority may be excluded from paying Federal, State, or Local excises, sales, lease, gross income, service, rental, use, property, occupation, or similar taxes. If GeoComm is required to pay taxes of the Customer, the Customer shall pay to GeoComm the amount of such taxes no later than thirty (30) days after receipt of an invoice.

Section 11 - Limitation of Liability

Except for personal injury or death, the Customer's total liability under this contract, including but not limited to breach of contract, negligence, warranty, strict liability in tort, or otherwise is limited to the difference between the market price at the time and place for tender of the goods and the unpaid sales price less expenses saved in consequence of the breach by GeoComm. In no event shall the Customer be liable for GeoComm's incidental or consequential damages to the full extent such may be disclaimed by law.

Section 12 - Disclaimer of Patent License

Nothing contained in this Agreement shall be deemed to grant, either directly or by implication, estoppels or otherwise, any license under any patents or patent applications of GeoComm. Except, the Customer shall have the normal non-exclusive royalty-free license to use that is implied or otherwise arises by operation of law in the sale of a product.

Section 13 - Termination

Either party, upon thirty (30) days written notice to the other party, may terminate this Agreement for violation of the material terms of this Agreement and failure to cure any deficiency within a reasonable time after notice thereof. In the event of termination by the Customer, GeoComm shall be able to retain and receive payment for all services completed up to the date of termination. In the event of termination by GeoComm, the Customer shall receive a full refund of the contract amount.

Section 14 - Relationship of Parties

The parties understand that GeoComm is an independent contractor and not an employee of the Customer. The Customer will not provide fringe benefits, including health insurance benefits, paid vacation, or any other employee benefit for the benefit of GeoComm as a function of this agreement.

Section 15 - Disclosure

GeoComm is required to disclose any outside activities or interests, including ownership or participation in the development of prior inventions, that conflict or may conflict with the best interests of the Customer. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to any activity that GeoComm may be involved with or on behalf of the Customer.

Section 16 - Employees

GeoComm's employees and agents, if any, who perform services for the Customer under this Agreement shall also be bound by the provisions of this agreement.

Section 17 - Injuries

GeoComm acknowledges its obligation to obtain appropriate insurance coverage for the benefit of GeoComm and its employees. GeoComm waives any rights to recover damages from the Customer for any injuries that GeoComm and/or its employees may sustain while performing services under this agreement and that are in any way a result of the negligence of GeoComm or its employees or agents.

Section 18 - Indemnification

GeoComm shall indemnify and hold harmless the Customer against and from all liability, claims, damages, and costs including attorney's fees of every kind and nature and attributable to bodily injury, sickness, disease or death, or to damage or destruction of property resulting from or in any manner arising out of or in connection with the project and the performance of the work under the contract.

Section 19 - Insurance

GeoComm shall obtain liability insurance for both personal injury and property damage. Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days prior notice thereof to the Customer.

Minimum limits for GeoComm liability insurance shall be in the amount of \$1,000,000.00 for any number of claims arising out of a single occurrence under a single limit or combined limit or excess umbrella general liability insurance policy. GeoComm shall additionally obtain Worker's Compensation Insurance extending coverage to all its employees.

Section 20 - Data Confidentiality

GeoComm agrees to review, examine, inspect, or obtain Customer data only for the purposes described in this agreement and to at all times hold such information confidential. The obligation to protect the confidentiality of confidential information disclosed to the other party shall extend for a period of five (5) years following disclosure and shall survive early termination of this Agreement.

Section 21 - Records Retention and Availability

GeoComm agrees that the Customer, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of GeoComm and involve transactions relating to this Agreement.

GeoComm agrees to maintain these records for a period of three (3) years from the date of termination of this Agreement.

Section 22 – Nondiscrimination

During the performance of this contract, GeoComm agrees as follows:

- a) GeoComm shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. GeoComm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting the provisions of this nondiscrimination clause.
- b) GeoComm, in all solicitations or advertisements for employees placed by or on behalf of GeoComm, shall state that such contractor is an equal opportunity employer.
- c) Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

- d) GeoComm shall include the provisions of the foregoing paragraphs of this section in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

Section 23 - Drug-Free Workplace to be maintained by the Contractor

During the performance of this contract, GeoComm agrees as follows:

- a) GeoComm shall provide a drug-free workplace for all of their employees. GeoComm agrees to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specify the actions that will be taken against employees for violations of this prohibition.
- b) GeoComm, in all solicitations or advertisements for employees placed by or on behalf of GeoComm, shall state that such contractor maintains a drug-free workplace.
- c) Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

GeoComm shall include the provisions of the foregoing paragraphs of this section in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

Section 24 - Assignment

GeoComm's obligations under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of the Customer.

Section 25 - Notices

All notices required or permitted under this agreement shall be in writing and shall be deemed delivered in person or deposited in the United States mail, postage prepaid, addressed as follows.

City of Billings

Anne Kindness, Communications Center Manager
2305 9th Ave. North, Billings, MT 59101
Phone (406) 657-8444 E-mail KindnessA@ci.billings.mt.us

GeoComm

Todd Pieper, Assistant Consulting Services Manager
601 West St. Germain Street, St. Cloud, MN 56301
Phone (320) 240-0040 Fax (320) 240-2389 E-mail tpieper@geo-comm.com

Either party may change such address from time to time by providing written notice to the other in the manner set forth above.

Section 26 - Entire Agreement

This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This agreement supersedes any prior written or oral agreements between the parties.

Section 27 - Amendment

This Agreement may not be modified or amended unless the amendment is made in writing and is signed by both parties.

Section 28 - Severability

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it becomes valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

Section 29 - Waiver of Contractual Right

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party’s right to subsequently enforce and compel strict compliance with every provision of this Agreement.

Section 30 - Laws to be Observed

GeoComm shall keep fully informed of all Federal and state laws, all regulations pertaining to the Occupational and Safety Hazards Act (OSHA), all local laws, ordinances and regulations, and all orders and decrees of bodies and tribunals having any jurisdiction or authority, which in any manner affect the conduct of work.

Section 31 - Applicable Law

If there is any dispute concerning this agreement, the laws of the State of Montana shall apply. Proper venue and jurisdiction for all lawsuits, claims, disputes, and other matters in questions between the parties to this agreement or any breach thereof shall be in the state of Montana.

For City of Billings

By: _____
Signature/Title

Date: _____

For GeoComm

By: _____
Janet Grones/Treasurer

Date: _____

In 2009 the City of Billings contracted with GeoComm to study the current radio system and provide recommendations for future radio communications systems. The City of Billings Radio Assessment was completed in July 2009 and four options for radio system replacement were presented.

The City of Billings wishes to further explore the option that has been defined as follows:

Replace the existing 800 MHz system with VHF equipment that is part of the Interoperability Montana project, coordinated with other agencies, and operated as a digital, simulcast, trunked system.

This project will require GeoComm to further research this option and provide specific information that will enable the City of Billings to prepare a Request for Proposal (RFP) for a new radio system. It is expected that the system standards and interface/integration requirements are configured in such a way that allows multiple vendors/manufacturers to meet the requirements of RFP.

The final work product will, where applicable, draw from data gathered in the City of Billings Radio Assessment and include the following components.

Technical Requirements

A. System Design

The most cost effective plan for future communications requires the City of Billings to participate as a partner in the Interoperability Montana (IM) project. However, because on-going costs associated with IM have not been fully identified, the City believes that they would be best served with an independent radio system that is capable of a full interface/integration with the IM system. Therefore, the City's system must be engineered to be compatible with IM system functions and features.

Key factors:

1. The number of end-user radios
2. The number of talk groups required to satisfy daily operations and interoperability
3. The number of VHF channels required for daily operations and interoperability
4. Tower sites needed
5. System infrastructure equipment plans
6. Tower site connectivity
7. Narrowband capability
8. Wideband capability
9. Paging
10. Encryption
11. Future of mobile data

B. Coverage

The City of Billings Radio Assessment identifies the coverage of the proposed VHF system and provides propagation analysis and mapping as based on a proposed fourth tower site. It has been determined that a fourth radio tower is required to achieve a level of coverage commiserate with the growth plans of the City of Billings. However, the location of the fourth site that was previously

identified by the City cannot be used for that purpose and a new location must be identified. Additionally, satisfactory in-building penetration is a requirement of any new system.

Key factors:

1. Location of the proposed fourth radio tower
2. Connectivity to identified IM system infrastructure
3. Estimated cost of securing and developing a new tower site
4. Revised propagation mapping

C. Contingency Planning

Any new system must be engineered to allow continued communications in the event of component, console, or connectivity failure. Typical contingency requirements for a digital, simulcast, trunked system which interfaced/integrated into a larger system should be outlined.

D. PSAP Consoles

Information pertinent to the configuration and functionality of PSAP consoles with respect to efficient daily operations as well as interoperability requirements must be provided.

E. Recording

Considerations related to recording the radio traffic associated with daily and interoperable communications should be addressed. The City of Billings currently employs a Stencil 10-4 recording system with a 40 channel capacity.

F. Training

City of Billings system users are familiar with trunked, simulcast operations, however, participation in the IM project and the associated interoperability functions will undoubtedly require user end training. What are the typical training requirements under such conditions?

G. Interoperability

The ability to conduct seamless communications both internally and externally will be a critical function of any new City of Billings radio system. Defining system requirements that will enable fully functioning interoperability will require discussion with IM technical personnel and consultation with the local Big Sky 11 consortium.

Key factors:

1. Internal interoperability (City fire, police, airport, etc.)
2. External interoperability
 - a. City/county agency communications
 - b. City/state agency communications
 - c. City/federal agency communications
 - d. Region-wide communications
3. Meeting or exceeding mid-line SAFECOM recommendations

H. Standards

The new radio system should comply with any nationally recognized technology standards associated with digital, simulcast, trunked systems. Additionally, it is recognized that additional standards may be applicable for participation in the IM project. Said standards shall be identified for eventual inclusion in the RFP for the new radio system.

I. System Integration

A description of methods and means to achieve integration between the City of Billings radio system and the IM system shall be described. Further, any considerations related to subscriber unit programming should be described.

Costs and Funding

A. Itemized Cost

Estimated expenses related a proposed VHF digital, simulcast, trunked radio system were included in the City of Billings Radio Assessment. It is expected that those projected costs may vary slightly as facts related to the specifics of system integration and design are defined. Changes in these costs shall be presented and will include the projected expenses of acquiring a fourth radio site as outlined in Technical Requirements, section B.

B. Funding

All known funding opportunities and their requirements will be detailed.

