

# CITY OF BILLINGS

## CITY OF BILLINGS VISION STATEMENT:

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

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### AGENDA

**COUNCIL CHAMBERS**

**March 22, 2010**

**6:30 P.M.**

**CALL TO ORDER – Mayor Hanel**

**PLEDGE OF ALLEGIANCE – Mayor Hanel**

**INVOCATION – Councilmember Clark**

**ROLL CALL**

**MINUTES: March 8, 2010**

**COURTESIES -**

- **Billings Chamber of Commerce 5-Star Accreditation Award**
- **Councilmember Gaghen (Deb Schmitt)**

**PROCLAMATIONS**

**ADMINISTRATOR REPORTS - TINA VOLEK**

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 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. New Airport Entry and Welcome Signs.** (Opened 3/9/10). Recommend Keystone Construction; \$88,980.
  - B. Approval** of Investment Grade Audit Contract with McKinstry; \$288,350.
  - C. Certified Local Government Program Grant Contract** with the State of Montana Historic Preservation Office for historic preservation activities, (4/1/10 - 3/31/11), \$5,500; Local matches: City of Billings - \$1,031; Yellowstone County - \$1,000; City of Laurel - \$469.

- D. CTEP Project Specific Agreement - Swords Park Trail II** between Montana Department of Transportation and the City of Billings for design and construction of a hard-surfaced bicycle and pedestrian path.
- E. Approval** of the Scheduled Airline Operating Agreement and Terminal Building Lease with Allegiant Air, LLC for a term beginning March 1, 2010, and expiring on June 30, 2010; approximate annual lease revenue - \$28,500; approximate annual landing fees revenue - \$47,800.
- F. Approval** of Easement and Customer Agreement with Northwestern Energy for WO 04-26, Zone 4 Reservoir/Zone 5 West Pump Station. Easement - no cost to the City; Customer Agreement - not to exceed \$380,358.
- G. Approval** of City support of a Letter of Interest for the US Environmental Protection Agency Technical Assistance Grant.
- H. Approval** of Jacobs Consultancy Work Authorization for facility, financial, and feasibility analysis for Aviation and Transit's Car Rental Quick Turn Around Facility (\$96,500 plus reimburseable costs) and Automobile Parking Projects(\$106,500 plus reimbursable costs).
- I. Amendment #1**, Contract with MT Department of Transportation for FY2010 Paratransit Operating Assistance through the Federal Transit Administration Section 5316 JARC Grant Program; \$86,754.
- J. Right-of-Way Easement** with NorthWestern Energy for installation of electrical power for the BLM's new Wildlands Fire Station located at Billings Logan International Airport.
- K. Right-of-Way Easement** with Montana Dakota Utilities for installation of a natural gas line for the BLM's new Wildlands Fire Station located at Billings Logan International Airport.
- L. Release of Easement** along the vacated portion of Boundary Waters Circle.
- M. Acceptance** of Federal Aviation Administration Airport Improvement Grants for 2010; up to \$2,976,969; City Match - \$156,853.
- N. Approval** of Medical Marijuana Ad-Hoc Advisory Committee Members.
- O. Street Closures:**
  - 1.** Shrine Circus "Elephants on Broadway", April 6, 2010, 4:00 p.m. to 9:00 p.m., 2700 and 2800 blocks of 2nd Avenue North and 100 and 200 blocks of 28th Street North.
  - 2.** Magic City Blues Festival, 9 a.m., August 13, 2010, to noon, August 15, 2010, 2300-2500 blocks of Montana Avenue.

- P. Second/final reading ordinance** amending the BMCC by adding Chapter 28, Articles 28-100 through 28-700, containing Sections 28-101 through 28-715, regulating the City's stormwater collection system through the development of a stormwater management program; including issuance and enforcement of private and public construction Storm Water Pollution Prevention Plans to address construction site stormwater, enforcement of adopted Best Management Practice (BMP) construction standards, enforcement of post construction stormwater BMP maintenance, and the detection and elimination of illicit discharges.
- Q. Second/final reading ordinance** amending BMCC 24-501 by adding Sections 24-312 and 24-541, allowing the City to legally authorize civilians to regulate traffic flow upon successful completion of an authorized safety course.
- R. Resolution of Intent** to construct W.O. 04-12, Alkali Creek Road Improvements, and set a public hearing for April 12, 2010.
- S. Resolution of Intent** to construct W.O. 08-21 Lake Elmo Drive-Main Street to Wicks Lane Improvements, and set a public hearing for April 12, 2010.
- T. Resolution of Intent** to construct W.O. 09-02, Miscellaneous/Developer Related Improvements, and set a public hearing for April 12, 2010.
- U. Resolution** approving City Administrator's signature authority to execute Buy/Sell Agreements for eligible, vacant, foreclosed properties up to \$150,000 for the Neighborhood Stabilization Program.
- V. Preliminary Subsequent Minor Plat** of Hogan Homestead Subdivision, Amended Lot 4-A, Block 5, generally described as the southeast corner of the intersection of King Avenue West and South 24th Street West. Spirit Spe Portfolio 2006-1 LLC, owner; Depierro Realty Advisors, subdivider; Sanderson Stewart, agent. Conditional approval of the plat and adoption of the Findings of Fact.
- W. Final Plat Approval**
  - 1. Bellville Subdivision, Amended Lots 5 & 6, Block 1
  - 2. Riverfront Pointe Subdivision, Amended Lots 4-19, Block 2
- X. Bills and Payroll:**
  - 1. February 19, 2010
  - 2. February 26, 2010

**REGULAR AGENDA:**

- 2. **PUBLIC HEARING AND RESOLUTION AUTHORIZING THE SALE OF TRACT 2 OF CERTIFICATE OF SURVEY #3426.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

3. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #861:** A zone change from Residential 9,600 (R-96) to Residential 7,000 (R-70) on Lot 8, Block 1 of Meadowood Subdivision located at 2302 Meadowood Street. Mark Dawson, owner; BlueLine Engineering, agent. Zoning Commission recommends denial and adoption of the 12 criteria. (**Action:** approval or disapproval of Zoning Commission recommendation.)
  
4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #862:** A zone change from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Tract 2A1 of C/S 1965 and Lot 5 of Block 1, Bergquist Subdivision, located at 2414 Roundup Road and 621 Pemberton Lane. Vacant Land, LLC and Tom & Cheri Bergquist, applicants; Ernie Dutton, agent. Zoning Commission recommends approval and adoption of the 12 criteria. (**Action:** approval or disapproval of Zoning Commission recommendation.)
  
5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #863:** A text amendment to Section 27-614(e) of the Billings, Montana City Code (BMCC) regulating temporary uses of land related to construction projects. Zoning Commission recommends approval. (**Action:** approval or disapproval of Zoning Commission recommendation.)
  
6. **EAST BILLINGS URBAN RENEWAL DISTRICT**
  - A. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #857:** An amendment to the City of Billings Zoning Map, an amendment to the Zoning Regulations to create an overlay district to allow separate off-street parking regulations to apply within the East Billings Urban Renewal District (EBURD), and inclusion of property owned by R. Clawson located on the east side of N. 12th Street north of 6th Avenue North. Zoning Commission recommends approval. (**Action:** approval or disapproval of Zoning Commission recommendation.)
  
  - B. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Billings City Code Section 6-1203 to remove off-street minimum parking space requirements within the East Billings Parking Overlay District to accomplish parking management goals for the East Billings Urban Renewal District. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
  
  - C. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Billings City Code Section 24-400 - Division 4 - Parking Meters and Zones, by revising Sections 24-451, 24-452, 24-454, 24-456, 24-457, 24-462, and by adding new Sections 24-480 - Use of Revenue from Parking Permit Sales within Parking Permit Districts, and 24-490 - East Billings Parking Overlay District, to accomplish the parking management goals for the East Billings Urban Renewal District. 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: 03/22/2010

**TITLE: Award of Low Bid for the New Airport Entry and Welcome Signs for Billings Logan International Airport**

**PRESENTED BY:** Tom Binford

**Department:** Aviation & Transit

**Information**

**PROBLEM/ISSUE STATEMENT**

Included in the the City's Capital Improvement Program and FY 10 Capital Budget is the new Airport Entry and Welcome signs. The previous entry sign was located within the Montana Department of Transportation's highway right-of-way, and was removed as part of the Airport road and roundabout project. The City received \$97,700 from the State to reimburse the Airport for the cost of the old entry sign. The new entry and welcome signs will be located in a landscaped island just north of the new roundabout intersection. The new lighted entry sign will include a powder coated steel representation of the State of Montana with "Billings Logan International Airport" spelled out in 12" cast aluminum letters, a City of Billings emblem, a star showing the location of Billings, and two lighted flag poles. The lighted welcome sign is a powder coated aluminum sheet that reads "Welcome to Billings" and "Montana's Trailhead" with the Trailhead logo. The project was advertised in the *Billings Times* for two weeks, and was posted on the City's Web Site. On March 9, 2010, the following bids on the project were received:

<b>CONTRACTOR</b>	<b>BID</b>
Keystone Construction	\$ 88,980
Fisher Construction	\$ 91,730
Langlas & Associates	\$ 93,200
General Contractors Construction	\$ 94,440
Hardy Construction	\$100,900
<b>ESTIMATE</b>	<b>\$ 90,000</b>

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the award of the the new Airport Entry and Welcome signs project; or
- Decline to approve the award.

**FINANCIAL IMPACT**

The total bid cost of this project is \$88,980. The source of funds for this project is in the Airport's Capital fund.

**RECOMMENDATION**

Staff recommends that the City Council approve the award of the new Airport Entry and Welcome signs project to the low bidder, Keystone Construction, for the amount of \$88,980.

**APPROVED BY CITY ADMINISTRATOR**

Date: 03/22/2010

TITLE: Energy Investment Grade Audit Contract

PRESENTED BY: Mark Evangeline

Department: City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings has significant energy usage in various facilities and the potential exists to save energy and money if efficiency upgrades can be implemented. However, the City needed an integrated process for identifying energy saving opportunities in City facilities and more importantly, a method to finance the construction of the energy saving measures. Energy Performance Contracting is a way to accomplish these tasks that is favored by the State of Montana and the City's Energy and Conservation Commission and this Energy Investment Grade Audit Contract is the first stage of the process.

The Energy Performance Contracting Committee prepared a Request for Proposals (RFP) for Energy Performance Contracting services. The RFP was issued to qualified Energy Service Companies (ESCOs) pre-selected by the State of Montana through a Request for Qualifications process. Seven ESCOs were invited to participate in the RFP process, and the City received three responses. The selection committee consisted of Mark Evangeline, Airport Facilities Superintendent, Saree Couture, Facilities Manager, Liz Kampa-Weatherwax, Purchasing Agent, Boris Krizek, Public Works Engineer, and Dave Fishbaugh, a member of the City's Energy and Conservation Commission. The following proposals were received:

- McKinstry
- Johnson Controls
- Burns & McDonnell

The committee evaluated the proposals, interviewed all three firms and selected the proposal from McKinstry. The following important information was considered: Proposal Compliance, Comprehensiveness of Services Provided, Related Experience, Firm Stability, Prior Municipal Experience, Assigned Individuals, Account Analysis, Charges for Services, and Service Enhancements.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the Energy Investment Grade Audit Contract; or
- Not approve the Energy Investment Grade Audit Contract.

**FINANCIAL IMPACT**

- Cost for the Energy Investment Grade Audit Contract is \$288,350.
- ARRA stimulus grant funding applicable to this audit is \$237,500.
- Remaining balance of \$50,850:
  - will be applied to an Energy Performance Contract that will implement the audit designs and be paid by the savings achieved with the reduction of energy and resources, utility rebates and grants;
  - or paid for from operating budgets from the departments at the City's option.

**RECOMMENDATION**

Staff recommends that Council approve the Investment Grade Audit Contract with McKinstry.

**APPROVED BY CITY ADMINISTRATOR**

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Date: 03/22/2010

TITLE: Certified Local Government Program Contract

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

**Information**

**PROBLEM/ISSUE STATEMENT**

The State of Montana Historic Preservation Office has designated the City of Billings as a Certified Local Government (CLG) for historic preservation activities. As a CLG, the City is eligible to receive state funding to coordinate historic preservation efforts in our area on an annual basis. At its January 11, 2010 meeting, the City Council approved the 2010 application for these funds through the CLG Program. On February 23, 2010, the City received approval for this grant cycle of April 1, 2010, through March 31, 2011, and 2 original contracts for the Authorized Representative (Mayor) to sign. The Council is being asked to accept the grant and authorize the Mayor to sign the grant contract documents.

**ALTERNATIVES ANALYZED**

The City Council may:

Agree to participate in State CLG program and accept CLG grant funding to coordinate historic preservation activities in FY2011; or

Decline to participate in State CLG program and not accept CLG grant funding to coordinate historic preservation activities in FY2011. Not participating would affect historic preservation activities in Billings, Laurel and all of Yellowstone County since this grant funds cooperative efforts in these jurisdictions.

**FINANCIAL IMPACT**

City Council approval would provide \$5,500 in State of Montana Certified Local Government funding. Local match for the CLG includes \$1,031 from the City of Billings Planning Division, \$1,000 from Yellowstone County, and \$469 from the City of Laurel for a total program of \$8,000. The Planning Division will also continue to provide in-kind match through staff support of approximately 20 hours a week to administer the Yellowstone Historic Preservation Board (YHPB) activities and the CLG Grant Administration. The funding package will be used to contract with the Western Heritage Center for consulting services that assist with completion of projects identified in the YHPB Work Plan.

**RECOMMENDATION**

Staff recommends that the City Council authorize the Mayor to sign the Certified Local Government Grant Contracts for a \$5,500 Certified Local Government grant from the Montana State Historic Preservation Office for historic preservation activities in FY2011.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [SHPO Agreement](#)

Link: [2010 YHPB Workplan](#)

STATE OF MONTANA AGREEMENT

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

SECTION I: SERVICES

The Subgrantee shall:

1. Maintain an active Historic Preservation Commission (HPC) that will advocate for preservation, assist the HPO to accomplish preservation goals and fill vacancies on the HPC promptly.
2. Participate in and carry out the responsibilities for Certified Local Government program status as outlined in "The Montana Certified Local Government Manual."
3. Insure historic preservation concerns are considered at all levels of local government planning and are incorporated as goals of other local, state, and federal projects.
4. Administer local preservation ordinances.
5. Have on staff a minimum half-time designated Historic Preservation Officer (HPO) who demonstrably plays an active and consistent role in the conduct of the subgrantee's historic preservation activities. On behalf of the Subgrantee it is the role of HPO to conduct these activities and/or work with the HPC to:
  - a. Regularly report on HPC activities at local government Commission meetings and be available for comment to these groups and other local government offices;
  - b. Monitor Preservation Covenants and Agreements and provide historic preservation information and assistance to property owners;
  - c. Provide technical assistance, direction, literature on historic preservation tax credits, National Register, Federal regulations and Secretary of Interior Standards;
  - d. Inspect and evaluate historic properties for potential and feasible reuse and rehabilitation;
  - e. Coordinate, promote and participate in events such as National Historic Preservation Week and/or other preservation related activities;
  - f. Cooperate and communicate with the Grantee and fellow HPO/HPCs in Montana and elsewhere as appropriate; and
  - g. Submit quarterly reports, meeting minutes and financial reports per deadlines outlined in this agreement. In the Final Progress Report, the HPO will identify benefits the local government has derived as a result of the employment of a HPO, the needs of the local government for future professional preservation efforts, and any additional functions of the HPO carried out which further the understanding and implementation of historic preservation values and objectives in the local government.
6. Send at least one (1) person from the Certified Local Government to a State Historic Preservation Office (SHPO) - approved training. The attendee shall attend the entire training and report back to their Preservation Commission.

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

## SECTION II: EFFECTIVE DATE, DURATION, AND REMUNERATION

The Agreement shall take effect as of April 1, 2010 and shall terminate March 31, 2011 unless a new termination date is set or the agreement is terminated pursuant to SECTION IV. Total payments by the "Grantee" for all purposes under this contract shall not exceed \$5,500. Payment shall be made on a reimbursement basis by request of Subgrantee to the SHPO.

## SECTION III: CONSIDERATION AND PROCESS FOR PAYMENT

In consideration of Services rendered in this Agreement, the Grantee agrees to pay the Subgrantee as follows:

1. The Subgrantee agrees to submit Progress Reports, meeting minutes and Requests for Reimbursement quarterly. Reports will be accompanied by the following documentation:
  - a. The Subgrantee's name, address and agreement number **MT-10-12**;
  - b. Report discussing work completed during the quarter. Include meeting agendas and minutes;
  - c. An itemized listing of cash or in-kind donations that comprise the non-federal match;
  - d. An itemized listing of project expenses that are charged to the federal grant;
  - e. The net request for payment; and
  - f. Products produced during the quarter.
2. All Requests for Reimbursement must be approved by the Grantee prior to payment. Payment for work completed under this Agreement may be withheld pending the delivery and acceptance of such items. All Subgrantees must retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of 3 years or until an acceptable audit (accessible by auditors) has been performed and all claims and audit findings involving the records have been resolved. The 3-year retention period starts from the date of the submission of the final report. A final Request for Reimbursement must be submitted within thirty (30) days of the termination of this Agreement if they are to qualify for payment.
3. All Requests for Reimbursement will be reviewed for eligibility and allowability under Chapters 12, 13 and 14 of the National Park Service's Historic Preservation Fund Manual and the State CLG Manual. The Subgrantee may request a copy of the CLG Manual from the SHPO and the Historic Preservation Fund Manual is available for inspection at the SHPO.
4. The Grantee may retain final payment of federal grant funds until such time as the approved project work has been successfully completed and all conditions of this Agreement have been met.

## SECTION IV: TERMINATION

1. The Subgrantee understands and agrees the Grantee, as a state agency, is dependent upon federal and state appropriations for its funding and actions by Congress or the Montana Legislature may preclude funding this Agreement completely through the termination date stated in Section II. Should such a contingency occur, the parties agree the Grantee may set a new termination date or terminate the contract immediately,

depending upon the funding remaining available for the Agreement, and the Subgrantee will be compensated for services rendered and expenses incurred to 5:00 p.m. of the revised termination date.

2. In the event of termination, all property (except real estate) and finished or unfinished documents, data, studies, and reports purchased or prepared by the Subgrantee under this Agreement shall, at the option of the Montana Historical Society (MHS), become the property of the MHS, and the Subgrantee shall be entitled to compensation for any un-reimbursed expenses necessarily incurred in satisfactory performance of this Agreement. Notwithstanding the above, the Subgrantee will not be relieved of liability to the Grantee for damage sustained by the Grantee by virtue of any breach of the Agreement by the Subgrantee, and the Grantee may withhold any reimbursement to the Subgrantee for the purpose of off-set until such time as the exact amount of damages due the Grantee from the Subgrantee is agreed upon or otherwise determined.
3. Except for the provisions of SECTION IV, paragraph 1, and SECTION XII, either party may terminate this Agreement without cause thirty (30) days after delivery of written notice in hand to the other party.
4. The MHS may terminate this Agreement for failure of the Subgrantee to perform any of the services, duties, or conditions in accordance with the time schedule contained in this Agreement. The Grantee will provide the Subgrantee with written notification of the reasons for the Subgrantee's performance failure and allow the Subgrantee a period of not less than ten (10) days nor more than thirty (30) days after receipt of said notification to rectify the identified failure to perform.

#### SECTION V: GENERAL AND SPECIFIC CONDITIONS

The Subgrantee agrees to follow the General and Specific Conditions according to this Agreement and Chapter 5 of the Historic Preservation Fund Grants Manual.

#### SECTION VI: ASSIGNMENT AND PROCUREMENT PROCEDURES

1. The Subgrantee agrees that the procurement of services, supplies, equipment, and construction will be obtained efficiently and economically and in compliance with the applicable federal laws, and of OMB Circular A-102, (as further amended, 8/29/97) and Chapter 17 of the Historic Preservation Grants Manual.
2. The process for the selection of subcontractors to perform the services under this Agreement, regardless of whether by competitive bidding or negotiated procurement, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms or individuals in order for them to qualify to do business, (2) non-competitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.
3. Competitive bidding or negotiated procurement is required for all survey and planning subcontracts. Proposals shall be requested from an adequate number of sources (at least two or three sources) to permit reasonable competition. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable. The Request for Proposals shall identify the survey or planning area, population, number of properties to be inventoried, funds available and volunteer support (if applicable). The Subgrantee shall document in writing the evaluation criteria used and the results of the technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for subcontract award. Subcontractors shall be selected on the basis of qualification, subject to negotiation of fair and reasonable compensation. Unsuccessful offerors shall be

notified promptly. A copy of documentation of the selection process will be submitted to the Grantee prior to the initiation of the project.

4. Noncompetitive negotiation may be used with prior written approval from the Grantee when, after the solicitation in accordance with Section VI, 3. above, competition is determined inadequate.
5. The Subgrantee will notify the SHPO upon the selection of a subcontractor. Subgrantee will verify Subcontractor is not on the debarred list. A copy of this contract will be submitted to the SHPO for review and written approval prior to its execution.
6. Prior to the beginning of project work or any grant payment, the Subgrantee must submit to the SHPO the below listed items to demonstrate that the federal procurement requirements have been met in full:
  - a. Copies of the letters to qualified sources and public advertisements requesting proposals and/or invitations to bid;
  - b. Copy of the Subgrantee documentation of the selection criteria and process;
  - c. A copy of the successful proposal and a description of the Subgrantee reasons for selection;
  - d. Listing of the unsuccessful offerors; and
  - e. Copy of the proposed contract between the Subgrantee and the subcontractor.

Note: SHPO must review and approve all contracts between the Subgrantee and subcontractors prior to their execution. The parties agree that there will be no assignment or transfer of this Agreement or any interest in the Agreement and that no service required under this Agreement may be performed under subcontract unless both parties agree in writing.

#### SECTION VII: EQUAL EMPLOYMENT OPPORTUNITY

1. Pursuant to Sections 49-2-303 and 49-3-207 of the Montana Code Annotated and the federal Civil Rights Act of 1964, (as amended) and Equal Employment Opportunity statute, in all hiring or employment made possible by or resulting from this Agreement, the Subgrantee: 1) will not discriminate against any employee or applicant for employment because of race, color, social condition, religion, sex, age, national origin, marital status, creed, political affiliation, or physical or mental handicap; and 2) will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This requirement applies to, but is not limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subgrantee will comply with all applicable statutes and Executive Orders on equal employment opportunity, including enforcement provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17.
2. The Subgrantee will comply with Section 504 of the Rehabilitation Act of 1973 which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
3. The Subgrantee will comply with The Age Discrimination Act of 1975 prohibiting discrimination on the basis of age in programs and activities receiving Federal Financial assistance.

## SECTION VIII: FAIR LABOR STANDARDS

The Subgrantee agrees to comply with all Federal and State wage and hour rules, statutes, and regulations, and warrants that all applicable Federal and State fair labor standards and provisions will be complied with both by the Subgrantee and any subcontractors, in the event that subcontracted services are employed to fulfill the terms and conditions of this Agreement are agreed upon by the MHS, SHPO and the Subgrantee.

## SECTION IX: PROHIBITION AGAINST LOBBYING

The Subgrantee must conform to provisions of 18 USC 1913:

"No part of the money appropriated by an enactment of Congress shall in the absence of express authorization Congress be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter printed or written matter, or any other device intended or designed to influence in any matter a Member of Congress favor or oppose, by vote or otherwise, any legislation of appropriation by Congress, whether before or a introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers, employees of the U.S. or its Departments or agencies from communicating to Members of Congress on the request any Member of Congress, through the proper channels, requests for legislation or appropriation that they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before Congress, commonly referred-to as "lobbying" is unallowable under this Agreement.

## SECTION X: INDEMNIFICATION

The Subgrantee agrees that it will hold harmless and indemnify the MHS from any and all losses that may result to the Grantee because of negligence on the part of the Subgrantee, its agents, representatives, or employees. The Subgrantee shall hold harmless the MHS from any and all claims arising out of the execution of this Agreement for injury to third persons, including their agents, employees, or volunteers, recipients, and to the public at large, for injury to property of persons, which arise out of any Subgrantee's actions.

## SECTION XI: WORKERS' COMPENSATION

The Subgrantee and all independent subcontractors earning compensation under this funding agreement must elect to be bound personally and individually by the provisions of compensation plans 1, 2 or 3, but he/she may apply to Montana Workers' Compensation division for an exemption from the Worker's Compensation Act. The application must be made in accordance with the rules adopted by the division. The division may deny the application only if it determines that the applicant is not an independent contractor. When the division approves an application it is conclusive as to the status of an independent contractor and precludes the applicant from obtaining benefits under this chapter.

## SECTION XII: MODIFICATIONS AND PREVIOUS AGREEMENTS

1. This instrument contains the entire Agreement between the parties, and no previous statements, promises, or inducements made by either party or agent of either party which are not contained in this written agreement shall be valid or binding. This agreement may not be enlarged, modified, or altered except in writing signed by the parties and attached to the original of this Agreement, except as provided under Section IV (1). No change, addition, or erasure of any printed portion of this Agreement shall be valid or binding upon either party.
2. Any changes that substantially alter the scope of work or the cost of the approved project must be submitted as a project amendment. These amendments must have prior written approval from NPS before the change is implemented. Change orders will be treated as amendments. SHPO will be consulted to review the change to

determine if it substantially alters the scope of work or the cost of the approved project. If the change is determined to be substantial, the SHPO will process the amendment through NPS. Failure to notify the SHPO of any such changes may be construed as just cause for revocation and/or recovery of the grant funds.

### SECTION XIII: CONFLICT OF INTEREST

No officer or employee of the MHS or member of the Society Board or State Preservation Review Board and no member of the Subgrantee's governing body at localities in which the project is situated or being carried out who exercises any functions or responsibilities, or who enjoys a position of influence in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects his personal or pecuniary interest. The Subgrantee agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

### SECTION XIV: COPYRIGHT PROHIBITION

1. Except as otherwise provided in the terms and conditions of the grant agreement, the Subgrantee is free to copyright any books, publications, or other copyrightable materials developed as a result of this Agreement. However, any such copyrightable materials will be subject to a royalty-free, nonexclusive, and irrevocable license throughout the work to the Grantee and/or the US Government to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.
2. Any materials produced as a result of this Agreement which are to be publicly distributed, shall include the following statement:

The (activity) that is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, U.S. Department of Interior, and administered by the SHPO of Montana. The contents and opinions do not necessarily reflect the views or policies of the U.S. Department of the Interior or the Montana Historic Preservation Office, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or SHPO.

3. Publications must include the nondiscrimination statement:

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, or disability in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to:

Office for Equal Opportunity  
National Park Service  
1849 C Street, N.W.  
Washington, D.C. 20240

4. The Subgrantee shall not include in the materials produced as a result of this Agreement any copyrighted matter without the written approval of the copyright owner that provided SHPO and the United States Government with written permission to use the material in the manner provided herein.

SECTION XV: AUDITING

The Subgrantee agrees to allow access to the records of the activities covered by this Agreement as may be necessary for legislative post-audit and analysis purposes in determining compliance with the terms of this Agreement. The Subgrantee shall maintain all administrative and fiscal records relating to this project for three years after the final grant reimbursement is made by the Grantee to the Subgrantee. Notwithstanding the provisions of SECTION IV, this Agreement shall automatically terminate upon any refusal of the Subgrantee to allow access to records necessary to carry out the legislative post-audit and analysis functions set forth in Title 5 Chapter 12 and 13, MCA and the financial and programmatic audit conducted by the Secretary of the Interior and the Comptroller General of the United States provided for in OMB Circular A-102, as amended.

SECTION XVI: SEVERABILITY

It is understood and agreed by the parties hereto that if any term or provision of this contract is by the courts held to be illegal or in conflict with any Montana law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

SECTION XVII: EXECUTION

This Contract consists of this Agreement and pages of attachments; the original copy is to be retained by SHPO. A copy of the original and attachments, if any, has the same force and effect for all purposes as the original.

Each party has full power and authority to enter into and perform this Agreement, and the person signing the Agreement on the behalf of each party has been properly authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

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

\_\_\_\_\_  
Subgrantee

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

<p style="text-align: center;"><b>Yellowstone Historic Preservation Board Work Plan 2010-2011</b></p>
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Goals & Objectives:

- I. Promote the preservation of historic buildings, sites or neighborhoods.
- II. Increase community awareness on the benefits of historic preservation activities.
- III. Promote increased awareness of preservation activities and the work of the YHPB through the four governing bodies represented on the Board.
- IV. Comply with the duties and responsibilities of historic preservation organizations under the State Certified Local Government Program and the requirements of the Inter-local Agreement.

**2010 Projects**

**1. To assist with the National Register of Historic Places nomination of McKinley Elementary School.**

Time Frame: 2010-2011  
Who: YHPB Board and HPO/WHC, North Elevation Task Force  
Status: This is part of the North Elevation Task Force but will be nominated individually. Subcommittee members: Kathleen, Julie and Kevin.

**2. To assist North Elevation Task Force in the development of a Historic Residential District, provide technical assistance as needed.**

Time Frame: Continuing until complete  
Who: YHPB Board, WHC and staff, North Elevation Task Force  
Status: This project is ongoing and the board will continue assisting as needed.

**3. To assist the Old Town Neighbors, Inc. with the survey and completion of a National Register Nomination of the properties along Minnesota Avenue that were approved for a Preserve America Grant.**

Time Frame: 2010  
Who: Lora Mattox will continue to administer the Preserve America funds for the Old Town, YHPB, WHC, HPO and the Old Town Neighbors, Inc.  
Status: This project should conclude by June 1, 2020. .

**4. To assist the City of Laurel with the historic survey of downtown through funding from Preserve America.**

Time Frame: 2010  
Who: Emelie Eaton is the lead board member, YHPB, WHC, HPO and the City of Laurel  
Status: This project should conclude in the summer of 2010.

**5. Continue fund raising for the “Billings Through the Decades” sign board.**

Time Frame: 2010-2011  
Who: Bill DuBeau is the lead board member, YHPB, WHC, HPO  
Status: This project is seeking funding to complete.

**6. Prepare education trunks for area elementary schools.**

Time Frame: 2010-2011  
Who: Kathleen Armstrong is the lead board member, YHPB, WHC, HPO, possibly Montana SHPO  
Status: This project is working toward completion. After compilation, the trunks will be housed and maintained by the WHC.

**7. Assure existing YHPB products are current and disseminated in communities (Laurel Walking Tour, Billings Walking Tour, South Side Presentation, and Rural Yellowstone County Presentation, etc).**

Time Frame: 2010-2010  
Who: Kathleen and Kyle are the lead board members, YHPB, WHC, HPO  
Status: The board will review the Billings Downtown Walking Tour booklet for update and republishing. The board will review other media outlets for dissemination such as radio and computer downloads (mp3 files, etc).

**8. Review data prepared by MSU-B students on the inventory of historic barns, silos and other important structures in Yellowstone County. Determine if 2 to 3 properties could be eligible for the National Register and contact property owners to gage interest.**

Time Frame: 2010-2011  
Who: YHPB, WHC, HPO, Kevin and Kyle will monitor.  
Status: The board will review this project as time allows.

*Annual Board Activities*

- 1. Continue the review of building permits submitted for properties located within the designated historic district.**

Time Frame: Ongoing  
Who: Committee and HPO

- 2. To provide up to date information to the general public, continually update the web site on activities and programs.**

Time Frame: Ongoing  
Who: WHC

- 3. Promote additional nominations to the National Register. Assure resources are available for property owners, such as literature and technical assistance. Look at possible nomination of school sites in conjunction with local school districts.**

Time Frame: Ongoing  
Who: YHPB Board/HPO/WHC

- 4. Expand YHPB meetings to alternate locations. To take advantage of some of our many historic venues, the board wishes to expand meetings to alternate locations. This is an event that will take place quarterly.**

Time Frame: Ongoing  
Who: HPO/WHC

- 5. Due to a loss of potential historic buildings within the City of Billings, an effort is being made to notify WHC and a member of the board about upcoming demolitions. The Building Department notifies HPO on the release of demolition permits, HPO notifies members of the demolition and a determination is made to either document/photograph building.**

Time Frame: Ongoing  
Who: HPO/WHC/Board

- 6. To provide additional funds to the YHPB for projects, continue exploration of grant opportunities.**

Time Frame: Ongoing  
Who: HPO/WHC

- 7. To keep the YHPB abreast of Historic Preservation Activities, consultants and the HPO will attend meetings as needed.**

Time Frame: Ongoing  
Who: WHC/HPO

- 8. To provide a forum for Historic Preservationist to share their successes and discuss projects and to present historic preservation awards, continue to host the Historic Preservation Roundtable yearly.**

Time Frame: Yearly  
Who: WHC/HPO/Board  
Status: Preservation Month - May

- 9. To continually update the local governing bodies of the activities undertaken by the YHPB, annual PowerPoint Presentations will be made to the City of Billings, the City of Laurel and Yellowstone County.**

Time Frame: Yearly  
Who: Chair/WHC/HPO  
Status: The scheduling of these meetings will take place yearly during spring.

- 10. Celebrate National Historic Preservation Month. Board will decide on a program, speakers and other events to commemorate this event.**

Time Frame: Yearly  
Who: Committee/WHC  
Status: This event will occur yearly during May.

- 11. Continue the review of Community Development Block Grant rehabilitation projects as needed.**

Time Frame: Ongoing  
Who: YHPB/WHC

Date: 03/22/2010

TITLE: CTEP Project Specific Agreement – Swords Park Trail II

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

**PROBLEM/ISSUE STATEMENT**

The City of Billings submitted a Montana Department of Transportation (MDT) Community Transportation Enhancement Project (CTEP) grant application for the Swords Park Trail II project in September 2009. This phase of the Swords Park Trail project consists of design engineering and construction of a ten foot-wide by one mile-long hard-surfaced bicycle and pedestrian path. The trail will connect with the existing Swords Park Trail and terminate at the Airport Road pedestrian underpass constructed with the Airport Road reconstruction. This trail project was approved through the local CTEP project selection process involving the City Council, Board of County Commissioners and Planning Board, and also was approved by MDT. The Project Specific Agreement represents the formal agreement between the City and MDT for the project’s scope, funding, and federal aid compliance. Council must authorize the Mayor to execute a Project Specific Agreement for the Swords Park Trail II to begin project development.

In addition to the CTEP funding, the City has received an Energy Efficiency Conservation Block Grant through the US Department of Energy that will help fund this project. The City also received grant funds from the Recreational Trails Program. These grant amounts are provided in the Financial Impact section of this report.

**ALTERNATIVES ANALYZED**

The City Council may:

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

**FINANCIAL IMPACT**

The funding breakdown for this project is as follows:

- CTEP Grant \$399,004
- \*Energy Efficiency Conservation Block Grant (EECBG) \$522,500
- Recreational Trails Program Grant \$ 28,000

Total Funds Available \$949,504

\*The EECBG will provide the local CTEP match required. The CTEP grant and local match figures include the Montana Department of Transportation’s Indirect Cost Accounting Procedures (ICAP). State law requires MDT to charge for indirect or overhead expenses for all projects it administers. This charge is referred to in item 6 of the attached agreement and amounts to 17.48% of the total CTEP amount. The ICAP charge for this project is in the amount of \$69,745.89 and will be deducted directly from the City of Billings CTEP allocation and will not be billed to the City.

**RECOMMENDATION**

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

**APPROVED BY CITY ADMINISTRATOR**

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## Attachments

Link: [Swords Park Trail Location Map](#)

Link: [CTEP Project Agreement](#)

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# Swords Park Trail Location Map



**CTEP PROJECT AGREEMENT**

THIS AGREEMENT is made and entered into by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the "State," and the City of Billings, hereinafter called the "City". This Agreement is effective on the date of the final signature by the State.

WITNESSETH THAT:

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

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

WHEREAS, in accordance with the State's agreement with the Federal Highway Administration (FHWA) of the U.S. Department of Transportation, the State must ensure that certain requirements are met in order for the State to fulfill its obligations to the FHWA and for the project to be eligible for federal funds. Accordingly, the State includes federal requirements, which are among those hereinafter set forth, for this project, and the City agrees to them, and,

WHEREAS, the estimated cost of the project's development and construction is \$949,504; and,

WHEREAS, the financial participation for the project development and construction will in part be with federal-aid funds made available in federal fiscal 2010; and,

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

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

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

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

1. The City will develop a CTEP project described as: the design and construction of a 10 foot-wide by one mile-long hard-surfaced bicycle and pedestrian path.
2. The project will be located in Billings south of Airport Road beginning at the fork of Black Otter Trail Road extending eastward approximately one mile to the Swords Park Bypass.
3. The purpose of this project is to provide a safe and convenient bicycle and pedestrian facility.
4. The initial federal-aid program to be requested for the development and construction of this project, by federal-aid account, is as follows:

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

[9102] Preliminary Engineering (86.58% CTEP) (including environmental documentation)	\$ 79,126
[9202] Right-of-Way/Easement Acquisition (86.58% CTEP)	\$ -0-
[9302] Incidental Construction (64.93% CTEP) (utility relocation involvement)	\$ -0-
[9402] Construction Engineering (86.58% CTEP) (including contract administration and inspections)	\$ 79,126
[9502] Construction (86.58% CTEP)	\$ 302,599
<b>Total</b>	<b>\$ 460,851</b>

Billings	Project	CTEP Funds	Local Match	Additional Contribution
Direct Costs	\$ 949,504	\$ 399,004	\$ 61,847	\$ 488,653
<b>TOTAL</b>	<b>\$ 949,504</b>	<b>\$ 399,004</b>	<b>\$ 61,847</b>	<b>\$ 488,653</b>

NOTE: Above table does not include indirect costs. Indirect costs will be applied to the CTEP fund share at the rate corresponding to the time the reimbursements are made.

5. The City will be responsible for the \$61,847 local match and the \$488,653 additional contribution. The Federal cost participation (CTEP funds) will be \$399,004 of the estimated total project cost of \$949,504. The City will be responsible for 100% of all costs exceeding the proposed \$949,504 that may be required to complete the project.
6. The parties understand and agree that this agreement is subject to the requirements of Section 17-1-106, MCA, which requires the State to fully recover indirect costs (IDC) from the City and any other participating parties. The current IDC rate is 17.48%. The parties further understand and agree that as of October 1, 2009 the City's share of the IDC will be paid by the State per subsection (3) of Section 17-1-106, MCA. If this project extends across more than one fiscal year, more than one annual rate will be involved, as the rate may change during the life of the project.
7. The City will develop and prepare all of the necessary design plans, specifications, estimates and contract documents for the project in accordance with the CTEP Manual. The selection and retention of any individual or firm to provide or furnish any engineering or design related services shall be based upon qualifications in accordance with the CTEP Manual's Consultant Services procedures.
8. The City will solicit for competitive bids and award a contract to construct the project. The solicitation for the construction contract may be by competitive bid or limited solicitation, so long as the cost does not exceed \$50,000; should the project's construction cost exceed \$50,000, it must be by competitive bid. The City will administer any construction contract and provide the supervision, inspection and documentation required to ensure the project is completed satisfactorily. The State will perform a final project review to ensure substantial compliance with project plans, specifications and estimates.
9. The City and any consultant and/or contractor it may employ in pursuit of project completion will comply with applicable Equal Employment Opportunity (EEO) requirements, Disadvantaged Business Enterprise (DBE) goals, Americans with Disabilities Act (ADA) and Federal Labor Requirements.
10. The City will provide documentation necessary to comply with applicable environmental requirements, including the National Environmental Policy Act (NEPA), Section 106 of the

National Historic Preservation Act (NHPA) and Section 4(f) of the DOT Act.

11. The City will complete and submit the applicable supporting documentation to the State for review and concurrence prior to beginning the next step in the project's development or construction process, as identified in the CTEP Manual.
12. The City will allow inspection of all work and project-related records by the personnel or agents of the State and FHWA.
13. Cities subject to the authority of the Montana Single Audit Act will secure an independent audit in compliance with OMB Circular A-133 and submit a copy to the Montana Department of Administration, Local Government Services Bureau, PO Box 200547, Helena, MT, 59620-0547.
14. Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of State employees, the City agrees that it will protect, indemnify, and save harmless the State and Department of Transportation against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and Department's legal expenses, made against the State or Department by anyone arising out of, in connection with, or incidental to the project and its construction or use or maintenance.
15. The City will retain project-related records and documents for a period of three years after the closing of the project.
16. The City may submit a claim once a month detailing items and quantities of acceptable work completed that period to the CTEP Office for the project development and/or construction costs incurred. The request will be accompanied by documentation substantiating the amount requested and identifying the applicable federal share.
17. This agreement shall become effective upon execution by both parties. It may be modified only by prior written agreement of both parties.
18. The City will service, maintain, and pay the cost of operating the project described in this agreement.
19. During the performance of this Agreement the City, for itself, its assignees and successors in interest, agrees as follows:

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

- (1) Compliance with Regulations: The City shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) Nondiscrimination: The City, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.

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

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

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

**C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**

- (1) The City will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The City will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other

program outputs: **"The City will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City."**

- (3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

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

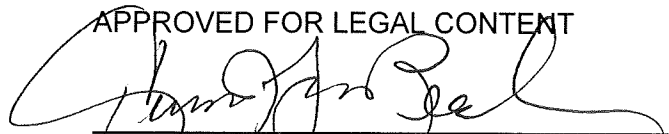
Each Agreement the Department signs with a City (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

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

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

**STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION**

BY \_\_\_\_\_, 2010

APPROVED FOR LEGAL CONTENT  
  
\_\_\_\_\_  
MDT Legal Counsel

**CITY OF BILLINGS**

ATTEST-CITY CLERK

MAYOR

\_\_\_\_\_ By \_\_\_\_\_

I, \_\_\_\_\_, Billings City Clerk, hereby certify that this agreement was regularly adopted by the City Council at a meeting held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that the Council authorized the Mayor to sign this agreement on behalf of the City.

[OFFICIAL SEAL]

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

Date: 03/22/2010

TITLE: Scheduled Airline Operating Agreement and Terminal Building Lease (Signatory Agreement) with Allegiant Air, LLC

PRESENTED BY: Tom Binford

Department: Aviation & Transit

**Information**

**PROBLEM/ISSUE STATEMENT**

Allegiant Air, LLC has been operating at the Airport since March, 2006. During this time, Allegiant has not leased space in the Terminal Building and operated at the Airport through an agreement with Horizon Air, whereby Horizon used its leased Terminal Building space and employees to provide ground support services for Allegiant flights. Allegiant plans to terminate its agreement with Horizon regarding ground support services and now desires to lease its own space in the Terminal Building. The Signatory Agreement contract language has been in use since the Terminal remodel in 1990, and has been renewed a number of times. The contract language provides a rate-making formula for airline Terminal Building rentals and landing fees that ensures the Airport's annual operating costs are covered. Ordinance 90-4850 establishes the rate formula and provides a financial incentive for airlines, giving those airlines that execute the Signatory Agreement a lower landing fee rate than those airlines that choose not to enter into a contract with the City.

Presently, Delta, Horizon, Great Lakes, and United Airlines operate under the Signatory Agreement, which expires June 30, 2010. Frontier and Allegiant currently do not operate under the Signatory Agreement. The difference in the landing rate fee between a signatory airline and a non-signatory airline is currently \$0.33 per 1,000 pounds of landed weight. By participating in the Signatory Agreement, Allegiant will now be able to take advantage of lower landing fees.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the Scheduled Airline Agreement and Terminal Building Lease with Allegiant Air, LLC, leasing Terminal Building space and extending signatory landing fee rates to Allegiant; or
- Not approve the Scheduled Airline Agreement and Terminal Building Lease with Allegiant Air, LLC, and provide staff with guidance on how to further proceed.

**FINANCIAL IMPACT**

This Signatory Agreement provides Allegiant with 644 square feet of exclusive use space for ticketing and offices, and 2,890 square feet of operational space. Based on the current rate schedule, the Lease would generate approximately \$28,500 in annual rentals for the exclusive use space. The operational space will generate additional revenue, based on the number of enplanements Allegiant has at the Airport. Based on the current rate schedule, landing fees are estimated to be approximately \$47,800 per year.

**RECOMMENDATION**

Staff recommends that the City Council approve the Scheduled Airline Operating Agreement and Terminal Building Lease with Allegiant Air, LLC for a term beginning March 1, 2010, and expiring on June 30, 2010, when all signatory Airline contracts expire.

**APPROVED BY CITY ADMINISTRATOR**

Date: 03/22/2010

TITLE: W.O. 04-26--Zone 4 Reservoir / Zone 5 West Pump Station, NorthWestern Energy Agreement & Easement for New Electrical Service

PRESENTED BY: David Mumford

Department: Public Works

**Information**

**PROBLEM/ISSUE STATEMENT**

W.O. 04-26 involves the construction of a new water reservoir and pump station to service Zone 4 and Zone 5 West respectively. The reservoir and pump station property is owned by the City, northeast of Ironwood Subdivision. The foundation for the new reservoir is complete and construction will resume in the spring of 2010.

As with any pump station, operation requires a substantial electrical service. NorthWestern Energy (NWE) will construct and install new lines and facilities to provide the 3-phase service needed. However, as allowed by the Montana Public Service Commission, NWE requires advance payment and a signed Customer Agreement prior to scheduling this work. Also, an easement must be issued to NWE to allow them to install the new lines within a stretch of City-owned park land. To avoid conflict with the tank tower contractors and to have electrical power available for start-up of the pump station, NWE must begin this work early in April, so approval is requested now to meet the tight schedule.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the easement and customer agreement; or
- Do not approve the easement and customer agreement.

**FINANCIAL IMPACT**

There is no cost associated with granting the easement to Northwestern Energy since it is serving a City facility. By granting this easement the cost of the power service is lower than it would be using other routes. The amount of the Agreement will not exceed \$380,358. Any savings realized during the construction of the service will be refunded to the City.

The project is being funded by a State Revolving Fund (SRF) loan and supplemented by water construction funds. There are adequate funds available in the project budget to pay for the costs of the new electrical service.

**RECOMMENDATION**

Staff recommends Council authorize the Mayor to execute the necessary easement and customer agreement with NorthWestern Energy and allow a maximum payment of \$380,358.00 to provide a new electrical service to the Zone 4 Reservoir and the Zone 5 West Pump Station.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [NWE Customer Agreement](#)

Link: [NWE Easement](#)

## **CUSTOMER AGREEMENT**

THIS AGREEMENT is made and entered into on 03/05/2010, by and between NorthWestern Energy "Company" and CITY OF BILLINGS of PO BOX 1178 , BILLINGS, MT 59103, "Customer".