C. Contracts

The City of Billings desires a listing of all contracts and local agreements that will be required for both participation in the IM project and qualification for funding resources.

Project Schedule

A proposed timeline of all events and activities to related to radio system replacement - from vetting and selecting a manufacturer to actualizing integration with the IM project will be included.

Deliverable Deadlines

GeoComm proposes to meet the following deliverable deadlines. These deadlines are for reference purposes only and may be modified during negotiations with the City of Billings, MT. The timelines are dependent upon the actual contract signing date. The project dates shown below assume contract signing by February 1, 2010.

Deliverable	Due Date
Contract Signing	February 1, 2010
On-site Project Meeting	February 15, 2010
Site visit- Site Capability, Agency Meetings	March 8, 2010
Draft Internal Specifications Document	March 29, 2010
Draft External System Documentation	March 29, 2010
Site Visit- Draft Document review, Administrative Discussion	April 5, 2010
Final Specifications Report	April 19, 2010
Final Presentation	May 7, 2010
Project Completion	May 14, 2010

Note: Regular Status Reports will be provided during the project.

Date: 01/25/2010

TITLE: 2010 Federal Funding Project Requests

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

For at least a half-dozen years, the Billings City Council have requested Federal funding for projects for projects that the City otherwise could not afford, such as infrastructure, equipment and land acquisition. Council and staff members nominate projects, which are ranked by the Council. An application form for each project that is ranked is submitted to the Federal delegation in Washington. Projects that have been approved for funding in the last couple of years include remediation of the asbestos-laden Navel Reserve Center, funding for the Shiloh road project, digital video cameras for the Police Department, runway expansions for the Airport and replacement buses for MET Transit.

Ten projects for 2010 were presented to the Council at is Dec. 7, 2009, work session. Council members were asked to rank eight of the 10 in priority order. The attached list reflects the outcome of these rankings. If approved, the list will become the funding requests for the 2010 Federal appropriations process.

ALTERNATIVES ANALYZED

The Council may:

- Approve the list as presented;
- Amend the list; or
- Not approve a list, resulting in several; projects being delayed until City funding can be completed, or not being done at all.

FINANCIAL IMPACT

There are no immediate costs. Some Council members have gone to Washington, D.C. each spring to meet with Montana's U.S. Representative and Senators and their staffs to discuss the funding requests. There also may be future matching costs for some projects, depending on the sources of funding.

RECOMMENDATION

Staff recommends that the Council approve the list of requests for projects to be Federally funded as presented.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [2010 Federal Funding Project Requests](#)

CITY OF BILLINGS, MONTANA



0102

0102

FEDERAL FUNDING PROJECTS REQUESTS

PRIORITY	PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
1	Public Safety Radio System Replacement	The current radio system serves all operational functions in the City, which includes almost all of the various departments. The current system is ten years old and must be replaced in a timely manner, as the manufacturer cannot supply support and maintenance past June 30, 2011. Therefore, the City is seeking funding to replace the current radio system with a VHF digital, simulcast, trunked radio system throughout the City of Billings that is fully integrated into the larger Interoperability Montana Project. At the same time, the State of Montana, with its Interoperability Montana Project, is in the process of deploying a statewide VHF digital trunking system. Yellowstone County has already begun participation in that project and is presently preparing three radio sites within the County. This replacement system will provide for more complete coverage of the City of Billings, seamless interoperability with surrounding communities, a wider area of operation for City of Billings first responders, and a more robust, redundant system than is presently experienced. This is a critically important public safety necessity.	\$10,000,000	Fire Department
2	Storm Water Improvements East End Industrial Area	The current storm water collection systems serve 2,812 acres of heavily developed urban area. The current storm drain system is significantly undersized for the urban runoff area and needs to be expanded to eliminate current flooding problems.	\$6,400,000	Public Works Department
3	Sharptail Storm Water Retention System	The City of Billings is requesting assistance in the design and construction of a storm water collection and water quality project. The purpose of the project is to collect and clean storm water generated in a 12,000 acre basin on the west side of Billings, Montana. The project will allow the City of Billings to mitigate significant storm water flooding and meet Federal and State standards for clean water. Currently, the west end of Billings and Yellowstone County have no centralized storm water collection system to divert the floodwater away from development, and clean the water before it enters the Yellowstone River.	\$2,300,000	Public Works Department



CITY OF BILLINGS, MONTANA

NONO

FEDERAL FUNDING PROJECTS REQUESTS				
PRIORITY	PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
4	Personal Protective Equipment – Gas Masks	Personal Protective Equipment (PPE) is necessary in order to operate in an area contaminated with hazardous materials or toxic gas. Currently, the Billings Police Department has no equipment that would allow officers to operate in such an environment. Gas masks would allow officers to do that, thereby providing safety and security for the citizens of Billings. There are three refineries, major rail connections, numerous storage tanks, and tanker trucks traveling through downtown Billings and populated areas carrying hazardous material.	\$86,000	Police Department
5	Hazardous Waste Drop Off Facility	The proper disposal of hazardous material is an environmental concern for our community. Billings currently provides our customers two opportunities a year to dispose of the materials, and we contract to have material disposed of at an approved disposal site. Because the City of Billings does not have the appropriate hazardous waste storage facilities, we cannot store material between the two collection dates. Because of these facility limitations, residents of the area improperly dispose of the material at the landfill, in their sanitary sewers, or on the ground. The improper disposal of hazardous material creates an environmental challenge for generations. Therefore, funds are being requested to construct a storage and transfer facility for our landfill users.	\$100,000	Public Works Department
6	Business Consortium Project	The Mayor's Committee on Homelessness proposes to facilitate the purchase and/or renovation of a building located in downtown Billings with the intent to provide housing in the upper levels for homeless individuals/families, and a storefront business on the lower level. Provisions can be made to accommodate service providers in the building, including healthcare, childcare, and occupational training. Locating all services to meet the needs of the homeless in a single site is a national best practice called "One Stop." The Business Consortium Project would be the first of its kind in Montana, and can be used as a model for implementation in other communities.	\$500,000	Planning Department



CITY OF BILLINGS, MONTANA

NOV 2010

FEDERAL FUNDING PROJECTS REQUESTS				
PRIORITY	PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
7	Speed Control Radars	The Billings Police Department is tasked with enforcing local, State, and Federal laws within the City limits. The largest area of concern, as voiced by the citizens of Billings in recent community meetings, is that of traffic enforcement. Billings has seen a significant increase in injury accidents and fatalities. Many of those accidents involved excessive speed. 2009 has been a particularly deadly year in Billings, with over ten fatalities in the immediate area. In many cases, speed was a factor. Currently, the Billings Police Department utilizes old and outdated radar equipment. Much is in disrepair and some patrol cars are not equipped. The new radar equipment is designed to interface with our ICOP digital camera system.	\$197,750	Police Department
8	Downtown Bicycle/Pedestrian Trail Connections	The future bicycle and pedestrian trail network for the City of Billings was originally proposed in the 1995 BikeNet Plan, and later updated in the 2004 Heritage Trail Plan. The City of Billings has since constructed over 24 miles of hard-surface, off-street bicycle and pedestrian trails based on available right-of-way, need, and funding, resulting in some discontinuous trail segments. The community support for connecting these trail segments is extremely high. The Downtown Connector is a critical bicycle/pedestrian trail link that connects an existing 12.5 mile trail extending from the Billings Heights neighborhood, south along the Yellowstone River to Mystic Park, with the on-street pedestrian and bike facilities in downtown Billings. The Downtown Connector will further the City's objective to link existing trail segments creating an interconnected network linking neighborhoods with destinations.	\$750,000	Planning Department



CITY OF BILLINGS, MONTANA

2010

FEDERAL FUNDING PROJECTS REQUESTS			
PROJECT TITLE	SCOPE	REQUEST ESTIMATE	PROJECT PROPOSED BY
Regional Park Land Acquisition	To alleviate the issue of overcrowding in our community/regional parks, we propose the acquisition of a large contiguous tract of land between 80 and 100 acres to develop into a truly regional multi-use park. A tract of land this size would allow the development of large programmable open spaces and organized sports fields to help reduce the current over crowding we are experiencing in our large parks and provide the necessary amenities to meet the demands of our increases in population.	\$900,000	Parks Department
Fire Department Emergency Services Training Facility	This is intended to be a regional training facility, which would include our City Fire, Police, Aviation and Transit, and other Departments. Components could include a central training/classroom building, fire tower, other building mock-ups, driving track, confined space facilities, trench rescue functions, HazMat facilities, running fuel fire and propane systems, vehicle extrications, aircraft mock-up training, and multiple police functions. These and others, as not yet identified, are potentials. Functions could be added incrementally over multiple years as additional funding becomes available.	\$7,000,000 – \$14,000,000 Depending on what is included and when	Fire Department

Date: 01/25/2010

TITLE: Confirmation of Probationary Police Officer Shane Weinreis

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

On January 13, 2009, Officer Shane Weinreis was rehired by the Billings Police Department as a probationary Police Officer. According to MCA 7-32-4113, his probationary period is for one year from date of hire. At this time the officer has completed his one year probation and, according to state statute, his name is to be submitted to City Council within 30 days for confirmation. All of the supervisor comments concerning the officer's performance are positive and indicate that he is doing a good job, and recommend confirmation.

ALTERNATIVES ANALYZED

The City Council may:

- Approve confirmation of probationary Police Officer Weinreis; or
- Do not approve confirmation of probationary Police Officer Weinreis.

FINANCIAL IMPACT

There is no additional financial impact as Officer Weinreis is currently budgeted for in the 09/10 public safety fund.

RECOMMENDATION

City staff recommends Officer Shane Weinreis be confirmed as a Billings Police Officer.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Consent : 1.M.1.

Date: 01/25/2010

TITLE: Payment of Claims, December 24, 2009.