### I. THE COMPANY AGREES:

1. To install, operate and maintain utility facilities to provide services to the Customer at IRONWOOD PUMP STATION, BILLINGS, MT 59103 in accordance with the applicable rules and regulations and at rates set by the Montana Public Service Commission (MPSC). The Company shall locate lines and facilities on right of way provided and initially prepared and cleared as necessary by Customer. The lines and facilities shall remain the Company's property.
2. To abide by the general conditions and terms described in sections III and IV.

### II. THE CUSTOMER AGREES:

1. To pay the Company an Advance (Rule 6-2) in the sum of \$ 380,358.00 , USD for construction of Primary UG 3 Phase lines and facilities in accordance with the applicable MPSC Rules. Customer shall make payment prior to Company scheduling the project for a construction start date.

In accordance with the applicable MPSC Rules, if new customers are permanently connected and served by the Company from these lines before 5 years from the completion date of this project, the Company will determine what refund of the advance, if any, is due the Customer.

The total sum refunded shall not exceed the amount of the Customer's Advance for construction, nor will any refund be made after the 5 year refund period. Any money not refunded pursuant to the terms of this Agreement will revert to a non-refundable Contribution in Aid of Construction and become the Company's property.

2. To pay the Company an Advance (Rule 6-2) in the sum of \$ 0.00 , USD for construction of Transformer Multi Phase UG lines and facilities in accordance with the applicable MPSC Rules. Customer shall make payment prior to Company scheduling the project for a construction start date.

In accordance with the applicable MPSC Rules, if new customers are permanently connected and served by the Company from these lines before 5 years from the completion date of this project, the Company will determine what refund of the advance, if any, is due the Customer.

The total sum refunded shall not exceed the amount of the Customer's Advance for construction, nor will any refund be made after the 5 year refund period. Any money not refunded pursuant to the terms of this Agreement will revert to a non-refundable Contribution in Aid of Construction and become the Company's property.

3. To pay the Company an Advance (Rule 6-2) in the sum of \$ 0.00 , USD for construction of Elect Svc-UG from Xfmr Com lines and facilities in accordance with the applicable MPSC Rules. Customer shall make payment prior to Company scheduling the project for a construction start date.

In accordance with the applicable MPSC Rules, if new customers are permanently connected and served by the Company from these lines before 5 years from the completion date of this project, the Company will determine what refund of the advance, if any, is due the Customer.

The total sum refunded shall not exceed the amount of the Customer's Advance for construction, nor will any refund be made after the 5 year refund period. Any money not refunded pursuant to the terms of this Agreement will revert to a non-refundable Contribution in Aid of Construction and become the Company's property.

4. To general conditions and terms as explained in sections III and IV.

### III. GENERAL CONDITIONS:

1. All terms, prices and conditions set forth in this Agreement are subject to changes or additions due to rules, regulations, ordinances, changes in scope of project, and laws that may be amended or enacted.
2. Prices set forth in this agreement are in effect for 4 months from signature date of this agreement.
3. The Customer shall pay the costs of moving Company facilities or making other modifications required to meet city, state, or national codes.
4. The Customer shall provide service entrance and termination points as specified by the Company's installation standards in effect at the time construction begins.
5. The Company shall establish service within a reasonable period of time after the Customer's equipment passes inspection by the state and local authorities as required by law.
6. The Company will proceed with the survey, design and construction of its facilities in a normal manner using its existing work force and material supply sources. All work is to be done during normal working hours and the Company may reschedule the work to achieve efficient workload of Company forces. Availability of materials, weather conditions, frozen ground, access, or obtaining permits from governmental agencies or railroads may cause delays beyond the Company's or the Customer's control.
7. The customer requests utilities to be installed with the understanding that ground-level is to final grade. Should changes to grade be made in the future that result in NorthWestern Energy's facilities needing to be either raised or lowered, the customer is responsible for the costs associated with this change.
8. Prior to installation of facilities, the Customer is responsible for physically marking on the property any customer-owned facilities including, but not limited to, underground sprinkling systems, septic tanks, and satellite dish cabling. NorthWestern Energy is not responsible for repairing any unmarked customer-owned facilities. The NorthWestern Energy Construction Department can be contacted with questions on how to appropriately mark customer-owned facilities.
9. If the Customer requests that electric and gas facilities be installed in frozen ground, the Customer may be responsible for additional charges for installation. The Company will notify the Customer of these charges prior to installation.
10. The Customer is responsible for the restoration of private roadway(s) and/or landscaping. The Company will make a reasonable attempt to preserve the private roadway(s) and/or landscaping, but final compaction and restoration is the Customer's responsibility.
11. MPSC rules governing gas and electric line extensions are available upon request.

IV. DEFINITIONS

1. CONTRIBUTION IN AID OF CONSTRUCTION

A non-refundable payment made by a Customer to pay for costs beyond the free allowance when there are no more customers expected to connect to facilities installed by this Agreement.

New customers that attach to existing lines with current Contribution in Aid of Construction payments may be required to share equitably in the outstanding payment amount if connecting within 5 years from the construction date of the original line.

2. CUSTOMER ADVANCE

A refundable payment made by a customer to pay for costs beyond the free allowance when more Customers are expected to connect to facilities installed under this Agreement.

Or

A refundable payment made by a Customer to pay for a line extension to a new load of uncertain duration

V. ADDITIONAL CONDITIONS:

THIS CUSTOMER AGREEMENT IS FOR RUNNING 6000' OF THREE-PHASE 4/0 URD IN 3-2" CONDUITS, SETTING A 480/277V, 300kVA THREE-PHASE TRANSFORMER, AND RUNNING A 40' SERVICE WITH TWO RUNS OF 4/0 QUADRUPLEX.

\*PAYMENT OF AMOUNT DUE, SIGNED CUSTOMER AGREEMENT, STATE ELECTRICAL PERMIT, AND INSTALLATION OF METER PANEL ARE REQUIRED PRIOR TO BEING ABLE TO SCHEDULE YOUR PROJECT FOR CONSTRUCTION.

NorthWestern Energy

By : Jim Jolovich

Its : Division Engineer

CITY OF BILLINGS (Customer)

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

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

## Quotation

<b>Customer</b>	
CITY OF BILLINGS PO Box 1178 BILLINGS MT 59103	
<b>Customer Contact:</b>	
<b>Customer Number:</b>	1002420

<b>Service Address</b>
CITY OF BILLINGS PO Box 1178 BILLINGS MT 59103

**Quotation No.** 25005546  
**Notification No.** 340009419

**Document Date** 01/25/2010  
**Quotation Valid To:** 05/25/2010

### Quotation Details

Item	Material Description	Quantity	Unit Price	Amount
	<p><i>THIS CUSTOMER AGREEMENT IS FOR RUNNING 6000' OF THREE-PHASE 4/0 URD IN 3-2" CONDUITS, SETTING A 480/277V, 300kVA THREE-PHASE TRANSFORMER, AND RUNNING A 40' SERVICE WITH TWO RUNS OF 4/0 QUADRUPLEX.</i></p> <p><i>*PAYMENT OF AMOUNT DUE, SIGNED CUSTOMER AGREEMENT, STATE ELECTRICAL PERMIT, AND INSTALLATION OF METER PANEL ARE REQUIRED PRIOR TO BEING ABLE TO SCHEDULE YOUR PROJECT FOR CONSTRUCTION.</i></p>			
0010	Primary UG 3 Phase	1 EA		261,076.93
	Admin/Engineering/Other			54,826.16
	Revenue Allowance			23,320.00-
	Tax Adder			87,774.93
	Total Customer Price			380,358.00
0020	Transformer Multi Phase UG	1 EA		1,638.44
	Transformer Allowance			1,638.44-
	Total Customer Price			0.00
0030	Elect Svc-UG from Xfmr Com	1 EA		1,343.10
	Service Allowance			1,343.10-
	Base Price Subtotal			0.00
	<b>Total Amount...</b>			380,358.00
	Please contact JOE HAVENS if you have questions regarding this quote.			

**AFTER RECORDING, RETURN TO:**  
NORTHWESTERN ENERGY  
LAND & PERMITTING DEPARTMENT  
40 East Broadway  
Butte, MT 59701-9989

**EASEMENT – CORPORATE UNDERGROUND ELECTRIC**

**City of Billings** \_\_\_\_\_ a \_\_\_\_\_ corporation, whose address is Billings, Mt 59101

"Grantor", in consideration of \$1.00 and other good and valuable consideration, in hand paid, the receipt of which is acknowledged, does grant and convey to **NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY**, a Delaware corporation, 40 East Broadway, Butte, MT 59701-9394, "Grantee", and to its successors, assigns and apporionees, an easement Ten feet in width, upon which to construct, operate, maintain, replace, upgrade, and remove an underground electric powerline, communications systems, and necessary appurtenances, over, under, along and across, that certain real property located in Yellowstone County, Montana, and particularly described as follows:

**TOWNSHIP 1 North**, **RANGE 26 East**, **P.M.M.**

**19: SW1/4, A portion of the East half of the Park running through Ironwood Subdivision, from the South property line of said Subdivision, in a Northerly direction, to Canyonwoods Drive, thence Easterly along said Drive to the East side of said Subdivision. The Underground**

**SECTION(S): Electric Cable being the centerline of this Easement.**

City of Billings

By

**TOGETHER** with reasonable right of access to and from the easement area over lands of the Grantor using existing roads and trails where practicable; the right to use and keep the easement area free and clear of any and all obstructions or structures, except fences; and the right to clear and remove all timber, brush, or vegetation outside of the easement area that may, in the Grantee's sole opinion, endanger the powerline, communications system, or necessary appurtenances.

**GRANTOR** covenants with the Grantee that the Grantor is lawfully seized and possessed of the real estate above-described, and that the Grantor has a good and lawful right to convey it, or any part thereof.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

City of Billings

(Name of Corporation)

By: \_\_\_\_\_ (Signature of Authorized Agent)

Its: \_\_\_\_\_ (Title of Authorized Agent)

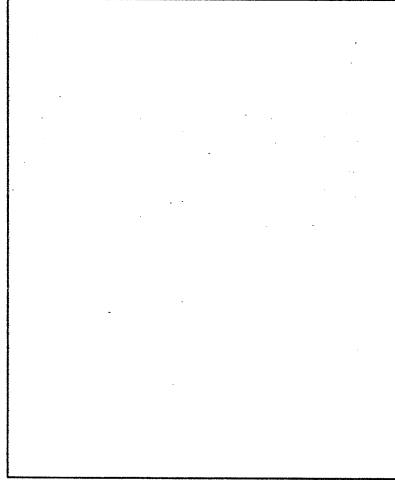
**STATE OF Mt** )

**js.**

**COUNTY OF Yellowstone** )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ known to me to be the \_\_\_\_\_ (Title of Authorized Agent) for \_\_\_\_\_ (Name of Corporation)

NOTARY SEAL WITHIN THE BOX



Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Notary Public for the State of: \_\_\_\_\_

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

My Commission Expires: \_\_\_\_\_, 20\_\_\_\_

Project: \_\_\_\_\_

Agent: \_\_\_\_\_

SAP No.: \_\_\_\_\_

Date: 03/22/2010

TITLE: Letter of Interest, EPA Technical Assistance Grant

PRESENTED BY: Candi Beaudry

Department: Planning & Community  
Services

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Information

**PROBLEM/ISSUE STATEMENT**

Billings Public Schools is requesting the City sponsor a Letter of Interest to apply for a Smart Growth Technical Assistance grant. The purpose of the grant is to receive technical assistance from the US Environmental Protection Agency (EPA) to develop a collaborative planning process for siting school facilities. The City of Billings and Billings Public Schools have long desired an opportunity for collaborative planning that achieves the growth objectives of both agencies. The technical assistance provided by EPA will help fashion a process that will meet these objectives at the same time adhering to the principals of livability:

- 1) Provide more transportation choices.
- 2) Promote equitable, affordable housing.
- 3) Enhance economic competitiveness.
- 4) Support existing communities.
- 5) Coordinate and leverage federal policies and investment.
- 6) Value communities and neighborhoods.

The letter of interest must be submitted by April 9, 2010. A small group of applicants will be selected from the initial pool to submit a grant application later this year.

**ALTERNATIVES ANALYZED**

The City may choose to either support or not support a Letter of Interest for technical assistance from EPA. If the City does not support the letter, a valuable opportunity for collaborative planning between the City and Billings Public Schools will be lost.

**FINANCIAL IMPACT**

There is no financial impact to the City associated with this request except for minimal staff time. If the City was awarded this project, the work and administration would be performed by Billings Public Schools and there would be no significant fiscal impact to the City.

**RECOMMENDATION**

Staff is requesting the City support a Letter of Interest for the US Environmental Protection Agency Technical Assistance Grant to develop a collaborative planning process between Billings Public Schools, the City of Billings and other community stakeholders.

**APPROVED BY CITY ADMINISTRATOR**

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Date: 03/22/2010

**TITLE: Approval of Work Authorization for Jacobs Consultancy to Provide Planning Services for the Aviation & Transit Department**

**PRESENTED BY:** Tom Binford

**Department:** Aviation & Transit

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**Information**

**PROBLEM/ISSUE STATEMENT**

During December 2009, the City Council approved a five-year term contract with Jacobs Consultancy to provide the Aviation and Transit Department with Airport financial and facility planning services. Staff now desires to undertake the facility and financial planning work needed to move forward with the new Car Rental Quick Turn Around Facility, and undertake the initial feasibility analysis for the Terminal Area Automobile Parking Improvements. Both of these projects were identified in the Airport's Master Plan Update, and have been included in the City's Capital Improvement Plan and the Department's Business Plan. A brief description of the services that Jacobs Consultancy will perform under this work authorization is outlined below.

**Car Rental Quick Turn Around Facility:**

- Collecting and analyzing car rental concession gross revenues, enplaned passengers, and transaction data.
- Interviewing each car rental company to discuss project objects and operational requirements.
- Prepare a Customer Facility Charge (CFC) analysis, and prepare a draft CFC Ordinance needed to implement the new CFC charge.
- Develop conceptual layouts for the Quick Turn Around (QTA) facility.
- Develop the new business arrangement for the car rental concession, draft new concession agreements, and develop request for bids for the concession.
- Assist staff in presenting the final feasibility analysis and financing program to the rental car companies.
- Support the Department's A&E firm in the design and equipment requirements for the new QTA facility.

**Parking Development Financial Feasibility Analysis:**

- Analyze peak parking activity, existing passenger and Terminal area roadway traffic volumes.
- Estimate further parking requirements by parking product for two to three year intervals for 2010 through 2030.
- Develop a public parking activity model that considers changes that could occur with covered parking and parking rate adjustments.
- Develop up to three alternative plans for a multi-level parking structure based on forecast requirements and parking product needs. Each alternative layout will contain the operational changes that must precede the garage construction (e.g., expansion of remote surface lots, provision of shuttle buses, construction of covered walkways to remote lots, etc.).
- Develop alternatives to accommodate anticipated near-term parking demands.
- Contrast alternative methods of building and operating a new garage (e.g., analyze third-party developments, design build options, and conventional bidding options).
- Prepare preliminary financial feasibility and affordability analysis. This will include, but is not limited to, estimated gross revenue generation, operating and maintenance costs, financing requirements and the affect of additional debt service on Airport cash flow, net revenues, airline rates and changes, and airline cost per enplaned passenger.
- Assist staff in necessary 2011 rates and changes, and possible airline agreement changes and

negotiations with the airlines to begin to prepare for this large capital improvement.

### **ALTERNATIVES ANALYZED**

The City Council may:

- Approve the Jacobs Consultancy work authorization to provide the necessary planning services for the Car Rental QTA and Automobile Parking feasibility analysis.
- Approve the Jacobs Consultancy work authorization for only a portion of the planning services as outlined above.
- Not approve this Jacobs Consultancy work authorization.

### **FINANCIAL IMPACT**

The fee request for the Car Rental QTA project is estimated at \$96,500 plus reimbursable costs, as established in the base agreement with Jacobs. These costs will initially be paid from Departmental accounts established for general planning services. The feasibility analysis for the Automobile Parking Expansion project will be paid from Departmental planning and engineering accounts. The total cost of this work is estimated at \$106,500 plus reimbursable costs.

### **RECOMMENDATION**

Staff recommends that the City Council approve the Jacobs Consultancy work authorization for the facility, financial and feasibility analysis for the Aviation and Transit Department's Car Rental QTA and Automobile Parking projects.

### **APPROVED BY CITY ADMINISTRATOR**

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Date: 03/22/2010

**TITLE: Amendment One of Contract with Montana Department of Transportation for FY 2010 Operating Assistance through the FTA Section 5316 JARC Grant Program**

**PRESENTED BY:** Tom Binford

**Department:** Aviation & Transit

**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings MET Transit Division receives Federal grant operating assistance available through the State of Montana, Section 5316 JARC (Job Access Reverse Commute) program, established to help supplement operating expenses for paratransit service to the low income disabled citizens of Billings. On June 22, 2009, City Council accepted this grant in the amount of \$120,096.50. The City of Billings MET Transit Division was recently advised by the Montana Department of Transportation - Transit Section, of the availability of additional funds for FY 2010. If the amended contract is accepted by the City, the contract amount would increase from \$120,096.50 to \$206,850.50 and will provide reimbursement for an additional \$86,754.00 of operating expenses (like/kind local contribution) to the MET on a 50% grant, 50% local basis. Sufficient eligible operating expenses will be expended from the FY 10 budget to meet the required match amount. These additional funds were referenced in the Transportation Improvement Program (TIP) Amendment, which was brought before the City Council at the March 8, 2010, City Council meeting.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the contract as amended in the amount of \$206,850.50; or
- Not approve the contract as amended in the amount of \$206,850.50.

**FINANCIAL IMPACT**

This contract will allow the MET to access an additional \$86,754.00 in grant revenue to offset FY 10 paratransit operating expenses incurred transporting the disabled low income citizens of Billings.

**RECOMMENDATION**

Staff recommends that the City Council approve and the Mayor execute the attached Amendment One (1) Contract with the Montana Department of Transportation for paratransit operating assistance funded through the Federal Transit Administration JARC program.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [Amendment #1 JARC Contract](#)

AMENDMENT # One (1)  
MONTANA DEPARTMENT OF TRANSPORTATION  
TRANSPORTATION PLANNING DIVISION  
TRANSIT SECTION  
CONTRACT #104578

The Montana Department of Transportation and City of Billings-Aviation and Transit Dept. Met Transit Division do hereby agree to amend Contract #104578 to include this revised budget. A breakdown of the amended budget is shown below. All other terms, conditions, requirements and specifications remain as stated in the original contract.

	ORIGINAL CONTRACT	AS AMENDED
JARC:		
Federal 50.00 percent share	\$120,096.50	\$206,850.50
Local 50.00 percent share	<u>\$120,096.50</u>	<u>\$206,850.50</u>
TOTAL	\$240,193.00	\$413,701.00
Totals:		
Federal	\$120,096.50	\$206,850.50
Local	<u>\$120,096.50</u>	<u>\$206,850.50</u>
	\$240,193.00	\$413,701.00

\_\_\_\_\_  
Lynn Zanto, Administrator  
Transit Section

\_\_\_\_\_  
Date

\_\_\_\_\_  
MET Transit Grantee

\_\_\_\_\_  
Date

Date: 03/22/2010

**TITLE: Approval of NorthWestern Energy Easement to Provide Power Lines to the BLM Wildlands Fire Station**

**PRESENTED BY:** Tom Binford

**Department:** Aviation & Transit

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**Information**

**PROBLEM/ISSUE STATEMENT**

NorthWestern Energy is requesting an easement to install electrical power lines for the Bureau of Land Management's (BLM) new Wildlands Fire Station. On May 26, 2009, the City approved a Lease with the BLM for 6.5 acres to be used for the construction and operation of a new Wildlands Fire Station. The new Fire Station will be built at 1297 Rintop Road, adjacent to the existing BLM Air Tanker Base, both located in the Airport Business Park on the north side of the Airport. The new electrical power lines and associated easements will be completely contained within the Wildlands Fire Station 6.5 acre Lease. NorthWestern Energy is responsible for all of the construction costs; however, since the utility lines will be on Airport property, a right-of-way easement must be approved by the City Council and signed by the Mayor.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the utility easement with NorthWestern Energy; or
- Decline to approve the utility easement and allow the utilities to be installed without an easement.

**FINANCIAL IMPACT**

This easement will produce no financial impact to the City of Billings.

**RECOMMENDATION**

Staff recommends that the City Council approve and the Mayor execute the Right-of-Way Easement with NorthWestern Energy for the installation of electrical power for the BLM's new Wildlands Fire Station located at Billings Logan International Airport.

**APPROVED BY CITY ADMINISTRATOR**

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Date: 03/22/2010

**TITLE: Approval of a Montana Dakota Utilities Easement to Provide a Natural Gas Line to the BLM Wildlands Fire Station**

**PRESENTED BY:** Tom Binford

**Department:** Aviation & Transit

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**Information**

**PROBLEM/ISSUE STATEMENT**

Montana Dakota Utilities (MDU) is requesting an easement to install a natural gas line for the Bureau of Land Management's (BLM) new Wildlands Fire Station. On May 26, 2009, the City approved a Lease with the BLM for 6.5 acres to be used for the construction and operation of a new Wildlands Fire Station. The new BLM Fire Station will be built at 1297 Rintop Road, adjacent to the existing BLM Air Tanker Base, both located in the Airport Business Park on the north side of the Airport. The new gas line will be completely contained within the Wildlands Fire Station 6.5 acre Lease. MDU is responsible for all of the construction costs; however, since the utility line will be on Airport property, a right-of-way easement must be approved by the City Council and signed by the Mayor.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the utility easement with MDU; or
- Decline to approve the easement and allow the utilities to be installed without an easement.

**FINANCIAL IMPACT**

This easement will produce no financial impact to the City of Billings.

**RECOMMENDATION**

Staff recommends that the City Council approve and the Mayor execute the Right-of-Way Easement with MDU for the installation of a natural gas line for the BLM's new Wildlands Fire Station located at Billings Logan International Airport.

**APPROVED BY CITY ADMINISTRATOR**

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Date: 03/22/2010

TITLE: Release of Easement along Vacated Portion of Boundary Waters Circle

PRESENTED BY: David Mumford

Department: Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Boundary Waters Circle within Riverfront Point Subdivision was vacated by City Council at the December 15, 2008, Council meeting. When Riverfront Point Subdivision was platted, all of the street right of ways were dedicated as 50-foot wide with 5-foot sidewalk and fire hydrant easements. This allowed the the street to be installed in the right of way with the sidewalks and fire hydrants installed in the easements. Subdivision regulations have changed since then requiring 56-feet of right of way. When Boundary Waters Circle was vacated, the 5-foot easement was not released. Since the vacation of Boundary Waters Circle, buildings have been constructed over the vacated portion and the sidewalk easements. With the construction of the multi-family buildings, internal sidewalks were constructed.

**ALTERNATIVES ANALYZED**

The Council may:

- Accept the release of easement along the vacated portion of Boundary Waters Circle, or
- Do not accept the release of easement along the vacated portion of Boundary Waters Circle.

**FINANCIAL IMPACT**

There is no financial impact with acceptance of the release of easement.

**RECOMMENDATION**

Staff recommends that council accept the Release of Easement along the vacated portion of Boundary Waters Circle.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Release of Easement](#)

Link: [Exhibit of Easement](#)

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**RELEASE OF EASEMENT**

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned,

CITY OF BILLINGS

Do hereby remise and release unto Frontier Apartments, LLC of 6238 Golden Eagle Way, Billings, MT 59106.

All of the right title, interest, claim and demand to the following real property situated in Yellowstone County, Montana, described as follows: The 5-foot wide sidewalk, fire hydrant and street light easement adjacent to vacated Boundary Waters Circle, in Riverfront Pointe Subdivision as shown on attached Exhibit A. Vacation Document # 34922605.

TO HAVE AND TO HOLD unto its successors and assigns, forever.

This release of easement is hereby approved and accepted by the City of Billings, this \_\_\_\_ day of \_\_\_\_\_, 2010.

“CITY”  
CITY OF BILLINGS  
MONTANA

By: \_\_\_\_\_  
Mayor

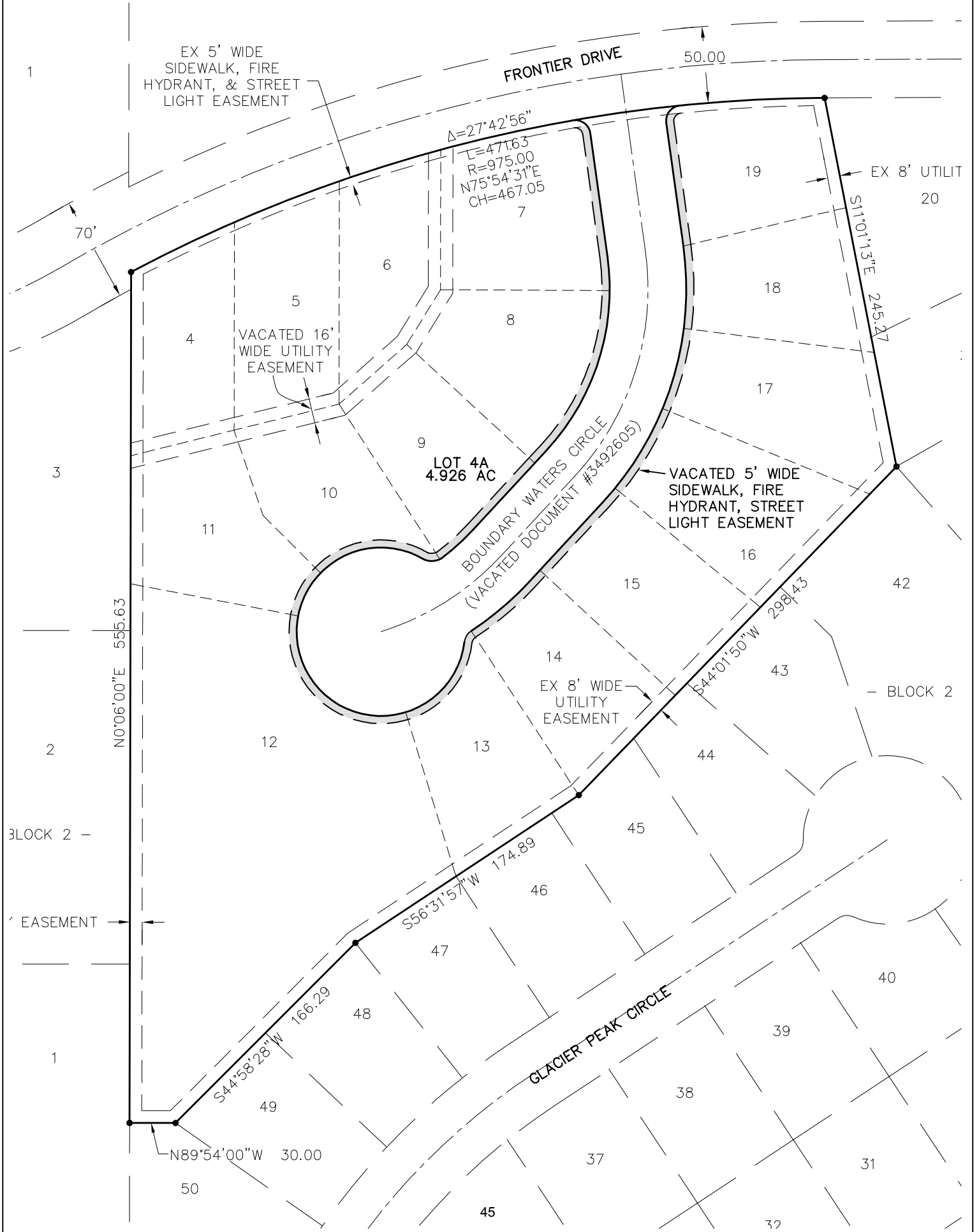
Attest: \_\_\_\_\_  
City Clerk

STATE OF MONTANA             )  
  : ss  
County of Yellowstone )

On this \_\_\_\_ day of \_\_\_\_\_, 2010, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_ and \_\_\_\_\_, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

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

# EXHIBIT A



Date: 03/22/2010

**TITLE: Acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants for 2010**

**PRESENTED BY:** Tom Binford

**Department:** Aviation & Transit

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**Information**

**PROBLEM/ISSUE STATEMENT**

It is necessary to secure the City Council's approval and authorization for the Mayor to execute this year's Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants. This year's Grants provide the entitlement funding needed to undertake the engineering, planning, and construction projects at the Airport. As required by the FAA, the Grant offer is based on the estimated amounts for construction and engineering for these projects. This year's projects include the Hillside Obstruction Removal and Straightening of Taxiway "A" East, the purchase of a New Runway Broom for snow removal, and the Pre-design and Survey Costs for the Taxiway "G" Relocation project scheduled for next year.

Typically, the annual AIP Grant projects are funded with a single FAA Grant. However, since the Federal Transportation Appropriations Bill has not passed for 2010, the FAA funding for this year has been subjected to a prorated amount authorized by the Continuing Resolutions that Congress has passed to keep the Federal Government operating. Subsequently, the annual grant allocations are impacted and the Airport will receive this year's grant funds in multiple, smaller amounts. The first FAA AIP Grant allocation was announced on March 2, 2010 for the amount of \$1,488,484. However, the FAA's window of opportunity to accept the first Grant allocation lasted only until March 15, and the March 2 Grant announcement did not provide enough time for staff to bring the Grant to Council until the March 22, 2010 meeting. Subsequently, after staff discussions with City Administration and the City Attorney's office, the Deputy Mayor signed the Grant offer so that the first allocation was not put at risk. The FAA Airports District Office in Helena, which administers the grant offers, was advised that the City's acceptance of the Grant was contingent on the City Council's approval of the Grant offer at the March 22, 2010 Council meeting.

Instead of accepting the first allocation of this year's Grant, the Airport could wait and see if another Continuing Resolution or FAA funding bill was put in place to subsequently fully fund the annual entitlement amount. However, if that did not happen during this fiscal year, the first AIP allocation would be forfeited forever and the Airport would have to wait until next year to receive any further Federal funding. If no additional Federal funding becomes available this year, the first allocation of \$1,488,484 would not be enough to complete this year's scheduled projects, however, the first allocation could at least be used to pay for the engineering design work for this year's projects and the balance could then be rolled forward and combined with a future grant offer.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the acceptance of this year's AIP Grants; or
- Decline to approve the acceptance of this year's AIP Grants, and not complete the associated projects.

**FINANCIAL IMPACT**

The total estimated costs for the engineering services and construction associated with this year's Grants are \$3,133,652. The combined Grants, once all are received, will fund 95% of this cost (\$2,976,969) and the City will be required to provide a 5% local match (\$156,853). The first Grant allocation will be \$1,488,484 with a local share amount of \$78,342. Additional Grants are expected later this Spring, but that is contingent upon the future actions of Congress. The source of the City's match is the Department's Capital fund.

**RECOMMENDATION**

Staff recommends that the City Council approve the acceptance of this year's multiple grants and provide the authorization for the Mayor's execution of the first AIP Grant allocation of \$1,488,484, as well as any additional AIP Grants received this year as part of the \$2,976,969 of the annual FAA AIP Grant entitlements for the Airport.

**APPROVED BY CITY ADMINISTRATOR**

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Date: 03/22/2010

TITLE: Appoint Medical Marijuana Ad-Hoc Advisory Committee Members

Bruce McCandless, Asst. City

PRESENTED BY: Administrator

Department: City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

On February 8, 2010, the City Council adopted Resolution No. 10-18911 that created the Medical Marijuana Ad-Hoc Advisory Committee (attached). The City received five (5) applications by Friday, March 12 but applications will be accepted one more day. Applications are being reviewed by committee chair Councilman Pitman and by Mayor Hanel. Appointment recommendations will be sent to City Council on Friday, March 19th. The City Council will be asked to approve the Mayor's appointments to the advisory committee.

**ALTERNATIVES ANALYZED**

The City Council may:

- approve the Mayor's appointments
- disapprove the appointments and recommend alternatives

**FINANCIAL IMPACT**

There are no financial impacts at this time other than staff time that will be committed to assisting the committee.

**RECOMMENDATION**

Staff recommends that the City Council approve the Mayor's appointments to the Medical Marijuana Ad-Hoc Advisory Committee.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Resolution 10-18911](#)

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RESOLUTION NO. 10-18911

A RESOLUTION CREATING A CITY OF BILLINGS AD-HOC ADVISORY COMMITTEE ON MEDICAL MARIJUANA

WHEREAS, in 2004, the Montana Legislature adopted MCA 50-46-201, which prohibits a person possessing a registry identification card from being prosecuted or otherwise penalized for possessing or using medical marijuana as outlined within the statute; and

WHEREAS, in October 2009, the U.S. Department of Justice instructed Federal prosecutors not to use resources to prosecute individuals in states which have medical marijuana laws; and

WHEREAS, as a result, numerous individuals have filed for business tax determinations to operate medical marijuana dispensaries in the City of Billings; and

WHEREAS, the Mayor and City Council, on November 23, 2009, approved an initiative to create an ad hoc Council committee to determine what, if anything, the City should do with medical marijuana and how it is sold; and

WHEREAS, BMCC Sec. 2-224 provides a method for the Mayor and City Council to create by resolution an Ad-Hoc Council Advisory Committee to address issues within certain limits.

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

1. There is hereby created an Ad-Hoc Advisory Committee on Medical Marijuana to deal with the issues raised by the City Council.
2. The Ad-Hoc Advisory Committee shall be composed of two City Council members, one of whom shall serve as chair of the Ad-Hoc Committee; one holder of a medical marijuana registry identification card; one medical marijuana caregiver; a pharmacy representative; a medical community representative; a real estate community representative; and a Montana State Representative or Senator.
3. The City Administrator shall appoint such staff as are necessary to assist the Ad-Hoc Advisory Committee with information during its deliberations and to ensure compliance with all applicable open meetings laws.
4. The Ad-Hoc Advisory Committee on Medical Marijuana shall report its findings to the City Council no later than August 23, 2010.

APPROVED this 8<sup>th</sup> day of February, 2010.

THE CITY OF BILLINGS

BY: Thomas W. Hanel, Mayor  
Thomas W. Hanel, Mayor



ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk

**Regular City Council Meeting**

**Consent : 1.O.1.**

**Date: 03/22/2010**

**TITLE: Elephants on Broadway**

**PRESENTED BY:** David Mumford

**Department:** Public Works

**Information**

**PROBLEM/ISSUE STATEMENT**

The Shrine Circus requests street closures from 4:00 pm to 9:00 pm on Tuesday, April 6th in the 2700 and 2800 blocks of 2nd Avenue North and the 100 and 200 blocks of N. 28th Street (Broadway) under Skypoint for their “Elephants on Broadway” event.

Recommended conditions of approval include the Shrine Circus:

1. Contact all businesses and make them aware of the event 30 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate traffic barricades and signs directing motorists around closure
5. Provide certificate of insurance naming City of Billings as additional insured
6. Provide a minimum of 10ft wide unobstructed lane on all streets that will be for emergency access

**ALTERNATIVES ANALYZED**

The Council may:

- Approve request to close street for the event; or
- Deny the street closure

**FINANCIAL IMPACT**

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

**RECOMMENDATION**

Staff recommends that Council approve the closure named above for the Shrine Circus “Elephants on Broadway” Tuesday, April 6th from 4:00 pm to 9:00 pm.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [Elephants on Broadway Attach](#)



**City of Billings**  
**RIGHT-OF-WAY ACTIVITY**  
**PERMIT**

Please check the type of activity you are applying for:

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

Submit this application with attachments to either the: Public Works office, 2224 Montana Ave., Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Tim Goodridge - 670-2329  
ORGANIZATION MAKING APPLICATION Al Bedoo Shrine Temple  
PHONE 259-4384  
ADDRESS 1125 Broadwater Ave. Billings, MT 59102  
CITY STATE ZIP  
EMAIL ADDRESS albedoo@mcn.net

APPROXIMATE TIME EVENT WILL:

Assemble 4:00 Start 5:30 pm Disband 9 pm  
DATE OF EVENT April 6, 2010

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

Elephants on Broadway - Elephants, clowns, bands, horses assemble under sky point to welcome the shrine circus to town.

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

Under sky point

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

Under sky point

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

Shrim cleans

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE:  DATE 12/2/09

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

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

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

**FOR CITY USE ONLY**

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

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

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

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

PRODUCER Phone: (406) 258-5838 Fax: (406) 254-8906  
**BURNS INSURANCE AGENCY INC**  
 711 NORTH 27TH  
 BILLINGS MT 59101

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURED  
**AL BEDOO SHRINE TEMPLE A.A.O.N.M.S.**  
 C/O IT'S CLUBS AND UNITS  
 1125 BROADWATER AVENUE  
 BILLINGS MT 59102

INSURER A: **Praetorian Insurance Company**  
 INSURER B:  
 INSURER C:  
 INSURER D:  
 INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADDL INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	YES	GENERAL LIABILITY	H981000342-01	05/01/09	05/01/10	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED. EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS-COMP/OP AGG. \$ 2,000,000
A		AUTOMOBILE LIABILITY	H982000288-01	05/01/09	05/01/10	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
		<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A		EXCESS / UMBRELLA LIABILITY	H983000122-01	05/01/09	05/01/10	EACH OCCURRENCE \$ 1,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ <input checked="" type="checkbox"/> RETENTION \$ 10,000				AGGREGATE \$ 1,000,000
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE-EA EMPLOYEE \$ E.L. DISEASE-POLICY LIMIT \$
		OTHER: Liquor Liability	H981000342-01	05/01/09	05/01/10	\$1,000,000

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS**  
 Elephants on Broadway Parade on April 6th circus April 7 - 11th  
 "AS REQUIRED BY CONTRACT TO THE EXTENT INSURABLE."  
 \*\*City of Billings listed as additional insured\*\*

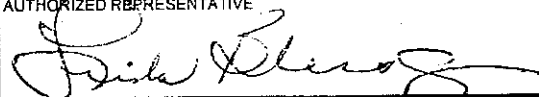
**CERTIFICATE HOLDER**

CITY OF BILLINGS  
 210 N 27th  
 BILLINGS, MT 59101

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



Attention: City Attorney Fx 657-3067

The Billings Al Bedoo Shrine welcomes the 58<sup>th</sup> annual Shrine Circus to town on April 6th with "Elephants on Broadway". On Tuesday April 6th, 2010 Elephants, Clowns, Bands and other Circus performers will be under Skypoint to meet and greet the folks of Billings in the traditional circus arrival from years gone by. Area merchants are encouraged to participate in the circus theme to make the day fun and memorable

I support the closure of 2700 & 2800 blocks of 2<sup>nd</sup> Ave. North and the 100 & 200 blocks of 28<sup>th</sup> St. North on April 6, 2010 from 5pm-9pm for "Elephants on Broadway".

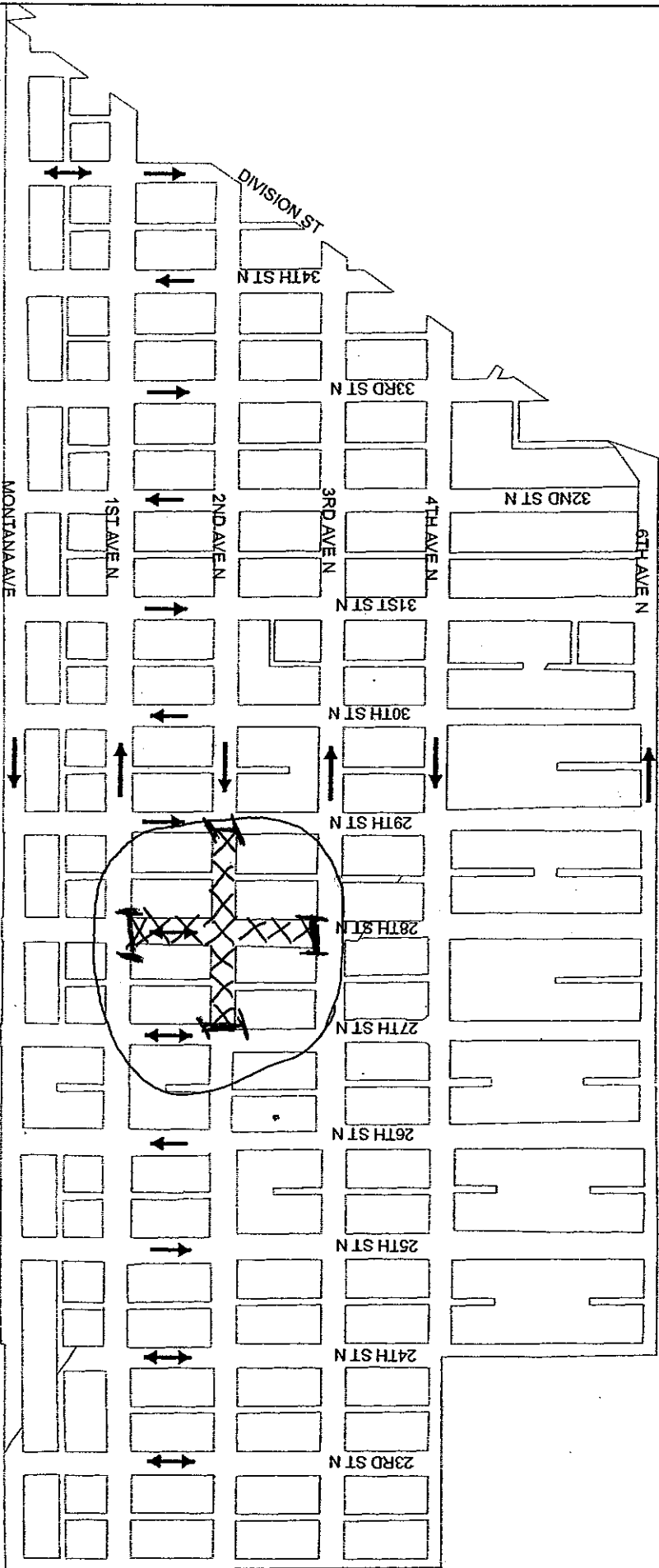
Address	Property Owner	Business Name	Signature
_____	_____	_____	_____
2820 2 <sup>nd</sup> Ave.	_____	_____	_____
2818 2 <sup>nd</sup> Ave N	_____	_____	_____
2814 2 <sup>nd</sup> Ave N.	_____	_____	_____
114 N. Broadway	_____	_____	_____
2812 2 <sup>nd</sup> Ave N	_____	_____	_____
214 N Broadway	_____	_____	_____
208 N Broadway	_____	_____	_____
201 N Broadway	_____	_____	_____

The Billings Al Bedoo Shrine welcomes the 58<sup>th</sup> annual Shrine Circus to town on April 6th with "Elephants on Broadway".  
 On Tuesday April 6th, 2010 Elephants, Clowns, Bands and other Circus performers will be under Skypoint to meet and greet the folks of Billings in the traditional circus arrival from years gone by. Area merchants are encouraged to participate in the circus theme to make the day fun and memorable

I support the closure of 2700 & 2800 blocks of 2<sup>nd</sup> Ave. North and the 100 & 200 blocks of 28<sup>th</sup> St. North on April 6, 2010 from 5pm-9pm for "Elephants on Broadway".

Address	Property Owner	Business Name	Signature
<u>123 N. Broadway</u>	<u>Auth Tabor</u>	<u>Logan Ruby Park Dist</u>	<u>[Signature]</u>
<u>117 N. Broadway</u>	<u>Donna Robertson</u>	<u>HSD</u>	<u>[Signature]</u>
<u>113 N Broadway</u>	<u>Sam Graves</u>	<u>MBC/HFE</u>	<u>[Signature]</u>
<u>112 N Broadway</u>	<u>MSUB</u>	<u>Jacobson &amp; Co.</u>	<u>[Signature]</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

# Downtown Billings Street Direction Map



Under SkyPoint - 1 block in each direction blocked with barricades

**Date: 03/22/2010**

**TITLE: Magic City Blues Festival**

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Tim Goodridge of the Magic City Blues Festival requests the closure of Montana Avenue between the 2300 and 2500 blocks from 9:00 am on Friday, August 13, 2010, until noon on Sunday, August 15, 2010, for the annual Magic City Blues Festival. The attachment contains the application, a map showing the event layout and signatures of support from Montana Avenue business owners.

Recommended conditions of approval include:

1. Contact all businesses and make them aware of the event
2. Clean the area to be used following the event and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide a certificate of insurance with required liability amounts naming City of Billings as additional insured (will be obtained at least one month prior to event)
5. Obtain the proper permit for alcohol consumption in the public right of way from the Billings Police Department
6. Provide security for the event
7. Provide and install adequate traffic barricades and signs directing motorists around closure
8. Restrict signage in the street right-of-way to traffic control and not event advertising or promotion
9. The fence line shall be able to be easily removed or opened to allow for emergency vehicle access to the site in case of an emergency

**ALTERNATIVES ANALYZED**

The Council may:

- Approve request to close street for the event; or
- Deny the street closure

**FINANCIAL IMPACT**

There are no costs to the City of Billings other than administrative time to process the permit. Traffic control and litter removal are to be paid for by the Magic City Blues Fest.

**RECOMMENDATION**

Staff recommends that Council approve the closures named above for the annual Magic City Blues Festival.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Magic City Blues Fest Attac](#)

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# City of Billings RIGHT-OF-WAY ACTIVITY PERMIT

RECEIVED  
NOV 25 2009  
BY: *[Signature]*

Please check the type of activity you are applying for:

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

Submit this application with attachments, to either the: Public Works office, 2224 Montana Ave.,

Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Tim Goodridge  
 ORGANIZATION MAKING APPLICATION City Blue Productions LLP  
 PHONE 406-670-2329  
 ADDRESS 2990 Lohof Dr. Billings, MT 59102  
 CITY STATE ZIP  
 EMAIL ADDRESS tgoodridge3@bresnan.net

APPROXIMATE TIME EVENT WILL:

Assemble 4 pm ~~4:30~~ Start 5 pm Disband 12:30 am

DATE OF EVENT August 13 & 14, 2010

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

2 night outdoor music festival in Billings historic district.  
Magic City Blues Festival

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

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

2300-2500 block of Montana Avenue.

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

we clean.

Insurance for special events can only be obtained 30 days from show

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE. [Signature] DATE 11/23/10

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

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

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

FOR CITY USE ONLY

FEE: \_\_\_\_\_  
APPLICANT NOTIFIED BY \_\_\_\_\_  
DATE: \_\_\_\_\_

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

November 23, 2009

Magic City Blues (MCB) is a two-day annual music festival planned for the second weekend in August each year. The event takes place in the Billings, Montana "Historic District". This year, 2010, will be the ninth annual.

It will be a combination of local, national and international musical acts appearing on two outdoor stages.

To accommodate the outdoor stages and provide a safe gathering place for the people attending MCB, Montana Avenue will need to be closed to all vehicle traffic. Affected blocks will be 2500–2300 block of Montana Avenue. Closures will be from 9am Friday, August 13 to 12 noon Sunday, August 13, 2010. These are the same festival closure times approved by council for the past six years.

Billings Construction Supply will handle traffic closure and diversion.

Our marketing and advertising is very strong and will make people aware of the event on Montana Ave., the dates, and the resulting street closure. In addition to our marketing campaign, major media outlets in Billings will cover the festival as a story to further the awareness. It is the intention of the organizers to make the 2010 festival as smooth and complaint free as years past to ensure continued city support for future festivals.

Traffic diversion on Montana Avenue will begin at N 29<sup>th</sup> with two signs, one in the north and one in the south lane – MONTANA AVE CLOSED AT N 25<sup>th</sup> ST. This will be repeated at N 28<sup>th</sup> and N 27<sup>th</sup>. Through traffic can divert to either 2<sup>nd</sup> Ave N or 1<sup>st</sup> Ave. S at each intersection up to 25<sup>th</sup>, where the barricade will divert remaining cars to 2<sup>nd</sup> Ave. North. Signs will include electronic arrows, cones and road closed ahead signs.

The main outdoor stage will be erected on Montana Avenue, just like last year. Having the stage in this spot provides excellent views and acoustics for the audience, which will be gathering in front of the stage and in the parking lot between the Rex and Venture Theater. This space can comfortably and safely hold the 3500 – 5000 people we expect each night.

Billings Police Association and Starplex Crowd Management Services will again act as the primary agents providing security.

The night shows will remain adult-oriented with no one under 21 allowed into the site after 4pm each day. The Rex and Carlin will provide staff and license for alcohol service within the perimeter. A chain link fence perimeter will be erected with gate entries at 25<sup>th</sup>, 23<sup>rd</sup> and the north end of the Rex parking lot on 24<sup>th</sup>.

Our intention, in addition to presenting more Live Music, is to draw people downtown and develop a broad festival atmosphere over the weekend. B&B Tire launched a car show in the east parking lot of the Depot on the Saturday of the festival from noon to 4pm in 2006. Street Rods and Indy car simulators were on display and lots of folks enjoyed the event. B&B is already planning for their 5<sup>th</sup> car show in 2010. We encourage businesses to develop ideas to capitalize on the crowds and attention surrounding the event to further benefit Billings. Our goal of making Billings the Live Music capital of Montana will be a tremendous boon to the city.

We are very proud of our involvement in providing community entertainment and donating \$35,000 to Public School music programs over the years, both through the festival and also through Perfect Pitch, a 501(c)3 non-profit. This relationship with the public schools is a foundation of our business practices and we will continue to work to increase opportunities and funding for the students.

The Magic City Blues festival has become a signature event for the City of Billings and fans come from all over the city, state and country to enjoy the hospitality and great music. We have worked hard to build the festival in a responsible manner and have gone to great lengths to develop a very good reputation with both the people who attend and the businesses we impact.

The objective of this proposal is to obtain a parks/events permit and permission to close Montana Avenue for the festival. Once this is accomplished, the festival organizers can proceed with obtaining sponsorships, booking talent and all other logistical challenges associated with the event.

All other issues needing resolution will be addressed as is deemed necessary by governing authorities.

Respectfully submitted by:



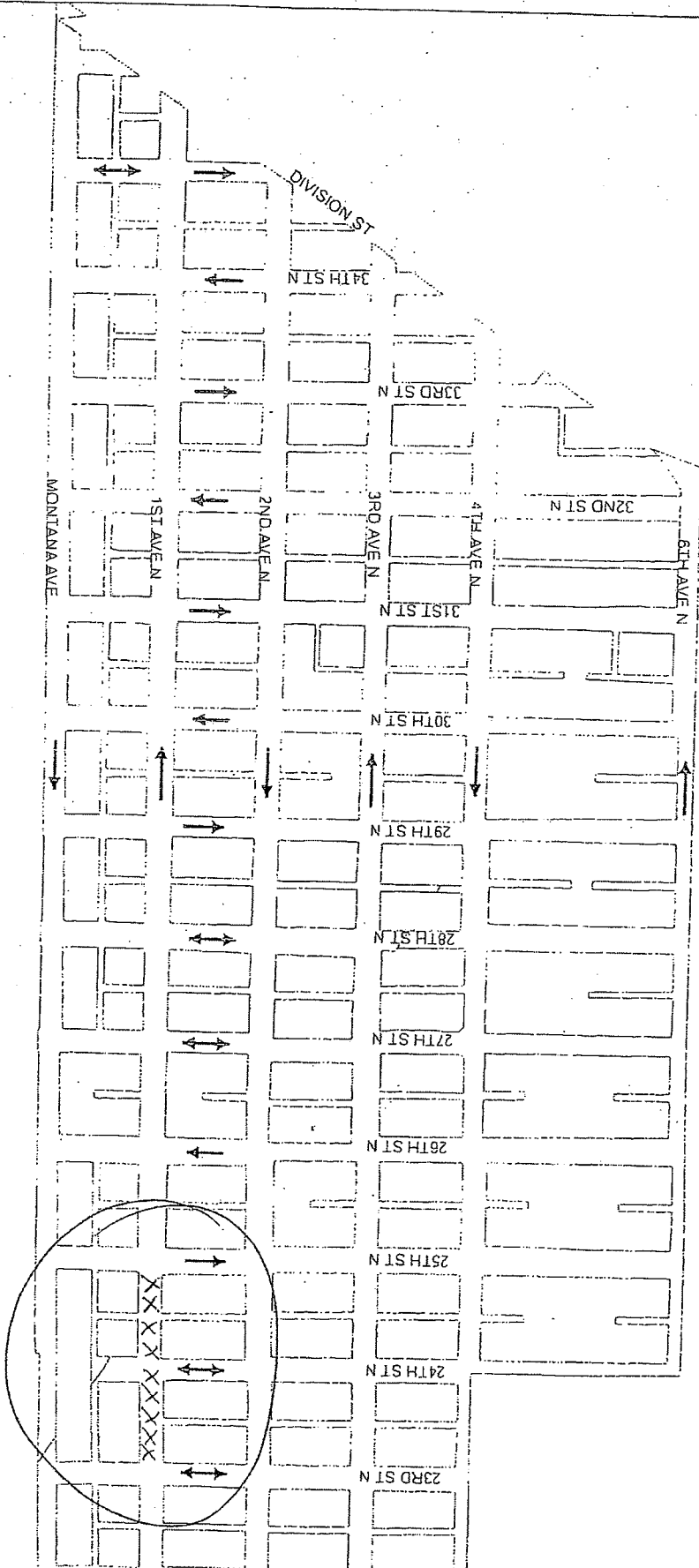
Tim Goodridge – Executive producer, Magic City Blues  
Mike Schaer – partner, Magic City Blues  
Gene Burgad – partner, Magic City Blues

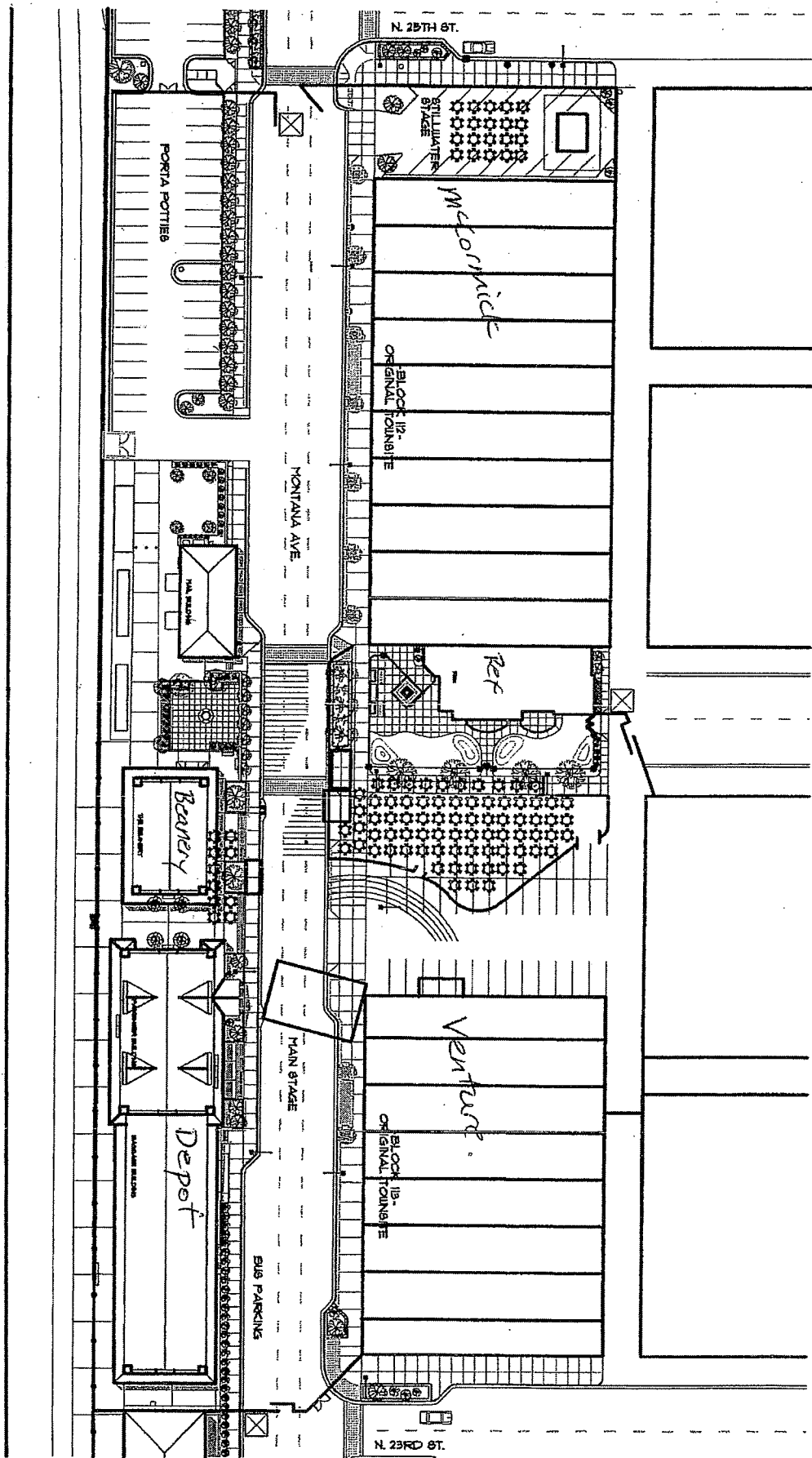
[tgoodridge3@bresnan.net](mailto:tgoodridge3@bresnan.net)

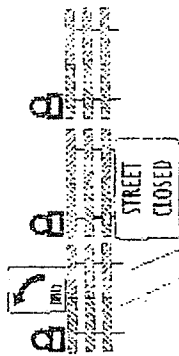
670-2329

2990 Lohof Dr. Billings, MT 59102

# Downtown Billings Street Direction Map







MONTANA AVE



N25TH ST

**BCS**  
 Billings Construction Supply  
 14061 248-8355 1-800-472-6712

MONTANA&25TH.CDR

2009 insurance.

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) <b>07/28/2009</b>
<b>PRODUCER</b> L.A. Xcess Insurance Brokers, Inc. 10474 Santa Monica Blvd #306 Los Angeles, CA 90025		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
Phone No. (818) 623-5410 Fax No. (818) 623-5510	<b>INSURERS AFFORDING COVERAGE</b>	
<b>INSURED</b> City Blue Productions, LLP 2990 Lohof Drive Billings, MT 59102  Phone No. (406) 670-2329 Fax No. (406) 252-5279	INSURER A: STP - St. Paul Fire and Marine Ins. Co.	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
STP			<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> LIQUOR LIABILITY EXCLUDED  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	EW06113375	08/07/2009	08/09/2009	EACH OCCURRENCE \$ 1,000,000
			DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000				
							MED EXP (Any one person) \$ Excluded
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 1,000,000
			<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	<i>This is the coverage we will bind 30 days from the show. Festival does not serve alcohol. Local bars, Rex &amp; Carlin serve and assume liquor liability.</i>			COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							AUTO ONLY - EA ACCIDENT \$
			<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC AGG \$
STP			<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$	EX06102164	08/07/2009	08/09/2009	EACH OCCURRENCE \$ 1,000,000
			AGGREGATE \$ 1,000,000				
			<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS   OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
			OTHER				Coverage Deductible \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 \*Split Dates apply to all coverages in the specified section.

Coverage Location: United States & Canada  
 Event: Magic City Blues Festival

The Certificate holder is included as Additional Insured, but only as respects to claims arising out of the negligence of the Named Insured.

All coverages expire at 12:01 a.m. Standard Time.

<b>CERTIFICATE HOLDER</b> City of Billings P O Box 1178 Billings, MT 59103 United States Of America  Phone No. Fax No.	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>1</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>Richard Peltz</i>
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The ninth annual Magic City Blues festival will be held in the 2500-2300 block of Montana Ave. on Friday and Saturday August 13 & 14, ~~2009~~. The street will be closed to vehicle traffic during those two days and part of Sunday to allow site set up and clean up. Pedestrian access to the two blocks will only be affected from 3 pm to 1am on Friday and Saturday. At those times access will be restricted to ticket holders with admission only through the gates. During the rest of the day, people on foot can come and go as they please with no restrictions.

The festival will control all vendor activity in the street and on the sidewalk during the closure. Vendors will be required to abide by festival rules. Private businesses are encouraged to remain open during evening hours to take advantage of the concert crowds.

**I support the closure of Montana Avenue for Magic City Blues.**

Address	Property Owner	Business Name	Signature
2441 Montana Ave.	Gene Burgard	The Box	Gene Burgard
2405-2409 Montana Ave.	CU	CU	Michael Schaar
2415-2419 Montana Ave.	CU	McCormick/Italia	Michael Schaar
2501-2503 Montana Ave.	CU	Colin/O	Michael Schaar
2509-2519 Montana Ave.	CU	Kay Culver	Michael Schaar
2421-2514 Montana Ave.	CU	Randall/ER	Michael Schaar
2301-2303 Montana Ave.	MPB	Caro Mondo	MPB

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**I support the closure of Montana Avenue for Magic City Blues.**

Address	Property Owner	Business Name	Signature
2305 Montana Ave.	<del>Ken Kelly</del>	DEPT STORES	Ken Kelly
2310 Montana Ave.	Billings Dept Store	DEPT Billings	Karen Johnson
2404 Montana Ave.	"	Postal Bldg	Karen Johnson
2314 Montana Ave.	"	McClary's Tavern	Karen Johnson
2224 Montana Ave.	City of Billings	P.O.D.	David McFady
2411 Montana Ave.	Old Glory	Orlando's	Mike Perry
2403 Montana Ave.	Fifty Paperies	RAINBOW BAR	Frank DeCaro

The ninth annual Magic City Blues festival will be held in the 2500-2300 block of Montana Ave. on Friday and Saturday August 13 & 14, ~~2009~~ <sup>2012</sup>. The street will be closed to vehicle traffic during those two days and part of Sunday to allow site set up and clean up. Pedestrian access to the two blocks will only be affected from 3 pm to 1 am on Friday and Saturday. At those times access will be restricted to ticket holders with admission only through the gates. During the rest of the day, people on foot can come and go as they please with no restrictions.

The festival will control all vendor activity in the street and on the sidewalk during the closure. Vendors will be required to abide by festival rules. Private businesses are encouraged to remain open during evening hours to take advantage of the concert crowds.

**I support the closure of Montana Avenue for Magic City Blues.**

Address	Property Owner	Business Name	Signature
<u>2317</u> Montana Ave.	<u>Dina Burdick</u>	<u>Venture Theater</u>	<u>Dina Burdick</u>
_____ Montana Ave.	_____	_____	_____
_____ Montana Ave.	_____	_____	_____
_____ Montana Ave.	_____	_____	_____
_____ Montana Ave.	_____	_____	_____

Date: 03/22/2010

TITLE: Second Reading of Ordinance Regulating City's Stormwater Collection System

PRESENTED BY: Aura Lindstrand, Public Works

Department: Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

This ordinance is being presented to the Council for approval and would amend the Billings Municipal Code by adding Chapter 28, Articles 28-100 through 28-700, containing Sections 28-101 through 28-715. These sections would provide for the regulation of the City's stormwater collection system through the development of a stormwater management program, including issuance and enforcement of private and public construction Storm Water Pollution Prevention Plans to address construction site stormwater, enforcement of adopted Best Management Practice (BMP) construction standards, enforcement of post-construction stormwater BMP maintenance, and the detection and elimination of illicit discharges. The City Council conducted a public hearing and approved the first reading of this ordinance on February 22, 2010.

**ALTERNATIVES ANALYZED**

The Council may:

- 1) Approve the ordinance on second reading; or
- 2) Not approve the ordinance on second reading.

**FINANCIAL IMPACT**

Staff believes it can address the additional workload under this ordinance for the immediate future with existing staff. Fees, penalties, and additional resource needs will be evaluated and brought to the Council at a future date.

**RECOMMENDATION**

Staff recommends that the City Council approve the ordinance on second reading amending the BMCC by adding Chapter 28, Articles 28-100 through 28-700, containing Sections 28-101 through 28-715.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Stormwater Ordinance](#)

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING CHAPTER 28, ARTICLES 28-100 THROUGH 28-700, SECTIONS TO BE NUMBERED 28-101 THROUGH 28-715; **CITY OF BILLINGS STORMWATER MANAGEMENT AND DISCHARGE CONTROL.**

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

Section 1. That the Billings Montana City Code be amended by adding a new chapter 28, Articles 28-100 through 28-700, with sections to be numbered 28-101 through 28-715, to read as follows:

**Chapter 28**

**STORMWATER MANAGEMENT AND CONTROL**

**ARTICLE 28-100: GENERAL PROVISIONS**

**Sec. 28-101 Purpose.**

This ordinance and its provisions are applicable to any activity by any individual or entity engaging in the disposal of any pollutant that has the potential to adversely impact the water quality of either watercourses, water bodies, or groundwater, as further detailed in 28-101(c).

**(a) Purpose and intent of this ordinance is to:**

- A. Protect and enhance the water quality of the Yellowstone River, water bodies, groundwater and wetlands in a manner pursuant to and consistent with the Clean Water Act of 1972 and the Phase II Stormwater Regulations.
- B. Minimize non-stormwater discharges to storm drains and minimize pollutants in stormwater discharges. Require the removal of illicit connections to the City's MS4 system.
- C. Provide design, construction, operation, and maintenance criteria for permanent and temporary on-site stormwater management facilities to control stormwater runoff. Prohibit improper disposal of substances into the City's MS4 system.

- D. Establish and maintain a data base and inspection program sufficient to determine compliance with the Phase II Stormwater Regulations and the City's Municipal Separate Storm Sewer System (MS4) Application.
- E. Establish legal authority to conduct inspections, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.
- F. Establish legal authority to develop, implement, and enforce a program to reduce pollutants in stormwater runoff from construction activities.
- G. Establish legal authority to develop, implement, and enforce a program to address stormwater runoff from new developments and redevelopment projects.
- H. Provide an equitable distribution of cost for the program including but not limited to the fee schedule in accordance with Section 22-804, titled "Rates for Storm Sewers".

Discharges into the municipal separate storm sewer system (MS4) may be subject to further regulation by the U.S. Environmental Protection Agency, Montana Department of Environmental Quality and local agencies owning and operating a MS4. Local agencies owning and operating portions of the MS4 in Billings include but are not limited to Yellowstone County and Montana Department of Transportation.

This ordinance provides for the regulation of contributors or dischargers to the City's stormwater collection system through the development of a stormwater management program, including issuance and enforcement of private and public construction Storm Water Pollution Prevention Plans to address construction site stormwater, enforcement of adopted BMP construction standards, enforcement of post-construction stormwater BMP maintenance, and the detection and elimination of illicit discharges. This ordinance authorizes monitoring and enforcement activities, requires user reporting, protects the state and receiving waters, and establishes penalties and remedies for violations of the stormwater ordinance.

### **Sec. 28-102. Policy.**

It is the policy of the City to protect the health and welfare of its citizens and environment by monitoring and regulating discharges that may cause pollution to the environment.

### **Sec. 28-103. Applicability**

This ordinance shall apply to all construction and maintenance activities for industrial, commercial, institutional, single family and multifamily residential developments, as well as subdivision projects with private access which may introduce pollutants into any

private storm drain, or any body of water within the City's MS4 jurisdiction. Exceptions include activities that are contained entirely on federal or state, or county lands and do not impact adjacent jurisdictions or MS4s. Additionally, permanent and temporary stormwater management controls and facilities, constructed as part of any activities listed in this section, which are located within the City's MS4 jurisdiction, are also subject to this ordinance.

#### **Sec. 28-104. Authority**

This ordinance shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and the Municipal MPDES Permit and any amendments, revisions or re-issuance thereof. Activities regulated by this ordinance may be subject to further regulation by the specific public entity owning and operating a MS4. No permit or approval issued pursuant to this ordinance shall relieve a person of the responsibility to secure permits and approvals required for activities regulated by any other applicable rule, code, act, permit or ordinance.

The City's Stormwater Management Manual provides additional policy, criteria and information including specifications and standards for the proper implementation of the requirements of this ordinance and is incorporated by reference herein. The manual includes a list of acceptable stormwater treatment practices, including design criteria. Design and construction of stormwater facilities are to meet minimum water quality performance standards.

#### **Sec. 28-105. Responsibility of Discharger.**

The standards set forth in and promulgated pursuant to this ordinance are minimum standards. This ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution or unauthorized discharge of pollutants into waters of the United States caused by that person. This ordinance shall not create liability on the part of the City, or any City agent or employee for any damages that result from any discharger's reliance on this ordinance or any administrative decision lawfully made pursuant to this ordinance.

### **ARTICLE 28-200. DEFINITIONS**

#### **Sec. 28-201. Definitions**

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section.

- 1) Authorized Enforcement Agent The City Administrator or any individual designated by the City Administrator as an Authorized Enforcement Agent.

- 2) Best Management Practices (or BMPs) Schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters." BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- 3) Billings City Non-Stormwater Disposal Best Management Practices Best management practices adopted by reference by this Ordinance for non-stormwater disposal.
- 4) BMCC Billings, Montana City Code.
- 5) City The City of Billings, Montana.
- 6) CFR The Code of Federal Regulations
- 7) Clean Water Act (CWA) Federal Water Pollution Control Act enacted by Public Law 92-500 as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; 33 USC 1251 et seq.
- 8) Comprehensive Drainage Plan A stormwater management plan that covers all current and anticipated development on a site greater than 5 acres and sites planned for phased development, including the impact on existing off-site infrastructure.
- 9) Concentrated Flow Parameters exceed the median concentration in Table 2 of the General Permit for MS4s and the flow exceeds dry weather flow conditions.
- 10) Construction Activity Any work that results in land disturbance of any nature.
- 11) Control Measure Any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to state waters.
- 12) Development Any construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure within the jurisdiction of the City of Billings as well as any manmade change or alteration to the landscape, including but not limited to, mining, drilling, dredging, grading, paving, excavating and filling.
- 13) Director of Public Works The Director of the Billings City Public Works Department.

- 14) Discharge Any introduction or addition of any pollutant, stormwater, or any other substance into the municipal storm sewer system (MS4), waters of the state, or into waters of the United States by a person.
- 15) Discharger Any person, who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any operator of a construction site or industrial facility.
- 16) Fire Fighting Water Any water, and any substance or materials contained therein, used in an emergency, to control or extinguish a fire.
- 17) Illicit Connection
  - a) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including, but not limited to, any conveyances which allow any stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted or approved by a government agency; refer to exemptions under 28-102, 01B or
  - b) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps or equivalent records and approved, permitted or permitted by the City.
- 18) Illicit Discharge Any discharge to a MS4 that is not composed entirely of stormwater except the following: discharges not identified as significant contributors of pollutants listed in the General Permit and allowable under the City's MS4 program.
- 19) Impervious Surface A surface which prevents or retards the penetration of water into the ground, including, but not limited to, roofs, sidewalks, patios, driveways, parking lots, concrete and asphalt paving, gravel, compacted native surfaces and earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.
- 20) Major Modification An alteration to an existing or planned stormwater drainage facility that does one or more of the following: changes the volume, surface area, depth, capacity, inflow rates, outflow rates or level of treatment by 5% or more; changes the treatment process; adds more than one thousand (1000) square feet of impervious surface; or increases the tributary impervious drainage area to an individual drainage facility component by more than 10%.

- 21) Maximum Extent Practicable (or MEP) The technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in the stormwater discharges that was established by the Clean Water Act, Section 402(p). A discussion of MEP as it applies to MS4s is found in ARM 17.30.1111(5).
- 22) MDEQ Montana Department of Environmental Quality. A state regulating agency.
- 23) MPDES Permit Montana Pollution Discharge Elimination System. An area-wide MPDES permit that is issued to a government agency or agencies for the discharge of pollutants from any point source into the waters of the State or United States.
- 24) MS4. The Billings, Montana municipal separate storm sewer system.
- 25) Municipal Separate Storm Sewer System (or MS4) A conveyance or system of conveyance (including roads with drainage systems, municipal streets, catch basin, curb, gutters, ditches, manmade channels, or storm drains) owned or operated by a public body (created under State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as sewer district, irrigation district, flood control district or drainage district, or similar entity that discharges to the waters of the United States and which are not part of a Publicly Owned Treatment Works ("POTW") as defined in ARM Title 17, Chapter 30, Sub-chapter 13.
- 26) Permit National Pollutant Discharge Elimination System Permit (or NPDES) A permit issued by MDEQ, in compliance with the Federal Clean Water Act for the discharge of pollutants from any point source into the waters of the State or United States.
- 27) Notice of Intent (or NOI) Submittal required by the State under the General Permit for stormwater discharges associated with construction activity.
- 28) Notice of Termination (or NOT) Submittal required by the State under the General Permit for stormwater discharges associated with construction activity. The construction site has been finally stabilized and the operator desires to be relieved of responsibility on the General Permit coverage period.
- 29) Non-Stormwater Discharge Any discharge that is not entirely composed of stormwater.
- 30) Off-Site Stormwater Any runoff crossing property lines that discharges to public right-of-way, property not included in the SWPPP, or property owned by others.

- 31) Owner or Operator (a) A person who owns, leases, operates, controls, or supervises a point source. (b) For the purpose of permitting “stormwater discharge associated with construction activity” means any “owner or operator” associated with a construction project, who is a person designated as an eligible signatory, who has operational control over the construction plans and specifications and has day to day operational control at the project to ensure compliance with the SWPPP.
- 32) Person Any individual, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.
- 33) Plan Pertains to Stormwater Management Plan and Comprehensive Drainage Plan.
- 34) Point Source Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged.
- 35) Pollutant Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials [except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)], heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water, and as otherwise defined in 40 CFR 122.2.
- 36) Premises Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 37) Redevelopment A project that proposes to add, replace and/or alter impervious surfaces affecting an existing drainage system, other than routine maintenance, resurfacing, or repair. A project which meets the criteria of a major modification as defined in this section shall be considered a redevelopment.
- 38) State Waters Any body of water, either surface or underground. State waters" means a body of water, irrigation system, or drainage system, either surface or underground.
- 39) Stormwater Storm water runoff, snowmelt runoff, and surface runoff and drainage.

- 40) Stormwater Management The process of collection, conveyance, storage, treatment, and disposal of stormwater to ensure control of the magnitude and frequency of runoff and to minimize the hazards associated with flooding. Also includes implementing controls to reduce the discharge of pollutants including management practices, control techniques and systems, design and engineering methods.
- 41) Stormwater Management Manual The design standards manual prepared by the Billings City Public Works Department which provides design, performance, and review criteria for stormwater management practices.
- 42) Stormwater Management Plan Details of the on-site drainage system, structures, BMPs, concepts and techniques that will be used to control stormwater, including drawings, engineering calculations, computer analyses, maintenance and operations procedures, and all other supporting documentation for developments equal to or less than five (5) acres.
- 43) Stormwater Pollution Prevention Plan (or SWPPP) Under the State's General Permit for Storm Water Discharges Associated with Construction Activities which characterizes the construction activity, potential sources of pollutants, and Best Management Practices (BMPs) to help ensure pollutants do not reach surface waters.
- 44) Stormwater System Physical facilities, that are both private and public, temporary or permanent, designed to treat, collect and transport stormwater which include but are not limited to; curbs, inlets, pipe, box culverts, swales, ditches, ponds, French drains, boulder pits, wattles, and silt fences.
- 45) Total Maximum Daily Load (or TMDL) The sum of the individual waste load allocations for point sources and load allocations for both nonpoint sources and natural background sources established at a level necessary to achieve compliance with applicable surface water quality standards. as defined in MCA 75-5-103.
- 46) U.S. EPA United States Environmental Protection Agency.
- 47) Variance A modification of the requirements of the Ordinance.
- 48) Watercourse. Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of State
- 49) Wetland An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life

in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

## **ARTICLE 28-300 DISCHARGE PROHIBITIONS.**

### **Sec. 28-301. Prohibitions of Illicit Discharges.**

- A. It shall be unlawful to discharge or cause to be discharged into the MS4 any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards or that could cause the City to be in violation of its MPDES. It shall be unlawful to store, handle or apply any pollutant in a manner that will cause exposure to rainfall or runoff and discharge to the MS4 and to State waters or waters of the United States.
- B. The commencement, conduct or continuance of any discharge not composed entirely of stormwater to the MS4 is prohibited except as follows:
- 1) Discharges pursuant to an MPDES General Permit for MS4's permit and discharges due to firefighting activities.
  - 2) Discharges from the following activities are not be considered a source of pollutants to the MS4 and to State waters when properly managed, and shall not be considered illicit discharges unless determined by the City to be significant contributors of pollutants to the MS4 or to cause a violation of the provisions of the Clean Water Act or this ordinance based on quantity of flow, concentration of pollutants, proximity to a water course, or condition of a receiving water: irrigation water, irrigation ditch return flows, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering (excluding over watering), individual residential car washing, individual residential dechlorinated swimming pool and hot tub discharges, individual residential street washing, water line flushing, flows from riparian habitats and wetlands, uncontaminated water from irrigation system meter pits and flows from emergency firefighting activities. Before applying the listed exceptions, the City shall make a determination on a case by case basis as to what is considered significant contributors of pollutants. In addition, the following non-storm water discharges need not be prohibited from entering the MS4, provided approved control measures to minimize the impacts from the sources are implemented: Municipally owned dechlorinated swimming pool discharges, Municipal water tank draining and water from street washing (including sidewalks and medians) that is

conducted by City staff or under contract with the City. This prohibition shall not apply to any non-storm water discharge permitted under an MPDES permit, waiver or waste discharge order issued to the discharger and administered by the State of Montana under the authority of the United States Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations.

- 3) The City may exempt in writing other non-storm water discharges which are not a significant source of pollutants to the City's MS4 or State waters.

### **Sec. 28-302. Prohibitions of Illicit Connections and Discharges.**

- A. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- C. A person is in violation of this ordinance if the person connects a line conveying sewage or pollutant to the MS4, or allows an existing connection to continue.
- D. Illicit connections must be disconnected at the owner's expense in a timely manner.
- E. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice from the City of Billings. The notice will specify a reasonable time period to locate the drain or conveyance, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations shall be documented and provided to the Public Works Department.

No person shall throw, deposit, leave, maintain, wash or rinse, keep any substance that may cause or contribute to pollution, or permit any such substance to be thrown, deposited, left, maintained, washed or rinsed, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, catch basin, manhole, ditch, channel, pond or any other component of the MS4, or State waters. Pollutants for this purpose include but are not limited to oil, solvents, anti freeze, flammables, septage, poisonous or infectious substances, garbage, soaps, acids, bases and sediment. Wastes deposited in streets in a manner allowed by the City for the purpose of collection are exempted from this prohibition. Refer to section 28-102.01 B2 for exemptions.

### **Sec. 28-303. Parking Lots and Similar Structures.**

- A. Persons owning or operating a paved parking lot, gas station pavement, paved private street or road, or similar structure or conducting routine building wash downs, shall clean and maintain those structures or areas consistent with the Billings City Non-Stormwater Disposal Best Management Practices prior to discharging to a storm drain.
- B. Newly constructed and significantly remodeled covered parking garages or other covered structures shall be drained into a stormwater system in accordance with this ordinance and other Billings ordinances. The owner and operator of a private stormwater collection system may be required to construct control structures to ensure the pre-treatment of such discharges prior to entry into the stormwater system. Existing structures are exempt unless deemed by the City to be a significant contributor of pollution to the stormwater system.

### **Sec. 28-304. Outdoor Storage Areas - Commercial and Industrial Facilities.**

In outdoor areas, no person shall store grease, oil or other pollutants in a manner that will or may result in such substances entering a stormwater system. In outdoor areas, no person shall store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances to a storm drain. To prevent the discharge of hazardous substances to the MS4, the City may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.

## **Article 28-400. CONSTRUCTION ACTIVITY.**

### **Sec. 28-401. Required Construction Submittals.**

- A. Any construction within the City's MS4 area shall comply with the provisions of this ordinance, City's Stormwater Management Manual, and the State's General Permit for Storm Water Discharges Associated with Construction Activity (Montana Code Annotated (MCA) 75-5-101, Administrative Rules of Montana (ARM 17.30.1301 and ARM 17.30.601). The City will require at a minimum an executed copy of the State standard Notice of Intent (NOI) form for a storm water discharge associated with construction activity under the General Permit and a Storm Water Pollution Prevention Plan (SWPPP), and a Notice of Termination (NOT) for construction sites either one acre or larger, for each phase of a construction site that exceeds one acre, or within 50 feet of any water course including irrigation and stormwater ditches for construction sites of less than one acre.

- B. Any person performing support activities related to a construction site (e.g. concrete or asphalt batch plants, equipments staging yards, material storage areas, etc.) within the City's MS4 area may require the following NOI, SWPPP, NOT, similar to the requirements of construction activity provided that:
- 1) The support activity is not a commercial operation serving multiple unrelated construction projects and does not operate beyond the completion of the construction activity.
  - 2) Appropriate controls and measures are identified in the SWPPP for discharge from support activity.
  - 3) The support activity disturbs an area that is one acre or greater in size or is within 50 feet of any water course.
- C. In accordance with the State's reporting requirements the property owner shall also notify the City when there is any facility contact change, any spill or /release, any finding that there has been non-compliance with the SWPPP.
- D. The City shall conduct all inspections of any construction activities requiring a SWPPP for all work within the MS4 area.
- E. The City will enforce the requirements under the State's General Permit for Storm Water Discharges Associated with Construction Activity in whole or in part determined by the City's Enforcement Agent.
- F. The operator shall retain completed and signed copies of the NOI, MDEQ's confirmation letter for receipt of the NOI package, and a SWPPP at the construction activity project site at all times during the coverage period. If the operator does not maintain a permanent office/ or building at the project site, copies of these documents shall be retained at the operator's office and shall be brought to the project site by the operator responsible for implementation of the SWPPP.
- G. Upon failure of the operator to take corrective actions on or prior to a required date on a reported or observed spill or the potential to release pollutants, including sediment, into the stormwater system, the City may either perform the corrective work or employ contractors to do the same. The contractor shall reimburse the City for all expenditures pertaining to the corrective action in accordance with Section 28-104.05 BMCC.
- H. The City's Enforcement Agent has the authority to issue a stop work order pursuant to the remediation of a current violation or the potential of a violation of this ordinance in accordance with 18-300 BMCC.

- I. An Authorized Enforcement Agent shall establish the appropriate frequencies for inspection of construction stormwater pollution prevention measures or BMPs at all active construction sites.
- J. The permittee or his/her agent will be required to perform regularly scheduled site inspections, at least every fourteen (14) calendar days, and within ten (10) calendar days after major storm events to ensure all BMPs have been constructed and are functioning properly. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. Permittee shall document all inspections in writing and made available for review by the City.

#### **Sec. 28-402. Construction Activity on Less than One Acre.**

The City may apply this ordinance in whole or in part for construction sites or lots that are less than one acre if it is determined that appropriate good housekeeping practices or best management practices are not being implemented to minimize impacts, such as but not limited to, erosion and sediment transport into public right-of-way or any adjoining property that causes stormwater runoff that exceeds pre-construction activities.

#### **Sec 28-403. Construction Activity on Lots Within a Master Plan Development.**

Individual lot development regardless of the lot size must follow good housekeeping practices and best management practices as outlined in the SWPPP for the development.

### **ARTICLE 28-500. REGULATIONS AND REQUIREMENTS**

#### **Sec. 28-501. Requirement to Control and Reduce Stormwater Pollutants.**

- A. New Development and Redevelopment: The City's Stormwater Management Manual outlines appropriate BMPs to control the volume, rate, and the potential of pollutants in stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants.
- B. Responsibility to Implement BMPs: Any person or entity engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering stormwater, the MS4 or State waters, shall implement BMPs to the maximum extent practicable to provide protection from discharge into the MS4. BMPs shall be provided and maintained at the owner's or operator's expense. The Public Works Director or designee shall have the authority to require the installation, operation and/or maintenance of BMPs. The Public

Work Director shall also have the authority to require the removal of temporary BMPs.

**Sec. 28-502. Requirement to Eliminate Illicit Discharges.**

The City may require by written notice that a person or entity responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illicit discharges.

**Sec. 28-503. Requirement to Eliminate or Secure Approval for Illicit Connections.**

A person responsible for an illicit connection to the MS4 shall comply with the requirements of this ordinance and shall eliminate or secure approval for the connection whether the connection or discharges to it had been established or approved prior to or after the effective date of this ordinance. An application seeking approval for the connection shall be submitted in writing to the City Public Works Department's Environmental Division.

**Sec. 28-504. Watercourse Protection.**

Any person owning property through which a watercourse passes, or that person's lessee, shall keep and maintain all parts of the watercourse within that property reasonably free of trash, debris, excessive vegetation and other obstacles that would pollute, or significantly restrict the flow of water through the watercourse. The owner or lessee shall maintain any existing privately owned structures within or adjacent to that watercourse, so that those structures will not become a hazard to the use, function or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation unless it is reasonably necessary for maintenance. The owner or lessee shall not remove vegetation if it will increase the vulnerability of the watercourse to erosion. The property owner shall maintain and stabilize the watercourse within the property owner's property boundaries in a manner that will protect against any erosion and degradation of the watercourse originating on or flowing through their property.

**Sec. 28-505. Requirement to Remediate.**

Whenever the City finds that a discharge of pollutants, within the MS4 area, is taking place or has occurred which will result in or has resulted in pollution of stormwater, the MS4 or State waters, the City will notify the responsible person or entity in writing and give them a reasonable opportunity to remediate the affected property in accordance with the provisions of this ordinance using a remediation plan pre-approved by the Public Works Director or designee. The City or a designated contractor may remediate the affected property at the owner's or responsible person's or entity's expense if the owner or responsible person does not take corrective actions within a reasonable time. Remediation plans shall be submitted to the City by the owner or responsible person

and approved prior to the start of the remediation. The plan shall include, but may not be limited to, a remediation schedule, a course of action, a list of personnel performing remediation work and a list of equipment to be used.

Whenever a violation of this ordinance constitutes an emergency presenting imminent danger of serious injury to persons or property the City may remediate the conditions giving rise to the violation through an available public agency or by contract or arrangement with private persons, and the cost of such abatement shall be paid by the owner of the property.

#### **Sec. 28-506. Requirement to Monitor and Analyze.**

The City may require any person engaged in any activity or owning or operating any facility which may cause or contribute to stormwater pollution, illicit discharges or non-stormwater discharges to the MS4 or State waters, to undertake, at the person's or owner's expense, monitoring and analyses by a State certified laboratory pursuant to the provisions of this ordinance, and furnish reports to the City of Billings as deemed necessary to determine compliance with this ordinance.

#### **Sec. 28-507. Notification of Spills.**

Notwithstanding other requirements of law, as soon as any owner of or any person responsible for a facility or operation has information of any known or suspected release of pollutants discharging into stormwater, the MS4, or State waters from that facility, that person shall take all necessary steps to ensure the discovery, containment and cleanup of the release. In the event of a release of a Pollutant, the person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release not requiring an emergency response, that person shall notify the City by calling the City's Public Works Department Environmental Division Environmental Division within twenty-four (24) hours, and providing a written notice thereto within five (5) business days. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or responsible person must make and keep an onsite written record of the circumstances of the discharge and the actions taken to prevent its recurrence. These records shall be retained for not less than five (5) years.

**Sec. 28-508. Discharge Pursuant to MPDES Permit.**

The prohibition of discharges shall not apply to any discharge regulated under an MPDES permit issued and administered by DEQ, provided that the Discharger is in full compliance with all requirements of the permit and other applicable laws or regulations. Compliance with an applicable MPDES permit governing discharges into the MS4 shall be considered compliance with this ordinance.

**Sec. 28-509. Noncompliance with MPDES Permits.**

Any discharge that would constitute a violation of a MPDES Permit and any amendments, revisions or re-issuance thereto, when either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, the permittee shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action against the permit holder relating to such discharge as provided by applicable rules of law. All persons in charge of a facility are to comply with applicable federal and state laws including facility personnel, training, training record maintenance, training records, maintenance of notification procedures, and implementation of notification requirements for spill response to assure containment, cleanup, and immediate notification to the owner and operator of the MS4. Individuals responsible for spills are to comply with applicable state and federal notification requirements to assure containment, clean up, and immediate notification to the owner and operator of the MS4.

**ARTICLE 28-600. STORMWATER MANAGEMENT PLANS AND COMPREHENSIVE DRAINAGE PLANS.**

**Sec. 28-601. Requirements**

To control the quality, volume and rate of stormwater runoff to storm drains and prevent the deterioration of water quality, all new developments and redevelopment projects will be required to submit a stormwater management plan or a comprehensive drainage plan to the City for approval. The Stormwater Management Manual establishes standards and guidelines for implementing BMPs and stormwater management is incorporated by reference and made part of this ordinance.

**Sec. 28-602. Maintenance of Stormwater Facilities.**

- A. Stormwater facilities shall be maintained by the owner or other responsible party in a condition so that the facilities will function as designed.
- B. Waste shall be disposed of from maintenance of facilities in accordance with applicable federal, state and local laws and regulations.

- C. The owner or other responsible party shall create and maintain records of installation and maintenance and repair for a period of five (5) years and shall be made available to the City Public Works Department upon request.
- D. Any failure to maintain facilities or to correct deficiencies at facilities within a reasonable time after receiving written notice from the City may result in criminal or civil penalties. The City may perform corrective or maintenance work the owner or responsible person fails or refuses to perform within a reasonable time at the owner's expense.

## **Art. 28-700. INSPECTIONS AND ENFORCEMENT**

### **Sec. 28-701. Inspection.**

- A. The owner or other responsible party shall conduct annual inspections of the facilities and shall maintain records of such inspections for a period of five (5) years.
- B. Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever an Authorized Enforcement Agent has reasonable cause to believe that there exists any condition which may constitute a violation of the provisions of this ordinance in any building or upon any premises, the Authorized Enforcement Agent may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Authorized Enforcement Agent by this ordinance; provided that (1) if such building or premises is occupied, he or she first shall present proper credentials and request entry; and (2) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.
- C. If permission is refused or denied, or if it is not possible to locate the owner or responsible person and no emergency exists, the Authorized Enforcement Agent shall obtain a warrant before entering the premises. If an emergency exists presenting imminent danger of serious injury to persons or property, the Authorized Enforcement Agent may immediately enter into any building or upon any premises within the jurisdiction of the city for purposes of inspection or abatement.
- D. The City may conduct routine inspections as deemed necessary to carry out the objectives of this ordinance, including but not limited to, random sampling and/or sampling in areas with evidence of stormwater pollution, illicit discharges, or similar factors.

- E. Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance.

**Sec. 28-702. Enforcement.**

Any of the following shall constitute a violation of this Article:

- A. Conducting any land disturbing or construction activity of an area larger than one acre without submitting a notice of intent to the City.
- B. Conducting any land disturbing or construction activity of an area larger than one acre without complying with a NPDES or MPDES general permit for stormwater discharge associated with construction activity requirements at the location where the land disturbance activity has occurred.
- C. Failure to install erosion control devices or to maintain erosion control devices throughout the duration of the soil disturbing activities.
- D. Failure to remove off-site sedimentation that is a direct result of soil disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices or BMPs.
- E. Failure to repair damaged erosion control devices in a timely manner.
- F. Failure to contain and properly dispose of solid waste, sanitary waste, hazardous waste, chemicals, petroleum products, or concrete truck washout at or from a construction site.
- G. Other situations that result in a non-compliance with this ordinance.

**Sec. 28-703. Sampling.**

With the consent of the owner or occupant or with authorization from a Court of competent jurisdiction, any City Enforcement Agent may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the City Enforcement Agent may take any samples deemed necessary to aid in the pursuit of the inquiry or to record the on-site activities, provided that owners or occupants shall be entitled to split samples. Samples shall be collected, stored and transported in conformance with accepted sampling and testing standards, including chain-of-custody.

**Sec. 28-704. Testing and Monitoring.**

- A. Whenever the Director of Public Works or designee determines that any person engaged in any activity or owning or operating any facility that may cause or

contribute to an illicit discharge to the stormwater system, the Director of Public Works or designee may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the Director of Public Works or designee may recommend. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall describe the monitoring activities and/or analyses and reports required. The owner or operator shall perform the actions ordered by the Director of Public Works and shall pay for all costs of these activities, analyses and reports. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order.

- B. In the event the owner or operator of a facility fails to conduct the monitoring and/or analyses and furnish the reports required by the Order in the time frames set forth therein, the City may cause such monitoring and/or analyses to occur and assess all costs incurred, including reasonable administrative costs and attorney's fees, to the facility owner or operator. The City may pursue judicial action to enforce the Order and recover all costs incurred.

#### **Sec. 28-705. Notice of Violation.**

Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the City may order compliance by written notice of violation to the responsible person.

- A. The Notice of Violation shall contain:
- 1) The name and address of the alleged violator;
  - 2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
  - 3) A statement setting forth the facts which constitute the violation;
  - 4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
  - 5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed;
  - 6) A statement that the determination of violation may be appealed to the Public Works Director by filing a written notice of appeal within ten (10) calendar days of service of notice of violation; and

- 7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Such notice may require, without limitation:

- 1) Monitoring, analyses, and reporting;
- 2) Elimination of illicit connections or discharges;
- 3) That discharges, practices, or operations in violation of this Article shall cease and desist;
- 4) Abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- 5) Payment of a civil fine to cover administrative and remediation costs; and
- 6) Implementation of source control or treatment BMPs.

**Sec. 28-706. Continuing Violations.**

Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this ordinance is committed, continued or permitted by the person and shall be punishable accordingly, as herein provided.