Pat M. Weber, Financial

PRESENTED BY: Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$636,035.43 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 24, 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	
12/24/2009 502-0000-141.00-00	727881 12/15/2009	ALFA LAVAL WASTEWATER PARTS & SUPPLY	15706 10487434		06/2010	7,655.94 7,655.94	
12/24/2009 630-1753-485.73-10 601-0000-141.00-00 502-7500-609.23-20 502-7500-609.23-20 502-7500-609.23-20 502-7500-609.23-20 150-2112-421.23-20	727883 12/19/2009 12/22/2009 12/22/2009 12/22/2009 12/22/2009 12/22/2009	ARCHIE COCHRANE MISC SERVICES MP NONSTOCKING ITEMS-P.U.D. MP MP MP MP	800 803003/1 5013740 5013887 5013159 5013207 5013498 5013549	271375 271403 271458 271458 271458 271458	06/2010 06/2010 06/2010 06/2010 06/2010 06/2010 06/2010	2,927.68 2,530.88 48.00 210.00 348.14 285.65- 48.24 28.07	
12/24/2009 660-3110-431.53-11 670-3141-489.53-11	727890 12/23/2009 12/23/2009	BILLINGS DEPOT INC 2224 MONTANA AVENUE 2224 MONTANA AVENUE	11948 QUARTERLY LEASE QUARTERLY LEASE	271469 271469	06/2010 06/2010	37,250.01 16,762.50 20,487.51	
12/24/2009 606-1931-484.35-82	727892 12/22/2009	BLACK BOX NETWORK SERVICES MISC SERVICES	19541 01/2010-06/2010	271460	06/2010	14,998.10 14,998.10	
12/24/2009 561-7112-711.36-60 561-7112-711.36-60	727899 12/21/2009 12/21/2009	CONNOR'S GARAGE DOOR SERVICE INVOICE #1086 INVOICE #1117	20573 1086/1117 1086/1117	F10290 F10290	06/2010 06/2010	2,999.00 90.00 2,909.00	
12/24/2009 561-7113-711.36-50	727902 12/22/2009	CRYOTECH DEICING TECHNOLOGY MISC SERVICES	13448 IN20756	271025	06/2010	4,207.11 4,207.11	
12/24/2009 407-7128-711.94-97	727904 12/22/2009	CTA ARCHITECTS MISC SERVICES	920 80436	262835	06/2010	7,675.08 7,675.08	
12/24/2009 260-5518-455.29-25	727905 12/21/2009	DELL COMPUTER L P MISC SERVICES	13426 INV XDFX11C98	269746	06/2010	11,560.25 11,560.25	
12/24/2009 203-1513-466.35-47	727908 12/23/2009	DOWNTOWN PROPERTY OWNERS ASSOC PRIOR YEAR ENCUMBRANCES	20483 FINAL	264623	06/2010	7,328.95 7,328.95	
12/24/2009 10-5112-452.36-65 150-2150-421.35-53 150-2223-422.25-20 620-1913-482.53-15	727910 12/22/2009 12/22/2009 12/22/2009 12/22/2009	ESRI INC MISC SERVICES MISC SERVICES MISC SERVICES MISC SERVICES	13284 92101730 92101730 92101730 92101730	271195 271195 271195 271195	06/2010 06/2010 06/2010 06/2010	20,200.00 314.29 1,100.00 314.29 18,471.42	
12/24/2009 723-6595-465.62-00	727914 12/22/2009	FIRST INTERSTATE BANK MISC SERVICES	1303 1100216095	271416	06/2010	5,057.14 5,057.14	
12/24/2009 494-5163-452.93-70	727923 12/18/2009	HNTB ARCHITECTURE HNTB FINAL PAYMENT	18181 PAYMENT 18	247887	06/2010	17,978.00 17,978.00	
12/24/2009 270-6713-464.72-75	727927 12/23/2009	INTERFAITH HOSPITALITY NETWORK MISC SERVICES	18280 HOUSING FIRST 5	271459	06/2010	43,225.00 6,539.00	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
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12/24/2009	727931	JTL GROUP INC DBA KNIFE RIVER	2417			12,304.00	
502-0000-141.00-00	12/15/2009	SYSTEMS	195467		06/2010	12,238.96	
502-7500-609.45-10	12/15/2009	NONSTOCKING ITEMS-P.U.D.	196028	269483	06/2010	65.04	
12/24/2009	727932	KADRMAS LEE & JACKSON	14850			23,347.26	
845-3186-431.93-10	12/23/2009	WO0412 ALKALI CR RD	5	259114	06/2010	23,347.26	
12/24/2009	727935	KOIS BROTHERS EQUIPMENT CO	6452			5,481.83	
601-0000-141.00-00	11/06/2009	MP	84053		05/2010	746.06	
601-0000-141.00-00	11/12/2009	MP	84114		05/2010	510.40	
541-3122-435.23-20	11/12/2009	MP	84114	269079	05/2010	1,467.19	
601-0000-141.00-00	11/23/2009	MP	84205		05/2010	796.59	
601-0000-141.00-00	11/23/2009	MP	84205		05/2010	41.18	
541-3122-435.23-20	11/23/2009	MP	84205	269079	05/2010	859.17	
601-0000-141.00-00	12/01/2009	MP	84326		06/2010	148.54	
601-0000-141.00-00	12/08/2009	MP	269079		06/2010	306.78	
541-3122-435.23-20	12/08/2009	MP	269079	269079	06/2010	.02-	
601-0000-141.00-00	12/15/2009	MP	84285		06/2010	149.88	
541-3122-435.23-20	12/15/2009	MP	84285	269079	06/2010	374.31	
541-3122-435.23-20	12/15/2009	MP	84285	269079	06/2010	34.56	
601-0000-141.00-00	12/18/2009	MP	84326-A		06/2010	106.85-	
601-0000-141.00-00	12/18/2009	MP	84326-BB		06/2010	154.04	
12/24/2009	727942	MEAD & HUNT INC	18304			5,549.44	
405-7125-711.96-89	12/22/2009	MISC SERVICES	214703	251053	06/2010	5,549.44	
12/24/2009	727948	MORRISON MAIERLE INC	2572			37,831.53	
405-7125-711.96-91	12/23/2009	MISC SERVICES	92117	265209	06/2010	13,592.86	
405-7125-711.96-92	12/23/2009	MISC SERVICES	92117	265209	06/2010	715.41	
405-7125-711.96-91	12/23/2009	MISC SERVICES	92118	265209	06/2010	9,650.77	
405-7125-711.96-92	12/23/2009	MISC SERVICES	92118	265209	06/2010	507.93	
405-7125-711.96-91	12/23/2009	MISC SERVICES	92119	265209	06/2010	12,696.33	
405-7125-711.96-92	12/23/2009	MISC SERVICES	92119	265209	06/2010	668.23	
12/24/2009	727953	NORTH WEST FLOORS	16186			3,217.00	
562-7120-711.92-90	12/22/2009	MISC SERVICES	1794	266525	06/2010	3,217.00	
12/24/2009	727957	NORTHWESTERN ENERGY	15771			28,548.68	
150-2221-422.34-10	12/21/2009	FIRE1/BLEC/27800 KWH USED	0100476-1 DEC09	267531	06/2010	2,145.27	
650-1567-487.34-10	12/24/2009	FACILITIES MANAGEMENT	01005073		06/2010	6,443.30	
561-7117-711.34-10	12/24/2009	NW AVIATION/TRAN	07127921		06/2010	373.27	
561-7117-711.34-10	12/24/2009	NW AVIATION/TRAN	07127996		06/2010	31.18	
561-7117-711.34-10	12/24/2009	NW AVIATION/TRAN	07128002		06/2010	1,111.37	
561-7113-711.34-10	12/24/2009	NW AVIATION/TRAN	07128093		06/2010	7.10	
561-7117-711.34-10	12/24/2009	NW AVIATION/TRAN	07128176		06/2010	96.90	
561-7113-711.34-10	12/24/2009	NW AVIATION/TRAN	07196165		06/2010	51.29	
521-1595-493.34-10	12/24/2009	NW FINANCE	07208291		06/2010	471.34	
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10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07222540	06/2010 .16
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10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07222607	06/2010 74.01
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10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07229057	06/2010 7.10
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10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230352	06/2010 89.12
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10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230378	06/2010 156.34
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230428	06/2010 31.70
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10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230568	06/2010 16.19
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230576	06/2010 7.10
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230584	06/2010 7.20
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07230907	06/2010 8.30
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07231624	06/2010 7.10
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07231707	06/2010 16.21
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07236441	06/2010 7.10
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07236458	06/2010 7.10
260-5512-455.34-10	12/24/2009	NW LIBRARY	07244643	06/2010 79.72
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	07894371	06/2010 17.90
872-5198-452.34-10	12/24/2009	NW PARK/REC/PL	10590933	06/2010 353.47
10-5112-452.34-10	12/24/2009	NW	15220957	06/2010 227.44
521-1592-493.34-10	12/24/2009	PARK 2 GARAGE	15942824	06/2010 2,017.52
660-3110-431.34-10	12/22/2009	2224 MONTANA AVENUE	ACCT# 1741314-7	271382 06/2010 303.07
670-3141-489.34-10	12/22/2009	2224 MONTANA AVENUE	ACCT# 1741314-7	271382 06/2010 370.43
260-5512-455.34-10	12/22/2009	ELECTRIC CHARGES	100467-0 JAN 10	F10294 06/2010 7,919.63
150-2221-422.34-10	12/24/2009	NW FIRE	07125370	06/2010 510.12
10-5122-451.34-10	12/24/2009	NW PARK/REC/PL	07126832	06/2010 83.55
571-7148-713.34-10	12/24/2009	NW AVIATION/TRAN	07127640	06/2010 21.33
150-2221-422.34-10	12/24/2009	NW FIRE	07208408	06/2010 248.28
10-5112-452.34-10	12/24/2009	NW PARK/REC/PL	08317026	06/2010 7.25
521-1595-493.34-10	12/24/2009	NW	13815279	06/2010 104.20
12/24/2009	727965	PUBLIC UTILITIES	5022	124,388.11
521-1592-493.34-20	12/24/2009	105 N 27	4975819	06/2010 24.02
521-1591-493.34-20	12/24/2009	2922 3 AVE NORTH	22414454	06/2010 56.56
521-1591-493.34-20	12/24/2009	2922 3 AVE NORTH SP/IR	22434115	06/2010 10.36
521-1594-493.34-20	12/24/2009	505 N 31	257110001100	06/2010 24.02
872-5198-452.34-20	12/24/2009	4375 IRON HORSE TRL IRR	13578527227	06/2010 9.29
805-1570-425.53-50	12/24/2009	4430 HI-LINE DR	6712510003200	06/2010 123,735.42
512-8500-625.34-20	12/24/2009	4430 HI-LINE DR	671274846	06/2010 399.17
211-3134-433.34-20	12/24/2009	4430 HI-LINE DR	671294847	06/2010 129.27
12/24/2009	727967	REPORTER BIG SKY OFFICE INC	3175	3,921.00
150-2150-421.21-20	12/21/2009	MISC SERVICES	305003-0	269823 06/2010 2,300.00