**Sec. 28-707. Violations Constituting Misdemeanors.**

The knowing violation of any provision of this ordinance, or knowing failure to comply with any of the mandatory requirements of this ordinance shall constitute a misdemeanor.

**Sec. 28-708. Concealment.**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this ordinance shall constitute a violation of this Article.

**Sec. 28-709. Acts Resulting in Violation of Federal Clean Water Act.**

Any person who violates any provision of this ordinance, any provision of any permit issued pursuant to this ordinance, or who discharges pollutants, waste or wastewater so as to cause an illicit discharge into the MS4, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the Federal Clean

Water Act and may be subject to the sanctions of that Act including civil and criminal penalties.

**Sec. 28-710. Violations Deemed a Public Nuisance.**

- A. In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter may be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance by the Director of Public Works or designee, and may be summarily abated and/or restored by the City and/or civil action taken to abate, enjoin or otherwise compel the cessation of such nuisance.
- B. The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid.
- C. In any administrative or civil proceeding under this ordinance in which the City prevails, the City may be awarded all costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit and reasonable attorneys' fees.

**Sec. 28-711. Civil Actions.**

In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the City. In any such action, the City may seek, and the Court shall grant, as appropriate, any or all of the following remedies:

- A. A temporary and/or permanent injunction.
- B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.
- C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.
- D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing stormwater discharge control systems and/or implementing or enforcing the provisions of this Ordinance.
- E. Fines to City for MPDES permit violations.

### **Sec. 28-712. Administrative Enforcement Powers.**

In addition to the other enforcement powers and remedies established by this ordinance, any City Enforcement Agent has the authority to utilize the following administrative remedies.

- A. Cease and Desist Orders. When a City Enforcement Agent finds that a discharge has taken place or is likely to take place in violation of this Ordinance, the agent may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (a) comply with the requirement; (b) comply with a time schedule for compliance, and/or (c) take appropriate remedial or preventive action to prevent the violation from recurring.
  
- B. Notice to Clean. Whenever a City Enforcement Agent finds any oil, earth dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds or in close proximity to any open drain or ditch channel, which may result in an increase in pollutants entering the storm drain or a non-stormwater discharge to the storm drain, he or she may give notice to remove and lawfully dispose of such material in any manner that he or she reasonably may provide. The recipient of such notice shall undertake the activities as described in the notice within the time frames set forth therein. In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the City Director of Public Works or designee may cause such required activities as described in the notice to be performed, and the cost thereof shall be assessed and invoiced to the owner of the property. If the invoice is not paid within sixty (60) calendar days, a lien shall be placed upon and against the property.

### **Sec. 28-713. Nonexclusivity of Remedies.**

Remedies under this Ordinance are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

### **Sec. 28-714. Appeal**

Any person notified of non-compliance with this ordinance or required to perform monitoring, analyses, reporting and/or corrective action, who is aggrieved by the decision of the City Enforcement Agent, may appeal such decision in writing to the Public Works Director within 10 business days following the effective date of the decision or written notice. Upon receipt of such request, the City Administrator shall request a report and recommendation from the City Enforcement Agent and shall set the matter for administrative hearing at the earliest practical date. At said hearing, the

City Administrator may hear additional evidence, and may revoke, affirm or modify the City Enforcement Agent's decision. Such decision shall be final.

**Sec. 28-715. Disclaimer of Liability.**

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this Ordinance does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This Ordinance shall not create liability on the part of the City, any agent or employee thereof for any damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 22<sup>nd</sup> day of February 2010.

PASSED, ADOPTED and APPROVED on second reading this 22<sup>nd</sup> day of March 2010.

CITY OF BILLINGS

By \_\_\_\_\_  
Tom Hanel, Mayor

ATTEST:

By \_\_\_\_\_  
Cari Martin, City Clerk

Date: 03/22/2010

TITLE: Second/Final Reading Ordinance for Proposed Amendment to BMCC, Section 24-501 & Addition of New Sections 24-312 & 24-541

PRESENTED BY: Rich St. John

Department: Police

**Information**

**PROBLEM/ISSUE STATEMENT**

There are approximately 12 organizations throughout the City of Billings that sponsor, facilitate or manage fun runs, parades or similar events. In many cases, event organizers utilize civilian volunteers to provide traffic control or regulation of traffic flow. Research reveals there is no mechanism for any City employee to grant authority to civilians to direct other civilians to disobey traffic signals or traffic control devices. Without such mechanism, both the City and event sponsors are exposed to significant liability. This ordinance amendment will allow the City to legally authorize civilians to regulate traffic flow as long as the civilians successfully complete an authorized safety course. Proof of completion of the course will be presented to the Director of Public Works as part of the permitting process. City Council held a public hearing on March 08, 2010, and approved the ordinance on first reading.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the proposed amendment and creation of new sections to the ordinance on second reading;  
or
- Not approve the proposed amendment and creation of new sections to the ordinance on second reading.

**FINANCIAL IMPACT**

All costs associated with the safety course are to be paid by the participants.

**RECOMMENDATION**

Staff recommends approval of amendments to Billings City Code, Section 24-501 and creation of Sections 24-312 and 24-541 on second reading.

**APPROVED BY CITY ADMINISTRATOR**

Date: 03/22/2010

**TITLE: W.O. 04-12 Alkali Creek Road Improvements--Resolution of Intent to Construct Improvements and Set a Public Hearing**

**PRESENTED BY:** Debi Meling, Public Works

**Department:** Public Works

**Information**

**PROBLEM/ISSUE STATEMENT**

W.O. 04-12 will relocate Alkali Creek to the north, reconstruct the north slopes, construct wider shoulders along the Alkali Creek Roadway, and resurface Alkali Creek Road between the BBWA siphon crossing and near Aronson Avenue. As part of the project, curb and gutter, drive approaches, and a multi-use path will be constructed. The adjacent property owners will be assessed for the improvements in front of their properties. This memo includes the Resolution of Intent to Create needed to assess the property owners for the improvements and sets a public hearing date of April 12, 2010.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve the Resolution of Intent to Create and set a public hearing date; or,
- Do not approve the Resolution of Intent to Create or set a public hearing date.

**FINANCIAL IMPACT**

Adjacent property owners will be assessed for improvements in front of their properties. These typically include curb and gutter, one-half of the width of the multi-use path, minimal pavement widening, and drive approaches. The estimated costs of these proposed improvements, excluding bond interest charges, total \$115,000. Assessments will be levied against 16 separate lots, with an average assessment of \$7,187.48 per lot.

Additional and more detailed financial information can be found in the Resolution. The remainder of the project is being funded from ARRA funds, storm drain funds, and arterial fees.

**RECOMMENDATION**

Staff recommends that Council approve the Resolution of Intent to Create and set a public hearing date of April 12, 2010.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [Resolution of Intent to Create](#)

Link: [Resolution Exhibit A-Location of Work](#)

Link: [Resolution Exhibit B-Assessment Values](#)

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City), hereby certify that the attached resolution is a true copy of Resolution No. 10-\_\_\_\_\_, entitled: **"A RESOLUTION RELATING TO W.O. 04-12 PHASE 3, ALKALI CREEK ROAD MAINTENANCE AND SLOPE RECONSTRUCTION, SIDEWALK, CURB AND GUTTER, AND PAVEMENT WIDENING ASSESSMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND"** (the "Resolution"), on file in the original records of the City Council of the City at a meeting on March 22, 2010, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

Voted against the same: \_\_\_\_\_;  
Abstained from voting thereon: \_\_\_\_\_;  
or were absent: \_\_\_\_\_.

WITNESS my hand officially this 22<sup>nd</sup> day of March, 2010.

\_\_\_\_\_  
Cari Martin

\_\_\_\_\_  
CITY CLERK

RESOLUTION NO. 10- \_\_\_\_\_

A RESOLUTION RELATING TO W.O. 04-12 PHASE 3, ALKALI CREEK ROAD MAINTENANCE AND SLOPE RECONSTRUCTION, SIDEWALK, CURB AND GUTTER, AND PAVEMENT WIDENING ASSESSMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

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

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits "A" and "B" attached hereto.
2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit "B" attached hereto.
3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be \$115,000.00, as described below:

Construction Costs (w/contingencies)	
Plus Design and Construction Administration	\$95,745.23
Engineering & Finance (6.0%)	\$ 6,900.00
Bond Revolving Fund (5%)	\$ 5,750.00
Bond Discount and Legal Costs (5.0%)	\$ 5,750.00
Bank Fees	\$ 1,000.00
Roundoff	\$ (145.23)
TOTAL ASSESSED COSTS	\$115,000.00

Estimated unit costs for construction only, not including engineering, legal, administrative and bond costs as follows:

<u>Construction Items:</u>	<u>Unit Price:</u>
New Curb and Gutter	\$16.00/LF
New Ribbon Curb	\$14.00/LF
New Shared Use Path	\$ 2.00/SF
Additional Street Widening—Pavement	\$ 5.00/SF
New Drive Approaches	\$ 7.00/SF
New ADA Ramps	\$ 6.50/SF
New Detectable Warning Panels	\$40.00/SF

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, drive approaches, and pavement widening, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against sixteen (16) separate lots, parcels, or tracts.

The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be \$7,187.48, with a high of \$9,782.33, low of \$6,555.96, and a median of \$7,042.40.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.
6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.
7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS. The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed \$115,000 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

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

- (a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is \$3,257,876.00. The average market value is \$203,617.25, with a high of \$509,315.00, a low of \$24,972.00, and median value of \$215,292.00. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.
- (b) Diversity of Property Ownership. For the 16 total lots, parcels, or tracts in the Project, there are 13 separate owners. Given the diversity of ownership, it is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.
- (c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, no parcels have SID's levied against them.

As noted in Section 4, the estimated average assessment levied by this project will be \$7,187.48. With an average market value of \$203,617.25, and an average yearly principal payment of \$599 (monthly principal of \$49.92), the amount of assessment versus the value of the property would

appear to be acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "B".

- (d) Delinquencies. For tax years 2004-2009, no parcels were delinquent. This represents a 100% collection rate within the project area. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

- (e) The Public Benefit of the Improvements. The subject sections of City streets are identified as being on an arterial street. The main purposes of these improvements is to provide a safe, accessible walking surface and area for pedestrians walking along the arterial street and to reduce future erosion of the slopes and road base. Under current City policy, 100% of the costs of the new sidewalk construction costs, new curb and gutter, street widening and drive approach construction costs shall be borne by the adjoining property owners. City funding sources will fund the slope stabilization and reconstruction and street maintenance repair costs. The funding sources for the City contribution to this project include arterial fees, storm drain funds, and funds from the American Recovery & Reinvestment Act (ARRA).

## **8. REIMBURSEMENT EXPENDITURES.**

- (a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.
- (b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.
- (c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$115,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.
- (d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for

the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

- (e) Reimbursement Allocations. The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.
9. PUBLIC HEARING. On Monday, April 12, at 6:30 p.m., in the Council Chambers located on the Second Floor of City Hall, 210 North 27<sup>th</sup> Street, Billings, MT, the City Council will conduct a public hearing concerning this project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.
10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the BILLINGS TIMES, a newspaper of general circulation in the county on March 25 and April 1, 2010, in the form and manner prescribed by law, and to mail or cause to be mailed, a copy of said Notice to every person, firm corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, on or before the same day such notice is published.

PASSED by the City Council and APPROVED this 22<sup>nd</sup> day of March 2010.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, MAYOR

ATTEST:

\_\_\_\_\_  
Cari Martin, CITY CLERK

# Exhibit "A"

## Location of Work

### W.O. 04-12 PHASE 3, ALKALI CREEK ROAD MAINTENANCE AND SLOPE RECONSTRUCTION

Construction of street, curb and gutter, multi-use path along the Alkali Creek Road from Black Pine Street to just west of Aronson Avenue.

#### **Properties being assessed**

**Curb & Gutter, Drive Aprons and Multi-use path:** 215 East Alkali Creek Road \* 227 East Alkali Creek Road \* 235 East Alkali Creek Road \* Morningside Homes Condo Development

**Curb & Gutter, and Drive Apron:** 204 East Alkali Creek Road

**WO 04-12 Phase 3, Alkali Creek Road Maintenance and Slope Reconstruction  
Exhibit B**

<b>Tax Code</b>	<b>SID #</b>	<b>SID Pay-off</b>	<b>Delinquent</b>	<b>WO 10-18 Assessment</b>	<b>SID Pay-off + Delinquent + WO 10-18- Assessment</b>	<b>Estimated Market Value</b>
A10565A				\$ 6,555.96	\$ 6,555.96	\$ 159,060.00
A10567				\$ 6,955.07	\$ 6,955.07	\$ 201,564.00
A10567A				\$ 7,197.53	\$ 7,197.53	\$ 94,974.00
A13373				\$ 9,782.33	\$ 9,782.33	\$ 77,154.00
C12209				\$ 7,042.40	\$ 7,042.40	\$ 24,972.00
C12210				\$ 7,042.40	\$ 7,042.40	\$ 245,322.00
C12211				\$ 7,042.40	\$ 7,042.40	\$ 509,315.00
C12212				\$ 7,042.40	\$ 7,042.40	\$ 260,238.00
C12213				\$ 7,042.40	\$ 7,042.40	\$ 35,330.00
C12214				\$ 7,042.40	\$ 7,042.40	\$ 232,320.00
C12215				\$ 7,042.40	\$ 7,042.40	\$ 37,900.00
C12216				\$ 7,042.40	\$ 7,042.40	\$ 323,796.00
C12217				\$ 7,042.40	\$ 7,042.40	\$ 235,092.00
C12219				\$ 7,042.40	\$ 7,042.40	\$ 229,020.00
C12220				\$ 7,042.40	\$ 7,042.40	\$ 396,393.00
C12221				\$ 7,042.40	\$ 7,042.40	\$ 195,426.00
			Average	\$ 7,187.48	\$ 7,187.48	\$ 203,617.25
			Median	\$ 7,042.40	\$ 7,042.40	\$ 215,292.00
			Low	\$ 6,555.96	\$ 6,555.96	\$ 24,972.00
			High	\$ 9,782.33	\$ 9,782.33	\$ 509,315.00
			Total	\$ 114,999.69	\$ 114,999.69	\$ 3,257,876.00

Date: 03/22/2010

TITLE: W.O. 08-21 Lake Elmo Drive - Main St to Wicks Ln- Resolution of Intent to construct improvements and set a Public Hearing

PRESENTED BY: David Mumford

Department: Public Works

Information

**PROBLEM/ISSUE STATEMENT**

Lake Elmo Drive is a collector and provides a school route to Bench Elementary. This project will improve the road and provide a pedestrian facility on Lake Elmo Drive from Main Street to Wicks Lane. The project will include street reconstruction with turn lanes, pavement overlay, curb, gutter, sidewalks, approaches, storm drain improvements, and asphalt multi-use trail. In order to construct these improvements, Council must pass a Resolution of Intent and set a Public Hearing for the project in order to allow adjacent property owners to be assessed for work done in front of their property.

**ALTERNATIVES ANALYZED**

The Council may:

- Pass the Resolution of Intent and establish a Public Hearing; or
- Do not pass the Resolution of Intent and establish a Public Hearing.

**FINANCIAL IMPACT**

The proposed project is funded through multiple sources, including direct property assessments for a total project cost of \$2,278,235 as follows:

- Estimated Assessed Costs \$472,000
- CTEP \$552,591
- Storm Drain Funds \$510,000
- Gas Tax Funds \$1,655,000

Funding for the proposed project is identified in the Capital Improvement Plan and in the Fiscal Year 2010 budget.

**BACKGROUND**

Lake Elmo Drive is a collector and provides a school route to Bench Elementary. This project was developed to improve the street and provide a pedestrian facility on Lake Elmo Drive from Main Street to Wicks Lane. The project will include street reconstruction with turn lanes, pavement overlay, curb, gutter, sidewalks, approaches, storm drain improvements, and asphalt multi-use trail.

Currently, there is no complete pedestrian facility from Main Street to Wicks Lane. Children living within the Bench Elementary District boundary have to walk on the road to get to school. The sidewalks, multi-use trail, and two street crossings will provide a safe route to school. CTEP funds and assessments will pay for the sidewalk, multi-use trail, and street crossings. Properties will be assessed 50% of a 5 foot sidewalk or equivalent cost of the multi-use trail and 100% of their drive approaches, curb & gutter/ribbon curb, and driveway work. CTEP funds will be used toward the remaining cost of the sidewalk or multi-use trail, corners, and other miscellaneous items within the boulevard area.

The street improvements include storm drain, turn lanes, reconstruction, and overlay. The section from Main Street to Hansen Lane will be reconstructed with two 12 foot lanes, center left turn lane, curb & gutter, and five foot curb walk on both sides. Just north of Hilltop to Milton will be reconstructed with two 12 foot lanes, a center left turn lane, curb & gutter, and seven foot curb walk on both sides. One hundred feet north of Milton to one hundred feet south of Uinta, the pavement will be overlaid with the construction of boulevard walk on the west side, multi-use trail on the east side, laydown curb to protect the asphalt, and graveled swales available for parking. Uinta to just south of Wicks will be reconstructed with two 12 foot lanes, center left turn lane, curb & gutter, and seven foot curb walk on both sides. Gas tax and storm drain funds will be used to pay for the street and storm drain improvements.

**RECOMMENDATION**

Staff recommends that Council pass a Resolution of Intent to construct the improvements identified in Work Order 08-21, Lake Elmo Drive - Main St to Wicks Ln, and establish a Public Hearing date of April 12, 2010.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Resolution of Intent](#)

Link: [ExhibitA](#)

Link: [Exhibit B](#)

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RESOLUTION NO. 10-\_\_\_\_\_

A RESOLUTION RELATING TO W.O. 08-21, LAKE ELMO DRIVE – MAIN ST TO WICKS LN; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY’S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

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

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits “A” and “B” attached hereto.
2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit “B” attached hereto.
3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be \$472,000.00 as described below:

Construction Costs	\$	365,150.30
Engineering & Administration (12.5%)	\$	59,000.00
Revolving Fund (5%)	\$	23,600.00
Bond Discount (2%)	\$	9,440.00
Issuance Costs (3.0%)	\$	14,160.00
Bank Fees	\$	500.00
Roundoff	\$	149.70

Estimated unit costs for construction only, not including engineering, legal, administrative, and bond costs as follows:

<u>Removal of:</u>	<u>Unit Price:</u>
Concrete Flatwork Removal	\$10.00/SY
Curb and Gutter Removal	\$10.00/LF
<u>New Construction:</u>	
Concrete Sidewalk	\$ 5.00/SF
Concrete Driveway	\$ 5.50/SF
Curb and Gutter/Laydown curb	\$12.00/LF
New Drive Approach	\$ 6.00/SF
Asphalt Path	\$25.00/SY
Asphalt Driveway/Approach	\$ 6.00/SF

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against 278 separate lots, parcels, or tracts.

The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be \$1,698.00, with a high of \$21,220.00, low of \$0.00, and a median of \$67.43.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.
6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.

7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS.

The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed \$472,000.00 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

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

- (a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is \$28,147,711.00. The average market value is \$103,105.00 with a high of \$2,963,008.00 and a low of \$4,823.00 and median value of \$41,102.00. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.
- (b) Diversity of Property Ownership. For the 281 Tax codes in this project, there are 221 separate owners. The Bird House LLC owns two (2) parcels. Shirley Briner owns two (2) Units of Imperial Park Condos. Janet Croy owns two (2) parcels. Larry W Geisler owns two (2) units of Heather Heights Village Condos. Housing Authority of Billings owns five (5) parcels. Alice S Klundt Trustee owns (3) units of Imperial Park Condos. KW Holdings owns (18) units of Olive Grove II Townhomes. Longhorn Properties LLP own (3) units of Imperial Park Condos. Popelka Enterprises LLC owns four (4) parcels. Reiters Marina Inc owns two (2) parcels. RGP Partnership owns three (3) parcels. Charles W Schmidt owns two (2) parcels. Doug Stoval owns three (3) units of Imperial Park Condos. TC Rentals LLC owns fifteen (15) units of Imperial Park Condos. TAP Enterprises owns four (4) units of Imperial Park Condos. Donald P Thompson owns three (3) units of Imperial Park Condos. Dorothy Weagel owns two (2) units of Imperial Park Condos. Juanita Wells owns three (3) units of Imperial Park Condos. Ephraim and Clara Reule own two (2) units of Imperial Park Condos.

There are four parcels with common area of interest that encompass 184 of the 281 Tax codes. The common areas are Housing Authority of Billings, Imperial Park Condos, Olive Grove II Townhomes, and Heather Heights Village Condos. All other parcels are under separate ownership. It is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.

- (c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, zero (0) parcels have an SID levied against them.

As noted in Section 4, the estimated average assessment levied by this project will be \$1,698.00. With an average market value of \$103,105.00, and an average yearly principal payment of \$141.50 (monthly principal of \$11.79) assuming 6% interest rate, the amount of assessment versus the value of the property would appear acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "B".

- (d) Delinquencies. For tax year 2008, Zero (0) parcels were delinquent. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

- (e) The Public Benefit of the Improvements. Current City Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new curb, gutter, sidewalk, and drive approaches is to be borne by the adjoining property owners.

Some of the parcels have been involved in recent construction or subdivision activity. Some of these parcels have undergone recent site developments, both residential and commercial, in which a permit was taken out, but the improvements were not constructed, or the developer has requested that the improvements be included and constructed under the proposed project. Developers generally make a request to be included in the proposed project to take advantage of the financing opportunity of the 12-year assessment. Some of these parcels are lots included in recently approved subdivisions. The improvements were required as part of the Subdivision Improvements Agreements, but were not installed by the subdivider/developer.

The remaining parcels represent a continuation of an annual improvement project for repairs of tripping hazards, deteriorated sidewalks, drainage problems, property owner requests and citizen complaints.

The project improvements are located in various Task Force areas, both commercial and residential, throughout the City.

## **8. REIMBURSEMENT EXPENDITURES.**

- (a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project

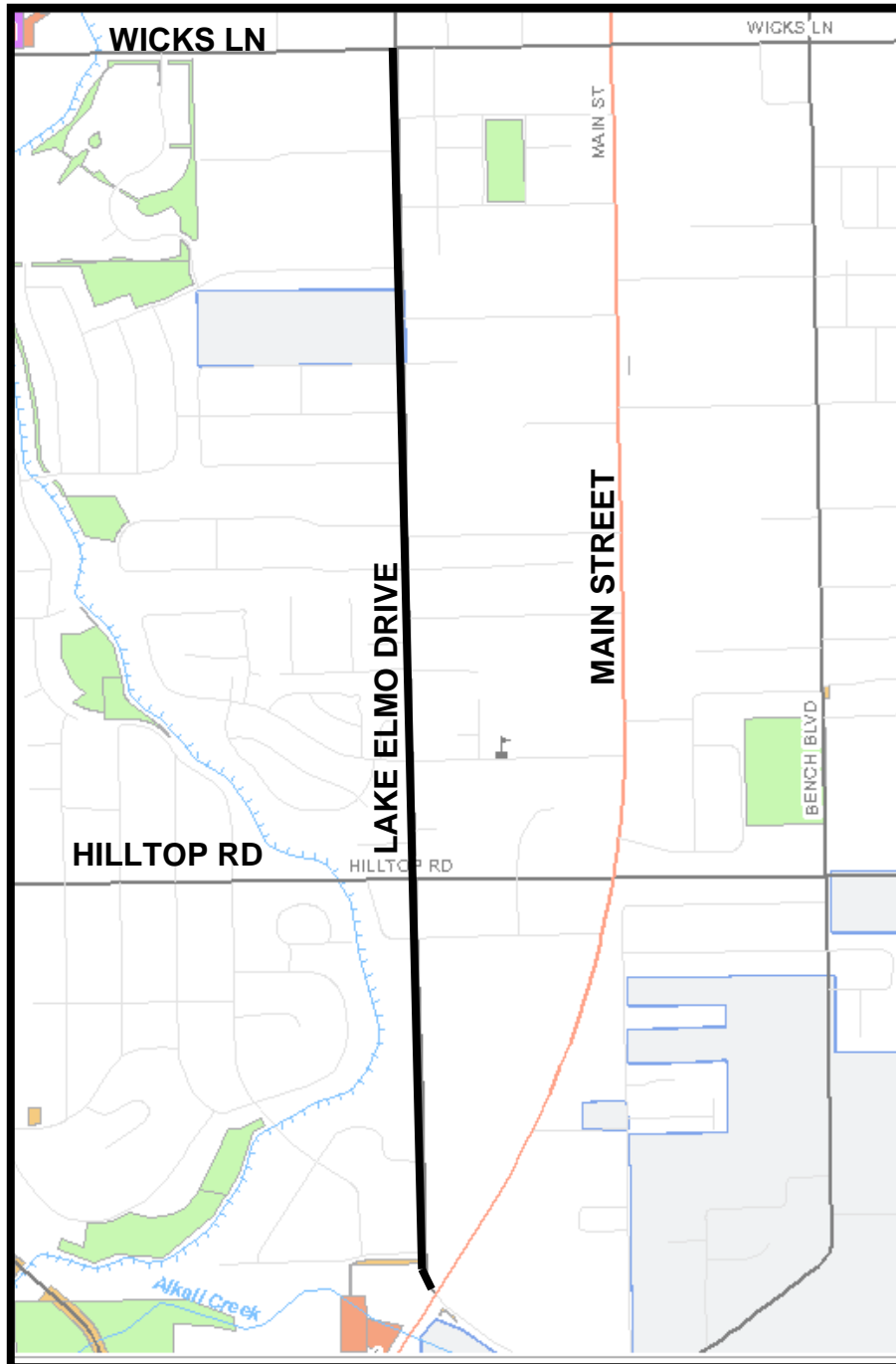
expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original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

- (b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.
- (c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$472,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.
- (d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.
- (e) Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of



**Exhibit A**  
**Location of Work**  
**WO 08-21 Lake Elmo Drive – Main to Wicks Ln**

Project includes constructing curb & gutter/ribbon curb, sidewalks, drive approaches, asphalt trail, street reconstruction, turn lanes, and pavement overlay on Lake Elmo Drive from Main Street to Wicks Lane.



## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A02538				\$4,003.23	\$4,003.23	\$66,801.00
A02539				\$4,450.90	\$4,450.90	\$74,817.00
A02539A				\$4,516.78	\$4,516.78	\$68,947.00
A02540				\$2,793.70	\$2,793.70	\$61,072.00
A02570				\$4,125.97	\$4,125.97	\$88,807.00
A02571				\$4,025.45	\$4,025.45	\$81,799.00
A02572				\$4,268.71	\$4,268.71	\$61,502.00
A02574				\$2,837.02	\$2,837.02	\$49,199.00
A02575				\$4,385.53	\$4,385.53	\$76,069.00
A02575A				\$4,385.53	\$4,385.53	\$68,950.00
A02575B				\$4,385.53	\$4,385.53	\$66,358.00
A02576				\$4,901.10	\$4,901.10	\$79,641.00
A02577				\$3,789.54	\$3,789.54	\$90,522.00
A02578				\$3,683.11	\$3,683.11	\$61,282.00
A02579				\$2,793.70	\$2,793.70	\$84,370.00
A03244				\$3,324.55	\$3,324.55	\$39,246.00
A03245				\$3,780.66	\$3,780.66	\$63,135.00
A03246				\$3,066.94	\$3,066.94	\$40,026.00
A03247				\$2,234.96	\$2,234.96	\$46,197.00
A03263				\$2,539.03	\$2,539.03	\$42,975.00
A03264				\$3,113.40	\$3,113.40	\$43,344.00
A03265				\$4,192.87	\$4,192.87	\$51,055.00
A03266				\$3,923.34	\$3,923.34	\$41,615.00
A09455				\$3,990.15	\$3,990.15	\$71,110.00
A09457				\$7,959.92	\$7,959.92	\$215,903.00
A09954				\$0.00	\$0.00	\$118,893.00
A09956				\$0.00	\$0.00	\$21,661.00
A10039				\$5,000.77	\$5,000.77	\$39,541.00
A13246				\$4,869.00	\$4,869.00	\$148,694.00
A13251				\$4,794.51	\$4,794.51	\$105,797.00
A13252				\$5,169.28	\$5,169.28	\$714,771.00
A13257				\$4,999.93	\$4,999.93	\$77,270.00
A13257A				\$4,864.31	\$4,864.31	\$110,563.00
A13258				\$4,683.40	\$4,683.40	\$74,606.00
A13917				\$8,623.83	\$8,623.83	\$166,285.00
A13918				\$6,561.63	\$6,561.63	\$350,322.00

## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A13918E				\$2,868.19	\$2,868.19	\$87,208.00
A14769				\$8,784.15	\$8,784.15	\$131,072.00
A17566				\$3,798.46	\$3,798.46	\$39,836.00
A17567				\$2,769.86	\$2,769.86	\$15,703.00
A17568				\$4,598.39	\$4,598.39	\$52,539.00
A20281				\$0.00	\$0.00	\$18,478.00
A20282				\$4,304.73	\$4,304.73	\$51,790.00
A20341				\$3,471.63	\$3,471.63	\$221,671.00
A20342				\$5,386.07	\$5,386.07	\$17,721.00
A20343				\$5,214.89	\$5,214.89	\$221,935.00
A20562				\$4,844.94	\$4,844.94	\$69,749.00
A20563				\$6,923.20	\$6,923.20	\$848,255.00
A21246				\$67.43	\$67.43	\$23,031.00
A21247				\$67.43	\$67.43	\$24,251.00
A21248				\$67.43	\$67.43	\$18,848.00
A21249				\$67.43	\$67.43	\$30,751.00
A21250				\$67.43	\$67.43	\$47,614.00
A21251				\$67.43	\$67.43	\$45,427.00
A21252				\$67.43	\$67.43	\$22,312.00
A21253				\$67.43	\$67.43	\$37,437.00
A21254				\$67.43	\$67.43	\$28,852.00
A21255				\$67.43	\$67.43	\$29,977.00
A21256				\$67.43	\$67.43	\$29,579.00
A21257				\$67.43	\$67.43	\$23,700.00
A21258				\$67.43	\$67.43	\$25,180.00
A21259				\$67.43	\$67.43	\$23,146.00
A21260				\$67.43	\$67.43	\$25,611.00
A21261				\$67.43	\$67.43	\$18,468.00
A21262				\$67.43	\$67.43	\$23,301.00
A21263				\$67.43	\$67.43	\$18,300.00
A21264				\$67.43	\$67.43	\$39,651.00
A21265				\$67.43	\$67.43	\$18,272.00
A21266				\$67.43	\$67.43	\$28,469.00
A21267				\$67.43	\$67.43	\$18,286.00
A21268				\$67.43	\$67.43	\$24,853.00
A21269				\$67.43	\$67.43	\$31,358.00

## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A21270				\$67.43	\$67.43	\$21,564.00
A21271				\$67.43	\$67.43	\$38,741.00
A21272				\$67.43	\$67.43	\$18,535.00
A21273				\$67.43	\$67.43	\$22,130.00
A21274				\$67.43	\$67.43	\$21,013.00
A21275				\$67.43	\$67.43	\$22,605.00
A21276				\$67.43	\$67.43	\$29,992.00
A21277				\$67.43	\$67.43	\$23,621.00
A21278				\$67.43	\$67.43	\$18,141.00
A21279				\$67.43	\$67.43	\$32,594.00
A21280				\$67.43	\$67.43	\$25,712.00
A21281				\$67.43	\$67.43	\$27,611.00
A21282				\$67.43	\$67.43	\$34,083.00
A21283				\$67.43	\$67.43	\$25,499.00
A21284				\$67.43	\$67.43	\$27,844.00
A21285				\$67.43	\$67.43	\$47,151.00
A21286				\$67.43	\$67.43	\$18,258.00
A21287				\$67.43	\$67.43	\$18,285.00
A21288				\$67.43	\$67.43	\$39,479.00
A21289				\$67.43	\$67.43	\$24,877.00
A21290				\$67.43	\$67.43	\$18,670.00
A21291				\$67.43	\$67.43	\$63,320.00
A21292				\$67.43	\$67.43	\$26,358.00
A21293				\$67.43	\$67.43	\$67,705.00
A21294				\$67.43	\$67.43	\$18,300.00
A21295				\$67.43	\$67.43	\$24,168.00
A21296				\$67.43	\$67.43	\$28,453.00
A21297				\$67.43	\$67.43	\$24,317.00
A21298				\$67.43	\$67.43	\$28,843.00
A21299				\$67.43	\$67.43	\$30,992.00
A21300				\$67.43	\$67.43	\$28,632.00
A21301				\$67.43	\$67.43	\$23,605.00
A21302				\$67.43	\$67.43	\$43,234.00
A21303				\$67.43	\$67.43	\$25,386.00
A21304				\$67.43	\$67.43	\$18,629.00
A21305				\$67.43	\$67.43	\$22,384.00

## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A21306				\$67.43	\$67.43	\$27,244.00
A21309				\$67.43	\$67.43	\$41,610.00
A21310				\$67.43	\$67.43	\$19,938.00
A21311				\$67.43	\$67.43	\$27,246.00
A21312				\$67.43	\$67.43	\$18,419.00
A21313				\$67.43	\$67.43	\$18,232.00
A21314				\$67.43	\$67.43	\$18,318.00
A21315				\$67.43	\$67.43	\$42,708.00
A21316				\$67.43	\$67.43	\$18,281.00
A21317				\$67.43	\$67.43	\$18,215.00
A21318				\$67.43	\$67.43	\$33,764.00
A21320				\$67.43	\$67.43	\$18,119.00
A21321				\$67.43	\$67.43	\$32,242.00
A21322				\$67.43	\$67.43	\$25,729.00
A21323				\$67.43	\$67.43	\$22,958.00
A21324				\$67.43	\$67.43	\$18,143.00
A21325				\$101.16	\$101.16	\$33,951.00
A21326				\$101.16	\$101.16	\$20,307.00
A21328				\$67.43	\$67.43	\$22,401.00
A21329				\$67.43	\$67.43	\$29,545.00
A21330				\$67.43	\$67.43	\$25,406.00
A21331				\$67.43	\$67.43	\$36,993.00
A21332				\$67.43	\$67.43	\$50,753.00
A21333				\$67.43	\$67.43	\$32,332.00
A21334				\$67.43	\$67.43	\$24,632.00
A21335				\$67.43	\$67.43	\$28,023.00
A21336				\$67.43	\$67.43	\$27,583.00
A21337				\$67.43	\$67.43	\$18,389.00
A21338				\$67.43	\$67.43	\$18,136.00
A21339				\$67.43	\$67.43	\$32,438.00
A21340				\$1,388.43	\$1,388.43	\$22,296.00
A21341				\$67.43	\$67.43	\$28,430.00
A21342				\$67.43	\$67.43	\$28,931.00
A21343				\$67.43	\$67.43	\$22,852.00
A21344				\$67.43	\$67.43	\$19,164.00
A21345				\$67.43	\$67.43	\$21,338.00

## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A21346				\$67.43	\$67.43	\$18,376.00
A21347				\$67.43	\$67.43	\$44,064.00
A21348				\$67.43	\$67.43	\$24,199.00
A21349				\$67.43	\$67.43	\$18,161.00
A21350				\$67.43	\$67.43	\$18,268.00
A21351				\$67.43	\$67.43	\$28,665.00
A21352				\$67.43	\$67.43	\$21,544.00
A21353				\$67.43	\$67.43	\$18,148.00
A21354				\$67.43	\$67.43	\$18,106.00
A21355				\$67.43	\$67.43	\$30,641.00
A21356				\$67.43	\$67.43	\$23,861.00
A21357				\$67.43	\$67.43	\$47,305.00
A21358				\$67.43	\$67.43	\$18,326.00
A21359				\$67.43	\$67.43	\$18,668.00
A21360				\$67.43	\$67.43	\$33,738.00
A21361				\$67.43	\$67.43	\$22,073.00
A21362				\$67.43	\$67.43	\$30,270.00
A21364				\$67.43	\$67.43	\$18,393.00
A21365				\$67.43	\$67.43	\$25,115.00
A21366				\$67.43	\$67.43	\$32,162.00
A21367				\$67.43	\$67.43	\$24,412.00
A21368				\$67.43	\$67.43	\$26,777.00
A21369				\$67.43	\$67.43	\$52,435.00
A21370				\$67.43	\$67.43	\$21,521.00
A21371				\$67.43	\$67.43	\$21,974.00
A21372				\$67.43	\$67.43	\$26,182.00
A21373				\$67.43	\$67.43	\$18,725.00
A21375				\$0.00	\$0.00	\$60,650.00
A21376				\$0.00	\$0.00	\$60,450.00
A21377				\$0.00	\$0.00	\$63,415.00
A21378				\$0.00	\$0.00	\$61,177.00
A21379				\$0.00	\$0.00	\$60,903.00
A21380				\$0.00	\$0.00	\$53,782.00
A21381				\$0.00	\$0.00	\$53,150.00
A21382				\$0.00	\$0.00	\$60,229.00
A21383				\$0.00	\$0.00	\$60,229.00
A21384				\$0.00	\$0.00	\$59,102.00

## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A21385				\$0.00	\$0.00	\$59,102.00
A21386				\$0.00	\$0.00	\$60,229.00
A21387				\$0.00	\$0.00	\$80,621.00
A21388				\$0.00	\$0.00	\$79,146.00
A21389				\$0.00	\$0.00	\$81,000.00
A21390				\$0.00	\$0.00	\$80,126.00
A21391				\$0.00	\$0.00	\$81,716.00
A21392				\$0.00	\$0.00	\$82,011.00
A21393				\$0.00	\$0.00	\$76,692.00
A21394				\$0.00	\$0.00	\$80,305.00
A21395				\$0.00	\$0.00	\$60,766.00
A21396				\$0.00	\$0.00	\$60,850.00
A21397				\$0.00	\$0.00	\$60,460.00
A21398				\$0.00	\$0.00	\$59,354.00
A21399				\$0.00	\$0.00	\$24,100.00
A21400				\$0.00	\$0.00	\$62,219.00
A21401				\$0.00	\$0.00	\$59,270.00
A21402				\$0.00	\$0.00	\$60,292.00
A21403				\$0.00	\$0.00	\$58,954.00
A21404				\$0.00	\$0.00	\$57,879.00
A21405				\$0.00	\$0.00	\$59,322.00
A21406				\$0.00	\$0.00	\$59,112.00
A21407				\$0.00	\$0.00	\$56,584.00
A21408				\$0.00	\$0.00	\$58,143.00
A21409				\$0.00	\$0.00	\$57,879.00
A21410				\$0.00	\$0.00	\$57,037.00
A31135				\$5,263.51	\$5,263.51	\$67,727.00
A31150				\$6,173.43	\$6,173.43	\$82,474.00
A34317				\$4,213.62	\$4,213.62	\$0.00
A34318				\$3,362.22	\$3,362.22	\$0.00
A34320				\$2,475.17	\$2,475.17	\$0.00
A34321				\$2,567.74	\$2,567.74	\$0.00
A34322				\$2,596.26	\$2,596.26	\$0.00
D05288				\$2,584.64	\$2,584.64	\$177,767.00
D05289				\$2,645.46	\$2,645.46	\$219,216.00
D05297				\$6,425.88	\$6,425.88	\$187,037.00
D05298				\$5,150.52	\$5,150.52	\$78,788.00
D05298A				\$3,317.86	\$3,317.86	\$129,049.00

## Exhibit B

WO 08-21 Lake Elmo Drive - Main St to Wicks Ln

<b>Tax Code</b>	<b>SID #</b>	<b>SID Pay-off (A)</b>	<b>Delinquent (B)</b>	<b>WO 09-02- Assessment (C)</b>	<b>A + B + C</b>	<b>Market Value</b>
D05299				\$10,872.70	\$10,872.70	\$1,934,830.00
D05299A				\$10,720.76	\$10,720.76	\$1,745,308.00
D05318				\$21,220.38	\$21,220.38	\$187,885.00
D05320				\$2,354.04	\$2,354.04	\$73,173.00
D05322				\$6,712.19	\$6,712.19	\$64,778.00
D05323				\$4,400.55	\$4,400.55	\$95,595.00
D05326				\$5,093.75	\$5,093.75	\$63,492.00
D05327				\$5,675.11	\$5,675.11	\$49,136.00
D05328				\$7,389.03	\$7,389.03	\$2,963,008.00
D05330				\$0.00	\$0.00	\$81,111.00
D05331				\$6,363.82	\$6,363.82	\$50,164.00
D05334				\$6,489.47	\$6,489.47	\$81,516.00
D05341				\$10,295.84	\$10,295.84	\$339,404.00
D12239				\$0.00	\$0.00	\$69,734.00

Date: 03/22/2010

TITLE: W.O. 09-02 Miscellaneous/Developer Related Project - Resolution of Intent to construct improvements and set a Public Hearing

PRESENTED BY: David Mumford

Department: Public Works

Information

**PROBLEM/ISSUE STATEMENT**

Each year the Public Works department receives numerous complaints of defective concrete improvements, some the result of trip and fall claims, and other requests from property owners that the City construct certain public improvements adjacent to their property. Additionally, some developers do not complete the new development public improvement requirements. These improvements have historically been constructed under the annual Miscellaneous/Developer Related Program. In order to construct this year's improvements, Council must pass a Resolution of Intent and set a Public Hearing for the project in order to allow adjacent property owners to be assessed for this work.

**ALTERNATIVES ANALYZED**

The Council may:

- Pass the Resolution of Intent and establish a Public Hearing; or
- Do not pass the Resolution of Intent and establish a Public Hearing. If the Council does not adopt the Resolution, the property owners cannot be assessed and the work will not occur because there is no other source of financing for the replacement and new construction.

**FINANCIAL IMPACT**

The proposed project is funded through multiple sources, including direct property assessments for a total project cost of \$655,109 as follows:

- Estimated Assessed Costs \$419,000
- Storm Drain Funds \$52,500
- Gas Tax Funds \$180,000
- Water and Sewer Funds \$5,000

Funding for the proposed project has already been authorized in the Capital Improvement Plan and is identified in the Fiscal Year 2010 budget.

**BACKGROUND**

The proposed project represents curb, gutter, and sidewalk improvements at various locations in the city and consists of two categories of properties. The first category is unfulfilled building permit obligations. The City of Billings Site Development and/or Subdivision Ordinances require the installation of public improvements in conjunction with the issuance of building permits. A small number of these properties either did not complete the requirements of the right-of-way permits or have requested that the improvements be completed under the City's project. Per Council policy, the uncompleted right-of-way permits are included in the next annual Developer Related Program. The costs of completing these improvements are assessed to the property owner.

The second category represents continuation of the annual improvements project for dealing with tripping hazards, drainage problems, property owner requests, citizen complaints, and other miscellaneous concrete work brought to the attention of the City Engineer's Office. This program proposes a continuation of the Council policy of allocating gas tax funds for reconstruction of side street frontages on corner lots and to cover the cost of curb and gutter repair.

The proposed project also uses additional funding allocations to cover costs not normally assessed to property owners. Storm drain funds are used for repairing defective valley gutters, improperly graded curb and gutter, and substandard storm drain inlets. Water funds are used for minor adjustments of water lines.

**RECOMMENDATION**

Staff recommends that Council pass a Resolution of Intent to construct the improvements identified in Work Order 09-02, Miscellaneous/Developer Related Project, and establish a Public Hearing date of April 12, 2010.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Resolution of Intent](#)

Link: [Exhibit A](#)

Link: [Exhibit B](#)

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RESOLUTION NO. 10-\_\_\_\_\_

A RESOLUTION RELATING TO W.O. 09-02, MISCELLANEOUS/DEVELOPER-RELATED IMPROVEMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

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

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits "A" and "B" attached hereto.
2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit "B" attached hereto.
3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be \$419,000.00 as described below:

Construction Costs	\$324,147.42
Engineering & Administration (12.5%)	\$ 52,375.00
Revolving Fund (5%)	\$ 20,950.00
Bond Discount (2%)	\$ 8,380.00
Issuance Costs (3.0%)	\$ 12,570.00
Bank Fees	\$ 500.00
Roundoff	\$ 77.58
Total Assessed Costs	\$419,000.00

Estimated unit costs for construction only, not including engineering, legal, administrative, and bond costs as follows:

<u>Removal of:</u>	<u>Unit Price:</u>
Flatwork Removal	\$15.00/SY
Curb and Gutter Removal	\$12.00/LF
<u>New Construction:</u>	
Concrete Sidewalk	\$ 5.25/SF
Curb and Gutter	\$22.00/LF
New Drive Approach	\$ 6.00/SF
New Alley Approach	\$ 6.00/SF
Street Reconstruction	\$43.00/SY

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against 236 separate lots, parcels, or tracts.

The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be \$1,746.00, with a high of \$17,519.00, low of \$0.00, and a median of \$516.00.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.
6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.
7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS.

The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed \$419,000.00 in order to finance the costs

of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

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

- (a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is \$48,750,123.00. The average market value is \$207,447.00 with a high of \$10,518,736.00 and a low of \$10,138.00 and median value of \$76,384.00. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.
- (b) Diversity of Property Ownership. For the 236 Tax codes in this project, there are 221 separate owners. Aspen Group LLC owns (3) parcels with (3) lots. Grand Ave Investor LLC owns (1) parcel with (1) lot and (5) Units of common area interest. Harbour Towne Company owns (3) parcels with (3) lots. Mcdonald Land Holdings LLC owns (2) parcels with (2) lots. Scherer, Jered & Bonnie L CO-T own (2) parcels with (2) lots. One parcel listed is Montana Rail Link which is (E00097). All other parcels are under separate ownership, it is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.
- (c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, thirteen (13) parcels have an SID levied against them. Parcel A00804 is being assessed under SID 1334, with a payoff amount of \$2,986.73 and a payoff date of 2012. Parcels A05004 and A07663 are being assessed under SID 2101, with payoff amounts of \$971.81 and \$171.21, and a payoff date of 2013; Parcels A08753, A08754, A08755, A08756, and A08757 are being assessed under SID 2701, with payoff amounts of \$467.98, \$233.99, \$233.99, \$233.99, and \$7,760.23 and a payoff date of 2021; Parcels A28465, A28466, and A28486 are being assessed under SID 1366, with payoff amounts of \$1,986.49, \$1,986.49, and \$1,931.84, and a payoff date of 2020. Parcel C11813 is being assessed under SID 1360, with a payoff amount of \$5,009.38 and a payoff date of 2018. Parcel E00097 is being assessed under SID 1334, with a payoff amount of \$9,798.63 and a payoff date of 2012.

As noted in Section 4, the estimated average assessment levied by this project will be \$1,746.00. With an average market value of \$207,447.00, and an average yearly principal payment of \$145.55 (monthly principal of \$12.13) assuming 6% interest rate, the amount of assessment versus the value of the property would

appear acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "B".

- (d) Delinquencies. For tax year 2008, Zero (0) parcels were delinquent. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

- (e) The Public Benefit of the Improvements. Current City Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new curb, gutter, sidewalk, and drive approaches is to be borne by the adjoining property owners.

Some of the parcels have been involved in recent construction or subdivision activity. Some of these parcels have undergone recent site developments, both residential and commercial, in which a permit was taken out, but the improvements were not constructed, or the developer has requested that the improvements be included and constructed under the proposed project. Developers generally make a request to be included in the proposed project to take advantage of the financing opportunity of the 12-year assessment. Some of these parcels are lots included in recently approved subdivisions. The improvements were required as part of the Subdivision Improvements Agreements, but were not installed by the subdivider/developer.

The remaining parcels represent a continuation of an annual improvement project for repairs of tripping hazards, deteriorated sidewalks, drainage problems, property owner requests and citizen complaints.

The project improvements are located in various Task Force areas, both commercial and residential, throughout the City.

## **8. REIMBURSEMENT EXPENDITURES.**

- (a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the

reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

- (b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.
- (c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$419,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.
- (d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.
- (e) Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.



**Exhibit A**  
**Location of Work**  
**WO 09-02 Miscellaneous and Developer Related**

- 1) SIDEWALK: 1828 Alderson Avenue \* 1236 North 31<sup>st</sup> Street \* 617 Nelson Drive \* 2022 13<sup>th</sup> ST W \* 3624 Flagstone (Dev. Rel.) \* 1315 2<sup>ND</sup> St W \* 2130 Poly Drive (Dev. Rel. ) \* 2521 8<sup>th</sup> Avenue North (Dev. Rel. ) \* 5859 Ironwood Drive (Dev. Rel.) \* 5835 Ironwood Drive (Dev. Rel.) \* 1012 & 1014 N 23<sup>rd</sup> Street \* 2189 Pheasant Drive \* 2159 Pueblo Drive (Dev. Rel.) \* 2901 Thousand Oaks \* 623 Cook Avenue \* 1931 Gleneagles Drive \* 3115 9<sup>th</sup> Avenue South \* 546 Custer Avenue \* Various Olympic Park Walkways Behind 3648 Gladiator Circle \* 617 Nelson Drive \* 1803 Avenue D \* 3414 5<sup>th</sup> Avenue South \* 1201 Burlington Avenue \* 702 Howard Avenue \* 2159 Pueblo Drive \*
- 2) CURB & GUTTER: 542 Tabriz Drive \* 621 Nelson Drive \* 522, 514, 506 Howard Avenue \*
- 3) DRIVEWAY APRON: 5246 Sacagawea Drive \* 3733 Poly Dr (Dev. Rel.) \* 2039 Broadwater Avenue (Dev. Rel.) \* 1046 Calico Drive \* 3004 Marguerite Blvd \* 3210 Durland Drive \* 2071 Rosebud Dr \* 2602 Yellowstone Avenue \* 2008 & 2014 Colton Blvd \* 1035 Alderson Avenue \*
- 4) SIDEWALK, CURB & GUTTER: East side of N 22<sup>nd</sup> Street from 1<sup>ST</sup> Avenue North to 2<sup>nd</sup> Avenue North \* 514 Houle Street \* South Side of Montana Avenue between N 26<sup>th</sup> Street and N 24<sup>th</sup> Street \* North Side of Monad Road between Berthoud Drive and 24<sup>th</sup> Street West \* 1913 Avenue D \* 142 Clark Avenue \* 206 Clark Avenue \* 2537 Broadwater Avenue (Dev. Rel.) \* 4128 Corbin Drive \* 2700 Grand Avenue (Dev. Rel.) \* 2505 46<sup>th</sup> St W \* 2202 Pine Street \* 2514 Ridgewood Lane \* 2604 Ridgewood Lane \* 4408 Murphy Avenue \* 1842 Avenue C \* 2110 Custer Avenue \*
- 5) ADA Compliant W/C ramps: N/E corner of Broadwater Avenue & 15<sup>th</sup> St W \* NW corner of Broadwater Avenue and 14<sup>th</sup> St W \* 2203 & 2303 1<sup>ST</sup> Avenue S \* 1521 S 32<sup>nd</sup> ST W (2) (Dev. Rel.) \* 150 31<sup>st</sup> St W (Dev. Rel.) \* 2690 King Avenue W. (Dev. Rel.) \* 704 N 25<sup>th</sup> Street \* 2202 Pine Street \* 3115 9<sup>th</sup> Avenue South \* 1802 Avenue F \*
- 6) SIDEWALK, CURB & GUTTER, DRIVEWAY APRONS: 1021 Alderson Avenue \* 1501 Avenue D \* 3635 Montana Avenue (DEV. REL.) \* 2702 4<sup>th</sup> Avenue N \* 749 Mattson Drive (Dev. Rel.) \* 1826 Grand Avenue (Dev. Rel.) \* 2425 Central Avenue (Dev. Rel.) \* 3103 Reimers Park Drive (Dev. Rel.) \* 431 Rimrock Road \* 703 Parkhill Drive \* 1808 & 1807 Avenue D \* 2910 Reimers Park Drive (Dev. Rel.) \* 141 Glenhaven Drive \* 149 Glenhaven Drive \* 2609 Cook Avenue \* 218 & 224 N 23<sup>rd</sup> Street \* 2416 & 2428 11<sup>th</sup> St W \* 6149 Masters Blvd \* North side of Avenue F between 16<sup>th</sup> St W and 17<sup>th</sup> ST W \* 27 N27th Street \* East Side of South 37<sup>th</sup> St. from 1<sup>st</sup> Avenue South to 2<sup>nd</sup>

Avenue South \* East Side of South 30<sup>th</sup> Street between 4<sup>th</sup> Avenue South & 5<sup>th</sup> Avenue South \* Both sides of Parkhill Drive between Virginia Lane and 6<sup>th</sup> Street West \* 1802 Avenue F \* 2007 Grand Avenue \* 2143 Beloit Drive \*

- 7) ALLEY APRONS: North Side of Miles Avenue, between 19<sup>th</sup> ST W and Glee Place \* West side of 15<sup>th</sup> Street W between Avenue D and Avenue E \* West Side of 14<sup>th</sup> ST W between Grand Avenue and Avenue B \* 2143 Beloit Drive \* 226 Nantucket Court (Dev. Rel.) \* East side of Santa Fe Drive between Eldorado Drive and Fair park Drive \* North side of Fair Park Drive between Ardmore Drive and Pecos Place \* West side of 7<sup>th</sup> St W between Parkhill Drive and Beverly Hills Blvd \*
- 8) CURB & GUTTER, SIDEWALK, ALLEY APRONS, DRIVE APRONS: West side of 17<sup>th</sup> ST West between Colton Boulevard and Poly Drive \*
- 9) SIDEWALK, CURB & GUTTER, ALLEY APRONS: South side of South 6<sup>th</sup> Avenue South & North side of 7<sup>th</sup> Avenue South, Between South 36<sup>th</sup> Street to South 37<sup>th</sup> Street \*

## Exhibit B

### WO 09-02 Misc/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A00257				\$6,401.82	\$6,401.82	\$249,180.00
A00407				\$3,714.42	\$3,714.42	\$49,693.00
A00408				\$1,330.09	\$1,330.09	\$120,961.00
A00571				\$2,682.15	\$2,682.15	\$33,663.00
A00572				\$2,682.15	\$2,682.15	\$35,076.00
A00573				\$2,682.15	\$2,682.15	\$295,205.00
A00804	1334	\$2,986.73	\$0.00	\$0.00	\$2,986.73	\$10,518,736.00
A00886A				\$0.00	\$0.00	\$43,388.00
A00887				\$0.00	\$0.00	\$202,453.00
A01458				\$1,072.86	\$1,072.86	\$43,579.00
A01618				\$484.08	\$484.08	\$21,066.00
A01619				\$484.08	\$484.08	\$45,411.00
A01620				\$484.08	\$484.08	\$44,398.00
A01621				\$484.08	\$484.08	\$32,923.00
A01622				\$484.08	\$484.08	\$33,985.00
A01623				\$484.08	\$484.08	\$34,747.00
A01624				\$11,289.90	\$11,289.90	\$10,138.00
A01624A				\$484.08	\$484.08	\$50,760.00
A01625				\$484.08	\$484.08	\$59,179.00
A01626				\$484.08	\$484.08	\$73,353.00
A01627				\$726.13	\$726.13	\$36,918.00
A01777				\$1,931.14	\$1,931.14	\$59,765.00
A02843A				\$1,849.28	\$1,849.28	\$168,205.00
A04575				\$895.20	\$895.20	\$74,869.00
A04576				\$194.07	\$194.07	\$70,613.00
A04577				\$199.14	\$199.14	\$67,615.00
A04578				\$190.37	\$190.37	\$68,094.00
A04579				\$204.50	\$204.50	\$81,262.00
A04580				\$177.67	\$177.67	\$71,561.00
A04581				\$286.93	\$286.93	\$88,467.00
A04582				\$264.76	\$264.76	\$75,954.00
A04583				\$195.39	\$195.39	\$67,043.00
A04584				\$196.04	\$196.04	\$78,671.00
A04585				\$187.39	\$187.39	\$73,205.00
A04586				\$176.85	\$176.85	\$63,366.00
A04587				\$176.85	\$176.85	\$69,918.00

## Exhibit B

### WO 09-02 Misc/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A04588				\$176.85	\$176.85	\$66,789.00
A04589				\$176.85	\$176.85	\$65,715.00
A04590				\$176.85	\$176.85	\$84,611.00
A04591				\$176.85	\$176.85	\$67,843.00
A04592				\$176.85	\$176.85	\$69,707.00
A04593				\$176.85	\$176.85	\$71,140.00
A04594				\$176.85	\$176.85	\$67,096.00
A04595				\$314.71	\$314.71	\$76,902.00
A04596				\$183.65	\$183.65	\$74,784.00
A04597				\$183.65	\$183.65	\$73,742.00
A04598				\$216.98	\$216.98	\$72,414.00
A04599				\$183.65	\$183.65	\$66,264.00
A04600				\$163.99	\$163.99	\$69,992.00
A04601				\$186.04	\$186.04	\$69,139.00
A04602				\$141.31	\$141.31	\$61,144.00
A04603				\$163.99	\$163.99	\$61,618.00
A04604				\$265.27	\$265.27	\$78,323.00
A04724				\$1,963.63	\$1,963.63	\$66,610.00
A04792				\$1,859.19	\$1,859.19	\$74,753.00
A04796				\$886.72	\$886.72	\$63,009.00
A04798				\$2,547.71	\$2,547.71	\$67,138.00
A04800				\$1,101.30	\$1,101.30	\$70,076.00
A04801				\$1,451.16	\$1,451.16	\$66,937.00
A04818				\$2,220.47	\$2,220.47	\$71,287.00
A04824				\$287.82	\$287.82	\$70,382.00
A04825				\$1,537.77	\$1,537.77	\$67,397.00
A04860				\$875.74	\$875.74	\$254,373.00
A04870				\$357.62	\$357.62	\$106,764.00
A04965				\$2,208.78	\$2,208.78	\$96,904.00
A04965A				\$2,208.79	\$2,208.79	\$84,602.00
A04966				\$3,782.57	\$3,782.57	\$54,498.00
A04967				\$1,195.23	\$1,195.23	\$69,602.00
A04968				\$5,078.63	\$5,078.63	\$60,523.00
A04969				\$0.00	\$0.00	\$62,544.00
A04970				\$1,931.91	\$1,931.91	\$55,547.00
A04971				\$894.05	\$894.05	\$73,393.00

## Exhibit B

### WO 09-02 Misc/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A04999				\$2,304.91	\$2,304.91	\$54,949.00
A05001				\$2,879.80	\$2,879.80	\$16,042.00
A05003				\$6,583.42	\$6,583.42	\$60,828.00
A05004	2101	\$971.81	\$0.00	\$7,380.75	\$8,352.56	\$102,346.00
A06301				\$7,015.10	\$7,015.10	\$78,829.00
A06493				\$6,112.38	\$6,112.38	\$95,734.00
A06494				\$216.33	\$216.33	\$108,858.00
A06495				\$236.31	\$236.31	\$111,620.00
A06496				\$236.31	\$236.31	\$126,922.00
A06497				\$236.31	\$236.31	\$103,888.00
A06498				\$236.31	\$236.31	\$103,813.00
A06499				\$236.31	\$236.31	\$101,665.00
A06500A				\$145.79	\$145.79	\$61,604.00
A06500B				\$145.61	\$145.61	\$87,309.00
A06500E				\$145.79	\$145.79	\$80,546.00
A06500F				\$145.61	\$145.61	\$78,250.00
A06501				\$216.50	\$216.50	\$92,649.00
A06502				\$4,013.52	\$4,013.52	\$79,226.00
A06503				\$4,758.94	\$4,758.94	\$106,047.00
A06504				\$278.32	\$278.32	\$81,904.00
A06505				\$278.32	\$278.32	\$96,620.00
A06506				\$278.32	\$278.32	\$85,647.00
A06509				\$269.78	\$269.78	\$102,488.00
A06510				\$278.32	\$278.32	\$122,182.00
A06511				\$278.32	\$278.32	\$106,141.00
A06512				\$278.32	\$278.32	\$87,582.00
A06513				\$285.87	\$285.87	\$131,148.00
A06514				\$10,343.92	\$10,343.92	\$97,419.00
A06520B				\$7,331.85	\$7,331.85	\$129,229.00
A06520E				\$17,311.68	\$17,311.68	\$97,390.00
A06560				\$257.93	\$257.93	\$97,926.00
A06645				\$527.51	\$527.51	\$253,337.00
A06648				\$182.30	\$182.30	\$37,833.00
A06649				\$178.68	\$178.68	\$64,263.00
A06650				\$179.35	\$179.35	\$35,653.00
A06651				\$539.08	\$539.08	\$264,557.00

## Exhibit B

### WO 09-02 Misc/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A06654				\$534.46	\$534.46	\$301,290.00
A06656				\$182.30	\$182.30	\$105,725.00
A06657				\$182.30	\$182.30	\$59,385.00
A06658				\$182.30	\$182.30	\$32,101.00
A06659				\$182.30	\$182.30	\$65,137.00
A06660				\$182.30	\$182.30	\$56,078.00
A06661				\$182.30	\$182.30	\$56,709.00
A06662				\$182.30	\$182.30	\$54,857.00
A06663				\$182.30	\$182.30	\$56,710.00
A06664				\$182.30	\$182.30	\$61,934.00
A06665				\$182.30	\$182.30	\$54,845.00
A06666				\$182.30	\$182.30	\$52,707.00
A06667				\$182.30	\$182.30	\$54,372.00
A06868				\$518.11	\$518.11	\$77,460.00
A07111				\$2,830.79	\$2,830.79	\$58,891.00
A07237				\$1,587.83	\$1,587.83	\$45,755.00
A07663	2101	\$171.21	\$0.00	\$686.37	\$857.58	\$74,099.00
A07738				\$192.55	\$192.55	\$74,806.00
A07739				\$231.05	\$231.05	\$88,637.00
A07740				\$192.55	\$192.55	\$76,880.00
A07741				\$192.55	\$192.55	\$79,556.00
A07742				\$192.55	\$192.55	\$79,103.00
A07743				\$179.71	\$179.71	\$76,511.00
A07744				\$154.04	\$154.04	\$74,163.00
A07746				\$154.04	\$154.04	\$60,112.00
A07747				\$236.18	\$236.18	\$92,206.00
A07748				\$217.70	\$217.70	\$76,384.00
A07749				\$222.04	\$222.04	\$82,357.00
A07750				\$241.46	\$241.46	\$79,977.00
A07751				\$220.16	\$220.16	\$75,479.00
A07752				\$190.05	\$190.05	\$80,125.00
A07753				\$265.53	\$265.53	\$88,719.00
A07754				\$217.05	\$217.05	\$86,813.00
A07755				\$155.78	\$155.78	\$70,918.00
A07906				\$2,682.15	\$2,682.15	\$70,613.00
A07907				\$1,609.29	\$1,609.29	\$60,165.00

## Exhibit B

### WO 09-02 Misc/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A08167				\$0.00	\$0.00	\$92,714.00
A08276				\$1,555.64	\$1,555.64	\$77,922.00
A08753	2701	\$467.98	\$0.00	\$5,198.51	\$5,666.49	\$19,143.00
A08754	2701	\$233.99	\$0.00	\$2,020.04	\$2,254.03	\$33,461.00
A08755	2701	\$233.99	\$0.00	\$970.42	\$1,204.41	\$39,923.00
A08756	2701	\$233.99	\$0.00	\$1,850.42	\$2,084.41	\$57,214.00
A08757	2701	\$7,760.23	\$0.00	\$1,029.94	\$8,790.17	\$31,904.00
A09050				\$2,260.62	\$2,260.62	\$72,909.00
A09051				\$2,260.62	\$2,260.62	\$67,852.00
A09290				\$0.00	\$0.00	\$720,124.00
A09847				\$3,376.70	\$3,376.70	\$65,410.00
A09848				\$670.54	\$670.54	\$79,271.00
A09849				\$607.52	\$607.52	\$81,495.00
A09883				\$811.75	\$811.75	\$75,164.00
A09895				\$1,760.02	\$1,760.02	\$77,217.00
A10299				\$2,398.99	\$2,398.99	\$74,795.00
A10322				\$882.41	\$882.41	\$74,173.00
A10723				\$4,458.60	\$4,458.60	\$30,916.00
A10848				\$7,626.59	\$7,626.59	\$333,612.00
A10861				\$1,487.56	\$1,487.56	\$61,629.00
A12451				\$943.80	\$943.80	\$54,002.00
A12544				\$254.99	\$254.99	\$104,457.00
A12545				\$238.08	\$238.08	\$110,521.00
A12648				\$9,239.83	\$9,239.83	\$754,790.00
A12687				\$894.05	\$894.05	\$89,351.00
A12689				\$393.17	\$393.17	\$75,352.00
A12690				\$2,027.22	\$2,027.22	\$102,055.00
A12691				\$2,056.31	\$2,056.31	\$87,919.00
A12692				\$2,765.62	\$2,765.62	\$75,500.00
A12693				\$2,111.18	\$2,111.18	\$68,168.00
A12694				\$3,571.88	\$3,571.88	\$82,747.00
A12695				\$10,274.98	\$10,274.98	\$66,400.00
A12918				\$1,970.74	\$1,970.74	\$107,722.00
A12923				\$223.52	\$223.52	\$132,622.00
A13169C				\$0.00	\$0.00	\$161,379.00
A13176				\$11,619.08	\$11,619.08	\$147,409.00
A13496				\$0.00	\$0.00	\$66,789.00

## Exhibit B

### WO 09-02 Misc/Developer Related

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-02- Assessment (C)	A + B + C	Market Value
A13497				\$512.84	\$512.84	\$71,449.00
A14019				\$1,029.78	\$1,029.78	\$71,058.00
A15874				\$3,745.31	\$3,745.31	\$236,844.00
A16410				\$1,315.48	\$1,315.48	\$58,570.00
A16634				\$4,177.46	\$4,177.46	\$108,353.00
A16636				\$4,520.92	\$4,520.92	\$68,622.00
A17784				\$686.37	\$686.37	\$49,968.00
A17872				\$2,708.97	\$2,708.97	\$315,244.00
A17989				\$1,329.67	\$1,329.67	\$209,881.00
A18687				\$410.79	\$410.79	\$65,060.00
A18688				\$3,924.75	\$3,924.75	\$658,553.00
A18689				\$177.16	\$177.16	\$71,446.00
A18690				\$3,732.59	\$3,732.59	\$196,727.00
A18984				\$1,111.64	\$1,111.64	\$52,359.00
A19200				\$0.00	\$0.00	\$57,615.00
A19202				\$0.00	\$0.00	\$65,206.00
A19205				\$0.00	\$0.00	\$37,240.00
A19212				\$2,824.91	\$2,824.91	\$66,812.00
A19251				\$1,192.42	\$1,192.42	\$36,527.00
A19637				\$2,707.67	\$2,707.67	\$106,131.00
A20298				\$17,519.03	\$17,519.03	\$2,495,712.00
A21589				\$3,122.03	\$3,122.03	\$115,158.00
A21791				\$0.00	\$0.00	\$196,791.00
A22085				\$504.93	\$504.93	\$120,319.00
A22814				\$8,542.11	\$8,542.11	\$118,677.00
A22815				\$9,485.95	\$9,485.95	\$110,282.00
A24260				\$526.19	\$526.19	\$144,945.00
A24845				\$2,906.70	\$2,906.70	\$98,980.00
A25513				\$5,333.41	\$5,333.41	\$140,080.00
A27251				\$3,053.77	\$3,053.77	\$203,457.00
A28233A				\$1,467.88	\$1,467.88	\$369,229.00
A28233B				\$1,267.30	\$1,267.30	\$321,211.00
A28233C				\$879.30	\$879.30	\$221,927.00
A28233D				\$855.80	\$855.80	\$219,126.00
A28233E				\$994.62	\$994.62	\$250,041.00
A28353				\$7,429.13	\$7,429.13	\$4,562,645.00
A28465	1366	\$1,986.49	\$0.00	\$0.00	\$1,986.49	\$192,974.00
A28466	1366	\$1,986.49	\$0.00	\$0.00	\$1,986.49	\$340,800.00

## Exhibit B

### WO 09-02 Misc/Developer Related

<b>Tax Code</b>	<b>SID #</b>	<b>SID Pay-off (A)</b>	<b>Delinquent (B)</b>	<b>WO 09-02- Assessment (C)</b>	<b>A + B + C</b>	<b>Market Value</b>
A28486	1366	\$1,931.84	\$0.00	\$0.00	\$1,931.84	\$269,923.00
A29594				\$3,229.78	\$3,229.78	\$144,466.00
A30394				\$0.00	\$0.00	\$232,266.00
A30998				\$1,017.92	\$1,017.92	\$725,328.00
A31028				\$3,906.84	\$3,906.84	\$24,418.00
A31501				\$11,169.64	\$11,169.64	\$79,135.00
A31677				\$4,071.69	\$4,071.69	\$295,346.00
A31681				\$8,143.38	\$8,143.38	\$333,256.00
A33618				\$800.12	\$800.12	\$92,900.00
C05768				\$0.00	\$0.00	\$230,612.00
C07187				\$0.00	\$0.00	\$101,770.00
C11713				\$1,422.73	\$1,422.73	\$346,105.00
C11714				\$1,422.73	\$1,422.73	\$443,507.00
C11716				\$1,422.73	\$1,422.73	\$443,507.00
C11813	1360	\$5,009.38	\$0.00	\$4,612.00	\$9,621.38	\$3,925,949.00
D01341A				\$3,180.87	\$3,180.87	\$1,550,580.00
E00097	1334	\$9,798.63	\$0.00	\$6,458.26	\$16,256.89	MT RAIL LINK

Date: 03/22/2010

**TITLE: Resolution Approving City Administrator Signature Authority to Implement the Neighborhood Stabilization Program**

**PRESENTED BY:** Brenda Beckett

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Montana Department of Commerce (MDOC) received notification from the U.S. Department of Housing and Urban Development (HUD) regarding a \$19.6 million funding award to implement the Neighborhood Stabilization Program (NSP) in 2009 throughout the State of Montana. Funding for this program was made available through the Housing and Economic Recovery Act of 2008 and can be used to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within communities. The complete Neighborhood Stabilization Plan, approved by City Council in January 2009, can be viewed online: <http://ci.billings.mt.us/index.aspx?NID=500>.

The City of Billings applied for NSP funding in July 2009 and was approved for the program in December 2009. The City received the final contract to implement the program on January 25, 2010. As the projects would be approved by MDOC on a first-come-first-served basis, there is no definite contract amount identified and the City will be competing with other entities across the state to secure funding.

The City is required to submit contract amendments to MDOC to obligate funding on a project-by-project basis, indicating property address and estimated costs in order to secure funding. The City must obligate all funding via contract to be utilized in the NSP program by September 19, 2010 and must expend all funding obligated by March 19, 2013.

All foreclosed properties considered by staff for purchase through this program will have undergone a publically advertised Trustee Sale. The City of Billings would only pursue acquisition of a property if the property was acquired at the Trustee Sale by the mortgage holder.

Staff has become aware of significant limitations with mandated time limits to acquire foreclosed properties subsequent to the Trustee Sale date. Following a Trustee Sale, federal agencies require that the property be deeded back to the mortgage insurer within 30 days of the date of the Trustee Sale.

Specifically, HUD operates the Federal Housing Administration (FHA), which insures Montana Board of Housing loans. If a property was purchased with an FHA-insured loan, the Montana Board of Housing's duly appointed Successor Trustee has a maximum of 30 days from the date of the Trustee Sale to deed the property back to HUD. If the property is not deeded back to HUD within the time limit, the Montana Board of Housing will not be protected from financial loss due to the foreclosure. Similarly, the Department of Veterans Affairs requires the foreclosed property be deeded back within 15 days of the Trustee Sale date.

The following example illustrates the current process time restraints staff is experiencing while attempting to implement NSP:

- February 1, 2010 - Trustee Sale is held, home is purchased by the mortgage holder. With this example, the property would need to be committed by March 2, 2010.
- February 2, 2010 - Mortgage holder notifies the City of opportunity, and City staff reviews preliminary

information on the home, including vacancy date, remaining mortgage owed, location of the property for target areas, etc.

- February 5, 2010 - City staff orders a property inspection, including estimates of needed repairs (5-7 day return, weather permitting for roof inspections).
- February 12, 2010 - Inspection report is completed; estimates do not exceed the lead-based paint demolition threshold of \$25,000.
- February 15 through 19, 2010 - Staff reviews the property on-site, completes the Environmental Review Record process (including historic and lead based paint reviews).
- February 22, 2010 - An appraisal (14 day return) and title commitment (up to 5 day return) is ordered for the property.
- February 25, 2010 - Title commitment reveals clean title with no unknown liens. Staff prepares preliminary property set-aside checklist for MDOC staff to tentatively reserve funding and begins work on the City Council memo. The next available date for memo completion is March 4 with Council action scheduled for March 22, 2010.
- March 2, 2010 - Property commitment deadline - missed.

In order to effectively implement the NSP program, staff is requesting the City Administrator be granted authority to execute Buy/Sell documents to facilitate the acquisition of eligible, foreclosed properties up to \$150,000 in total payout to obtain the property. Subsequent to the acquisition of the property, repairs of up to \$25,000 would be made to rehabilitate the unit to bring it to Housing Quality Standards. Units requiring more than \$25,000 in rehabilitation would be eligible for demolition and land-banking. The parcels would then be made available to organizations interested in building affordable housing with long-term periods of monitored affordability.

The following example illustrates the process requested by staff to implement NSP (February 1 through 25, 2010 is the same as the last example):

- February 25, 2010 - Title commitment reveals clean title with no unknown liens. Staff prepares property set-aside checklist for MDOC staff to tentatively reserve funding and reviews with the City Administrator. If found to be an appropriate project, the City Administrator signs a letter of commitment, contingent on appraisal and 1% discount. Property commitment deadline (March 2, 2010) has been met.
- March 8, 2010 - Appraisal is completed for the property. A 1% appraisal discount is negotiated for the sales price as per NSP rules. Buy / Sell Agreement (dependent on when the appraisal is received).
- March 9 through 12, 2010 - Staff prepares final report for MDOC to firmly commit funding (required 10 days in advance of closing). If not previously completed, a Buy / Sell Agreement is drafted and executed.
- Closing is scheduled following MDOC final approval of the project.

#### **ALTERNATIVES ANALYZED**

1) Approve the City Administrator's signature authority to purchase foreclosed homes up to \$150,000 on behalf of the City;

2) Do not approve the City Administrator's signature authority to purchase foreclosed homes up to \$150,000.

#### **FINANCIAL IMPACT**

No match is required to access NSP funding through MDOC. Administration funding totaling five percent of approved project activities is allowed to be submitted for reimbursement. The MDOC has the ability to reimburse the City for expenditures within a 30-day timeline, and this is acceptable to the Finance Department, provided the City undertake approximately two projects at a time.

**RECOMMENDATION**

Staff recommends that Council approve the City Administrator’s signature authority to execute Buy/Sell Agreements for eligible, vacant, foreclosed properties up to \$150,000 for the Neighborhood Stabilization Program via resolution.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

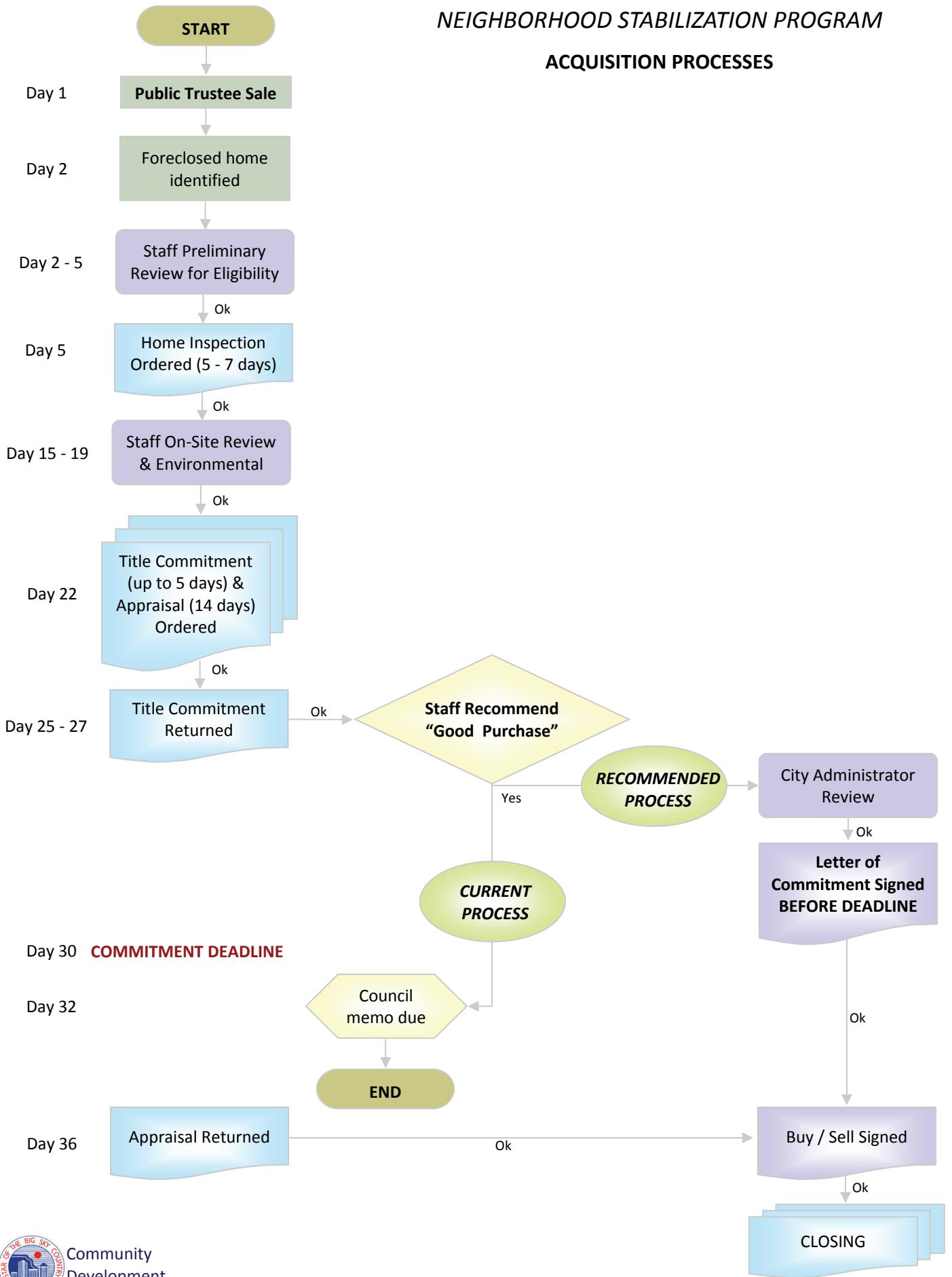
Link: [Timeline Example - Flowchart](#)

Link: [Resolution](#)

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# NEIGHBORHOOD STABILIZATION PROGRAM

## ACQUISITION PROCESSES



## BUDGETARY AUTHORITY RESOLUTION

### RESOLUTION NO. 10-

A RESOLUTION GRANTING THE CITY ADMINISTRATOR THE AUTHORITY TO EXECUTE CONTRACTS UP TO \$150,000 TO AUTHORIZE AND FACILITATE THE IMPLEMENTATION OF THE NEIGHBORHOOD STABILIZATION PROGRAM.

WHEREAS the City of Billings applied to the Montana Department of Commerce for a maximum of \$2,687,350 in Neighborhood Stabilization Program funding on July 27, 2009 to acquire, rehabilitate and offer affordable housing opportunities to low, moderate, and middle income households;

WHEREAS the funding for the Neighborhood Stabilization Program was authorized through the Housing and Economic Recovery Act of 2008 to prevent the deterioration of neighborhoods due to foreclosures;

WHEREAS the City of Billings received a finalized contract #MT-NSP-024-01-001 from the Montana Department of Commerce's Neighborhood Stabilization Program on January 25, 2010, authorizing the City of Billings to proceed in implementing the Neighborhood Stabilization Program within the City of Billings limits; and

WHEREAS, the City of Billings will appropriate Neighborhood Stabilization funding for approved projects during the fiscal year 2009-2010 to implement the program through Budget Amendments on a project-by-project basis.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Funding Appropriation: The City of Billings hereby authorizes the appropriation of funding on a project-by-project basis to acquire, rehabilitate and sell vacant, foreclosed homes to low, moderate and middle income homeowners.

Section 2. Contract Authority and Execution: The City of Billings hereby authorizes the City Administrator the authority to execute maximum contracts throughout the implementation of the Neighborhood Stabilization Program as follows:

- a) \$150,000 to facilitate the purchase of each eligible, foreclosed and vacant housing unit;
- b) \$25,000 to rehabilitate each foreclosed housing unit to bring the unit to Housing Quality Standards; and
- c) \$20,000 to safely demolish foreclosed and blighted structures not suitable for housing rehabilitation in order to prepare the parcel for future affordable housing development.

Section 3. Change Orders: The City of Billings hereby authorizes the City Administrator the authority to implement change orders to facilitate the implementation of the Neighborhood Stabilization Program.

Section 3. Duration: The Resolution shall become effective on March 23, 2010 and shall cease on the final expenditure date, March 19, 2013, of the Neighborhood Stabilization Program contract #MT-NSP-024-01-001.

Passed and approved this 22<sup>nd</sup> day of March, 2010.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

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

Date: 03/22/2010

TITLE: Preliminary Subsequent Minor Plat, Amended Lot 4-A, Block 5, Hogan Homestead Subdivision

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

On February 16, 2010, the Planning Division received an application for a subsequent minor plat approval for Amended Lot 4-A, Block 5, Hogan Homestead Subdivision. The plat contains two lots on approximately 9.0 acres of land for commercial development. The proposed subdivision is located on the southeast corner of the intersection of King Avenue West and South 24th Street West. The lot currently is the site of Shopko. The owner is Spirit Spe Portfolio 2006-1, LLC, and the subdivider is Depierro Realty Advisors. The representing agent is Sanderson Stewart.

ALTERNATIVES ANALYZED

In accordance with state law, the City Council has 35 working days to act upon this subsequent minor plat; the 35 working day review period for the proposed plat ends on April 5, 2010. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

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

FINANCIAL IMPACT

Should the City Council approve the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

BACKGROUND

General location: Southeast corner of the intersection of King Avenue West and South 24th Street West

Legal Description: Lot 4-A, Block 5, Hogan Homestead Subdivision

Subdivider: Depierro Realty Advisors

Owner: Spirit Spe Portfolio 2006-1, LLC

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: Highway Commercial (HC)

Existing land use: Commercial – Shopko

Proposed land use: Commercial – Shopko, plus a restaurant

Gross area: 9.0 acres

Net area: 9.0 acres

Proposed number of lots: 2

Lot size: Max: 8.22 acres  
Min.: 35,050 square feet

Parkland requirements: A parkland dedication is not required, as this is a commercial subdivision

### **STAKEHOLDERS**

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

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

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact attached to this report.

### **RECOMMENDATION**

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

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat.
2. To mitigate effects on local services, the final Subdivision Improvement Agreement shall be amended as follows:
  - Section III.C. Street Lighting, shall be amended to state “Street lighting exists along King Avenue West and S. 24th Street West adjacent to the subdivision. No new or additional street lighting will be required as a result of this subdivision.”
  - Add a new section called Parking, and add the following language “Parking lot modifications shall be done in accordance with the Traffic Impact Study upon development of Lot 4-A-2.”
3. To ensure the provision of legal and physical access to Lot 4-A-2, an updated reciprocal access agreement shall be provided prior to final plat approval and recorded with the final plat documents.
4. To ensure that the proposal complies with zoning regulations in effect, an easement document for the ‘monument entry sign easement’ shall be provided prior to final plat approval and recorded with the final plat documents, or the easement shall be removed from the face of the plat.
5. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

### **APPROVED BY CITY ADMINISTRATOR**

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#### **Attachments**

Link: [Preliminary Plat](#)

Link: [Findings of Fact](#)

Link: [Mayor's Approval Letter](#)

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PRELIMINARY AMENDED PLAT OF LOT 4A, BLOCK 5,  
**HOGAN HOMESTEAD SUBDIVISION**

SITUATED IN THE NW1/4 OF SECTION 18, T. 1 S., R. 26 E., P.M.M.

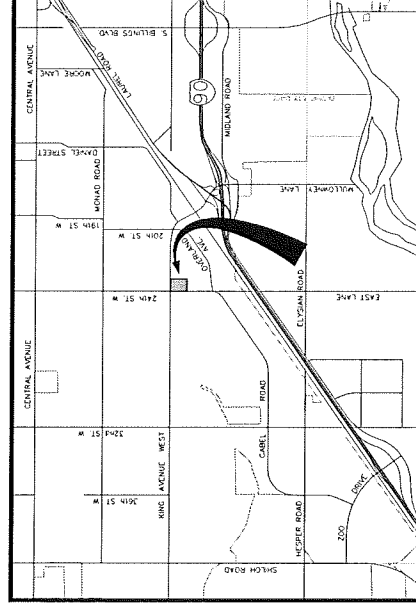
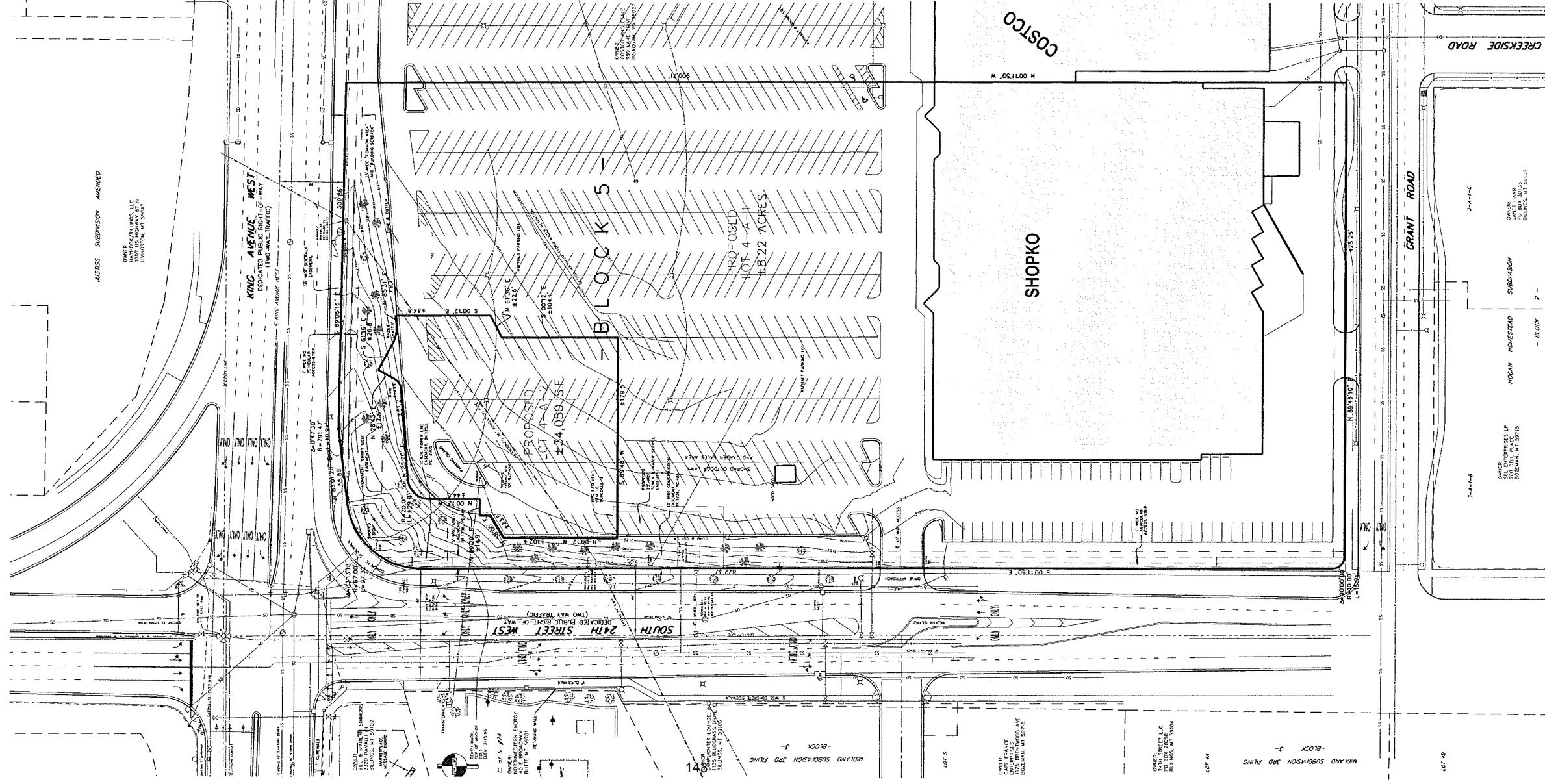
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : DEPIERRO REALTY ADVISORS

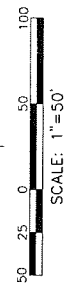
FEBRUARY 2010

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



VICINITY MAP  
NOT TO SCALE



PLAT DATA

GROSS AREA	=	9.00 ACRES	=	HIGHWAY COMMERCIAL
NET AREA	=	9.00 ACRES	=	RESIDENTIAL PROFESSIONAL
NUMBER OF LOTS	=	TWO	=	HIGHWAY COMMERCIAL
MINIMUM LOT SIZE	=	±34,050 Sq. Ft	=	HIGHWAY COMMERCIAL
MAXIMUM LOT SIZE	=	±8.22 ACRES	=	CONTROLLED INDUSTRIAL
LINEAL FEET OF STREETS	=	0	=	COMMERCIAL
PARKLAND REQUIREMENT	=	NONE	=	
EXISTING ZONING	=		=	
SURROUNDING ZONING:				
NORTH				
SOUTH				
EAST				
WEST				
EXISTING LAND USE	=		=	
PROPOSED LAND USE	=		=	

## ATTACHMENT 2

### Findings of Fact

Staff is forwarding the recommended Findings of Fact for Amended Lot 4-A, Block 5, Hogan Homestead Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Sections 23-304(c), BMCC).

#### **A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and (23-302(H)(2), BMCC)]**

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

The subject property has been developed as part of the Shopko/Costco shopping center complex. Since an underground irrigation pipe was abandoned in earlier years, there are currently no irrigation facilities on the property. There is no anticipated effect on irrigation facilities or agriculture in the area.

##### **2. Effect on local services**

- a. **Utilities** – Water and sanitary sewer for the proposed subdivision shall come from the existing mains located in South 24<sup>th</sup> Street West. There is an existing 12-inch water main, and an 8-inch sewer main which will be tapped. The new lot owner will be responsible for extension of water and sewer service to Lot 4-A-2. There is a 20-foot wide easement across Lot 4-A-1 to accommodate these new water and sewer connections.
- b. **Storm water** – There is an existing storm water management master plan that has been approved for this subdivision. The new lot will be developed in accordance with this master plan. No new storm sewer service connections will be allowed. All drainage improvements shall comply with the provisions of the City of Billings Storm Water Management Manual and Section 23-706, BMCC.
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** - Access to the subdivision has been previously approved and will not be altered with this amendment. One forty-foot wide shared approach exists midway down the S. 24<sup>th</sup> St. W. frontage, and one other exists off of Grant Road on the southern property line. There are existing Reciprocal Easement Agreement (REA) documents for the lots within the Hogan Homestead Subdivision. An amendment to the REA will be necessary prior to final plat approval, to provide access for Lot 4-A-2 (**Condition #3**). There is a one-foot no-access strip along the remainder of the S. 24<sup>th</sup> St. West and King Ave. West frontage, preventing any additional future accesses.
- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 S.

24<sup>th</sup> Street West (Station #5). The subdivision is located within the ambulance service area of American Medical Response.

- f. **Schools** –Schools will not be affected by this subdivision as it is proposed to be a commercial development.
- g. **Parks and Recreation** - A parkland dedication is not required, as this is a commercial development.
- h. **Mail Delivery** - The United States Postal Service did not respond with comments on the proposal. The location of any new the mail boxes shall be reviewed and approved by the post office.

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

The proposed subdivision should have only minor effects on the natural environment, as there will be short term air and noise pollution associated with construction on the property. The subdivision is located on two arterial streets in a developed area of the City.

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

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property.

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

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. There are no obvious threats to public health, safety or welfare.

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

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA and 23-901, BMCC.

## **C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 2000 Transportation Plan and the Heritage Trail Plan? (23-301, BMCC)**

### **1. Yellowstone County-City of Billings 2008 Growth Policy Update**

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

- a. **Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 6).**

*The proposed commercial development on the site is consistent with the surrounding commercial uses. The HC zoning of this proposed subdivision has been in place for many years and suits this area of town well.*

- b. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).**

*The subject property has had a shopping complex on it for many years. The new lot will make use of an underutilized parking area that already has City services. This is a great example of infill development and will likely be an improvement to the neighborhood.*

- c. **Goal: Safe and efficient traffic circulation around and through the City.**

*A Traffic Impact Study was prepared to ensure that any anticipated impacts to street and parking lot traffic are mitigated.*

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

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

## **3. Heritage Trail Plan**

The Heritage Trail Master Plan has no trail identified through this subdivision or in the immediate vicinity.

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

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

### **E. Does the subdivision conform to sanitary requirements? [(23-408, BMCC)]**

The property is served by the City of Billings water, sewer and solid waste services.