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12/21/2009	150-2150-421.21-20			MISC SERVICES	307174-0	269823	06/2010	1,621.00
12/24/2009	727969	RIMROCK FOUNDATION	3210					3,685.11
12/22/2009	246-1253-412.35-90			BAMDC IOP COUNSELOR - NOV	2010-6	271373	06/2010	3,685.11
12/24/2009	727982	TETRA TECH, INC.	19346					5,168.75
12/22/2009	541-3123-435.35-90			GAS/GW MONITORING LF	50313728	270988	06/2010	5,168.75
12/24/2009	727983	TOWN & COUNTRY SUPPLY ASSOCIAT	18295					77,892.94
12/22/2009	502-0000-141.00-00			WATER PARTS AND SUPPLIES	69258		06/2010	12,867.00
12/22/2009	601-0000-141.71-41			MP	70304		06/2010	4,359.33
12/22/2009	601-0000-141.00-00			MP	72916		06/2010	5,132.50
12/21/2009	561-7113-711.23-10			INVOICE #69259	69234/692529	F10288	06/2010	10,385.95
12/21/2009	561-7118-711.23-13			INVOICE #69234 - AIRPORT	69234/692529	F10288	06/2010	6,915.20
12/23/2009	601-0000-141.00-00			MP	69278		06/2010	24,038.30
12/23/2009	601-0000-141.71-41			MP	69277		06/2010	14,194.66
12/24/2009	727984	TRACTOR & EQUIPMENT	3775					6,638.30
12/18/2009	541-3122-435.23-20			MP	BLW00113516	271372	06/2010	751.64
12/22/2009	541-3123-435.23-20			MP	BLW00113586	271441	06/2010	5,886.66
12/24/2009	727988	US BANK-REVOLVING LOAN FUND	16715					5,057.14
12/22/2009	723-6595-465.62-00			MISC SERVICES	53-7240483306	271414	06/2010	5,057.14
12/24/2009	727992	VERIZON WIRELESS	14490					11,336.17
12/22/2009	561-7110-711.34-50			VERIZON WIRELESS DEC 2009	AIRPORT		06/2010	408.50
12/22/2009	150-2170-441.34-50			VERIZON WIRELESS DEC 2009	ANIMAL SHELTER		06/2010	144.57
12/22/2009	717-2166-421.34-50			VERIZON WIRELESS DEC 2009	CCSIU		06/2010	121.71
12/22/2009	10-1313-413.34-50			VERIZON WIRELESS DEC 2009	CITY ADMIN		06/2010	57.22
12/22/2009	10-1611-416.34-50			VERIZON WIRELESS DEC 2009	LEGAL		06/2010	32.81
12/22/2009	150-2225-422.34-50			VERIZON WIRELESS DEC 2009	COMM CENTER 911		06/2010	51.30
12/22/2009	650-1565-487.34-50			VERIZON WIRELESS DEC 2009	FACILITIES BOC		06/2010	63.41
12/22/2009	650-1567-487.34-50			VERIZON WIRELESS DEC 2009	FACILITIES CH		06/2010	82.79
12/22/2009	10-1512-415.34-50			VERIZON WIRELESS DEC 2009	FINANCE PAT		06/2010	73.03
12/22/2009	150-2221-422.34-50			VERIZON WIRELESS DEC 2009	FIRE DEPT		06/2010	714.53
12/22/2009	10-1750-417.34-50			VERIZON WIRELESS DEC 2009	HUMAN RESOURCES		06/2010	42.40
12/22/2009	620-1913-482.34-50			VERIZON WIRELESS DEC 2009	ITD GIS		06/2010	12.82
12/22/2009	620-1911-482.34-50			VERIZON WIRELESS DEC 2009	ITD		06/2010	169.46
12/22/2009	260-5517-455.34-50			VERIZON WIRELESS DEC 2009	LIBRARYOUTREACH		06/2010	25.64
12/22/2009	260-5512-455.34-50			VERIZON WIRELESS DEC 2009	LIBRARY		06/2010	136.41
12/22/2009	601-1550-481.34-50			VERIZON WIRELESS DEC 2009	MOTOR POOL		06/2010	35.19
12/22/2009	10-1220-412.34-50			VERIZON WIRELESS DEC 2009	DRUG COURT		06/2010	127.61
12/22/2009	10-1212-412.34-50			VERIZON WIRELESS DEC 2009	MUNI JUDGE		06/2010	136.63
12/22/2009	240-4301-419.34-50			VERIZON WIRELESS DEC 2009	PLANNING		06/2010	12.82
12/22/2009	150-2111-421.34-50			VERIZON WIRELESS DEC 2009	POLICE		06/2010	2,609.63
12/22/2009	251-2186-421.34-50			VERIZON WIRELESS DEC 2009	POLICE FORENSIC		06/2010	59.07
12/22/2009	249-2196-421.34-50			VERIZON WIRELESS DEC 2009	698 1391 DV		06/2010	22.41
12/22/2009	521-1521-493.34-50			VERIZON WIRELESS DEC 2009	PARKING		06/2010	389.33
12/22/2009	10-5110-453.34-50			VERIZON WIRELESS DEC 2009	PRPL ADM		06/2010	62.42
12/22/2009	10-5121-451.34-50			VERIZON WIRELESS DEC 2009	PRPL-RECREATION		06/2010	87.37

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10-5112-452.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PARKS PMD		06/2010	43.04	
10-5112-452.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PARKS		06/2010	10.81	
10-5112-452.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PARKS IRRIGATION		06/2010	27.46	
10-1543-415.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PURCHASING		06/2010	67.22	
660-3110-431.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PW ADM		06/2010	122.49	
209-4451-428.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	BUILDING		06/2010	180.81	
670-3141-489.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	ENGINEERING		06/2010	409.45	
541-3121-435.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	SOLID WASTE		06/2010	44.86	
211-3131-433.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	STREET/TRAFFIC		06/2010	458.96	
541-3123-435.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	SW ON CALL		06/2010	80.02	
502-7700-611.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PUD ENVIRN 1/2		06/2010	19.02	
512-8700-628.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PUD ENVIRN 1/2		06/2010	19.02	
502-7400-603.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	WATER TREATMENT		06/2010	809.85	
502-7500-609.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	WATER SYSTEMS		06/2010	380.40	
512-8500-625.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	WASTEWATER SYS		06/2010	760.80	
502-7312-602.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PWBLKNP MTRSHOP		06/2010	461.48	
502-7314-602.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PWBLKNP STORES		06/2010	114.12	
502-7311-602.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	PWBLKNP OFFICE		06/2010	114.12	
512-8400-623.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	WASTEWATER TREA		06/2010	1,074.39	
606-1931-484.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	TELECOMM SYS		06/2010	22.67	
571-7142-713.31-60	12/22/2009	VERIZON WIRELESS DEC 2009	ON-CALL MET		06/2010	90.40	
571-7141-713.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	MET TRANSIT		06/2010	53.92	
10-4321-419.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	CODE ENFORCEMT		06/2010	168.65	
10-1100-411.34-50	12/22/2009	VERIZON WIRELESS DEC 2009	MAYOR		06/2010	68.38	
12/24/2009	727995	WELLS FARGO BANK-LOAN PAYMENT	16716			5,057.14	
723-6595-465.62-00	12/22/2009	MISC SERVICES	1609108243	271415	06/2010	5,057.14	
12/24/2009	727996	WESTERN MUNICIPAL CONSTRUCTION	11742			55,158.76	
513-0000-201.10-00	12/23/2009	WO0801 2008 WTR & SWR	RET RELEASE	265602	06/2010	11,424.41	
513-0000-201.10-00	12/23/2009	WO0801 2008 WTR & SWR	RET RELEASE	265602	06/2010	25,953.60	
513-0000-201.10-00	12/23/2009	WO0801 2008 WTR & SWR	RET RELEASE	265602	06/2010	3,552.47	
513-8591-625.93-40	12/23/2009	WO0801 WTR & SWR REHAB	7	265602	06/2010	14,228.28	
12/24/2009	727997	WESTERN SECURITY BANK	16462			5,118.28	
723-6595-465.62-00	12/22/2009	MISC SERVICES	100022110	271417	06/2010	2,559.14	
723-6595-465.62-00	12/22/2009	MISC SERVICES	157011874	271417	06/2010	2,559.14	
DATE RANGE TOTAL *						602,763.70	*

Date: 01/25/2010

TITLE: Zone Change #860, Public Hearing and 1st Reading - 439 South Billings Boulevard

PRESENTED BY: Candi Beaudry

Planning & Community

Department: Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request from Residential 6,000 (R-60) to Controlled Industrial (CI) on the North 2 acres of Lot 5 in Section 9, 1 South, 26 East (unplatted), located at 439 South Billings Boulevard. The property has been cleared of debris and currently has two buildings located on it. The applicant is Hanser Properties, LP and is represented by Ralph Hanser. The Zoning Commission conducted a public hearing on January 5, 2010, and is forwarding a recommendation of approval on a 4-0 vote.

ALTERNATIVES ANALYZED

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

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

FINANCIAL IMPACT

The proposed zone change is expected to enable further development of the property and should increase the City's tax base and contribute to the South Billings Boulevard Tax Increment Finance District.

BACKGROUND

The applicant, Hanser Properties, LP, is requesting to rezone a 2 acre parcel of land directly south of its existing automobile wrecking yard on the east side of South Billings Boulevard. Hanser Properties, LP recently purchased the property and wishes to expand its business to this adjacent property. The applicant held a pre-application neighborhood meeting on November 30, 2009, at the main facility on the west side of South Billings Boulevard. The attendance list and meeting notes are included as Attachment D. If the property is re-zoned, Hanser Properties, LP, intends to expand its wrecking facility to include this 2-acre site.

South Billings Boulevard is a principal arterial street that carries approximately 7,000 vehicle trips per day as a 3-lane, two way street. There is no on-street parking and a multi-use sidewalk was constructed on the east side of the street when it was rebuilt in 2006. Access to the site is provided through one existing drive approach off South Billings Boulevard. This location is in the South Billings Boulevard Urban Renewal and Tax Increment Finance District. The city has adopted an Urban Renewal Plan for this area that includes re-use of underutilized properties. The Southwest Corridor Task Force has written a letter of support for the zone change and subsequent special review to operate a vehicle wrecking facility on the site.

The lots to the north and west are zoned CI or Highway Commercial (HC) and have been fully developed for commercial purposes. The lots to the south and east are zoned residential and have been developed for residential uses. The proposed vehicle wrecking facility is an expansion of an existing facility to the north. The operation will include a "pick-a-part" yard that will operate from 7 am to 7 pm daily. The facility is proposed to be fenced and lighted similar to the existing facility.