### **F. Does the proposed subdivision conform to all requirements of the zoning in effect? [(23-402, BMCC)]**

The subject property is located within HC zoning districts and complies with the standards set forth in Section 27-309, BMCC. To ensure the ability of the new business on Lot 4-A-2 a monument sign along King Avenue West, a monument entry sign easement is proposed on the Lot 4-A-1 street frontage. To ensure that this easement is in conformance with zoning, it is recommended that the accompanying easement document be recorded with the final plat documents or be removed from the face of the plat (**Condition #4**).

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

A twenty-foot wide easement is provided across Lot 4-A-1 for the extension of water and sewer services to Lot 4-A-2. Additionally, **Condition #1** requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

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

Access to the subdivision shall be from S. 24<sup>th</sup> St. West. The applicant will submit an update to the existing Reciprocal Easement Agreement for this subdivision prior to final plat approval to ensure access to the new lot, Lot 4-A-2 (**Condition #3**).

**CONCLUSIONS OF FINDING OF FACT**

- The preliminary plat of Amended Lot 4-A, Block 5, Hogan Homestead Subdivision, does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the 2005 Transportation Plan Update or the Heritage Trail Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, March 22, 2010

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Thomas W. Hanel, Mayor

**ATTACHMENT 3**  
Mayor's Approval Letter

March 23, 2010

Depierro Realty Advisors  
Attn: Dave Depierro  
3 Monarch Bay Plaza, No. 103  
Dana Point, CA 92629

Spirit Spe Portfolio 2006-1, LLC  
14631 N. Scottsdale Rd., Ste. 200  
Scottsdale, AZ 85254-2711

Dear Owner and Applicant:

On March 22, 2010, the Billings City Council conditionally approved the preliminary plat of Amended Lot 4-A, Block 5, Hogan Homestead Subdivision, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat.
2. To mitigate effects on local services, the final Subdivision Improvement Agreement shall be amended as follows:
  - Section III.C. Street Lighting, shall be amended to state "Street lighting exists along King Avenue West and S. 24<sup>th</sup> Street West adjacent to the subdivision. No new or additional street lighting will be required as a result of this subdivision."
  - Add a new section called Parking, and add the following language "Parking lot modifications shall be done in accordance with the Traffic Impact Study upon development of Lot 4-A-2."
3. To ensure the provision of legal and physical access to Lot 4-A-2, an updated reciprocal access agreement shall be provided prior to final plat approval and recorded with the final plat documents.
4. To ensure that the proposal complies with zoning regulations in effect, an easement document for the 'monument entry sign easement' shall be provided prior to final plat approval and recorded with the final plat documents, or the easement shall be removed from the face of the plat.
5. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.

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

Should you have questions please contact the Juliet Spalding at (406)247-8684 or by email at [spaldingj@ci.billings.mt.us](mailto:spaldingj@ci.billings.mt.us) .

Sincerely,

---

Thomas W. Hanel, Mayor

Pc: Dennis Randall, Sanderson Stewart

Date: 03/22/2010

TITLE: Final Plat of Bellville Subdivision, Amended Lots 5 & 6, Block 1

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

**Information**

**PROBLEM/ISSUE STATEMENT**

The final plat for Bellville Subdivision, Amended Lots 5 & 6, Block 1, is being presented to Council for approval. On October 28, 2008, the City Council conditionally approved the creation of three lots from two existing lots on approximately 30,000 square feet for residential development. The subject property is located generally north of Wicks Lane, just east of Hawthorne Lane in the Heights. It is zoned Residential-7000, and surrounding properties are developed single-family and duplex dwellings. The owner and subdivider is Ray & Dave, LLC, and the representing agent is Blueline Engineering. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

**ALTERNATIVES ANALYZED**

The City Council may approve the final plat, or deny the final plat.

**FINANCIAL IMPACT**

Should the City Council approve the final plat, one additional lot will be created which will potentially increase the tax income on the property for the City.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Bellville Subdivision, Amended Lots 5 & 6, Block 1.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [Final Plat](#)

CERTIFICATE OF SURVEYOR

STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

Thomas G. Kelly, a Registered Land Surveyor in the State of Montana, does hereby certify that I have performed the survey shown on this Plat Certificate of Survey and that said survey was made in February 2009; that said survey is true and complete as shown and the monuments found and set are of the character and occupy the positions shown thereon.

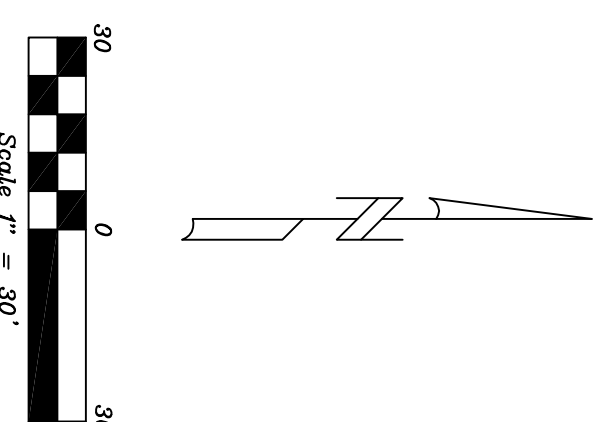
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

Thomas G. Kelly  
 Registration Number 11289 LS  
 33 Centennial Road  
 Columbus, MT 59019

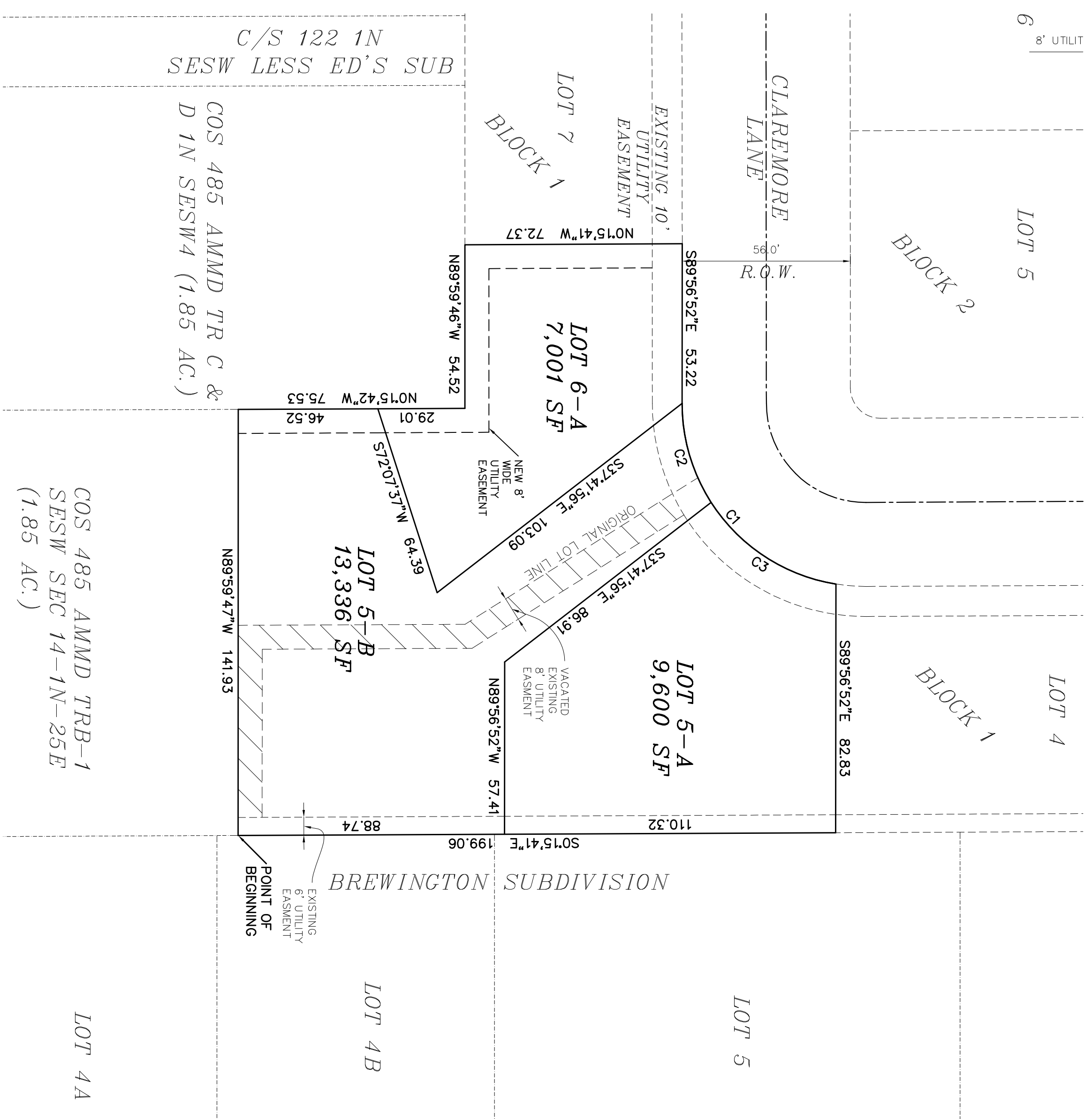
STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me a Notary Public for the State of Montana, personally appeared Thomas G. Kelly person whose name is subscribed to the within instrument and acknowledges to me that he executed the same.

Print \_\_\_\_\_  
 Sign \_\_\_\_\_  
 Notary Public in and for the State of Montana  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_



● = Set 5/8 Rebar with YPC 11289LS  
 ○ = Round YPC  
 BASIS OF BEARING: BELLVILLE SUBDIVISION



CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	86.01	61.00	80°47'02"	N49°34'17"E	79.06
C2	34.82	61.00	32°42'11"	N73°36'43"E	34.35
C3	51.19	61.00	48°04'51"	N33°31'11"E	49.70

NOTICE OF PLANNING BOARD APPROVAL

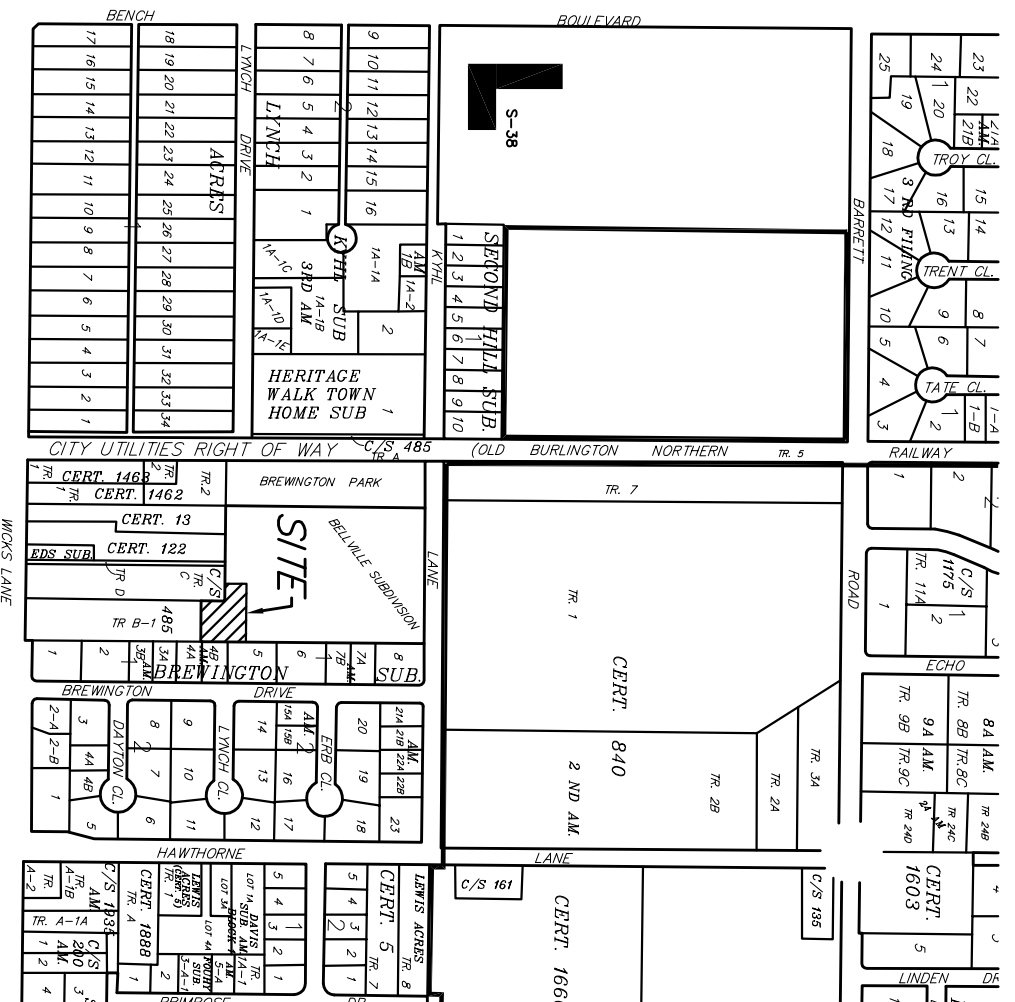
STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

This amended plat has been approved by the Yellowstone County Board of Planning and conforms to the requirements of that board.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

President \_\_\_\_\_  
 Executive Secretary \_\_\_\_\_

VICINITY MAP  
 NOT TO SCALE



CERTIFICATE OF APPROVAL BY CITY ENGINEER'S OFFICE

STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

I hereby certify that the annexed and foregoing subdivision plat conforms with Section 76-4-125(2)(d), MCA "divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided."

IN WITNESS WHEREOF, I have executed this Certificate of Approval, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

City Engineer's Office \_\_\_\_\_

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

We hereby certify that we have examined the annexed and foregoing Amended Plat of Lots 5 & 6, Block 1, Bellville Subdivision, to the City of Billings and find that said amended plat conforms with the requirements of the laws of the State of Montana and the requirements of the City of Billings Planning Board. It is therefore approved and the dedication of the public use of any land shown as dedicated to such use is accepted.

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

CERTIFICATE OF APPROVAL BY CITY ENGINEER'S OFFICE FOR ERRORS AND OMISSIONS

STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

I hereby certify that I have examined the hereto annexed Amended Plat of Lots 5 & 6, Block 1, Bellville Subdivision, to the City of Billings and find that said plat conforms with the requirements of the laws of the State of Montana and said plat conforms to the adjoining additions and plats of the City of Billings already planted as nearly as circumstances will permit, and I have reviewed said plat for errors and/or omissions in calculation and drafting.

IN WITNESS WHEREOF, I have executed the Certificate of Approval by the City Engineer's Office this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

Examining Land Surveyor for the City of Billings \_\_\_\_\_

AMENDED PLAT OF  
 LOTS 5 & 6, BLOCK 1, BELLVILLE SUBDIVISION

Situated in the SW 1/4 of Section 14, T1N, R26E, P4M,  
 City of Billings, Yellowstone County, Montana

Prepared for: Ray & Dave LLC  
 By: North Star Land Services, P.C. February 2009

LEGAL DESCRIPTION, PROPERTY OWNERS CERTIFICATIONS AND DEDICATION

We, the undersigned property owners, hereby certify that we have caused to be surveyed a tract of land, Amending Lots 5 & 6, Block 1, as shown on Bellville Subdivision, being located in the SW 1/4 of Section 14, T1N, R26E, P4M, City of Billings, Yellowstone County, Montana, more particularly described as follows:

Beginning at the southeast corner of Lot 5, Block 1, Bellville Subdivision; thence N89°59'47"W, 141.93 feet; thence N00°15'42"W, 75.53 feet; thence N89°59'46"W, 54.52 feet; thence N00°15'41"W, 72.37 feet; thence S89°56'52"E, 53.22 feet; thence along a curve to the left with radius of 61.00 feet for a length of 86.01 feet (Chord Bearing N49°34'17"E, Chord Length 79.06 feet); thence S89°56'52"E, 82.85 feet; thence S00°15'41"E, 159.06 feet to the Point of Beginning. Subject to all existing easements and/or right-of-ways of record apparent on the ground or reserved on this survey, said described tract containing a gross and net area of 25,575 square feet.

The above described tract of land is to be known as "AMENDED PLAT OF LOTS 5 & 6, BLOCK 1, BELLVILLE SUBDIVISION". The undersigned hereby grants into each and every person, firm, corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, television, water or sewer service to the public, the right to joint use of any easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across designated on this plat as "Utility Easement" to have and to hold forever and lands included in all streets as shown are hereby granted and dedicated to the public forever.

Ray & Dave LLC, member \_\_\_\_\_ Date \_\_\_\_\_  
 STATE OF MONTANA )  
 )  
 ) ss  
 County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me a Notary Public for the State of Montana, personally appeared \_\_\_\_\_ member, Ray & Dave LLC whose name is subscribed to the within instrument and acknowledges to me that he executed the same.

Print \_\_\_\_\_  
 Sign \_\_\_\_\_  
 Notary Public in and for the State of Montana  
 Residing at \_\_\_\_\_  
 My commission expires \_\_\_\_\_

CERTIFICATION OF COUNTY TREASURERS

I hereby certify, pursuant to section 76-3-611(1)(b), M.C.A., that all real property taxes and special assessments assessed and levied on the land described below and encompassed by this survey, have been paid.

Yellowstone County Treasurer \_\_\_\_\_ Date \_\_\_\_\_

CITY ATTORNEYS STATEMENT

This document has been reviewed by the City Attorney's office and is acceptable as to form. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

Reviewed by: \_\_\_\_\_ City Attorney

Date: 03/22/2010

TITLE: Final Plat of Riverfront Pointe Subdivision, Amended Lots 4-19, Block 2

PRESENTED BY: Candi Beaudry

Department: Planning & Community  
Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The final plat for Riverfront Pointe Subdivision, Amended Lots 4-19, Block 2, is being presented to Council for approval. On December 15, 2008, the City Council conditionally approved the aggregation of 16 lots into one lot, on approximately 4.9 acres for multi-family residential development. The subject property is located east of Mullowney Lane, on the south side of Frontier Drive. It is zoned Highway Commercial, and a series of apartment buildings were constructed in 2009 on the site. The owner and subdivider is Frontier Apartments, LLC, and the representing agent is Blueline Engineering. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

**ALTERNATIVES ANALYZED**

The City Council may approve the final plat or deny the final plat.

**FINANCIAL IMPACT**

Should the City Council approve the final plat, there will be minimal financial impacts for the City, since the property is already developed.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of Riverfront Pointe Subdivision, Amended Lots 4-19, Block 2.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Final Plat](#)

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**AMENDED PLAT OF  
LOTS 4-19, BLOCK 2, RIVERFRONT POINTE SUBDIVISION**

Situated in the SW 1/4 of Section 17, T1S, R26E, P4M  
City of Billings, Yellowstone County, Montana

PURPOSE - VACATION OF LOTS 4-19, BLOCK 2, &  
VACATED R.O.-W OF BOUNDARY WATERS CIRCLE (DOCUMENT # 3492605)

Prepared for: Frontier Apartments LLC  
By: North Star Land Services, P.C.  
BlueLine Engineering LLC  
January 2010

**LEGAL DESCRIPTION, PROPERTY OWNERS CERTIFICATIONS  
AND DEDICATION**

We, the undersigned property owners, hereby certify that we have caused to be surveyed a tract of land, amending Lots 4-19, Block 2 as shown on Riverfront Pointe Subdivision, being located in the SW 1/4 of Section 17, T1S, R26E, P4M, City of Billings, Yellowstone County, Montana, more particularly described as follows:

Beginning at the northwest corner of Lot 20, Riverfront Pointe Subdivision; thence S11°01'13"E, 248.27 feet, thence S44°01'50"W, 208.43 feet; thence S56°31'57"W, 174.89 feet; thence S44°58'28"W, 166.29 feet; thence N89°54'00"W, 30.00 feet; thence N00°06'00"E, 555.63 feet to a point on the south Right-of-Way line of Frontier Drive; thence along said Right-of-Way on a curve to the right with a radius of 975.00 feet for a length of 471.63 feet (Chord Bearing N75°54'31"E, Chord length 467.05 feet) to the point of beginning and containing 4.926 acres along with and subject to all existing easements and/or right-of-way of record, apparent on the ground or reserved on this survey.

The above described tract of land is to be known as "AMENDED PLAT OF LOTS 4-19, BLOCK 2, RIVERFRONT POINTE SUBDIVISION". The undersigned hereby grants into each and every person, firm, corporation, whether public or private, providing or offering to provide telephone, electric power, gas, television, water or sewer service to the public, the right of joint use of any easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across designated on this plat as "Utility Easement" to have and to hold forever.

Frontier Apartments LLC, member \_\_\_\_\_ Date \_\_\_\_\_

STATE OF MONTANA )  
County of \_\_\_\_\_ ) SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a Notary Public for the State of Montana, personally appeared \_\_\_\_\_ member, Frontier Apartments LLC whose name is subscribed to the within instrument and acknowledges to me that he executed the same.

Print \_\_\_\_\_  
Sign \_\_\_\_\_  
Notary Public in and for the State of Montana  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

**CERTIFICATION OF COUNTY TREASURERS**

I hereby certify, pursuant to section 76-3-61(1)(b), M.C.A., that all real property taxes and special assessments assessed and levied on the land described below and encompassed by this survey have been paid.

Yellowstone County Treasurer \_\_\_\_\_ Date \_\_\_\_\_  
CITY ATTORNEY'S STATEMENT  
This document has been reviewed by the City Attorney's office and is acceptable as to form. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

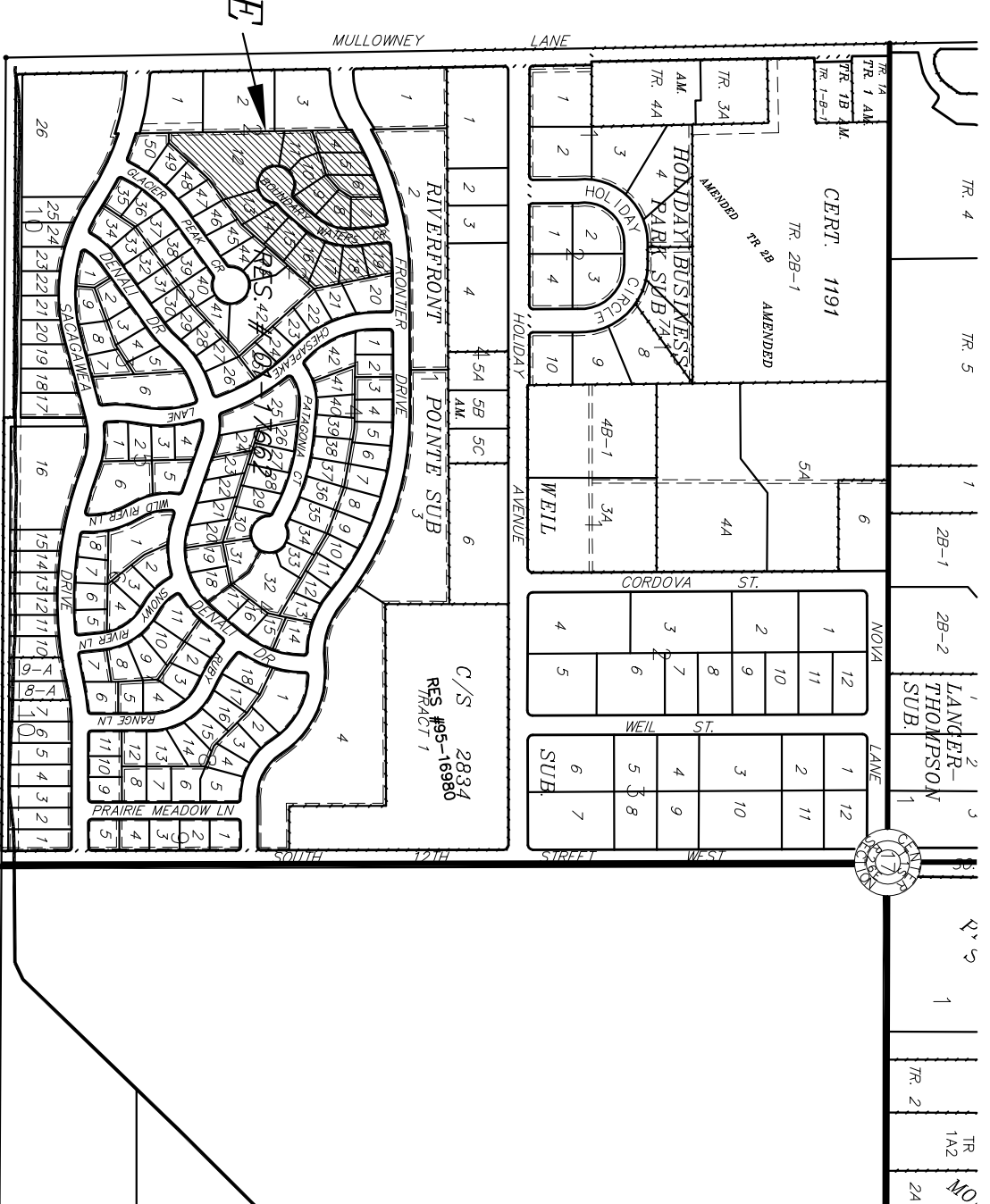
Reviewed by: \_\_\_\_\_ City Attorney

**CERTIFICATE OF APPROVAL BY CITY ENGINEER'S OFFICE  
FOR ERRORS AND OMISSIONS**

STATE OF MONTANA )  
County of Yellowstone ) SS

I hereby certify that I have examined the here to amended Amended Plat of Lots 4-19, Block 2, Riverfront Pointe Subdivision, to the City of Billings and find that said plat conforms with the requirements of the laws of the State of Montana and said plat conforms to the adjoining additions and plats of the City of Billings already platted as nearly as circumstances will permit, and I have reviewed said plat for errors and/or omissions in calculation and drafting.

IN WITNESS WHEREOF, I have executed the Certificate of Approval by the City Engineer's Office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Examining Land Surveyor for the City of Billings \_\_\_\_\_



**CERTIFICATE OF APPROVAL BY CITY ENGINEER'S OFFICE**

STATE OF MONTANA )  
County of Yellowstone ) SS

I hereby certify that the annexed and foregoing subdivision plat conforms with Section 76-4-125(2)(d), MCA "divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided."

IN WITNESS WHEREOF, I have executed this Certificate of Approval, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

City Engineer's Office \_\_\_\_\_

**CERTIFICATE OF CITY COUNCIL APPROVAL**

STATE OF MONTANA )  
County of Yellowstone ) SS

We hereby certify that we have examined the annexed and foregoing Amended Plat of Lots 4-19, Block 2, Riverfront Pointe Subdivision, to the City of Billings and find that said annexed plat conforms with the requirements of the laws of the State of Montana and the requirements from the Yellowstone County Planning Board. It is therefore approved and the dedication of the public use of any land shown as dedicated to such use is accepted.

By: \_\_\_\_\_ Mayor

Attest: \_\_\_\_\_ City Clerk

STATE OF MONTANA )  
County of Yellowstone ) SS

This amended plat has been approved by the Yellowstone County Board of Planning and conforms to the requirements of that board.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

President \_\_\_\_\_  
Executive Secretary \_\_\_\_\_

**CERTIFICATE OF SURVEYOR**

STATE OF MONTANA )  
County of Yellowstone ) SS

Thomas G. Kelly, a Registered Land Surveyor in the State of Montana, do hereby certify that I have performed the survey shown on this Plat Certificate of Survey and that such survey was made in January, 2010, that said survey is true and complete as shown and the monuments found and set are of the character and occupy the positions shown thereon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Thomas G. Kelly  
Registration Number 11289 LS  
33 Centennial Road  
Columbus, MT 59019

STATE OF MONTANA )  
County of Yellowstone ) SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a Notary Public for the State of Montana, personally appeared Thomas G. Kelly, whose name is subscribed to the within instrument and acknowledges to me that he executed the same.

Print \_\_\_\_\_  
Sign \_\_\_\_\_  
Notary Public in and for the State of Montana  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_



**Regular City Council Meeting**

**Consent : 1.X.1.**

**Date: 03/22/2010**

**TITLE: Payment of Claims 02/19/2010.**

Patrick M. Weber, Financial

**PRESENTED BY:** Services Manager

**Department:** City Hall Administration

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### **Information**

#### **PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$1,427,292.56 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 19, 2010, 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 the Payment of Claims.

#### **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

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

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
02/19/2010	729539	ARCHIE COCHRANE	800			27,027.19	
630-1753-485.73-10	02/12/2010	MISC SERVICES	803638/1	272552	08/2010	694.09	
150-2112-421.23-20	02/12/2010	MP	608550/1	272558	08/2010	89.50	
150-2112-421.23-20	02/16/2010	MP	5016021	272622	08/2010	18.31	
150-2112-421.23-20	02/16/2010	MP	5016038	272622	08/2010	47.96	
150-2112-421.23-20	02/16/2010	MP	5016453	272622	08/2010	99.64	
502-7500-609.23-20	02/16/2010	MP	5016615	272622	08/2010	139.60	
571-7147-713.23-20	02/16/2010	MP	607614/1	272622	08/2010	152.09	
503-7591-609.94-10	02/18/2010	NONSTOCKING ITEMS-P.U.D.	70493	269713	08/2010	25,786.00	
02/19/2010	729540	ARMACOST TRANE SERVICE CO	7204			3,555.00	
561-7112-711.36-60	02/16/2010	INVOICE #19497	19497/19494	F10555	08/2010	3,365.00	
561-7112-711.36-60	02/16/2010	INVOICE #19494	19497/19494	F10555	08/2010	190.00	
02/19/2010	729557	BROWN AND CALDWELL	18626			22,296.38	
503-7591-609.93-40	02/17/2010	WO0825 ZONE 3 RESERVOIR	9	264675	08/2010	22,296.38	
02/19/2010	729559	BUSINESS TAX SECTION	2449			7,754.13	
407-7128-711.94-97	02/16/2010	MISC SERVICES	267113-5	267113	08/2010	490.00	
416-7493-603.92-20	02/17/2010	WO0426 ZONE 4 RESVR PHS1	2	267953	08/2010	2,090.19	
416-7493-603.92-20	02/17/2010	WO0426 ZONE 4 RESERVOIR	5	267994	08/2010	635.55	
414-1519-493.92-24	02/17/2010	TAX P1 ELEVATOR	APPLICATION 2	270250	08/2010	953.56	
416-7493-603.92-20	02/18/2010	WO0426 ZONE 4 RESVR PHS1	3	267953	08/2010	3,584.83	
02/19/2010	729564	CARQUEST AUTO PARTS	3890			2,954.56	
502-0000-141.00-00	01/08/2010	WATER PARTS AND SUPPLIES	1935139285		07/2010	140.76	
502-0000-141.00-00	01/08/2010	WATER PARTS AND SUPPLIES	1935139468		07/2010	599.46	
502-7500-609.24-10	01/08/2010	NONSTOCKING ITEMS-P.U.D.	1935139039	271387	07/2010	38.91	
502-7400-603.23-20	01/13/2010	NONSTOCKING ITEMS-P.U.D.	1935139779	271387	07/2010	49.27	
502-7400-603.23-20	01/13/2010	NONSTOCKING ITEMS-P.U.D.	1935139908	271387	07/2010	68.15	
512-8500-625.24-10	01/13/2010	NONSTOCKING ITEMS-P.U.D.	1935139970	271387	07/2010	46.08	
502-7400-603.23-20	01/13/2010	NONSTOCKING ITEMS-P.U.D.	1935139996	271387	07/2010	15.48	
601-0000-141.00-00	01/14/2010	MP	1910-165254		07/2010	11.75	
601-0000-141.00-00	01/14/2010	MP	1910-165406		07/2010	2.20	
601-0000-141.00-00	01/14/2010	MP	1910-165468		07/2010	26.04	
502-0000-141.00-00	01/14/2010	WATER PARTS AND SUPPLIES	1935140091		07/2010	115.44	
150-2112-421.23-20	01/14/2010	MP	1910-165406	271387	07/2010	10.16	
502-7400-603.23-20	01/15/2010	NONSTOCKING ITEMS-P.U.D.	1935140183	271387	07/2010	28.49	
502-7400-603.23-20	01/15/2010	NONSTOCKING ITEMS-P.U.D.	1935140186	271387	07/2010	56.98	
502-7400-603.23-20	01/15/2010	NONSTOCKING ITEMS-P.U.D.	1935140189	271387	07/2010	9.68	
10-5112-452.23-20	01/19/2010	MP	1910-165775	271387	07/2010	11.48	
150-2226-422.24-50	01/20/2010	DUAL HEAD AIR CHUCK/FIRE1	2822-149631 FRI	271387	07/2010	11.59	
150-2112-421.23-20	01/27/2010	MP	1910-165678	271387	07/2010	37.71	
10-5112-452.23-20	01/27/2010	MP	1910-166279	271387	07/2010	82.95	
502-7500-609.23-20	01/27/2010	NONSTOCKING ITEMS-P.U.D.	1935141613	271387	07/2010	20.38	
601-0000-141.00-00	01/28/2010	MP	1910-165813		07/2010	57.90	
601-0000-141.00-00	01/28/2010	MP	1910-165813		07/2010	84.00	
601-0000-141.00-00	01/28/2010	MP	1910-166336		07/2010	47.76	
601-0000-141.00-00	01/28/2010	MP	1910-166336		07/2010	54.60	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
601-1553-481.26-50	01/28/2010	MP	1910-165813	271387 07/2010 29.88
150-2112-421.23-20	01/28/2010	MP	1910-166339	271387 07/2010 37.29
502-7312-602.23-20	01/28/2010	MP	1910-166423	271387 07/2010 90.97
502-7312-602.23-20	01/29/2010	NONSTOCKING ITEMS-P.U.D.	1935141882	271387 07/2010 20.40
601-0000-141.00-00	02/01/2010	MP	1910-165823	08/2010 7.98
601-0000-141.00-00	02/01/2010	MP	1910-1661112	08/2010 28.46
150-2112-421.23-20	02/01/2010	MP	1910-165823	271387 08/2010 5.98
601-1553-481.26-50	02/01/2010	MP	1910-165823	271387 08/2010 15.90
211-3134-433.23-20	02/01/2010	MISC SERVICES	1910-166358	271387 08/2010 42.48
150-2112-421.23-20	02/01/2010	MP	1910-166823	271387 08/2010 11.59
150-2112-421.23-20	02/01/2010	MP	1910-166823	271387 08/2010 3.92
211-3134-433.23-20	02/01/2010	MISC SERVICES	1935-141142	271387 08/2010 40.89-
512-8500-625.23-20	02/01/2010	NONSTOCKING ITEMS-P.U.D.	1935141993	271387 08/2010 25.48
502-7400-603.23-20	02/08/2010	MP	1910-165769	271387 08/2010 37.45
541-3123-435.23-20	02/08/2010	MP	1910-166746	271387 08/2010 53.28
601-0000-141.00-00	02/10/2010	MP	1910-167057	08/2010 52.00
601-0000-141.00-00	02/10/2010	MP	1910-167057	08/2010 114.76
601-0000-141.00-00	02/10/2010	MP	1910-167057	08/2010 47.76
601-0000-141.00-00	02/17/2010	MP	1910-166906	08/2010 16.50
601-0000-141.00-00	02/17/2010	MP	1910-166906	08/2010 145.82
150-2112-421.23-20	02/17/2010	MP	1910-164919	271387 08/2010 7.98
502-7400-603.23-20	02/17/2010	MP	1910-164923	271387 08/2010 11.96
150-2112-421.23-20	02/17/2010	MP	1910-165249	271387 08/2010 14.00
601-1553-481.26-50	02/17/2010	MP	1910-165402	271387 08/2010 12.60
601-1553-481.26-50	02/17/2010	MP	1910-165584	271387 08/2010 24.00
150-2112-421.23-20	02/17/2010	MP	1910-165645	271387 08/2010 77.48
541-3123-435.23-20	02/17/2010	MP	1910-165655	271387 08/2010 53.28
150-2112-421.23-20	02/17/2010	MP	1910-165770	271387 08/2010 37.29
150-2112-421.23-20	02/17/2010	MP	1910-166167	271387 08/2010 38.66
10-5112-452.23-20	02/17/2010	MP	1910-166314	271387 08/2010 54.14
10-5112-452.23-20	02/17/2010	MP	1910-166781	271387 08/2010 137.95
150-2112-421.23-20	02/17/2010	MP	1910-166960	271387 08/2010 115.70
150-2112-421.23-20	02/17/2010	MP	1910-167100	271387 08/2010 37.29
150-2112-421.23-20	02/17/2010	MP	1910-167149	271387 08/2010 36.98
571-7147-713.24-10	02/17/2010	MP	1935-141064	271387 08/2010 11.91
571-7147-713.26-30	02/17/2010	MP	1935-141064	271387 08/2010 7.27
502-7400-603.24-50	02/18/2010	NONSTOCKING ITEMS-P.U.D.	1935139220	271387 08/2010 15.80
02/19/2010	729566	CB & I INC	20708	561,826.48
416-7493-603.92-20	02/17/2010	WO0426 ZONE 4 RESRVR PHS1	2	267952 08/2010 206,928.81
416-7493-603.92-20	02/18/2010	WO0426 ZONE 4 RESRVR PHS1	3	267952 08/2010 354,897.67
02/19/2010	729590	GAP BROADCASTING BILLINGS LLC	19746	2,556.00
571-7146-713.33-70	01/11/2010	INVOICE# 73081-1	73081-1	F10374 07/2010 384.00
571-7146-713.33-70	01/11/2010	INVOICE# 73082-1	73081-1	F10374 07/2010 912.00
571-7146-713.33-70	01/11/2010	INVOICE# 73238-1	73081-1	F10374 07/2010 304.00
571-7146-713.33-70	01/11/2010	INVOICE# 73239-1	73081-1	F10374 07/2010 128.00
571-7146-713.33-70	02/11/2010	INVOICE# 74112-1	74112-1	F10539 08/2010 128.00
571-7146-713.33-70	02/11/2010	INVOICE# 74113-1	74112-1	F10539 08/2010 304.00
571-7146-713.33-70	02/11/2010	INVOICE# 74221-1	74112-1	F10539 08/2010 268.00

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
571-7146-713.33-70	02/11/2010	INVOICE# 74222-1	74112-1	F10539	08/2010	128.00	
02/19/2010	729593	GENERAL CONTRACTORS CONSTR	1415			48,510.05	
407-7128-711.94-97	02/16/2010	MISC SERVICES	266985-5	266985	08/2010	48,510.05	
02/19/2010	729594	GENERAL ELECTRIC CAPITAL CORP	19598			9,370.42	
150-2150-421.62-00	02/17/2010	MISC SERVICES	71379821	272644	08/2010	432.92	
150-2150-421.61-00	02/17/2010	MISC SERVICES	71379821-1	272644	08/2010	4,252.29	
150-2150-421.61-00	02/17/2010	MISC SERVICES	71392511	272644	08/2010	4,271.07	
150-2150-421.62-00	02/17/2010	MISC SERVICES	71392511-1	272644	08/2010	414.14	
150-2150-421.61-00	02/17/2010	MISC SERVICES	CORR PO272646	272646	08/2010	8,523.36-	
150-2150-421.62-00	02/17/2010	MISC SERVICES	CORR 2 272646	272646	08/2010	847.06-	
150-2150-421.62-00	02/17/2010	MISC SERVICES	71379821 #27 IN	272647	08/2010	414.14	
150-2150-421.61-00	02/17/2010	MISC SERVICES	71379821 #27 PR	272647	08/2010	4,271.07	
150-2150-421.62-00	02/17/2010	MISC SERVICES	71392511 #27 IN	272647	08/2010	414.14	
150-2150-421.61-00	02/17/2010	MISC SERVICES	71392511-PR	272647	08/2010	4,271.07	
02/19/2010	729601	GUARDIAN SECURITY INC	12486			5,678.25	
260-5512-455.35-74	02/12/2010	SECURITY SERVICES	995130	F10543	08/2010	5,678.25	
02/19/2010	729605	HDR INC	1544			9,168.10	
845-3186-431.93-10	02/17/2010	WO0915 GRAND/ZIMMERMAN	3	270652	08/2010	9,168.10	
02/19/2010	729607	HKM ENGINEERING INC	10883			11,244.50	
205-3131-433.93-10	02/17/2010	WO0821 LAKE ELMO DR	13	261940	08/2010	11,244.50	
02/19/2010	729610	HOTSY WY-MONT	1741			8,495.00	
640-3138-433.94-40	02/17/2010	MISC SERVICES	39130	272185	08/2010	8,495.00	
02/19/2010	729611	HOUSE OF CLEAN	5789			11,972.00	
562-7120-711.94-90	02/16/2010	MISC SERVICES	26577	272087	08/2010	11,972.00	
02/19/2010	729612	HOUSING AUTHORITY OF BILLINGS	7959			86,278.18	
294-6690-463.72-75	02/09/2010	MISC SERVICES	WHITETAIL 3 FIN	272427	08/2010	86,278.18	
02/19/2010	729617	INGRAM BOOK COMPANY	1820			6,358.08	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48867078	271807	08/2010	23.13	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48867079	271807	08/2010	14.74	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48867080	271807	08/2010	29.48	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48867084	271807	08/2010	9.00	
260-5519-455.32-42	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48867085	271807	08/2010	8.24	
260-5519-455.32-55	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48867087	271807	08/2010	154.14	
260-5519-455.32-55	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48880337	271807	08/2010	10.61	
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886742	271807	08/2010	184.26	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886743	271807	08/2010	15.31	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886744	271807	08/2010	15.34	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886745	271807	08/2010	15.34	
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886746	271807	08/2010	17.67	
260-5519-455.32-23	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886746	271807	08/2010	71.47	
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48886746	271807	08/2010	85.28	

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260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48963370	271807	08/2010	25.74
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	48963371	271807	08/2010	174.89
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047103	271807	08/2010	14.74
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047104	271807	08/2010	17.99
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047105	271807	08/2010	12.95
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047106	271807	08/2010	28.26
260-5519-455.32-41	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047107	271807	08/2010	8.23
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047108	271807	08/2010	35.93
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047109	271807	08/2010	16.51
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047110	271807	08/2010	171.73
260-5519-455.32-23	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047110	271807	08/2010	13.74
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047111	271807	08/2010	54.21
260-5519-455.33-34	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49047111	271807	08/2010	26.39
260-5519-455.32-41	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49069761	271807	08/2010	14.74
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49069762	271807	08/2010	8.97
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49069763	271807	08/2010	738.90
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49076196	271807	08/2010	30.93
260-5519-455.33-34	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49076297	271807	08/2010	30.23
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49125502	271807	08/2010	15.34
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49125503	271807	08/2010	15.92
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49125504	271807	08/2010	99.95
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49125505	271807	08/2010	366.11
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49148012	271807	08/2010	259.21
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49187054	271807	08/2010	30.09
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201964	271807	08/2010	15.33
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201965	271807	08/2010	14.16
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201966	271807	08/2010	45.40
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201967	271807	08/2010	18.86
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201968	271807	08/2010	149.20
260-5519-455.32-23	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201969	271807	08/2010	11.97
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49201969	271807	08/2010	35.93
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49235498	271807	08/2010	14.74
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49235499	271807	08/2010	14.72
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49255575	271807	08/2010	20.04
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49255576	271807	08/2010	13.17
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49255577	271807	08/2010	44.22
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49255578	271807	08/2010	783.48
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314269	271807	08/2010	15.34
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314270	271807	08/2010	9.00
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314271	271807	08/2010	5.98
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314272	271807	08/2010	93.09
260-5519-455.79-30	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314273	271807	08/2010	90.00
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314274	271807	08/2010	22.46
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314275	271807	08/2010	30.68
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49314276	271807	08/2010	225.87
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49327831	271807	08/2010	40.50
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49327832	271807	08/2010	10.77
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49327833	271807	08/2010	36.16
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49327834	271807	08/2010	25.36
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49327835	271807	08/2010	204.53

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260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49336183	271807	08/2010	15.31-
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49336183	271807	08/2010	8.40-
260-5519-455.32-41	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49336183	271807	08/2010	10.79-
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49352403	271807	08/2010	16.49
260-5519-455.33-34	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49352404	271807	08/2010	15.40
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49352405	271807	08/2010	40.43
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49352406	271807	08/2010	13.19
260-5519-455.32-41	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49352407	271807	08/2010	152.85
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49362024	271807	08/2010	17.67
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49362025	271807	08/2010	33.06
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425492	271807	08/2010	15.31
260-5519-455.32-55	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425493	271807	08/2010	9.43
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425494	271807	08/2010	14.74
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425495	271807	08/2010	40.08
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425496	271807	08/2010	16.17
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425497	271807	08/2010	29.49
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425498	271807	08/2010	15.34
260-5519-455.32-55	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425499	271807	08/2010	53.28
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49425500	271807	08/2010	423.14
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49428715	271807	08/2010	8.38
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49428716	271807	08/2010	58.23
260-5519-455.32-26	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49428717	271807	08/2010	43.06
260-5519-455.32-20	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49428718	271807	08/2010	17.69
260-5519-455.33-33	02/13/2010	PUBLICATIONS/AUDIOVISUAL	49428719	271807	08/2010	502.48
02/19/2010	729624	KADRMAS LEE & JACKSON	14850			20,794.36
845-3186-431.93-10	02/17/2010	WO0412 ALKALI CR RD	INV#107497	259114	08/2010	20,794.36
02/19/2010	729628	KOIS BROTHERS EQUIPMENT CO	6452			4,594.58
512-8500-625.23-20	01/13/2010	NONSTOCKING ITEMS-P.U.D.	84793	271892	07/2010	70.42
601-0000-141.00-00	02/01/2010	MP	85052		08/2010	1,058.22
601-0000-141.00-00	02/10/2010	MP	85080		08/2010	113.18
541-3122-435.23-20	02/10/2010	MP	84772	271389	08/2010	156.12
541-3122-435.23-20	02/10/2010	MP	84922	271389	08/2010	571.67
541-3122-435.23-20	02/10/2010	MP	84985	271389	08/2010	368.04
541-3122-435.23-20	02/10/2010	MP	85080	271389	08/2010	571.67
601-0000-141.00-00	02/12/2010	MP	84932		08/2010	129.94
541-3122-435.23-20	02/12/2010	MP	84932	271389	08/2010	1,555.32
02/19/2010	729630	LANGLAS & ASSOCIATES INC	7004			94,402.69
414-1519-493.92-24	02/17/2010	P1 ELEVATOR	APPLICATION 2	268693	08/2010	94,402.69
02/19/2010	729650	NEXTX COMMUNICATIONS INC	20952			3,585.00
260-5518-455.36-90	02/12/2010	NETWORK OUTAGE	824	F10546	08/2010	3,585.00
02/19/2010	729652	NORTHWESTERN ENERGY	15771			16,130.99
571-7143-713.34-10	02/10/2010	ACCOUNT# 0100473-8	021010	F10520	08/2010	2,835.55
10-5127-451.34-10	02/18/2010	NW PARK/REC/PL	07123870		08/2010	37.76
10-5122-451.34-10	02/18/2010	NW PARK/REC/PL	07125362		08/2010	181.35
10-5122-451.34-10	02/18/2010	NW PARK/REC/PL	07208184		08/2010	39.39