The 2008 Growth Policy and the South Billings Boulevard Urban Renewal Plan support predictable land uses in existing neighborhoods and encourage compact commercial development where arterial streets

uses in existing neighborhoods and encourage compact commercial development where arterial streets exist to handle traffic. South Billings Boulevard is designed and constructed to handle large commercial vehicles such as tow trucks and delivery vehicles. The parcel will not have access to the east on Newman Lane that is a local residential street. The applicant will provide adequate screening, buffering and shielded lighting so any development of the property will not negatively affect adjacent properties.

The Planning Division has reviewed this application and is recommending approval based on the attached twelve (12) criteria for zone changes. The subject property is adjacent to an arterial street and the property is appropriate for CI uses and re-use. The zone change will not alter the character of the adjacent neighborhood because of site development requirements and no access will be allowed to Newman Lane. The proposed zoning is compatible with the surrounding zoning and neighborhood character.

The Zoning Commission conducted a public hearing on January 5, 2010, and voted 4-0 to forward a recommendation of approval.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on January 5, 2010, and the applicant, Ralph Hanser, attended the hearing. Mr. Hanser explained the application to the commission. Scott Hanser testified in support of the zone change application. No other members of the public spoke in favor or opposition to the zone change applications.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

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

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

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would allow an expansion of an existing facility along an arterial street that can accommodate any traffic generated by the project without impact to surrounding residences.

- New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites. (Land Use Element Goal, page 6)

The proposed zoning is consistent with the surrounding character of South Billings Boulevard and will allow re-use of property that was under utilized.

- Contiguous developed focused in and around existing population centers. (Land Use Element, page 6)
- The proposed zoning will provide a good in-fill and re-use of the property that has limited quality for residential uses.

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

South Billings Boulevard is a principal arterial that carries approximately 7,000 vehicle trips per day. No significant increase in traffic load is anticipated from this zone change although the nature of the traffic will change from daily residential traffic to commercial traffic during business hours. The property has an existing access and no other accesses are proposed.

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

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

4. Will the new zoning promote health and general welfare?

The current R-60 zoning allows residential uses and limited home-based businesses. The proposed zoning of CI would allow development of the lot for Hanser's wrecking and storage lot. However, a special review approval is required before operation of a wrecking yard on the property. Other industrial and commercial uses also would be allowed under the CI zoning.

5. Will the new zoning provide adequate light and air?

The proposed zoning requires building setbacks and limits building height. Zoning, building and fire codes should provide assurance of adequate light and air for the property and the surrounding neighborhood.

6. Will the new zoning prevent overcrowding of land?

The proposed zoning limits maximum lot coverage to 75% of the lot area. The current R-60 zoning allows up to 40% lot coverage. Lot coverage only includes the area of the lot covered by structures and does not include pavement. The proposed increase in lot coverage should not overcrowd the property.

7. Will the new zoning avoid undue concentration of population?

The proposed zoning does not allow residential uses by right. Single family homes may be allowed only by special review approval. The proposed zoning would not unduly concentrate population.

8. Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?

Transportation: The proposed zoning should have limited impact on the arterial street, with some increase in traffic expected.

Water and Sewer: The City provides water and sewer to the property through existing lines on the applicant's property.

Schools and Parks: There should be no impact on schools or parks from this rezoning.

Fire and Police: The subject property is currently served by the City of Billings Fire Department and Police Department.

9. Does the new zoning give reasonable consideration to the character of the district?

The proposed zoning will allow a commercial re-use of the property along a principal arterial street. The quality of residential use of this property is limited by its location and proximity to commercial and industrial uses to the west and limited access on the east. Any development of the parcel will have to meet minimum standards for landscaping, buffering of adjacent residences to the east and south as well as access restrictions. The new zoning gives reasonable consideration to the existing character of the district.

10. Does the new zoning give consideration to peculiar suitability of the property for particular uses?

The subject property is suitable for the requested zoning district. Properties west and north of the subject property along South Billings Boulevard are zoned CI and HC.

Save Text Box

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

Staff cannot determine whether the proposed zoning would appreciably alter the value of structures within the area. As re-development occurs in the area, building values should increase as properties are improved. The property is within the South Billings Boulevard Tax Increment Finance District. Any incremental increase in the property taxes from these parcels will be set aside for use for public improvements within the district.

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

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

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval to the City Council for Zone Change #860 and adoption of the 12 Zoning Commission Determinations on a 4-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [ZC860 Ordinance](#)

Link: [ZC 860 Site photos](#)

Link: [ZC 860 Zoning Map](#)

Link: [ZC 860 pre-app meeting & letter](#)

ORDINANCE NO. 010- _____
AN ORDINANCE AMENDING THE ZONE
CLASSIFICATION FOR THE North 2
acres of Lot 5 in Section 9, 1 South, 26
East (unplatted) containing 2 acres

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

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

2. DESCRIPTION. A tract of land known as the North 2 acres of Lot 5 in Section 9, 1 South, 26 East (unplatted) containing 2 acres and is presently zoned **Residential 6,000 (R-60)** and is shown on the official zoning maps within this zone.

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

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

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

PASSED by the City Council on first reading January 25, 2010.

PASSED, ADOPTED AND APPROVED on second reading February 8,
2010.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

Zone Change #860- 439 South Billings Boulevard



Site Photographs, Zone Change #860 – 439 S Billings Blvd

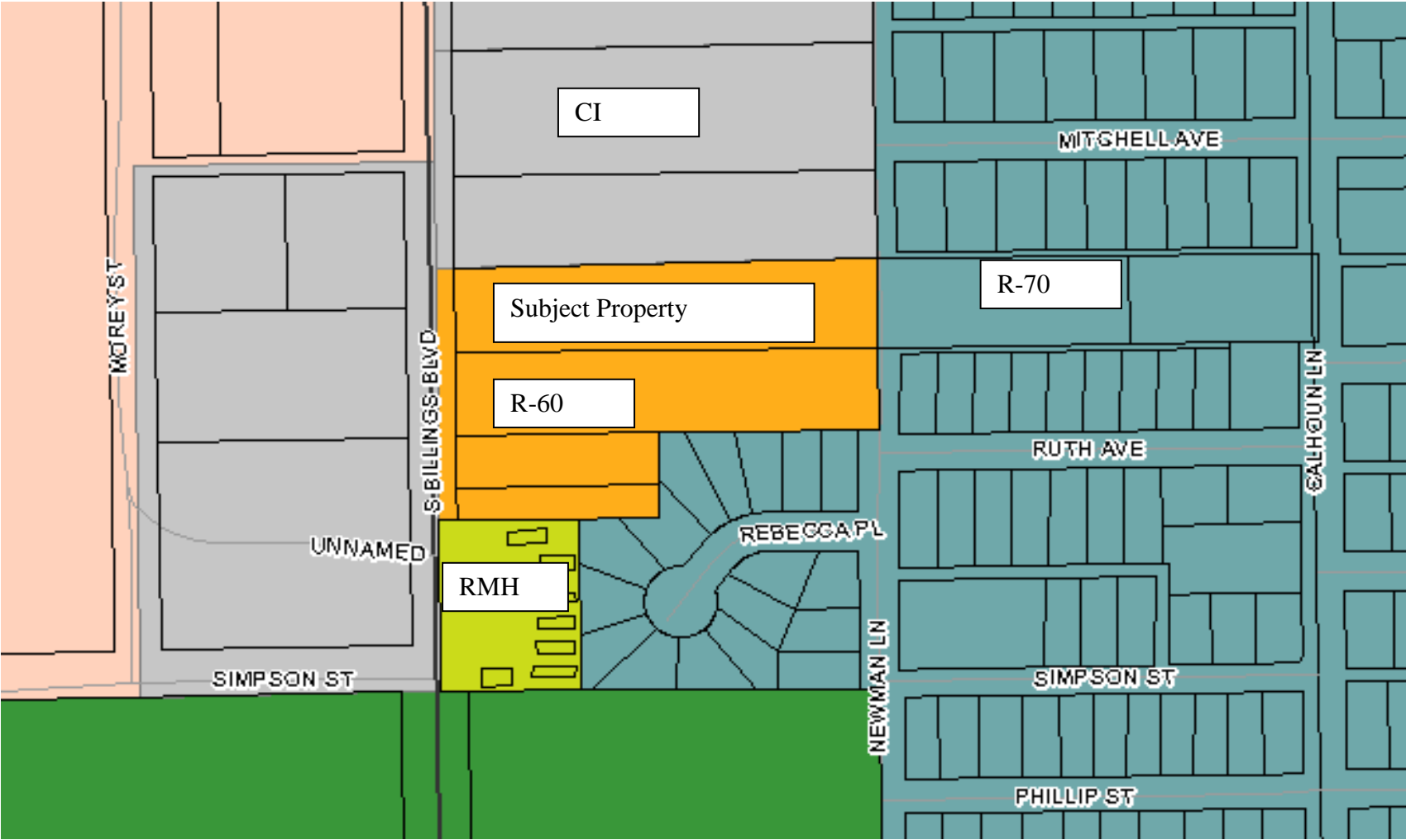


View east from S Billings Blvd



View south and east from S Billings Blvd

Zone Change #860 – 439 S Billings Blvd



Applicant's letter & pre-application meeting notes –
Zone Change #860

**City of Billings
Zone Change Application**

**Hanser's Automotive
Motor Vehicle Recycling Facility expansion**

Expansion of Motor Vehicle Facilities:
2069, 415, and 431 South Billings Blvd.
Billings, MT 59101

Legal Description property for expansion:
439 South Billings Blvd.
S09, T01 S, R26 E, N 2A OF LOT 5 IN SW4 (2.0 acres)

A. In what ways is your proposal consistent with the goals and polices of the adopted Growth Policy?

Land Use Element

GOAL #1: Predictable land use decisions that are consistent with neighborhood character and land use patterns:

This proposal is in accordance with current surrounding land use, most specifically the current Hanser's Salvage Yard adjacent to the North. This proposal for Zone Change will match the current surrounding zoning to the North and the West. The current zoning R-6000 does not match the current neighborhood character.

GOAL #2: New developments that is sensitive to and compatible with the character of adjacent City neighborhoods and County town sites.

This proposal will take the vacant, unused and untended lots and develop them with attractive fencing and landscaping which will improve the look and character of the neighborhood.

GOAL #4: Contiguous development focused in and around existing population centers separated by open space.

This proposal will develop the vacant lot to expand an existing business. This property has City services so no additional cost would be incurred by the City.

Economic Development

GOAL #1: Coordinated economic development effort that target business recruitment, retention and expansion.

This proposal will immediately create 5 new jobs with wages above the living wage. These jobs will be created in addition to Hanser's current 100 employees. The buying power of Billings' citizens will also be increased by providing a more

comprehensive Pick-A-Part yard and an expanding salvage yard to supply needed and economical automotive parts to residents of Billings and surrounding Yellowstone County.

GOAL #2: Increase the median income of household and individuals.

As stated above, this proposal will immediately create 5 new jobs with wages above the living wage. It will also help to attract and retain skilled labor to the Billings area.

Natural Resources

GOAL #6: Protection of groundwater, surface water, riparian areas, air quality and productive agricultural land.

Hanser's Automotive received the Ecco Star award four times for efforts in Environmental Protection. Hanser's Automotive and Wrecker Company also received the 2001 U.S. Small Business Administration of Montana's Outstanding Achievement Award in pollution prevention for voluntarily committing to incorporate environmentally sound technologies and practices; and for efforts to advance pollution prevention and energy conservation.

All fluids are drained from wrecked vehicles and held in storage tanks located at 430 S. Billings Blvd. in accordance with EPA regulations. No fluids will be stored at the locations of this proposal and all vehicles are stored on lifts so that the undercarriage is not on the ground.

B. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.

Hanser's proposed use of the subject property is the expansion of the current salvage yard to the North and the creation of a Pick-A-Part yard. The current zoning of R-6000 will not allow such a use. The new proposed zoning will fit in with the surrounding neighborhood and surrounding uses. Directly to the North of the subject properties is Hanser's existing salvage lot and across South Billings Blvd to the West is Hanser's offices, impound lot and repair shops. The frontage of South Billings Blvd in this area is dedicated to heavier commercial and industrial uses and Hanser's proposed use of the subject properties would be a good fit in this area.

Hanser's Automotive Pre-application Neighborhood Meeting

November 30, 2009

6:00 p.m.

430 S. Billings Blvd

For the properties:

439 S. Billings Blvd

Ralph Hanser opened the meeting at 6:05 p.m.

Hanser's will be requesting a zone change for controlled industrial and a special review to allow a wrecking yard on the subject property. Ralph Hanser stated that he had received one letter of opposition from Bruce Burrows, a surrounding property owner, concerned about having a wrecking yard in his back yard with lights. Ralph Hanser will be writing back to the Mr. Burrows explaining that they will not have lighting on the subject property. He has received no other opposition regarding this proposal.

Mr. Burrows arrived at the meeting at 6:19 p.m. Ralph Hanser explained to Mr. Burrows that Hanser's is willing to negotiate with surrounding property owners as to the location of property lighting. They will also be building a 10 foot steel fence on the property to match the fence they have on the other properties. Mr. Burrows stated that his only concern having his property lose value. Ralph Hanser stated that they do not want to be a bad neighbor and would like to keep the value of the property in the area high. Mr. Burrows also stated that he is concerned about any leaching into the ground because his property is on a well. Ralph Hanser stated that no vehicles are put on the property before they are drained of all fluids. Hanser's has to meet very high EPA standards and does not contaminate the ground water. Ralph Hanser stated that Hanser's will also be willing to place trees along the property line to help reduce the visual impact of the fence. Mr. Burrows was happy with that idea. Ralph Hanser also stated that they will have no gates along Newman Lane and there will be very little noise from the property. Mr. Burrows decided to change his opposition and signed a letter of support for the project.

The meeting ended at 6:52 p.m.

Date: 01/25/2010

TITLE: Special Review #880 Public Hearing - Hanser's Automotive 439 South Billings

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a special review request to allow a vehicle wrecking facility at 439 South Billings Boulevard in a proposed Controlled Industrial (CI) zone. The parcel is approximately 2 acres in size and is described as the North 2 acres of Lot 5 in Section 9, 1 South, 26 East (unplatted). The property owner is Hanser Properties, LP, and Ralph Hanser is the agent. The Zoning Commission conducted a public hearing on January 5, 2010, and is forwarding a recommendation of conditional approval on a 4-0 vote.

ALTERNATIVES ANALYZED

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

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

FINANCIAL IMPACT

If this special review is approved, the property is expected to be redeveloped and should have a positive impact on the City's tax base and contribute to the South Billings Boulevard Tax Increment Finance District.

BACKGROUND

This is a special review request to locate a vehicle wrecking facility with a pick-a-part yard for customers. The parcel is directly south of an existing wrecking facility approved by the city in October of 2009. The current yard has experienced no problems with compatibility with the neighborhood to the east and is well-maintained. This special review request will be considered if the preceding zone change to CI is first approved by the City Council.

The property has extensive frontage along South Billings Boulevard, a principal arterial street. An existing drive approach and parking area will be paved and landscaped for employee and customer parking. The drive approach is approximately 30 feet in width. The site has been cleared of junk and debris, there are two buildings that will remain and are shown on the site plan. The applicant is proposing to screen the yard with a 9 foot tall fence identical to the existing fence to the north. The applicant will provide interior lighting with full cut-off shields so light will not spill over on to adjacent property. The rear property line along Newman Lane to the East will also be landscaped and no access will be provided to Newman Lane.

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy as updated, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse

surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it will be within a zoning district where vehicle wrecking facilities may be allowed by special review approval.

The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated two zoning districts where vehicle wrecking facilities may be allowed. The CI zone is intended to “accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the city and county.” It appears the proposed use will fit within an established commercial area and conditions can be proposed to mitigate any potential negative effects on adjacent property.

The proposed use is in a proposed zoning district that allows this use with a special review. The City Council has granted four previous special review requests for vehicle wrecking yards within the immediate area. The proposal is consistent with goals of the 2008 Growth Policy as updated, specifically the goal of encouraging uses that are compatible with the character of the adjacent land use patterns.

RECOMMENDATION

The Zoning Commission recommends conditional approval on a 4-0 vote. The conditions are as follows:

1. The special review approval shall be limited to the North 2 acres of Lot 5 in Section 9, 1 South, 26 East (unplatted) generally located at 439 South Billings Boulevard.
2. Development of the site shall be as shown on the submitted site plan and consist of screening fencing, sight-obscuring gates, landscaping and parking area. Modifications to the site that show additional area greater than 10% of the proposed area will require additional special review approval.
3. All outdoor lighting of the salvage yard area shall be equipped with full cut-off shields so that the lighting does not spill onto surrounding properties.
4. All inoperable vehicles shall be stored within the fenced area and shall not be stacked in such a way that they are visible above the fence line.
5. Business hours shall be limited to between 7:00 am and 7:00 pm.
6. A state Motor Vehicle Wrecking License shall be obtained within six months of the approval of this special review. A copy of the license shall be provided to the Planning Division. There will be special restrictions placed on the state licensure during the written document period of the state application process, which can take up to 120 days, specifying that there shall be no crushing of vehicles. They shall be hauled to a licensed wrecking yard when no longer needed.
7. All storm water shall be retained on-site, and not discharged into the City’s storm drain line, unless otherwise approved by the City of Billings. Approval of the storm water management plan for the site shall be received by the City and/or MDEQ, whichever is appropriate, prior to City sign-off on the state license.
8. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
9. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

****NOTE**** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on January 5, 2010, and the applicant, Ralph Hanser, appeared and provided testimony to the commission. Scott Hanser testified in favor of the special review and explained the operation of the vehicle wrecking yard to the Zoning Commission. The Zoning Commission voted 4-0 to recommend conditional approval to the City Council.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

1. Complies with all requirements of this Article (27-1500).

This application does comply with the requirements of the zoning regulations.

2. Is consistent with the objectives and purposes of Chapter 27 BMCC and the Growth Policy.

This application is consistent with the purposes of Chapter 27- Unified Zoning Regulations and the 2008 Growth Policy. The application is appropriate in this particular district based on all the circumstances of the location. The application does encourage predictable land use decisions that are consistent with the neighborhood character and land use patterns. The application does encourage new developments that are sensitive to and compatible with the character of the adjacent neighborhood.

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

The proposed location for the vehicle wrecking yard is appropriate and conditions of approval are recommended to mitigate any potential adverse impacts to the neighborhood.

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

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

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval of Special Review #880 on a 4-0 vote.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #880 on a 4-0 vote.

APPROVED BY CITY ADMINISTRATOR

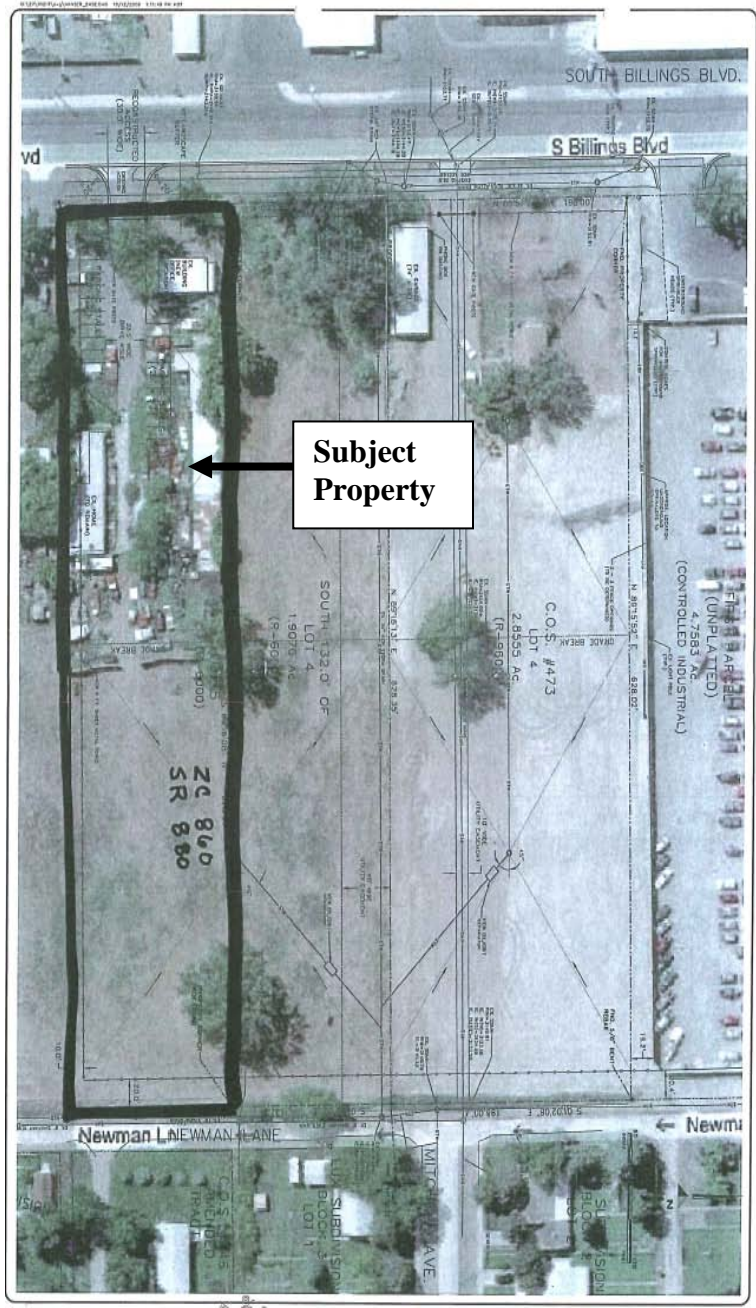
Attachments

Link: [SR 880 Site Plan](#)