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #			CHECK AMOUNT
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10-5126-451.34-10	02/18/2010	NW PARK/REC/PL	07208218		08/2010	55.25
502-7400-603.34-10	02/18/2010	NW PUD-WATER TREAT	07222649		08/2010	1,155.69
10-5112-452.34-10	02/18/2010	NW PARK/REC/PL	07222870		08/2010	15.08
502-7400-603.34-10	02/18/2010	NW PUD-WATER TREAT	07230402		08/2010	2,026.01
10-5112-452.34-10	02/18/2010	NW PARK/REC/PL	07230451		08/2010	8.45
502-7400-603.34-10	02/18/2010	NW PUD-WATER TREAT	07230592		08/2010	48.44
10-5112-452.34-10	02/18/2010	NW PARK/REC/PL	08134892		08/2010	18.92
211-3133-433.34-10	02/18/2010	NW PUBLIC WORKS	08554040		08/2010	8.45
150-2221-422.34-10	02/18/2010	NW FIRE	08715468		08/2010	596.51
10-5112-452.34-10	02/18/2010	NW PARK/REC/PL	09254962		08/2010	206.12
650-1566-487.34-10	02/18/2010		09758087		08/2010	456.07
10-5112-452.34-10	02/18/2010	PARKS	09789173		08/2010	14.51
502-7400-603.34-10	02/18/2010	NW PUD	11164522		08/2010	267.30
561-7117-711.34-10	02/18/2010	NW PUD	11389269		08/2010	77.68
650-1566-487.34-10	02/18/2010	ACCOUNTS PAYABLE	11608023		08/2010	762.78
650-1566-487.34-10	02/18/2010	ACCOUNTS PAYABLE	11608049		08/2010	3,686.60
872-5198-452.34-10	02/18/2010	NW parks	11759727		08/2010	163.77
10-5112-452.34-10	02/18/2010	NW	12422226		08/2010	7.61
650-1566-487.34-10	02/18/2010	NW	12693917		08/2010	3,461.70
02/19/2010	729662	NORTHWESTERN ENERGY	15784			137,481.85
211-3136-433.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE SIGNALS		08/2010	11,113.23
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712544-6		08/2010	427.70
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712545-3		08/2010	450.40
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712546-1		08/2010	1,280.32
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0721276-4		08/2010	3,388.47
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0721277-2		08/2010	1,656.63
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712553-7		08/2010	1,051.39
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712554-5		08/2010	77.49
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712556-0		08/2010	333.98
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712557-8		08/2010	12,488.62
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712558-6		08/2010	1,355.36
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712559-4		08/2010	2,237.59
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712560-2		08/2010	1,533.81
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712561-0		08/2010	3,786.62
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712562-8		08/2010	146.89
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712563-6		08/2010	814.84
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712564-4		08/2010	191.76
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712565-1		08/2010	503.29
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712566-9		08/2010	2,776.32
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712567-7		08/2010	197.98
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712568-5		08/2010	129.40
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712570-1		08/2010	2,156.94
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712571-9		08/2010	163.84
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712572-7		08/2010	287.58
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712573-5		08/2010	838.80
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712574-3		08/2010	335.52
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712575-0		08/2010	167.77
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712576-8		08/2010	614.32
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712577-6		08/2010	430.02

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712578-4		08/2010	287.58
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712579-2		08/2010	123.84
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712580-0		08/2010	742.94
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712581-8		08/2010	201.18
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712582-6		08/2010	464.29
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712583-4		08/2010	450.49
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712584-2		08/2010	398.93
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712585-9		08/2010	317.33
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712586-7		08/2010	647.10
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712587-5		08/2010	215.71
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712588-3		08/2010	500.91
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712590-9		08/2010	409.54
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712591-7		08/2010	311.56
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712592-5		08/2010	400.53
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712593-3		08/2010	1,177.65
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712594-1		08/2010	655.26
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712598-2		08/2010	1,064.80
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712602-2		08/2010	931.67
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712603-0		08/2010	623.12
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712604-8		08/2010	921.45
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712614-7		08/2010	286.67
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712615-4		08/2010	36.56
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712616-2		08/2010	225.26
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712617-0		08/2010	450.49
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712618-8		08/2010	307.15
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712619-6		08/2010	1,461.92
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712620-4		08/2010	511.92
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712621-2		08/2010	1,023.85
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712622-0		08/2010	327.62
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712623-8		08/2010	122.88
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712624-6		08/2010	499.42
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712625-3		08/2010	204.77
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712626-1		08/2010	245.71
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712627-9		08/2010	204.77

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712628-7		08/2010	1,064.80
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712629-5		08/2010	365.80
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712630-3		08/2010	266.20
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712631-1		08/2010	655.26
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712632-9		08/2010	206.67
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712633-7		08/2010	172.22
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712634-5		08/2010	55.52
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712635-2		08/2010	55.52
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712636-0		08/2010	102.39
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712637-8		08/2010	59.21
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712638-6		08/2010	430.02
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712639-4		08/2010	635.27
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712640-2		08/2010	14.81
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712641-0		08/2010	309.27
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712642-8		08/2010	29.26
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712643-6		08/2010	286.67
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712644-4		08/2010	327.62
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712645-1		08/2010	222.50
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712646-9		08/2010	470.95
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712647-7		08/2010	66.62
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712648-5		08/2010	37.01
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712650-1		08/2010	22.22
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712651-9		08/2010	407.10
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712656-8		08/2010	58.41
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712657-6		08/2010	88.82
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712658-4		08/2010	1,535.72
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712659-2		08/2010	335.93
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712660-0		08/2010	237.06
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712661-8		08/2010	581.92
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712662-6		08/2010	695.02
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712665-9		08/2010	503.29
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712666-7		08/2010	2,180.92
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712667-5		08/2010	645.75
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712668-3		08/2010	379.77
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712673-3		08/2010	81.92
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712674-1		08/2010	310.00
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712675-8		08/2010	532.36
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712676-6		08/2010	71.90
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712677-4		08/2010	95.88

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712678-2		08/2010	73.28
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712681-6		08/2010	2,088.92
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0718734-7		08/2010	2,372.64
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1301786-8		08/2010	17.39
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0719001-0		08/2010	157.04
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0718801-4		08/2010	3,399.73
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0719162-0		08/2010	479.33
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0719644-7		08/2010	1,663.32
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0719763-5		08/2010	116.79
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720813-5		08/2010	126.28
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720360-7		08/2010	679.58
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720606-3		08/2010	2,252.30
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1301786-8		08/2010	16.05
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720810-1		08/2010	1,060.83
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720705-3		08/2010	431.38
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720937-2		08/2010	2,715.50
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0720716-0		08/2010	751.19
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0721427-3		08/2010	127.45
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0721556-9		08/2010	304.67
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0721684-9		08/2010	46.03
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0833098-7		08/2010	60.27
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0906944-4		08/2010	339.69
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0995095-7		08/2010	859.80
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0905005-5		08/2010	2,442.27
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0926386-4		08/2010	175.17
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0907926-0		08/2010	51.67
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0961926-3		08/2010	368.26
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1058710-3		08/2010	718.42
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1087619-1		08/2010	180.84
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1124127-0		08/2010	53.04
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1045653-1		08/2010	559.72
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1206985-2		08/2010	292.27
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1296582-8		08/2010	206.57
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1246537-3		08/2010	123.44
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1303978-9		08/2010	7,392.78
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1685375-6		08/2010	271.51
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1433921-2		08/2010	115.12
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1481532-8		08/2010	527.25
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1481534-4		08/2010	204.77
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810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1481536-9		08/2010	95.88
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1481537-7		08/2010	1,100.57
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1481539-3		08/2010	184.31
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1481540-1		08/2010	163.84
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1662840-6		08/2010	350.06
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1687005-7		08/2010	1,559.00

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1607534-3		08/2010	248.84	
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 1695873-8		08/2010	855.95	
810-3183-431.34-10	02/28/2010		NWE 1740353-6		08/2010	265.55	
810-3183-431.34-10	02/28/2010	LIGHT MAINT TRANSFER	NWE 0712569-3		08/2010	42.96	
02/19/2010	729670	QWEST COMMUNICATIONS	6319			9,613.85	
225-2232-422.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	252-1190		08/2010	8,973.35	
521-1592-493.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	252-2041		08/2010	43.09	
601-1550-481.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	256-5047		08/2010	44.59	
10-1212-412.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	256-6082		08/2010	45.90	
561-7110-711.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	256-7070		08/2010	44.11	
660-3110-431.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	259-7758 1/2		08/2010	63.50	
670-3141-489.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	259-7758 1/2		08/2010	63.51	
225-2232-422.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	651-0282		08/2010	43.09	
150-2111-421.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	656-1046		08/2010	43.09	
150-2111-421.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	656-3671		08/2010	192.68	
240-4301-419.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	656-9578		08/2010	28.47	
240-4301-419.34-50	02/10/2010	QWEST FEB 2010 2ND PAY	656-9604		08/2010	28.47	
02/19/2010	729676	RIMROCK FOUNDATION	3210			9,648.94	
246-1253-412.35-90	02/18/2010	BAMDC IOP COUNSELORS	2010-7	272030	08/2010	4,530.89	
738-1264-412.35-90	02/18/2010	BAMDC IOP COUNSELORS	2010-7	272030	08/2010	5,118.05	
02/19/2010	729686	SNOWY RANGE RESEARCH	18855			3,300.86	
246-1250-412.35-90	02/18/2010	RANT TRAINING - BAMDC	2010-7	272718	08/2010	500.86	
248-1263-412.35-60	02/18/2010	FIRST QTR REPORT BAMDUI	2010-7	272719	08/2010	2,000.00	
245-1256-412.35-60	02/18/2010	FEBRUARY CONSULTING BAMHC	2010-7	272720	08/2010	800.00	
02/19/2010	729687	SOLID WASTE SYSTEMS INC	9811			6,815.67	
541-3122-435.23-20	02/12/2010	MP	113368	272572	08/2010	113.16	
541-3122-435.23-20	02/12/2010	MP	113368	272572	08/2010	17.15	
541-3122-435.23-20	02/12/2010	MP	42708-IN	272572	08/2010	525.36	
541-3122-435.23-20	02/18/2010	MISC CAMERA,ETC	0043201-IN	272627	08/2010	6,160.00	
02/19/2010	729688	STAR SERVICE INC	3553			62,919.45	
416-7493-603.92-20	02/17/2010	WO0426 ZONE 4 RESERVOIR	5	267993	08/2010	62,919.45	
02/19/2010	729690	STRATEGY 5 LLC	19989			8,584.61	
521-1594-493.35-90	02/17/2010	P4 PHASE 3 PAYMENT 1	01282010	272642	08/2010	1,739.89	
521-1594-493.35-90	02/17/2010	P4 PHASE 3 PYMNT 1 INV.2	02152010	272642	08/2010	6,844.72	
02/19/2010	729693	SUTPHEN CORP	10918			3,002.76	
601-0000-141.00-00	02/12/2010	MP	12158569		08/2010	904.24	
601-0000-141.00-00	02/12/2010	MP	12158570		08/2010	1,498.22	
150-2226-422.23-20	02/12/2010	MP	12159987	272570	08/2010	600.30	
02/19/2010	729695	TETRA TECH, INC.	19346			3,812.50	
541-3123-435.35-90	02/18/2010	LANDFILL MONITORING	50328055	272394	08/2010	3,812.50	
02/19/2010	729696	THE LAND GROUP INC	20884			24,430.77	
10-5112-452.35-90	02/18/2010	SERVICES FOR PIONEER PARK	JANUARY 10	271802	08/2010	24,430.77	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
02/19/2010	729697	TIRE-RAMA	1864			14,643.09	
541-3122-435.23-90	01/05/2010	TIRES AND REPAIRS SW	1050153908	271393	07/2010	7,522.50	
541-3122-435.23-90	01/05/2010	TIRES AND REPAIRS SW	1050153909	271393	07/2010	623.55	
211-3134-433.23-90	01/11/2010	MP	1050-154287	271393	07/2010	20.00	
209-4452-428.23-90	01/15/2010	MP	1040077702	271393	07/2010	15.00	
150-2226-422.23-90	01/20/2010	A/C #4098/REPLD WHEEL	1040077799 F/AC	271393	07/2010	222.00	
571-7147-713.23-90	01/20/2010	AUTO &TRUCK MAINT.ITEMS	1050154521	271393	07/2010	67.60	
601-0000-141.71-41	01/26/2010	MP	1050-154821		07/2010	2,164.16	
541-3122-435.23-90	01/27/2010	TIRES AND REPAIRS SW	1050154535	271393	07/2010	2,061.68	
541-3122-435.23-90	01/27/2010	TIRES AND REPAIRS SW	1050154539	271393	07/2010	881.40	
541-3123-435.23-90	01/27/2010	TIRES AND REPAIRS LF	1050154559	271393	07/2010	161.36	
150-2112-421.23-90	01/28/2010	MP	1040-077460	271393	07/2010	15.00	
571-7147-713.23-90	02/10/2010	AUTO &TRUCK MAINT.ITEMS	1050154292	271393	08/2010	75.00	
541-3123-435.23-90	02/17/2010	MP	1050-154855	271393	08/2010	19.20	
541-3123-435.23-90	02/17/2010	MP	1050-154855	271393	08/2010	794.64	
02/19/2010	729700	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			57,175.30	
502-0000-141.00-00	02/16/2010	WATER PARTS AND SUPPLIES	83278		08/2010	13,958.40	
601-0000-141.00-00	02/12/2010	MP	84166		08/2010	5,400.22	
601-0000-141.71-41	02/12/2010	MP	83264		08/2010	14,105.55	
601-0000-141.00-00	02/16/2010	MP	83279		08/2010	14,619.52	
150-2231-422.23-10	02/12/2010	FIRE2/DIESEL/350 GALLONS	83605 FIRE5	267496	08/2010	736.77	
150-2226-422.23-10	02/12/2010	FIRE1/DIESEL&UNLEADED 2/9	83606 FIRE1	267496	08/2010	1,006.04	
561-7118-711.23-13	02/16/2010	INVOICE #83355	83355	F10550	08/2010	7,348.80	
02/19/2010	729703	WATTERSON DAVID	3983			4,044.92	
620-1911-482.29-25	02/17/2010	MISC SERVICES	4550 4548 SWTCH	272655	08/2010	4,044.92	
02/19/2010	729709	YELLOWSTONE ELECTRIC CO	4162			2,725.00	
561-7112-711.36-60	02/16/2010	INVOICE #BIL2311	BIL2311	F10560	08/2010	2,725.00	
02/19/2010	729710	YOUNG FAMILIES EARLY HEAD STAR	4186			52,500.00	
294-6685-463.72-75	02/09/2010	BUILDING FUND	FINAL FY08-09	272408	08/2010	52,500.00	
DATE RANGE TOTAL *						1,365,251.51 *	

**Regular City Council Meeting**

**Consent : 1.X.2.**

**Date: 03/22/2010**

**TITLE: Payment of Claims, February 26, 2010.**

Pat M. Weber, Financial

**PRESENTED BY:** Services Manager

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$545,509.59 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 26, 2010, 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**

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**Attachments**

Link: List of claims greater than \$2500.

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
02/26/2010 512-8400-623.24-50	729717 02/18/2010	ACCUSHIM INC	21025				4,995.00
		MISC SERVICES	57095	272693	08/2010		4,995.00
02/26/2010 502-7500-609.22-60 502-7312-602.22-60 502-7314-602.22-60 502-7400-603.22-60 502-7500-609.22-60 512-8314-622.22-60 512-8400-623.22-60 512-8500-625.22-60	729729 02/23/2010 02/23/2010 02/23/2010 02/23/2010 02/23/2010 02/23/2010 02/23/2010	BIG SKY LINEN SUPPLY	387				2,552.60
		MISC SERVICES	C57480	272793	08/2010		68.15-
		MISC SERVICES	JANUARY 2011	272793	08/2010		399.67
		MISC SERVICES	JANUARY 2011	272793	08/2010		40.88
		MISC SERVICES	JANUARY 2011	272793	08/2010		662.53
		MISC SERVICES	JANUARY 2011	272793	08/2010		418.01
		MISC SERVICES	JANUARY 2011	272793	08/2010		40.88
		MISC SERVICES	JANUARY 2011	272793	08/2010		640.77
		MISC SERVICES	JANUARY 2011	272793	08/2010		418.01
02/26/2010 211-3134-433.47-21 211-3134-433.47-21 211-3137-433.47-21 211-3134-433.47-20 211-3134-433.47-20 211-3134-433.47-20 211-3134-433.47-20 211-3134-433.47-20	729736 02/19/2010 02/19/2010 02/19/2010 02/19/2010 02/19/2010 02/19/2010 02/19/2010	BRENNTAG PACIFIC INC	17236				30,472.64
		ROAD/HIGHWAY MATERIAL	BPI968562	272665	08/2010		4,473.80
		ROAD/HIGHWAY MATERIAL	BPI968563	272665	08/2010		2,957.28
		ROAD/HIGHWAY MATERIAL	BPI968563	272665	08/2010		1,601.00
		ROAD/HIGHWAY MATERIAL	BPI968843	272665	08/2010		5,300.58
		ROAD/HIGHWAY MATERIAL	BPI969283	272665	08/2010		5,311.38
		ROAD/HIGHWAY MATERIAL	BPI969284	272665	08/2010		5,334.62
		ROAD/HIGHWAY MATERIAL	BPI970091	272665	08/2010		5,493.98
02/26/2010 502-0000-141.00-00	729745 02/19/2010	CIBA SPECIALTY CHEMICALS	13646				43,710.00
		WATER PARTS AND SUPPLIES	91257017		08/2010		43,710.00
02/26/2010 512-8400-623.24-50	729748 02/18/2010	COLUMBIA HYDRONICS CO	21017				2,594.00
		MISC SERVICES	506401	272698	08/2010		2,594.00
02/26/2010 521-1591-493.39-70 521-1592-493.39-70 521-1593-493.39-70 521-1594-493.39-70	729753 02/24/2010 02/24/2010 02/24/2010 02/24/2010	D N D SECURITY	16586				2,979.67
		FEB. 2010	26	272829	08/2010		984.92
		FEB. 2010	26	272829	08/2010		969.92
		FEB. 2010	26	272829	08/2010		519.92
		FEB. 2010	26	272829	08/2010		504.91
02/26/2010 150-2221-422.29-25 150-2224-422.29-25 150-2150-421.29-25 150-2224-422.29-25 512-8400-623.24-50	729756 02/25/2010 02/25/2010 02/25/2010 02/25/2010 02/25/2010	DELL COMPUTER L P	13426				13,462.55
		MISC SERVICES	XDN55RDF6	272190	08/2010		2,345.87
		MISC SERVICES	XDN55RDF6	272190	08/2010		2,345.87
		MISC SERVICES	XDN89DJJ2	272383	08/2010		4,999.96
		MISC SERVICES	XDN7K4TK7	272468	08/2010		1,447.02
		MISC SERVICES	XDB8WTPD6	272541	08/2010		2,323.83
02/26/2010 502-7311-602.21-90 512-8311-622.21-90 502-7500-609.21-20 512-8500-625.21-20 502-7400-603.29-25	729757 02/18/2010 02/18/2010 02/18/2010 02/18/2010 02/23/2010	DELL MARKETING LP	16237				3,763.92
		MISC SERVICES	XDMVWR1K63	272703	08/2010		409.45
		MISC SERVICES	XDMVWR1K63	272703	08/2010		409.46
		MISC SERVICES	XDMWTC367	272703	08/2010		27.49
		MISC SERVICES	XDMWTC367	272703	08/2010		27.50
		MISC SERVICES	XDN7T9171	272776	08/2010		2,890.02
02/26/2010 502-0000-141.00-00	729759 02/19/2010	DIXIE PETRO-CHEM	1055				2,990.00
		WATER PARTS AND SUPPLIES	7270006010		08/2010		1,196.00

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
502-0000-141.00-00	02/22/2010	WATER PARTS AND SUPPLIES	7270006110		08/2010	1,794.00	
02/26/2010	729762	DOWNTOWN BILLINGS PARTNERSHIP	13457			13,757.73	
202-1503-466.79-73	02/25/2010	PRIOR YEAR ENCUMBRANCES	4	255669	08/2010	13,757.73	
02/26/2010	729776	FIRST INTERSTATE BANK	1303			8,910.20	
723-6595-465.62-00	02/25/2010	MISC SERVICES	1100216095	272858	08/2010	8,910.20	
02/26/2010	729780	GEOCOMM INC	20834			7,568.00	
607-2235-486.35-90	02/19/2010	PMT1/RADIO CONSULTING	23727 PMT1	272652	08/2010	7,568.00	
02/26/2010	729788	HDR INC	1544			2,769.92	
502-7400-603.24-50	02/18/2010	WO1006 STAPLES RESERVOIR	176818-H	271831	08/2010	2,769.92	
02/26/2010	729789	HKM ENGINEERING INC	10883			8,540.07	
490-5161-452.93-70	02/17/2010	WO0307 ALKALI CR	39	250043	08/2010	8,010.84	
845-3186-431.93-10	02/23/2010	WO0520 ARONSON AVENUE	29 FINAL	254738	08/2010	529.23	
02/26/2010	729791	HOUSE OF CLEAN	5789			2,791.76	
512-8400-623.24-50	02/18/2010	MISC SERVICES	026678	272709	08/2010	2,791.76	
02/26/2010	729792	HUPPERT CONSTRUCTION	16447			8,246.70	
10-5126-451.36-90	02/16/2010	DEMOLITION OF WADING POOL	1139	272607	08/2010	8,330.00	
10-5126-451.36-90	02/25/2010	BUSINESS TAX	1139	272788	08/2010	83.30-	
02/26/2010	729794	IAFF	20196			4,189.05	
900-0000-209.99-20	02/26/2010	PAYROLL SUMMARY	20100226		08/2010	4,189.05	
02/26/2010	729795	IBM CORPORATION	17251			4,309.00	
561-7110-711.29-25	02/25/2010	MISC SERVICES	6617154	272382	08/2010	4,309.00	
02/26/2010	729797	IMPACT ABSORBENT TECHNOLOGIES	18639			2,742.45	
211-3132-433.23-20	02/23/2010	MP	28266	272803	08/2010	696.50	
211-3132-433.23-20	02/23/2010	MP	28266	272803	08/2010	163.23	
541-3122-435.23-20	02/23/2010	MP	28266	272803	08/2010	348.25	
541-3122-435.23-20	02/23/2010	MP	28266	272803	08/2010	163.23	
541-3123-435.23-20	02/23/2010	MP	28266	272803	08/2010	348.25	
541-3123-435.23-20	02/23/2010	MP	28266	272803	08/2010	163.23	
601-1553-481.26-50	02/23/2010	MP	28266	272803	08/2010	696.53	
601-1553-481.26-50	02/23/2010	MP	28266	272803	08/2010	163.23	
02/26/2010	729798	INLAND TRUCK PARTS CO	1821			2,729.28	
541-3122-435.23-20	02/23/2010	MP	1-13373	272806	08/2010	2,600.00	
541-3122-435.23-20	02/23/2010	MP	1-13940	272806	08/2010	129.28	
02/26/2010	729804	JONES CONSTRUCTION	11314			24,113.43	
150-2111-421.92-91	02/09/2010	MISC SERVICES	1ST FLOOR REMOD	272490	08/2010	24,357.00	
150-2111-421.92-91	02/25/2010	MISC SERVICES	ADJ PO 242490	272843	08/2010	243.57-	
02/26/2010	729805	JTL GROUP INC DBA KNIFE RIVER	2417			10,475.78	
211-3134-433.45-20	02/19/2010	ROAD/HIGHWAY MATERIAL	197813	272666	08/2010	7,126.07	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
211-3134-433.45-20	02/19/2010	ROAD/HIGHWAY MATERIAL	197901	272666 08/2010 3,349.71
02/26/2010 729822	MEAD & HUNT INC	18304		8,150.00
405-7125-711.96-89	02/23/2010	MISC SERVICES	21560	251053 08/2010 7,100.00
561-7110-711.35-90	02/22/2010	INVOICE #215566	215566	F10570 08/2010 1,050.00
02/26/2010 729828	MONTANA DAKOTA UTILITIES CO	2492		4,110.48
561-7117-711.34-40	02/22/2010	073858 25	022210	F10574 08/2010 408.45
561-7117-711.34-40	02/22/2010	073869 28	022210	F10574 08/2010 204.54
561-7113-711.34-40	02/26/2010		31454301	08/2010 528.57
561-7113-711.34-40	02/26/2010		31454401	08/2010 234.56
561-7113-711.34-40	02/26/2010		31454601	08/2010 779.76
561-7113-711.34-40	02/26/2010		31454701	08/2010 1,047.92
561-7113-711.34-40	02/26/2010		31454801	08/2010 155.65
561-7113-711.34-40	02/26/2010		31454902	08/2010 693.86
521-1595-493.34-40	02/26/2010	PARK 1 LEASE	07624725	08/2010 57.17
02/26/2010 729834	MONTANA STATE FIREMAN'S ASSOC	20195		2,609.03
900-0000-209.99-24	02/26/2010	PAYROLL SUMMARY	20100226	08/2010 2,609.03
02/26/2010 729837	MOORE WALLACE NORTH AMERICA IN	17036		4,681.35
521-1522-493.32-10	02/24/2010	ROLLED TICKETS	869837141	272828 08/2010 4,681.35
02/26/2010 729847	NORTHWEST INDUSTRIAL	2755		4,429.56
670-3141-489.21-90	08/19/2009	MARKING PAINT	1403231	266713 02/2010 288.00
541-3122-435.42-70	02/23/2010	ROLLOFF LILNER	2292	272386 08/2010 4,429.56
670-3141-489.21-90	08/19/2009	MISC SERVICES	1403231	269081 08/2010 288.00-
02/26/2010 729849	NORTHWESTERN ENERGY	15771		18,096.87
660-3110-431.34-10	02/23/2010	2224 MONTANA AVENUE	ACCT# 1741314-7	272816 08/2010 312.30
670-3141-489.34-10	02/23/2010	2224 MONTANA AVENUE	ACCT# 1741314-7	272816 08/2010 381.71
561-7113-711.34-10	02/22/2010	0100483-7	022210	F10569 08/2010 3,085.95
561-7113-711.34-10	02/22/2010	0100484-5	022210	F10569 08/2010 2,401.48
561-7117-711.34-10	02/22/2010	1341288-7	022210	F10569 08/2010 411.30
561-7117-711.34-10	02/22/2010	1341289-5	022210	F10569 08/2010 27.45
561-7117-711.34-10	02/22/2010	1341291-1	022210	F10569 08/2010 346.63
561-7117-711.34-10	02/22/2010	1341295-2	022210	F10569 08/2010 623.23
561-7117-711.34-10	02/22/2010	1264299-7	022210	F10569 08/2010 546.31
561-7113-711.34-10	02/22/2010	1647695-4	022210	F10569 08/2010 27.17
561-7117-711.34-10	02/22/2010	1669567-8	022210	F10569 08/2010 472.94
150-2221-422.34-10	02/24/2010	FIRE1/ELEC/29960 KWH USED	0100476-1 10FEB	267531 08/2010 2,277.79
521-1595-493.34-10	02/24/2010	LEASE SPACE ELEC.	2/19/10 01	272823 08/2010 185.62
521-1595-493.34-10	02/24/2010	LEASE SPACE ELEC	2/19/10 02	272823 08/2010 150.08
521-1591-493.34-10	02/24/2010	PARK 1 ELECT.	2/19/10 03	272823 08/2010 3,489.14
521-1594-493.34-10	02/24/2010	PARK 4 ELECT.	2/19/10 04	272823 08/2010 1,807.11
150-2221-422.34-10	02/26/2010	NW FIRE	07125370	08/2010 597.78
10-5122-451.34-10	02/26/2010	NW PARK/REC/PL	07126832	08/2010 84.96
571-7148-713.34-10	02/26/2010	NW AVIATION/TRAN	07127640	08/2010 21.61
521-1595-493.34-10	02/26/2010	NW FINANCE	07208291	08/2010 481.18
150-2221-422.34-10	02/26/2010	NW FIRE	07208408	08/2010 277.29

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	INVOICE	PO #	PER/YEAR	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION					TRN AMOUNT
260-5512-455.34-10	02/26/2010	NW LIBRARY		07244643		08/2010	80.59
10-5112-452.34-10	02/26/2010	NW PARK/REC/PL		08317026		08/2010	7.25
02/26/2010	729851	ORISON MARKETING LLC	19661				5,441.60
561-7113-711.36-50	02/23/2010	MISC SERVICES		20729	272428	08/2010	5,441.60
02/26/2010	729858	PERMALETTER SIGN CO	2924				4,631.00
10-5112-452.22-90	02/18/2010	PRINTED LOGO FOR PARKS		33725	272608	08/2010	84.00
150-2112-421.94-90	02/25/2010	MISC SERVICES		32165	272279	08/2010	4,631.00
10-5112-452.22-90	02/25/2010	INVOICE ALREADY PAID		33725	272774	08/2010	84.00-
02/26/2010	729865	QWEST COMMUNICATIONS	6319				3,820.79
561-7110-711.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		252-9412		08/2010	86.18
10-5140-436.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		652-0269		08/2010	43.09
10-5112-452.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		652-5507		08/2010	44.11
211-3136-433.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		652-8104		08/2010	29.27
10-5121-451.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		652-8403		08/2010	32.98
10-5112-452.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		657-3014		08/2010	28.47
606-1931-484.34-50	02/18/2010	QWEST FEB 2010 3RD PAY		657-8377		08/2010	3,556.69
02/26/2010	729869	REPORTER BIG SKY OFFICE INC	3175				3,175.00
10-1220-412.21-90	01/22/2010	100 BOXES OF FILE FOLDERS		2010-7	272523	08/2010	3,175.00
02/26/2010	729873	RIMROCK ENGINEERING INC	16562				3,350.00
464-3161-431.93-10	02/23/2010	SID 1388 DOROTHY LANE		1	272737	08/2010	3,350.00
02/26/2010	729876	ROUTEMATCH SOFTWARE, INC.	18045				15,752.40
571-7147-713.36-30	02/19/2010	INVOICE# 5997		5997	F10566	08/2010	15,752.40
02/26/2010	729883	SHIPTONS SUPPLY CO	3420				5,443.99
502-7312-602.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	828.89
502-7314-602.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	58.11
502-7400-603.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	1,348.02
502-7500-609.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	940.16
512-8314-622.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	58.11
512-8400-623.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	1,308.55
512-8500-625.22-60	02/25/2010	MISC SERVICES		188174	272877	08/2010	940.16
502-7500-609.22-60	02/25/2010	MISC SERVICES		188400	272877	08/2010	5.99
502-7312-602.22-60	02/25/2010	MISC SERVICES		190399	272877	08/2010	54.00-
512-8400-623.22-60	02/25/2010	MISC SERVICES		191782	272877	08/2010	10.00
02/26/2010	729884	SIGN PRODUCTS	14585				58,891.14
521-1591-493.24-50	02/24/2010	P1 AWNING		18770	270732	08/2010	58,891.14
02/26/2010	729890	STANCIL SOLUTIONS	21019				3,315.00
225-2232-422.35-90	02/19/2010	MAINT AGREE/RECORDER/911		041298M-11 911	272605	08/2010	3,315.00
02/26/2010	729900	TERRACON	16191				9,550.00
502-7400-603.35-40	02/23/2010	WI1006 STAPLES RESERVOIR		T101429	272784	08/2010	9,550.00
02/26/2010	729904	TNT SPRINGS INC	3803				4,535.89
601-0000-141.00-00	02/19/2010	MP		86904		08/2010	182.36

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
541-3122-435.23-20	02/19/2010	MP	86597	272730	08/2010	584.07	
211-3132-433.23-20	02/19/2010	MP	86904	272730	08/2010	75.00	
541-3122-435.23-20	02/19/2010	MP	86904	272730	08/2010	29.45	
211-3134-433.23-20	02/22/2010	MP	86777	272759	08/2010	757.04	
541-3122-435.23-20	02/22/2010	MP	86777	272759	08/2010	815.75	
541-3122-435.23-20	02/22/2010	MP	86794	272759	08/2010	1,181.10	
541-3122-435.23-20	02/22/2010	MP	86854	272759	08/2010	911.12	
02/26/2010	729906	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			31,110.64	
601-0000-141.71-41	02/19/2010	MP	83287		08/2010	14,843.80	
601-0000-141.00-00	02/19/2010	MP	83490		08/2010	8,422.38	
561-7112-711.24-50	02/22/2010	INVOICE #83565	83565/73063	F10575	08/2010	1,146.79	
561-7112-711.24-50	02/22/2010	INVOICE #73063	83565/73063	F10575	08/2010	426.36	
150-2226-422.23-10	02/24/2010	FIRE1/UNLEADED & DIESEL	84211 FIRE1	267496	08/2010	632.45	
150-2226-422.23-10	02/24/2010	FIRE3/DIESEL/232 GALLONS	84212 FIRE3	267496	08/2010	517.35	
150-2226-422.23-10	02/24/2010	FIRE5/DIESEL/156 GALLONS	84214 FIRE5	267496	08/2010	347.88	
601-0000-141.71-41	02/25/2010	MP	84233		08/2010	4,773.63	
02/26/2010	729907	TRACTOR & EQUIPMENT	3775			4,261.17	
211-3134-433.23-20	02/19/2010	MP	BLW00114647	272727	08/2010	401.64	
502-7500-609.23-20	02/22/2010	MP	BLCSO451845	272745	08/2010	1,051.69	
502-7500-609.23-20	02/22/2010	MP	BLCSO451845	272745	08/2010	120.00	
541-3123-435.23-20	02/22/2010	MP	BLW00114582	272761	08/2010	2,607.00	
541-3123-435.23-20	02/22/2010	MP	BLW00114582	272761	08/2010	56.00	
211-3134-433.23-20	02/23/2010	MP	BLCS0452914	272805	08/2010	24.84	
02/26/2010	729913	US BANK-REVOLVING LOAN FUND	16715			8,910.20	
723-6595-465.62-00	02/25/2010	MISC SERVICES	53-7240483306	272856	08/2010	8,910.20	
02/26/2010	729914	US CONFERENCE OF MAYORS	3828			5,269.00	
10-1100-411.33-50	02/22/2010	MISC SERVICES	36648	272736	08/2010	5,269.00	
02/26/2010	729920	VERIZON WIRELESS	14490			19,412.97	
571-7147-713.34-50	02/17/2010	INVOICE# 0841037329	0841037329	F10561	08/2010	172.35	
150-2170-441.34-50	02/22/2010	WSCA FEB 2010	AN SHELTER MDT		08/2010	225.05	
209-4451-428.34-50	02/22/2010	WSCA FEB 2010	BUILDING AIR		08/2010	45.01	
717-2166-421.34-50	02/22/2010	WSCA FEB 2010	CCSIU AIR CARD		08/2010	630.83	
150-2221-422.34-50	02/22/2010	WSCA FEB 2010	FIRE DEPT AIR C		08/2010	45.01	
150-2221-422.34-50	02/22/2010	WSCA FEB 2010	FIRE MDT		08/2010	585.15	
620-1911-482.34-50	02/22/2010	WSCA FEB 2010	ITD AIR CARD		08/2010	77.82	
260-5517-455.34-50	02/22/2010	WSCA FEB 2010	LIBRARYOUTREACH		08/2010	135.03	
150-2111-421.34-50	02/22/2010	WSCA FEB 2010	POLICE AIR CARD		08/2010	45.01	
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150-2111-421.34-50	02/22/2010	WSCA FEB 2010	POLICE USM MDT		08/2010	171.94	
502-7500-609.34-50	02/22/2010	WSCA FEB 2010	PUD AIR CARD		08/2010	45.01	
561-7110-711.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	AIRPORT		08/2010	413.44	
150-2170-441.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	ANIMAL SHELTER		08/2010	147.86	
717-2166-421.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	CCSIU		08/2010	84.70	
10-1313-413.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	CITY ADMIN		08/2010	57.36	
10-1611-416.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	LEGAL		08/2010	46.59	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
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650-1565-487.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	FACILITIES BOC	08/2010 58.48
650-1567-487.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	FACILITIES CH	08/2010 92.14
10-1512-415.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	FINANCE PAT	08/2010 72.58
150-2221-422.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	FIRE DEPT	08/2010 505.48
10-1750-417.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	HUMAN RESOURCES	08/2010 115.58
620-1913-482.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	ITD GIS	08/2010 12.87
620-1911-482.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	ITD	08/2010 139.56
260-5517-455.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	LIBRARYOUTREACH	08/2010 25.74
260-5512-455.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	LIBRARY	08/2010 141.16
10-1100-411.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	MAYOR	08/2010 47.46
601-1550-481.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	MOTOR POOL	08/2010 133.00
10-1220-412.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	DRUG COURT	08/2010 141.13
10-1212-412.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	MUNI JUDGE	08/2010 159.30
240-4301-419.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PLANNING	08/2010 12.87
150-2111-421.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	POLICE	08/2010 2,961.34
251-2186-421.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	POLICE FORENSIC	08/2010 59.62
249-2196-421.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	698 1391 DV	08/2010 22.55
521-1521-493.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PARKING	08/2010 351.19
10-5110-453.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PRPL ADM	08/2010 65.13
10-5121-451.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PRPL-RECREATION	08/2010 87.56
10-5140-436.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	CEMETERY	08/2010 54.91
10-5112-452.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PARKS PMD	08/2010 43.17
10-5112-452.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PARKS	08/2010 1,631.27
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10-1543-415.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PURCHASING	08/2010 67.34
660-3110-431.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PW ADM	08/2010 306.60
209-4451-428.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	BUILDING	08/2010 189.97
670-3141-489.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	ENGINEERING	08/2010 414.48
541-3121-435.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	SOLID WASTE	08/2010 45.18
211-3131-433.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	STREET/TRAFFIC	08/2010 434.68
541-3123-435.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	SW ON CALL	08/2010 73.36
502-7700-611.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PUD ENVIRN 1/2	08/2010 19.08
512-8700-628.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PUD ENVIRN 1/2	08/2010 19.09
502-7400-603.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	WATER TREATMENT	08/2010 811.42
502-7500-609.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	WATER SYSTEMS	08/2010 381.70
512-8500-625.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	WASTEWATER SYS	08/2010 771.95
502-7312-602.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PWBLKNP MTRSHOP	08/2010 488.02
502-7314-602.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PWBLKNP STORES	08/2010 166.98
502-7311-602.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	PWBLKNP OFFICE	08/2010 114.51
512-8400-623.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	WASTEWATER TREA	08/2010 1,084.48
606-1931-484.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	TELECOMM SYS	08/2010 22.73
571-7142-713.31-60	02/22/2010	VERIZON WIRELESS FEB 2010	ON-CALL MET	08/2010 96.76
571-7141-713.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	MET TRANSIT	08/2010 34.76
10-4321-419.34-50	02/22/2010	VERIZON WIRELESS FEB 2010	CODE ENFORCMT	08/2010 167.68
10-5112-452.34-50	02/22/2010	WSCA FEB 2010	PARKS PMD AIR	08/2010 56.62
02/26/2010	729923	WATTERSON DAVID	3983	3,398.00
620-1911-482.29-25	02/24/2010	MISC SERVICES	4548G SWITCHES	272721 08/2010 3,398.00
02/26/2010	729925	WELLS FARGO BANK-LOAN PAYMENT	16716	8,910.20
723-6595-465.62-00	02/25/2010	MISC SERVICES	16-0910824-3	272857 08/2010 8,910.20

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	INVOICE	PO #	PER/YEAR	CHECK AMOUNT
02/26/2010	729927	WESTERN SECURITY BANK	16462				9,017.94
	723-6595-465.62-00	02/25/2010	MISC SERVICES	100022110	272859	08/2010	4,508.97
	723-6595-465.62-00	02/25/2010	MISC SERVICES	157011874	272859	08/2010	4,508.97
02/26/2010	729929	WS DARLEY COMPANY	959				6,957.69
	407-7128-711.94-97	02/23/2010	MISC SERVICES	PM659294	270914	08/2010	6,957.69
DATE RANGE TOTAL *							465,895.66 *

Date: 03/22/2010

TITLE: Public Hearing for Resolution Authorizing the Sale of Tract 2 of New Certificate of Survey

PRESENTED BY: David Mumford

Department: Public Works

**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings owns property at 2229 Blue Creek Road as shown on the attached exhibit and described as follows:

Certificate of Survey No. 3426; Being Tract 1A of Amended Tr. 1 of the 2nd Amendment of C/S No. 566 and Tr. A-2 of Corrected 2nd Amended Tr. A-1 and A-2 of C/S No. 646 Situated in the SE ¼, Section 20, T1S, R26E, PMM, Yellowstone County, MT

Tract 2 of the property shown on the exhibit is the property to be sold, and it has a combined total area of 10.9 acres. Tract 1 is 0.5 acre in size, contains the recently constructed Briarwood Sewer Lift Station and will be retained by the City. Tracts 1 and 2 were purchased by the City for \$550,000 in the summer of 2006 for the purpose of siting and constructing the lift station. This City property has drawn significant interest from the development community, and ongoing inquiries are being made regarding the timing of its sale. The Public Hearing Notice was advertised on March 4 and March 11, 2010 and notices have been mailed to property owners within 300 feet of the property.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve Resolution Authorizing the Sale of Tract 2; or
- Do not approve the Resolution Authorizing the Sale of Tract 2.

**FINANCIAL IMPACT**

A recent market analysis or appraisal is not currently available; however, combined Tracts 1 and 2 were purchased by the City for \$550,000 in the summer of 2006 and should be similarly valued today. An appraisal or market analysis of the property may be conducted as the actual timing of the property sale draws near. As follow-up to Council approving the Resolution Authorizing the Sale, Tract 2 will be offered for public bid. Once bids are recieved, Council will have the opportunity to award or not award a bid to purchase the land.

**RECOMMENDATION**

Staff recommends that Council approve the Resolution Authorizing the Sale of Tract 2 of the new Certificate of Survey.

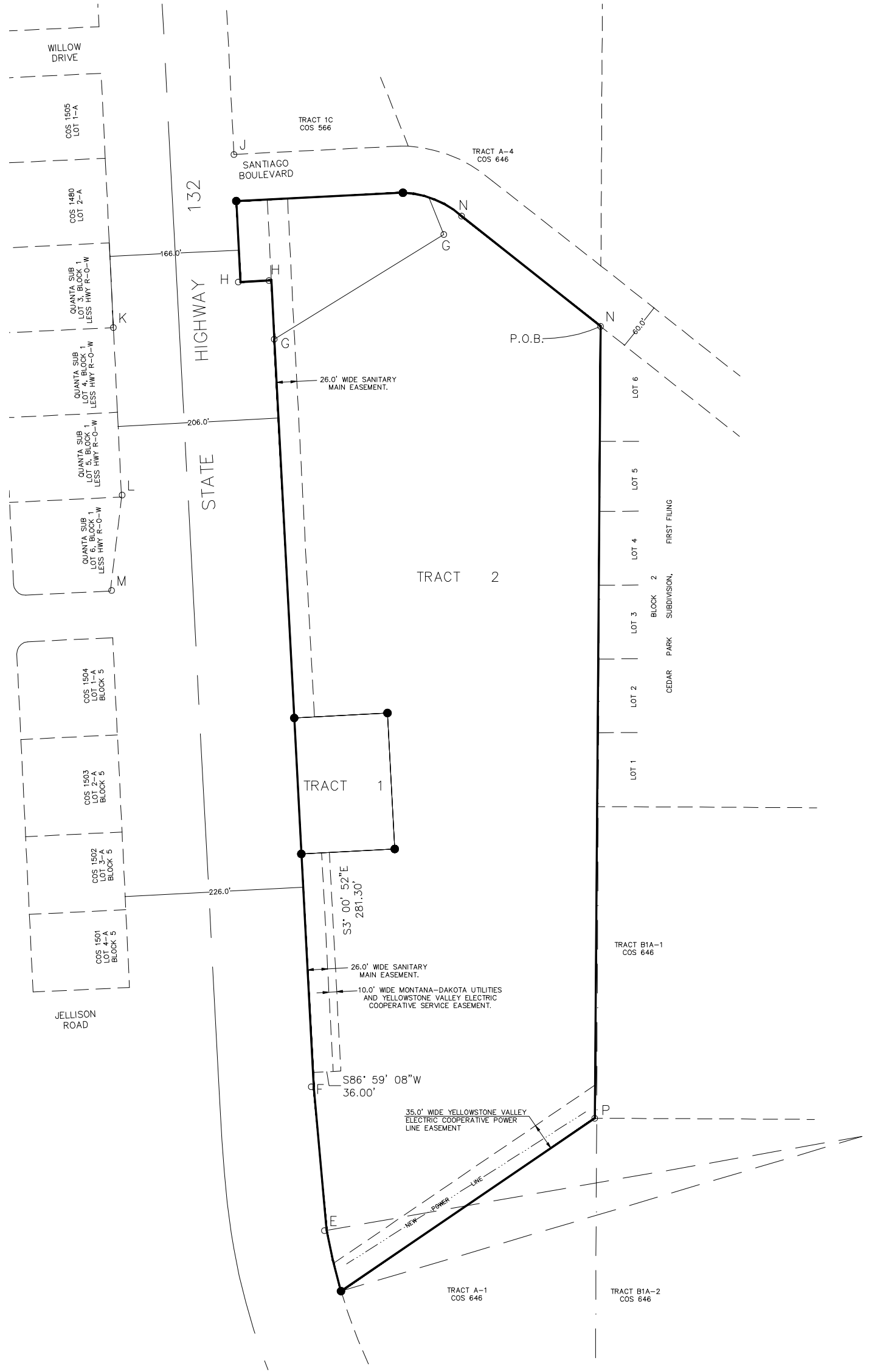
**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Link: [Property Sale Exhibit](#)

Link: [Resolution Authorizing Property Sale](#)

# EXHIBIT "A"



RESOLUTION 10 - \_\_\_\_\_

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

WHEREAS, the City of Billings finds it necessary or desirable to dispose of property it currently owns located along Blue Creek Road and described as Tract 2 of Certificate of Survey No. \_\_\_\_; Being Tract 1A of Amended Tr. 1 of the 2<sup>nd</sup> Amendment of C/S No. 566 and Tr. A-2 of Corrected 2<sup>nd</sup> Amended Tr. A-1 and A-2 of C/S No. 646 Situated in the SE ¼, Section 20, T1S, R26E, PMM, Yellowstone County, MT

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

WHEREAS, the public hearing required by Section 22-902 of the Billings Montana City Code was duly held on the 22<sup>nd</sup> day of March, 2010;

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

That the City staff is authorized to proceed with the sale of property in currently owns located at 2229 Blue Creek Road under the requirements of Section 22-902 of the Billings, Montana City Code.