Link: [SR 880 Site Photos](#)

Link: [SR 880 Zoning Map](#)

Link: [SR 880 Applicant Letter](#)



Subject
Property

Site Photographs, Special Review #880 – 439 S Billings Blvd

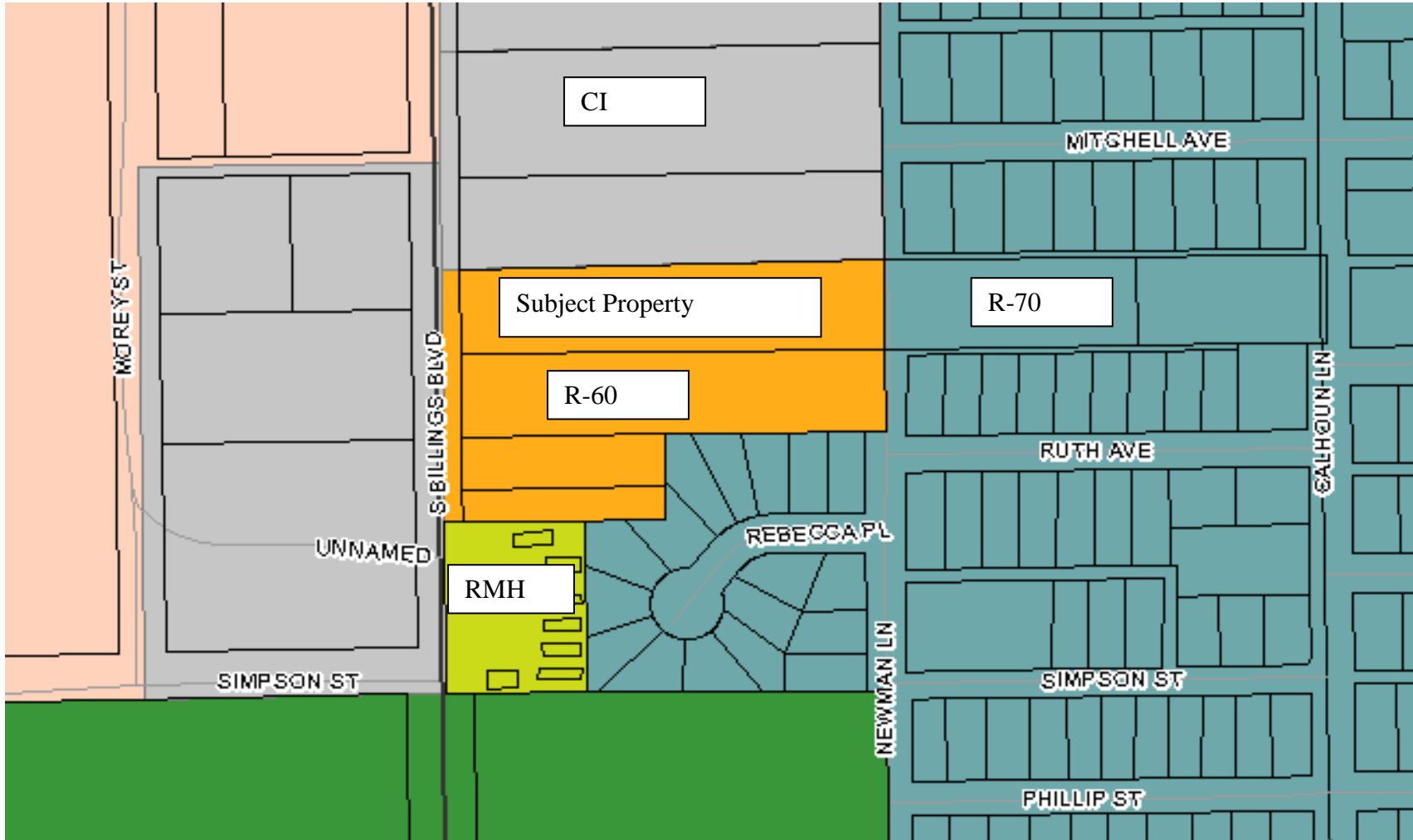


Subject Property, view east from S Billings Blvd



View south and east from S Billings Blvd

Special Review #880 – 439 S Billings Blvd
Zoning Map



Attachment B Special Review #880 Applicant Letter

**City of Billings
Special Review Application**

**Hanser's Automotive
Motor Vehicle Recycling Facility expansion**

Expansion of Motor Vehicle Facilities:

2069, 415, and 431 South Billings Blvd.
Billings, MT 59101

Legal Description property for expansion:

**439 S. Billings Blvd. Billings, MT 59101
S09, T01 S, R26 E, N 2A OF LOT 5 IN SW 4**

A. In what ways is your proposal consistent with the goals and polices of the adopted Growth Policy?

Land Use Element

GOAL #1: Predictable land use decisions that are consistent with neighborhood character and land use patterns:

This proposal is in accordance with current surrounding land use, most specifically the current Hanser's Salvage Yard adjacent to the North. This proposal for Zone Change will match the current surrounding zoning to the North and the West. The current zoning of R-6000 does not match the current neighborhood character.

GOAL #2: New developments that is sensitive to and compatible with the character of adjacent City neighborhoods and County town sites.

This proposal will take the vacant, unused and untended lots and develop them with attractive fencing and landscaping which will improve the look and character of the neighborhood.

Economic Development

GOAL #1: Coordinated economic development effort that target business recruitment, retention and expansion.

This proposal will immediately create 5 new jobs with wages above the living wage. These jobs will be created in addition to Hanser's current 100 employees. The buying power of Billings's citizens will also be increased by providing a more comprehensive Pick-A-Part yard, in conjunction with an expansion of the current salvage yard, to supply needed and economical automotive parts to residents of Billings and surrounding Yellowstone County.

GOAL #2: Increase the median income of household and individuals.

As stated above, this proposal will immediately create 5 new jobs with wages above the living wage. It will also help to attract and retain skilled labor to the Billings area.

Natural Resources

GOAL #6: Protection of groundwater, surface water, riparian areas, air quality and productive agricultural land.

Hanser's Automotive received the Ecco Star award four times for efforts in Environmental Protection. Hanser's Automotive and Wrecker Company also received the 2001 U.S. Small Business Administration of Montana's Outstanding Achievement Award in pollution prevention for voluntarily committing to incorporate environmentally sound technologies and practices; and for efforts to advance pollution prevention and energy conservation.

All fluids are drained from wrecked vehicles and held in storage tanks located at 430 S. Billings Blvd. in accordance with EPA regulations. No fluids will be stored at the locations of this proposal unless future development allowed for a new building on the subject property to dismantle vehicles. Any future building would also follow all EPA regulations. All vehicles are stored on lifts so that the undercarriage is not on the ground.

B. Why is there a need for the intended use of the property at this location?

Hanser's needs additional space to process wrecked, salvaged, and abandoned vehicles. The front of the lot will be used as parking for customers and employees. We will offer customers the option to dismantle and select their own automotive part, thus providing an economical option for vehicle repair.

C. How will the public interest be served if this application is approved?

Hanser's can help to maintain skilled labor and create living-wage jobs to persons in the Billings community. By providing consumers with the option to dismantle and purchase the needed automotive part allows for more cost effective vehicle repair.

D. Prepare a written statement addressing what is intended to be done with the property, including construction or change in the use of the property, and why a special review is being sought.

Hanser's intended use of this property is to provide customers a safe, clean, and organized space to dismantle or remove automotive parts needed for business or personal use. Using this property as a Pick-A-Part yard and additional space for salvage adjoining the current salvage yard allows the general public a place to come and remove parts personally and save a considerable amount of money.

This proposal will also allow Hanser's to purchase more late-model salvage to increase the availability of needed parts.

Hanser's intends to fence the property with an attractive, 9 foot, sight obscuring fence. The yard will be lit with full cut off shield lighting. The frontage along South Billings Blvd will be landscaped and paved for employee and customer parking. The rear property line along Newman Lane to the East will also be landscaped.

Hanser's is seeking a special review for these properties in conjunction with a zone change. The requested zone change is to Controlled Industrial. Controlled Industrial zoning requires special review approval for this type of use.

Date: 01/25/2010

TITLE: Public Hearing & First Reading Construction Time Limit Ordinance

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

New and remodel residential and commercial construction projects that are not completed in a timely manner create hardships for neighboring properties and residents. Unfinished construction projects are perceived to reduce adjacent property values, may be potentially dangerous, and result in an unattractive nuisance. Billings City Code does not have any provision for construction time limits. Existing code only specifies the expiration time of a building permit when work has not commenced or is delayed. The expiration time is based either on the date the permit was issued or the date of the last inspection. The new ordinance would require the exterior of a structure to be completed within 18 months of the building permit issuance date. An extension, not to exceed twelve months, could be granted for unique circumstances, such as product shortages, inclement weather, labor disputes or financial difficulties. Violations would be treated as municipal infractions, punishable by civil penalties.

The proposed ordinance was presented to the Development Process Advisory Review Board in July and August, 2009. The Board's discussion and minor modifications resulted in consensus of the draft ordinance. An article was published in the Billings Homebuilder's Association Newsletter in November, providing a link to the proposed ordinance on the City's website. Notification was also provided on the City's home website of the pending Council's action on the ordinance. No comments have been received. The City Council also reviewed the proposed ordinance at its October 19, 2009, work session. The City Council is requested to hold a public hearing and act on the first reading of the ordinance on January 25, 2010. A second reading is scheduled for February 8, 2010.

ALTERNATIVES ANALYZED

City Council must hold a public hearing and then may:

- Approve the proposed ordinance;
- Deny the proposed ordinance; or
- Modify the proposed ordinance upon first reading.

FINANCIAL IMPACT

There will be no financial impact to the City as a result of this ordinance.

RECOMMENDATION

Staff recommends that Council hold a public hearing and approve the proposed Construction Time Limit Ordinance on first reading.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Ordinance](#)

ORDINANCE NO. 10- _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTION 6-304; TIME LIMITS FOR CONSTRUCTION AUTHORIZED BY A BUILDING PERMIT, ADOPT THE ADDITIONS AS AN AMENDMENT TO THE BUILDINGS AND BUILDING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

Section 1. RECITALS. Building exteriors that remain unfinished for excessive amounts of time create a nuisance and potential hazard to the surrounding neighborhood. As a result of numerous cases where building exteriors have been left unfinished, City Council initiated an amendment to the Buildings and Building Code, Article 6-300, BMCC, to set time limits for exterior construction authorized by building permits. The recommendations of staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.

Section 2. DESCRIPTION. The building regulation shall apply to all land within the City of Billings.

Section 3. That the Billings, Montana City Code be amended by adding Section 6-304 to read as follows:

SEC. 6-304. TIME LIMITS FOR CONSTRUCTION AUTHORIZED BY A BUILDING PERMIT.

- (a) When a building permit is issued for the construction of a new residential or commercial structure or for the exterior alteration of an existing structure, all exterior work authorized by the building permit shall be completed within eighteen (18) months of the date the building permit was issued, and all exterior surfaces of the building addressed by the building permit shall comply with the building codes as adopted in this Chapter.
- (b) The Building Official may grant an extension, not to exceed twelve (12) months, to the time limited contained in subsection (a); provided the Building Official's findings for the extension are related to a unique circumstance and the activities authorized by the building permit have been engaged in a timely manner. A unique circumstance may include, but is not limited to, product shortages, inclement weather, labor disputes, project complexity and size, governmental actions, and financial difficulties.
- (c) Violation of this section, 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.

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

Section 5. 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.

Section 6. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading, _____, 2010.

PASSED, ADOPTED AND APPROVED on second reading,
_____, 2010.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

(Text Amendment; Time Limit for Construction Authorized by a Building Permit,
Sec. 6-304)

Date: 01/25/2010

TITLE: Settlement Agreement with Police Officers & MPEA, Billings Police Unit

Tina Volek, City Hall

PRESENTED BY: Administration

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City Council is being asked to approve a settlement agreement negotiated with the Montana Public Employees Association (MPEA), Billings Police Unit (the Association) before the agreement is presented to individual officers to sign voluntarily. This item originally was considered by the Council at its January 11, 2010, meeting, but was postponed at the staff's request to allow additional review of the agreement by the Association.

The agreement would be a full and final release of all pay claims for each officer who signs it, and the Association would agree not to pursue any grievance or claim in any forum against the City for any pay issue that occurred prior to the signing of the agreement. In exchange, officers would receive back pay, overtime, longevity, holiday and other types of pay as calculated under the Fair Labor Standards Act (FLSA) for a period from January 1, 2007, through June 30, 2009. The City also would waive its right to recover back longevity pay from those who sign the agreement. The City may have overpaid longevity beginning July 1, 2003, under contract terms that were revised at that time and in effect until a new contract was approved effective July 1, 2009.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the settlement agreement;
- Modify the settlement agreement; or
- Not approve the settlement agreement, likely leading to additional arbitration or litigation with the Association and/or its members. However, the City believes that interpretation of the longevity language may lead to recovery of back longevity pay of about \$1.2 million from current and former police officers.

FINANCIAL IMPACT

The cost of the back pay under FLSA would be approximately \$123,000. The estimated value of the back longevity pay that the City would waive is estimated at \$1.2 million.

BACKGROUND

The City believes that the interpretation of longevity language set out in two previous collective bargaining agreements (July 1, 2003-June 30, 2006 and July 1, 2006-June 30, 2009) between the City and the Association leads to the conclusion that the City overpaid longevity during the terms of those contracts. In the alternative, longevity was paid correctly. However, 27 current and former members of the Association have filed suit in District Court to recover what they claim is underpayment of the longevity prior to July 1, 2009.

During negotiations on the contract that went into effect July 1, 2009, questions were raised regarding long-time methods of calculating back pay, overtime, holiday and other types of pay. The Association and City sought technical assistance from outside authorities, including the U.S. Department of Labor, to aid in clarifying the proper payment methods. Corrections to both the longevity pay and the other pays were made effective with the July 1, 2009, contract. The Association is satisfied that the calculation of pay has been accurate since that date.

To resolve all these issues, the attached settlement agreement has been negotiated by City staff and the Association's leadership. If it is approved by the Council, each officer will be given the opportunity to voluntarily sign the agreement as a full and final release of all claims of any nature relating to pay. In exchange, each officer who signs would be given his or her appropriate amount of back pay for from January 1, 2007, through June 30, 2009, and, in return, the City would waive its right to seek back longevity pay from that officer under the two previous contracts (July 1, 2003, through June 30, 2009). Costs of the settlement would come from the Police Department's personnel funds; the department has held open a Deputy Chief's position for 2009, as it has for several years. Any dispute regarding the terms of the agreement would be resolved through the grievance and arbitration procedures set out in the current collective bargaining agreement.

STAKEHOLDERS

The Association negotiated the terms of the settlement. If it is approved by the Council, participation will be up to individual members.

RECOMMENDATION

Staff recommends that the Council approve the settlement agreement.

APPROVED BY CITY ADMINISTRATOR

Attachments

Link: [Settlement Agreement](#)

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into this ____ day of _____, 20____, by and between the City of Billings (hereinafter "City"), _____ (hereinafter "Police Officer"), Montana Public Employees Association, Billings Police Unit (hereinafter "Association"), and collectively referred to as the "parties." The settlement reached herein has been negotiated and approved by the Association on behalf of those individual police officers who voluntarily desire to enter into this Agreement.

The City and the Association are parties to collective bargaining agreements that set forth the terms and conditions of employment for police officers in the City of Billings Police Department. The terms of employment include pay provisions involving longevity, overtime, holiday pay, and other forms of pay.

Disputes have arisen regarding the City's calculation and payment of longevity, overtime, and other pay. The Association and the City sought the technical assistance of outside authorities, including the U.S. Department of Labor, to aid in clarifying the proper payment methods. Corrections to the computations were put into effect on July 1, 2009, for all police officers. The Association is satisfied that the calculation of pay has been accurate since that date.

The City believes that the interpretation of the longevity language set out in the last two (2) collective bargaining agreements between the City and Association (July 1, 2003 - June 30, 2006 and July 1, 2006, through June 30, 2009) leads to the conclusion that the City has significantly overpaid longevity during the terms of those contracts. Approximately 27 members and former members of the Association believe that prior to July 1, 2009, the City underpaid longevity, and they have filed suit in State District Court to recover said longevity.

The Association negotiated this recommended settlement of all issues. The decision on signing this Settlement Agreement is being left to the discretion of each officer, however.

In the interests of settling this dispute, Police Officer _____ agrees to settle any and all back pay, overtime, longevity, holiday, or other types of pay for the sum of \$_____. This payment represents corrections of overtime and other pays from January 1, 2007, through June 30, 2009, but the release covers the entire term of employment. Police Officer _____ agrees not to file any grievance or any claim, lawsuit, or action of any kind in any administrative or judicial forum that is based in whole or in part on the City's calculation or payment of longevity pay, overtime, or any other pay prior to July 1, 2009.

In exchange, the City specifically waives its right to collect any overpaid longevity from Police Officer _____ for the period of July 1, 2003, to June 30, 2009. It is agreed that the City does retain its right to defend its calculations, rely on the actual longevity contract language that was in place from July 1, 2003, to June 30, 2009, and seek reimbursement of overpayments from any officer who does not enter into this Settlement Agreement or who files or participates in any administrative, judicial, or action of any kind regarding the proper calculation and payment of overtime pay, longevity pay and/or any other type of pay.

Upon execution of this Settlement Agreement by Police Officer _____, the Association agrees that it will not pursue, process, or file any grievance or any claim in any administrative, judicial, or any other forum on behalf of said officer that is based in whole or in part on the City's calculation of longevity pay, overtime, or any other pay that occurred prior to the date of this Settlement Agreement.

This Agreement does not constitute an admission of wrongdoing by any party, and it is without prejudice to the City's right to defend its calculations in any proceeding or assert its rights to reimbursement by other parties for any alleged overpayments of compensation in any proceeding. Any dispute regarding the terms of

this Memorandum of Agreement shall be resolved through the grievance and arbitration procedures set out in the Collective Bargaining Agreements.

It is understood and agreed that this is a **FULL AND FINAL RELEASE** in full compromise and settlement of all claims relating to pay of every nature and kind whatsoever, and releases all claims whether known or unknown, suspected or unsuspected. The PARTIES warrant and represent that no promise or inducement has been offered or made by the other, except as herein set forth, and that this Release is executed without reliance upon any statement or representation not included within this Release.

If, after the date hereof, any provision of this Release is held to be illegal, invalid or unenforceable under the present or future laws effective during the term of this Release, such provision shall be fully severable. In lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

This agreement shall not be modified or amended except by an instrument in writing signed by all of the PARTIES.

The validity, construction, interpretation and administration of this Release shall be governed by the substantive laws of the State of Montana.

This Release contains the ENTIRE AGREEMENT between the PARTIES hereto, and the terms of this Release are contractual and not a mere recital.

Police Officer _____ has carefully read the foregoing, discussed its legal effect with a Union representative or representatives, has had ample opportunity to discuss it with an attorney of his/her own choosing, understands the contents thereof, and signs the same of his/her own free will and accord. The Montana Public Employee's Association has carefully read the foregoing, has had ample opportunity to discuss it with an attorney of its own choosing, understands the contents thereof, agrees to be bound by its terms and has authorized Bob Chatriand to sign the same as its free and voluntary act. The Agreement is subject to the final approval of the Billings City Council.

DATED this ____ day of _____, 2009.

**MONTANA PUBLIC EMPLOYEES
ASSOCIATION, BILLINGS POLICE UNIT**

POLICE OFFICER _____

By: _____
Name: _____
Title: _____

By: _____

CITY OF BILLINGS

By: _____
Name: _____
Title: _____