APPROVED AND PASSED by the City Council of the City of Billings, Montana this 22<sup>nd</sup> day of March, 2010.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

\_\_\_\_\_  
Cari Martin, CITY CLERK

Date: 03/22/2010

TITLE: Zone Change #861 -2302 Meadowood Public Hearing and 1st reading

PRESENTED BY: Candi Beaudry

Planning & Community

Department: Services

**Information**

**PROBLEM/ISSUE STATEMENT**

This is a zone change request from Residential 9,600 (R-96) to Residential 7,000 (R-70) on Lot 8, Block 1 of Meadowood Subdivision located at 2302 Meadowood Street. The property is owned by Mark Dawson and BlueLine Engineering, represented by Marshall Phil, is the agent. The owner and agent conducted a pre-application neighborhood meeting on December 28th, 2009 at 6:00 pm at the Century 21 office at 1605 Shiloh Road. The applicant requested a delay at the hearing on February 2, 2010. The Zoning Commission granted the delay until March 2, 2010. The Zoning Commission conducted the public hearing on March 2 and is forwarding a recommendation of denial and adoption of the 12 criteria for this zone change on a 3-1 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**

There should be no fiscal impact on the city from approval or denial of this zone change request.

**BACKGROUND**

The applicant is requesting to rezone this property on the northwest corner of the intersection of Meadowood Street and Lyman Avenue. Lyman Avenue dead ends at the west property line in an alley that runs north and south between Poly Drive and Colton Boulevard. The applicant conducted a pre-application neighborhood meeting on December 28th, 2009, and no surrounding property owners attended. The Planning Division notified the surrounding property owners on January 15th, 2010 and no public comment has been received. The current dwelling on the property is a duplex (2-family dwelling) that was constructed prior to zoning in 1956. Most lots in this subdivision and surrounding subdivisions were developed with single-family homes. One lot within 600 feet north and east of this property was developed with a 2-family dwelling in 1953. Two-family dwellings are not an allowed use in the R-96 zone, however it is considered a legal nonconforming use and may continue so long as the use is not abandoned for more than 1 year, or damaged or destroyed by more than 50% of its replacement value at the time of the damage. Improvements to the structure can be done as long as those improvements do not exceed 50% of its replacement value. For example, the owner can replace the roof, add on to the garage, or build a deck so long as those improvements do not exceed 50% of the structure replacement cost.

The owner and agent have proposed the zone change so the 2-family dwelling can be replaced in the future if it damaged or destroyed. In addition, the owner is contemplating creating two unit ownerships (a condominium) so each dwelling unit could be separately owned. Under the current zoning of R-96, only a single family dwelling could replace the 2-family dwelling. To create a condominium, the Planning Division must certify the property complies with zoning and the property does not comply with the current zoning. The proposed zoning of R-70 allows single family dwellings on lots of at least 7,000 square feet and 2-family dwellings on lots of at least 9,600 square feet. The lot is 9,836 square feet. The proposed zoning

of R-70 would make the 2-family dwelling compliant with zoning.

The proposed R-70 zone is dissimilar to the surrounding zoning of R-96. From 17th Street West to Rehberg Lane and between Colton Boulevard and Rimrock Road is a solid section of R-96 zoning which only allows single family dwellings. There are few properties within this area that have legal nonconforming 2-family dwellings. Of 105 properties within 600 feet of this location only 1 lot had a legal nonconforming duplex dwelling.

Due to the size and location of the parcel, this proposal likely meets the criteria for the creation of an illegal spot zoning. Spot zoning - as defined by the Montana Supreme Court - is a three-prong test and each prong should be evaluated separately but weighed as a whole. A "yes" answer to each of the three tests is usually required before determining that a spot zoning has occurred. The precedent case is Little v Board of County Commissioners of Flathead County in 1981. The first test or criteria to determine a spot zoning is whether the requested use is significantly different than the prevailing use in the area. The requested use is significantly different than the prevailing single family use in the area. The second criterion is whether the area for the requested use is small. This factor is more concerned with the number of benefited landowners rather than physical size of the property. The requested use only applies to the owner's property of less than 1/4 acre and the physical area affected is rather small. The third criterion is whether the zoning is designed to benefit only one landowner at the expense of the surrounding property owners or the general public. The re-zoning does benefit one land owner and it appears that the request is at the expense of the surrounding property owners. The surrounding market values may be affected by the new zoning.

The Planning Division reviewed the application and recommended denial based on the attached twelve (12) criteria for zone changes. Illegal spot zoning is not one of the twelve review criteria for zone changes required by Montana law and local zoning regulations. A court may determine whether an illegal spot zoning has occurred and reverse a zoning decision based on this determination. Some of the twelve review criteria for zone changes are directly related to the determinations for illegal spot zoning. The subject property is surrounded by R-96 and the proposed zoning is not compatible with the surrounding zoning or neighborhood character. Although the existing 2-family dwelling pre-dates the May 1972 zoning, it is also not in character with the surrounding neighborhood. The 2008 Growth Policy encourages predictable land use decisions that are consistent with neighborhood character and land use patterns. The existing use and proposed zoning are not consistent with this neighborhood and land use pattern.

The Zoning Commission conducted a public hearing on March 2, 2010 and is forwarding a recommendation of denial on a 3-1 vote.

## **STAKEHOLDERS**

The Zoning Commission held a public hearing on March 2, 2010, and no testimony was received from the applicant, the agent or the public.

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

The City Council Determinations – Zone Change #861 – 2302 Meadowood Street

Prior to any action to approve or disapprove the City Council will consider the recommendation of the Zoning Commission and shall consider the following:

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

The proposed zone change is inconsistent 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 permit an existing nonconforming use to continue in a primarily single family residential neighborhood. All of the surrounding property is zoned R-96 and is developed for single family uses.

The proposed zoning is inconsistent with the surrounding character of the neighborhood, which is single-family development.

- The proposed zone meets the three tests for creation of an illegal spot zone.
  1. The requested use is significantly different than the prevailing use in the area.
  2. The area requested for the use is small in area.
  3. The requested zoning benefits a single owner and not the community and may be at the expense of surrounding owners.

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

There should be no effect of traffic congestion. The 2-family dwelling is an existing structure and no increase in dwelling unit density is 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. No change to the existing use is proposed that would affect public safety.

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

The proposed zoning would permit a 2-family dwelling to continue in perpetuity in a primarily single family neighborhood. The surrounding property values may be affected by this dissimilar use. The Unified Zoning Regulations do specify minimum setbacks and lot coverage requirements for the proposed zoning district in order to promote health and safety.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning prevent overcrowding of land?

The proposed zoning, like all zoning districts, contain limitations on the maximum percentage of the lot area that can be covered with structures. The R-96 and the proposed R-70 zone allow 30% lot coverage. The proposed site plan does not increase the foot print of the existing building.

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

The new zoning does avoid undue concentration of population. The R-96 zoning only allows single family homes on a minimum lot size of 9,600 square feet. The proposed zoning would allow 2-family dwellings on a lot of at least 9,600 square feet. The 2-family dwelling exists and there is no proposed increase in dwelling unit density.

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 will not impact the surrounding streets.

Water and Sewer: The City will provide water and sewer to the property through existing lines.

Schools and Parks: School District #2 will provide education to students that may live on this parcel. There should be no impact to school census from the proposed zone change.

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

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

The proposed zoning will permit a legal nonconforming use – a 2-family dwelling, to continue within an existing single family residential neighborhood. Only 1 out of 105 surrounding properties within 600 feet have also developed as a 2-family dwelling. All of the surrounding zoning is R-96 with the exception of the Poly Drive Elementary school (zoned Public). This does not give reasonable consideration to the character of the district.

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

The subject property may be suitable for the requested zoning district if surrounding properties were also developed for 2-family dwellings or if the subject property was adjacent to other similarly zoned property. This is not the case at this particular location.

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

Surrounding residential property to the north, south and east have much higher taxable value for buildings than this property. The taxable value of the land at 2302 Meadowood Street is much higher than the taxable value for the building in the most recent state reappraisal. It appears from the exterior photographs of the dwelling that maintenance has been deferred on the structure. The proposed zoning of R-70 would preserve the right of the owner to re-build a 2-family dwelling so the investment on the part of this owner could be preserved. The value of surrounding property may be affected by the continuation of this dissimilar use in the single family neighborhood.

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

The proposed zoning will permit the current development to continue that is not alike in character with the surrounding single-family residential uses.

### **RECOMMENDATION**

The Zoning Commission is forwarding a recommendation of denial and adoption of the 12 criteria for this zone change on 3-1 vote.

### **APPROVED BY CITY ADMINISTRATOR**

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#### **Attachments**

Link: [Zoning Map](#)

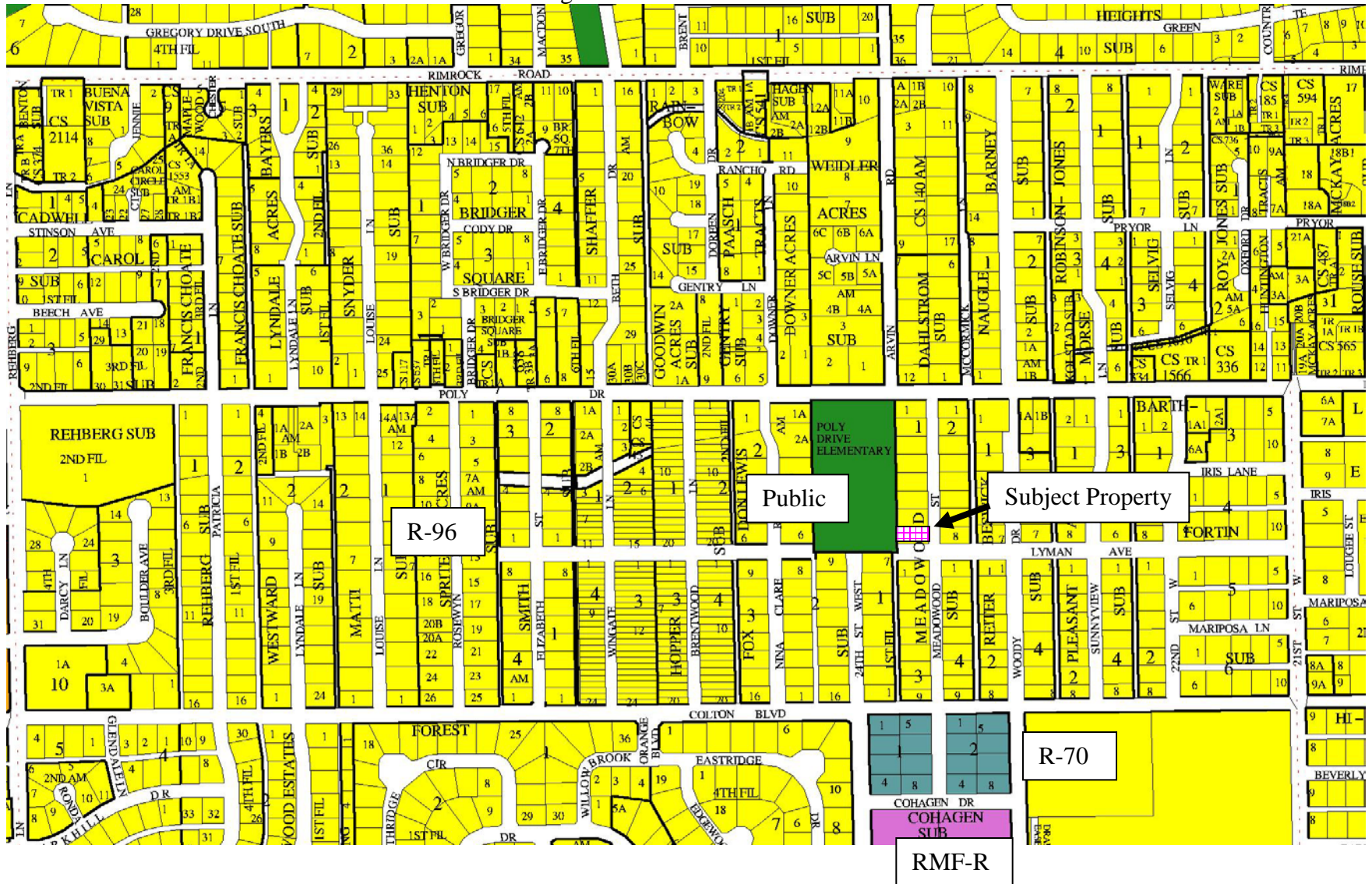
Link: [Site photos](#)

Link: [Applicant's letter](#)

Link: [Ordinance](#)

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Attachment A: Surrounding Zoning  
Zone Change #861 – 2302 Meadow Street



**Attachment B**  
Site Photographs, Zone Change #861– 2302 Meadowood Street



Subject Property view west from Meadowood Street



Aerial Map

**Attachment B, continued**  
Site Photographs, Zone Change #861 – 2302 Meadowood Street



View north and west from Meadowood Street



View west to dead end of Lyman Avenue

**Attachment C**  
**Zone Change #861 - Applicant's Letter**

January 4, 2010

City of Billings  
Planning and Community Services Department  
510 North Broadway  
4<sup>th</sup> Floor, Parmly Library  
Billings, MT 59101  
*Zone Change*  
RE: ~~Special Review~~ Application

To Whom It May Concern:

I am applying for a Zone Change from R-9600 to R-7000 to allow the existing duplex to be sold as owner occupied condominiums instead of the current rental use. The area of the parcel within the Zone Change is 9,836 square feet.

A neighborhood meeting was held on Monday, December 28, 2009 at 6:00 P.M. A mailing list was obtained from the Planning Office and those individuals were sent letters from the owner and engineer along with a copy of the 300' radius map for reference. No meeting minutes are available as none of the individuals invited attended the meeting. We waited until 6:20 and determined that no one was going to show. Based on the attendance of the meeting, the neighbors appear to be in favor of the Zone Change.

Issue 1 of the Land Use Element is covered by the Zone Change to have predictable land use that is consistent with neighborhood. By allowing the Zone Change, the land use becomes more consistent with the single family neighborhood. The property is currently used as a rental duplex and the proposed use will prepare condo documents and sell the two sides as owner occupied residences.

Issue 11 of the Economic Development Element is met by this application. The preservation of neighborhood character and quality of life will be maintained through the fact that the new owners of the condos will be living at this location.

Issue 5 of the Community Health Element will be satisfied. The owner occupied duplex will help to provide the neighborhood with a sense of community. An owner in a neighborhood is more likely to be responsive to the needs of an area.

I am available to answer any questions regarding the requested Zone Change. Thank you for your consideration of this proposal.

Sincerely,



Mark Dawson

1-4-10

City of Billings  
Planning and Community Services Department  
510 North Broadway  
4<sup>th</sup> Floor Parmly Library  
Billings, MT 59101

*Zone Change*  
Re: Special Review Application

To Whom It May Concern:

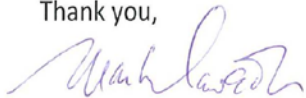
I'm writing regarding the property at 302-304 Meadowood, which I purchased about a month ago. For many years, this property has been the only duplex in the neighborhood, which of course is zoned R-9600 for single family homes.

My original plan was to leave each unit rented out indefinitely, and have the property as a long-term investment.

Recently, after reading some of the City of Billings priorities for housing, I've thought about seeing if I can split the two sides off on their own, as townhomes, and sell them off separately as owner-occupied units. I would file restrictions prohibiting the properties from being rented, which would be a positive for the neighborhood. This would require a zoning change, to R-7000, which would basically make legal what is already in place (it is currently "grandfathered," which means it can be used as it has been, as a duplex rental).

My request, if approved, would create a property that better fits the spirit of the current zoning and conformity of the neighborhood.

Thank you,



Mark Dawson

**ORDINANCE NO. 10-\_\_\_\_\_**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lot 8, Block 1 of Meadowood Subdivision containing 9,836 square feet

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

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

2. DESCRIPTION. A tract of land known as Lot 8, Block 1 of Meadowood Subdivision and is presently zoned **Residential 9,600 (R-96)** and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9,600 (R-96)** to **Residential 7,000 (R-70)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 7,000 (R-70)** 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 March 22, 2010.

PASSED, ADOPTED AND APPROVED on second reading April 12, 2010.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #861 – 2302 Meadowood

Date: 03/22/2010

TITLE: Zone Change #862 - 2414 Roundup Rd & 621 Pemberton Lane Public Hearing & 1st reading

PRESENTED BY: Candi Beaudry

Planning & Community

Department: Services

**Information**

**PROBLEM/ISSUE STATEMENT**

This is a zone change request from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Tract 2A1 of C/S 1965 and Lot 5 of Block 1 Bergquist Subdivision located at 2414 Roundup Road and 621 Pemberton Lane. The property is vacant and has access to Roundup Road, Pemberton Lane and to the adjacent property. The applicant is Vacant Land, LLC and Tom & Cheri Bergquist. The agent is Ernie Dutton. A pre-application neighborhood meeting was held on January 22, 2010 at 2376 Main Street, All American Pharmaceuticals. The Zoning Commission conducted a public hearing on March 2, 2010, and is forwarding a recommendation of approval and adoption of the 12 criteria for this zone change 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 zone change may increase the city's tax base if one or both properties are developed under the new Highway Commercial zone.

**BACKGROUND**

The applicant is requesting to rezone two parcels of land adjacent to the existing All American Pharmaceutical facility in order to allow expansion of the business. Pharmaceutical manufacturing is not an allowed use in the CC zone but is allowed in the HC zone. In 2005, the City Council re-zoned the former K-mart property to allow All American Pharmaceutical to renovate the building and re-use the property. The parcel with frontage on Pemberton Lane is approximately 1.5 acres and the parcel with frontage on Roundup Road is about 4.5 acres. The land is currently vacant and shares a property line with the pharmaceutical property. The applicants intend to sell the property to the pharmaceutical company to allow expansion. The re-zoning plan was presented at the pre-application neighborhood meeting held on January 22, 2010. The attendance list and meeting notes are included as Attachment D.

Main Street is a principal arterial street that carries approximately 18,000 vehicle trips per day as a 5-lane, two way, street with periodic openings for center turn movements. Two-and-half miles south of this location, Main Street carries nearly 50,000 vehicle trips per day, making Main Street the highest traffic volume road in Billings. There is no on street parking and a curb sidewalk that gets little pedestrian traffic. The primary access to the loading dock and shipping area at All American Pharmaceutical is from Pemberton Lane. Employee and customer access is primarily from the southbound lanes of Main Street. Northbound traffic must turn left on Pemberton Lane to access this site.

The lots to the north, east and west of the parcel on Roundup Road are zoned CC and have not been fully developed for commercial or residential purposes. The lots north, east and west of the parcel on Pemberton Lane are zoned CC or HC. The lots north and east are fully developed and the lot to the west is undeveloped. There is a multi-family development further to the west but it is not directly adjacent to this parcel. Property on the south side of Pemberton Lane is zoned RMH and has been fully developed for residential dwellings.

The 2008 Growth Policy and the Heights Neighborhood Plan support predictable land uses in existing neighborhoods and encourages compact commercial development where arterial streets exist to handle traffic. Main Street is designed and constructed to handle large volumes of traffic. The property has commercial access from Pemberton Lane and commercial access from Main Street. Any development of the parcel including expansion of the existing facility will require adequate screening, buffering and shielded lighting so any development of the property should minimize its affect on the residential property to the south and west.

The Planning Division reviewed the application and recommended approval based on the twelve (12) criteria for zone changes. The subject property is adjacent to an arterial street and the property is appropriate for most HC uses. The zone change will not alter the character of the adjacent neighborhood because site development requirements will ensure compatible development. The proposed zoning is compatible with the surrounding zoning and neighborhood character.

The Zoning Commission conducted a public hearing on March 2, 2010, and is recommending approval and adoption of the 12 criteria for this zone change on a 4-0 vote.

## **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 2, 2010, and received testimony from the agent, Ernie Dutton. No other persons testified in favor or in opposition to the application. Mr. Dutton explained the need for the zone change to accommodate the expansion plans for the pharmaceutical company. He stated any expansion would include new landscaping, fencing and lighting that will not glare over into adjacent property. He stated there are private covenants and restrictions that run with this land and restrict any other Highway Commercial type uses. There are several property owners and any change to the restrictions would be difficult. Mr. Dutton asked the Zoning Commission to support the zone change.

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

Prior to any action on this application the City Council will consider the recommendation of the Zoning Commission and shall consider the following:

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 two vacant parcels to be used for commercial purposes along an arterial street that can accommodate any traffic generated 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 Main Street and Roundup Road and will allow re-use of property that is 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 or community commercial uses.

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

Main Street is a principal arterial that carries approximately 18,000 vehicle trips per day. No significant increase in traffic load is anticipated from this zone change. There is already significant commercial traffic during business hours to this location. Access to and from any development of the property will be controlled by the city and Montana Department of Transportation if new or relocated drive approaches area required.

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 CC zoning allows a wide range of commercial uses but no manufacturing. The HC zone allows limited manufacturing including pharmaceuticals. The parcels were zoned CC when the County adopted zoning in 1973 and it has not changed since that time. It appears the re-zoning of the parcel will lead to in-fill development that will be beneficial to the health and general welfare of the area.

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 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 CC zoning allows up to 50% 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 allows residential uses but must use the same lot area, lot coverage and setbacks as required by RMF-R zoning. Single family, two-family and multi-family would be allowed. The current zoning also allows residential uses at the same density. 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 no impact on adjacent local or arterial streets.

Water and Sewer: The City provides water and sewer to the property through existing lines and may need to be upgraded when development occurs.

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 commercial or residential use of this property is limited by its location and proximity to commercial and industrial uses to the south and east. Any development of the parcel will have to meet minimum standards for landscaping, buffering of adjacent residences to the south and west 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 north and south of the subject property along Main Street are zoned HC.

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.

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 Billings Heights.

**RECOMMENDATION**

The Zoning Commission is recommending approval and adoption of the 12 criteria for this zone change on a 4-0 vote.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Zoning Map](#)

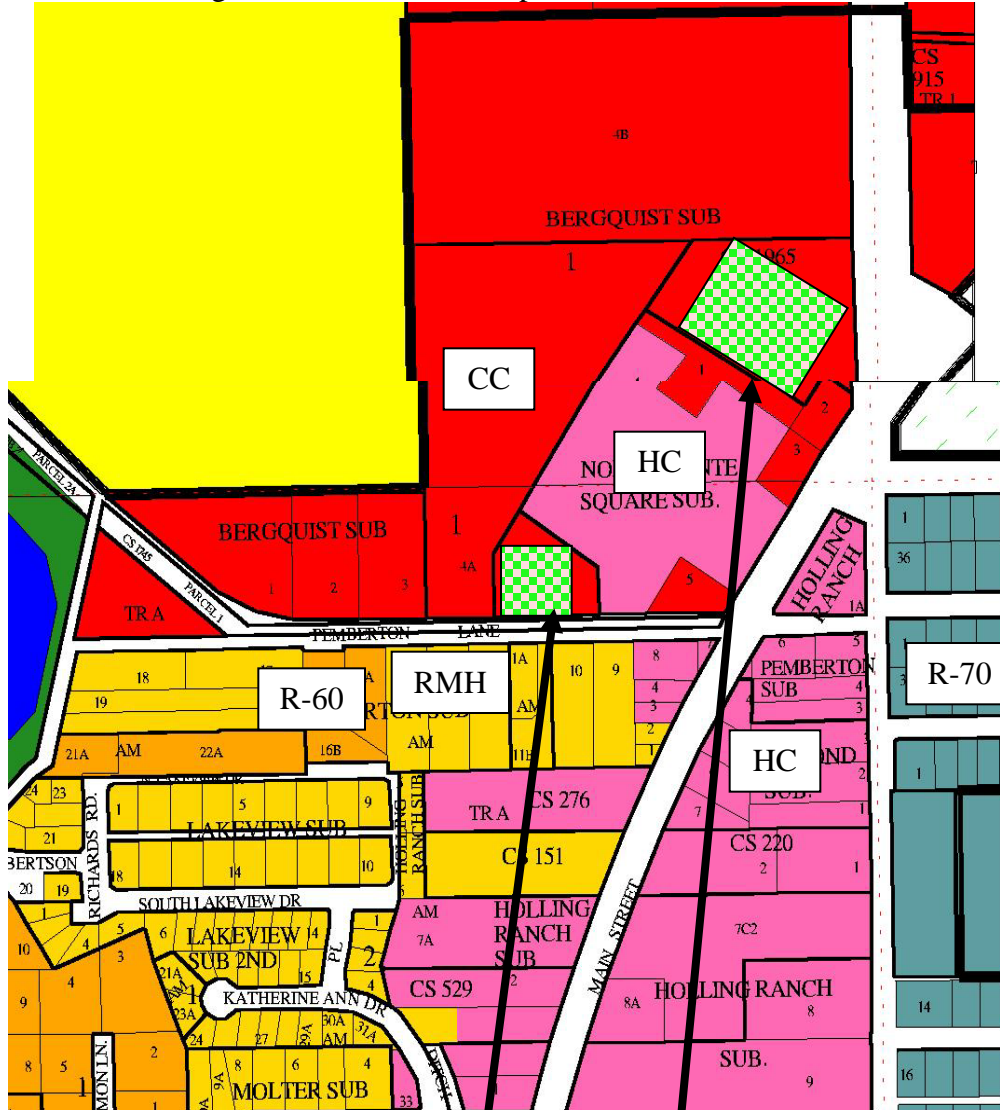
Link: [Site photos](#)

Link: [Applicant's letter and pre-app meeting notes](#)

Link: [Ordinance](#)

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Attachment A: Surrounding Zoning  
 Zone Change #862 – 2414 Roundup Road and 621 Pemberton Lane



Subject Properties – 621 Pemberton Lane & 2414 Roundup Road

Attachment B  
Site Photographs, Zone Change #862



2414 Roundup Road



621 Pemberton Lane

Attachment B, continued  
Site Photographs, Zone Change #862

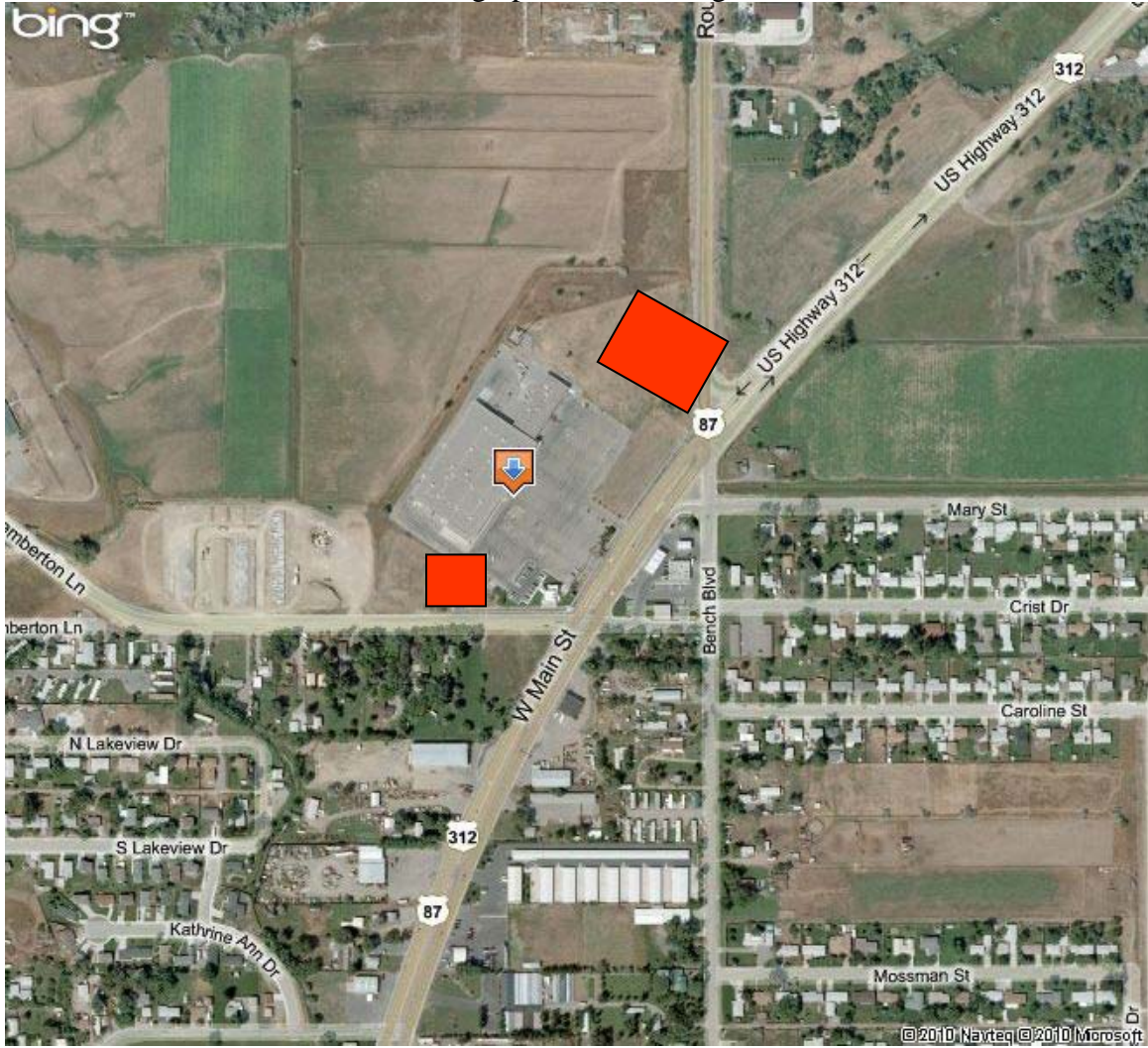


View south west on Main Street



View south across Pemberton Lane

Attachment B, continued  
Site Photographs, Zone Change #862



Subject Property 621 Pemberton Lane & 2414 Roundup Road

## Attachment C

### Applicant's letter & pre-application meeting notes – Zone Change #862

January 28, 2010

Planning & Community Services Department  
510 North Broadway  
Billings, MT 59101

Ladies & Gentlemen;

This letter is being written to petition for a zone change from Community Commercial to Highway Commercial for two parcels of property described as Lot 5 Block 1 Bergquist Subdivision and Certificate of Survey 1965, Tract 2-A-1 of Amended Tracts 1 & 2.

The requested zone change is consistent with several of the goals and objectives of the 2008 Growth policy. The purpose of the zone change is to facilitate the expansion of All American Pharmaceutical (AAP). The City of Billings changed the zoning of the property currently occupied by AAP as recently as a few years ago, which was an acknowledgement that the business would be compatible with the surrounding neighborhood. The business has subsequently painted and cleaned up what was a vacant property, and we are not aware of any complaints from the neighbors, except that at the pre-application meeting a neighbor mentioned that trucks, including the City Garbage truck honk, to get access through the gate. The owner of AAP promised to remedy the situation.

AAP employs almost 100 people, and has ample on-site parking, which minimizes any impacts on the neighborhood. AAP's expansion will not require access via additional curb cuts, and because all access will be from internal driveways, the impact on the neighborhood will be less than if Lot 5 Block 1 Bergquist Subdivision was developed by anyone else. Any other buyer of the lot would have to access the property via a curb cut from Pemberton Lane.

The property which is the subject of the zone change is adjacent to a City bus route, which makes it convenient for employees who wish to use public transportation. It is also interesting to note that approximately 50% of AAP's employees live in the Heights area, and the others the opposite direction of the predominant flow of traffic during rush hours.

AAP's expansion will result in increased employment and economic development. AAP is an environmentally friendly business that provides good opportunities for employees and the community. This zone change will allow AAP to hire even more employees.

Please feel free to contact me (Ph.-591-1290) or Jeff Golini (Ph.-245-5793) if you have any questions.

Sincerely,



Ernie Dutton, Agent

January 22, 2010

The zone change informational meeting was held January 22, 2010 at the SE corner of All American Pharmaceutical at 11 a.m.

Ernie Dutton conducted the meeting. Ernie introduced Jeff Golini of All American Pharmaceutical to all in attendance.

Ernie discussed the property that Jeff currently owns and what Jeff's intentions are for the proposed property purchase. Ernie talked about the zone definition of Community Commercial and Highway Commercial.

The people in attendance of the meeting had the following concerns:

Would this zone change increase traffic to Pemberton Street?


Would the zone change and expansion of All American Pharmaceutical impact their property value negatively?

They questioned the fact that the current zone allowed for apartments.

Jeff Golini assured the people in attendance of the meeting that access to the lot would not come from Pemberton Street. His staff and truck traffic will continue to use the existing entrance to his building. Jeff plans to establish a setback off of Pemberton of at least 50 feet and will landscape along Pemberton to make it appealing to the neighbors. If a fence is needed Jeff will install a vinyl fence to give the expansion a nice appeal to the neighborhood.

The neighbors seemed to indicate that these accommodations/conditions would greatly reduce their concerns about the zone change.

I affirm that the pre-application neighborhood meeting was held on January 22, 2010, and that the materials attached hereto are an accurate representation of the information submitted to neighbors before and at the meeting.

  
Ernie Dutton - Agent



**ORDINANCE NO. 10-\_\_\_\_\_**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Tract 2A1 of C/S 1965 containing 4.5 acres and Lot 5 of Block 1 Bergquist Subdivision containing 1.5 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 Tract 2A1 of C/S 1965 containing 4.5 acres and Lot 5 of Block 1 Bergquist Subdivision containing 1.5 acres and is presently zoned **Community Commercial (CC)** 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 **Community Commercial (CC)** to **Highway Commercial (HC)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Highway Commercial (HC)** 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 March 22, 2010.

PASSED, ADOPTED AND APPROVED on second reading April 12, 2010.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #862 – 2414 Roundup Rd and 621 Pemberton lane

Date: 03/22/2010

TITLE: Zone Change #863 - Text Amendment Temporary Uses Construction Projects - Public Hearing & 1 reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

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Information

**PROBLEM/ISSUE STATEMENT**

This is a zone change that will amend and update Section 27-614(e) of the Billings, Montana City Code (BMCC) regulating temporary uses of land related to construction projects. The current code allows construction equipment, sheds and offices but does not mention the staging and storage of materials. The Planning, Engineering and Legal staff believes this was an oversight in the code development dating to its original adoption in 1972. The City Engineering Division requested the City Council initiate this amendment and on February 8th, 2010, the Council granted the request. The Zoning Commission conducted a public hearing on March 2, 2010, and is forwarding a recommendation of approval on 4-0 vote.

**ALTERNATIVES ANALYZED**

The City Council initiated the amendment to the City Zoning Regulations and 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**

There should be no fiscal impact from adoption of this amendment to the city zoning regulations.

**BACKGROUND**

The existing temporary use regulations allow the placement of construction equipment, sheds and offices in any zoning district for an approved construction project. Any construction project whether for public or private purposes also requires the storage and staging of materials for such projects. This amendment inserts language to allow the storage and staging of materials and requires those materials to be stored in a safe, neat and orderly manner. Over the past several years, the city has completed several large infrastructure improvement projects. During the 2009 construction season, it came to the attention of the Engineering and Planning staff that the temporary use code in this matter was not clear. Current language could be interpreted to mean that no storage of construction materials would be allowed except in industrial districts. This oversight in the code needs to be addressed so contractors, builders and surrounding owners are assured that construction staging areas have adequate oversight and are allowed on a temporary basis only.

The Engineering Division has worked to develop specific amendments to the existing code that will clarify this section of the code. The Legal Division has reviewed the amendments for intent, form and language.

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 2, 2010, and received testimony from Planning staff and Engineering staff. No other persons spoke in favor or in opposition to the text amendment.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The proposed amendments will correct an oversight in the existing temporary use regulations. The regulations will make temporary land uses for construction projects more predictable within existing neighborhoods. The amendment was written in clear and concise language so enforcement of the new regulation will be effective.

**RECOMMENDATION**

The Zoning Commission conducted a public hearing on March 2, 2010 and is forwarding a recommendation of approval on a 4-0 vote.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Link: [Ordinance](#)

Link: [Site Photos](#)

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Attachment A – Zone Change #863  
**ORDINANCE NO. 10-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-614(e) – TEMPORARY USES – TO ALLOW FOR THE STORAGE AND STAGING OF MATERIALS AND EQUIPMENT FOR APPROVED CONSTRUCTION PROJECTS IN ANY ZONING DISTRICT AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING 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.** *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. 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 proposed amendments to the City Zoning Regulations.*

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

Section 3. **AMENDMENT.** That the Billings, Montana City Code be amended by revising Section 27-614 as follows:

**Sec. 27-614. Temporary uses and structures.**

(e) Temporary uses and structures.

(1) Construction ~~of~~ equipment, sheds and materials. The temporary staging and storage of equipment and materials and use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the equipment, materials and structures ~~are~~ is part of an approved construction project. In addition, all equipment, materials and structures shall meet the following criteria:

a. Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:

1. heavy equipment, pipe, fittings, manholes, and the appurtenances;

- 2. gravel, sand, soil, concrete mix, forms, lumber and similar materials;
- 3. traffic control devices and stacked pallets of materials; and
- 4. modular offices and equipment sheds.
- b. staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
- a-c. Any such equipment, materials and structures shall be removed upon completion of the construction project; and
- b-d. No such structure shall be used for living or sleeping purposes.

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

Section 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 March 22, 2010.

PASSED, ADOPTED AND APPROVED on second reading April 12, 2010.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk

ZC #863 – Text Amendment Section 27-614(e) Temporary Uses

Attachment B – Construction staging areas



Central Avenue construction staging area 2009



Attachment B, continued – Construction staging areas



Central Avenue construction staging area 2009



Date: 03/22/2010

TITLE: Zone Change #857 - Text Amendment – EBURD Parking Overlay District - Public Hearing and 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

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Information

**PROBLEM/ISSUE STATEMENT**

This is a zone change that will amend the City of Billings zoning map and amend the zoning regulations to create an overlay district to allow separate off-street parking regulations to apply within the East Billings Urban Renewal District (EBURD), a tax increment finance district east of the Central Business District. The EBURD Master Plan identifies existing parking requirements in this area as a major deterrent to future development. Current code establishes off-street parking standards based on use. The requirements result in a substantial portion of the developable property to be set aside for parking. As a first step in implementing the EBURD Master Plan, the Planning Division requested the County Planning Board initiate this amendment and on July 28, 2009, the Board granted the request. The Zoning Commission opened the public hearing on February 2, 2010, for this amendment and agreed to continue the hearing until March 2, 2010, so additional information could be presented regarding the various changes to City Code. The Zoning Commission conducted a public hearing on March 2, 2010, and is forwarding a recommendation of approval, and inclusion of the Clawson property in the district on a 4-0 vote. The Zoning Commission also recommends the Council consider the policy changes suggested by the B.I.R.D. in their letter dated February 17, 2010 (See Attachment #3). These policy changes are in reference to the consultant's report dated January 11, 2010 (See Attachment #1).

**ALTERNATIVES ANALYZED**

The Big Sky Economic Development Authority approved funds to hire a consultant to prepare a new Parking Overlay Zone for the EBURD. In October 2009, the Planning Division organized a steering committee to help select the consultant and work with the consultant to develop amendments to the city code for the EBURD area. The consultant, Nelson Nygaard Consulting Associates, has prepared a memorandum that reviews several tools for better management of parking demands within the district (Attachment A). The memorandum recommends six major tools the city could use:

- Eliminate the off-street parking minimum requirements within and near the EBURD district
- In conjunction with the elimination of off-street parking minimum requirements, adopt a policy goal to maintain 15% vacancy of on-street parking spaces within the district.
- Adopt a parking benefit district that uses permits and/or meters to manage on-street parking demand. Revenues would be returned to the district for on-street parking improvements and other enhancements to meet parking demand.
- Adopt local requirement for unbundled parking costs.
- Adopt local requirement for certain employers to allow employees to “cash-out” parking subsidies for off-street parking spaces.
- Adopt a multi-modal transportation impact fee district.

The steering committee reviewed the 6 major tools and held a public meeting on these options on January 21, 2010. Public input was received particularly on the first two options – elimination of the off-street parking minimums and the 15% vacancy goal for on-street spaces. There was concern expressed that elimination of the off-street parking minimums would have immediate impact on surrounding streets outside the district or could allow a development to push all its parking needs on to a street within the district.

## **FINANCIAL IMPACT**

Adoption of the Zone Change and Text Amendment should not have a direct financial impact on the City. Implementation of the new amendments could have a financial impact on the City depending on the level of support needed and how implementation is decided by City officials and the Council.

## **BACKGROUND**

The proposed district consists of approximately 85 city blocks that equals approximately 175 acres of land not including the area for streets, alleys and other right-of-ways. Planning staff reviewed the existing available on-street and off-street parking spaces within the proposed overlay district. It appears there are an existing 1,950 on-street parallel parking spaces within the district. This assumes that each block front can accommodate 10 parallel parking spaces, excluding block fronts along principal arterial streets (6th Ave North, 4th Avenue North, 1st Avenue North and Montana Avenue). If these spaces were re-stripped for angled parking, this number of available on-street parking spaces would increase to 3,120. A rough estimate of existing off-street parking using the latest aerial photography was targeted at 6,600 spaces. These off-street spaces are all privately owned and may or may not be paved. Total parking within the district is approximately 8,550 or about 3,000 fewer spaces than the Central Business District. The Central Business District includes 76 city blocks and four parking garages as well as metered parking lots and on-street spaces.

The steering committee believes it is imperative to adopt the goal of maintaining a 15% vacancy rate for on-street parking as part of the elimination of the off-street parking minimum requirements within the EBURD. The Central Business District (CBD) is an example of a district that is exempt from off-street parking minimum requirements but does not have a policy in place to maintain a minimum vacancy rate for on-street parking spaces. A minimum vacancy rate is crucial to the viability and value of adjacent businesses and offices. Vacancy rates can be adjusted by continually monitoring demand and adjusting rates or setting stricter time limits for high demand locations. Higher rates or lower time limits can help spread parking demand over a larger block area, minimize long term parking for street front spaces in retail and commercial areas and generally increase vacancy rates in a localized block area. A minimum vacancy rate means that customers arriving within the district can find a parking space easily without continuously circling a block trying to find a spot near their destination.

The Central Business District (CBD) has been exempt from the off-street parking minimum requirements since at least 1972. In 1972, the CBD encompassed 20 city blocks and parking demand was minimal. As the CBD became successful and parking demand increased, the city expanded the CBD to 76 city blocks and created a revenue stream through meters and garages that helped meet that parking demand. Unfortunately, there are businesses on the edge of the CBD that have created "spill over" parking on to streets that have "free parking" with no time limits. The city does not have a policy of maintaining a 15% vacancy rate of on-street parking on a block-by-block basis within the CBD and does not have administrative authority to vary on-street parking rates based on demand. Currently, the Parking Division must apply to the City Council to raise or lower any municipal parking space rates. This has resulted in some areas of the CBD that have extremely low on-street parking vacancy rates.

The Planning Division staff supports the adoption of a mechanism and authority within the city code to create a parking benefit district for the EBURD in the future. This authority will allow the city to react quickly to any surge in on-street parking demand within the EBURD district. A parking benefit district would also allow generation of a revenue stream that could help improve access to municipal parking within the district.

The proposed overlay district does not change the underlying zoning of property, nor does it adopt regulation of on-street parking supply or a parking benefit district. These amendments must be part of other chapters of the city code including Sec. 6-1203 (Site Developments) and Sec. 24-451 (Parking Meters and Zones). These amendments have been finalized for City Council consideration at the same meeting it will consider this zone change to adopt the East Billings Parking Overlay District.

The overlay zone specifies the area where off-street parking minimum requirements will be eliminated. This includes a 7-block area outside the EBURD, between the existing CBD and the EBURD tax increment finance area. The steering committee believes the area should be included so as not to create an island that will be treated disparately from similar and surrounding property. (See Attachment B – blue highlighted area)

One surrounding property owner has requested that his property also be including in the overlay zone (See Attachment C – request from owner R. Clawson). This property is located on the east side of N 12th Street north of 6th Avenue North and is zoned Community Commercial (CC). The parcel was not included within the EBURD because it is in separate ownership from the 3 city lots that are directly adjacent to 6th Avenue North. The parcel requested for inclusion is highlighted in yellow on Attachment B. The Planning Division staff believes inclusion of this parcel is warranted given its location, size and zoning.

The Planning Division has reviewed the proposed overlay district and request from R. Clawson to include land on N 12th Street and is recommending approval to the Zoning Commission.

The Zoning Commission conducted a public hearing and is recommending approval of the zone change, and inclusion of Mr. Clawson's property within the proposed district on a 4-0 vote. The Zoning Commission also recommends the City Council consider the policy changes suggested by the B.I.R.D. letter of support dated February 17, 2010 (See Attachment #3) in reference to the consultant's report dated January 11, 2010 (See Attachment #1).

## **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 2, 2010. The Planning staff gave a presentation on the proposed zone change and the companion city code amendments that will help manage public and private parking within the proposed overlay district. Matthew McDonnell, a member of the B.I.R.D., and a member of the steering committee, provided testimony in favor of the code amendments and provided an explanation of the B.I.R.D. letter to the Commission. No other testimony was received at the public hearing.

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

The City Council adopted the master plan for the EBURD in July 2009. The EBURD recommended changes to the site development code to better manage parking within this district. This zone change in combination with other city code amendments achieves the objectives of the master plan including:

- A flexible and smart parking strategy for the study area
- Provide supply responsive to the growing demand of a successful neighborhood
- Provide future opportunities to generate funds for neighborhood transportation improvements
- Address the need for an adequate supply of parking
- Promotes multi-modal transportation

## **RECOMMENDATION**

The Zoning Commission recommends approval of Zone Change #857, and inclusion of Mr. Clawson's property within the overlay district on a 4-0 vote.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

Link: [Nelson Nygaard Memo on Parking Option](#)

Link: [Clawson request to include property](#)

Link: [B.I.R.D. Letter of Support](#)

Link: [Draft Ordinance and Map Amendment](#)

Link: [Draft Ordinance Amending Sec 6-1203](#)

Link: [Draft Ord Parking Permit Districts](#)

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# M E M O R A N D U M

**To:** Nicole Cromwell, City of Billings  
**From:** Tom Brennan, Oren Eshel, and Kevin Shively  
**Date:** January 11, 2010  
**Subject:** Options for Parking Management and Regulation in EBURD

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## Introduction

Nelson\Nygaard is under contract with the City of Billings, Montana to recommend a parking management and regulation strategy for the East Billings Urban Renewal District (EBURD), and to draft amendments to the City of Billings/Yellowstone County Unified Zoning Regulations necessary for implementation. Our scope of work for this project includes:

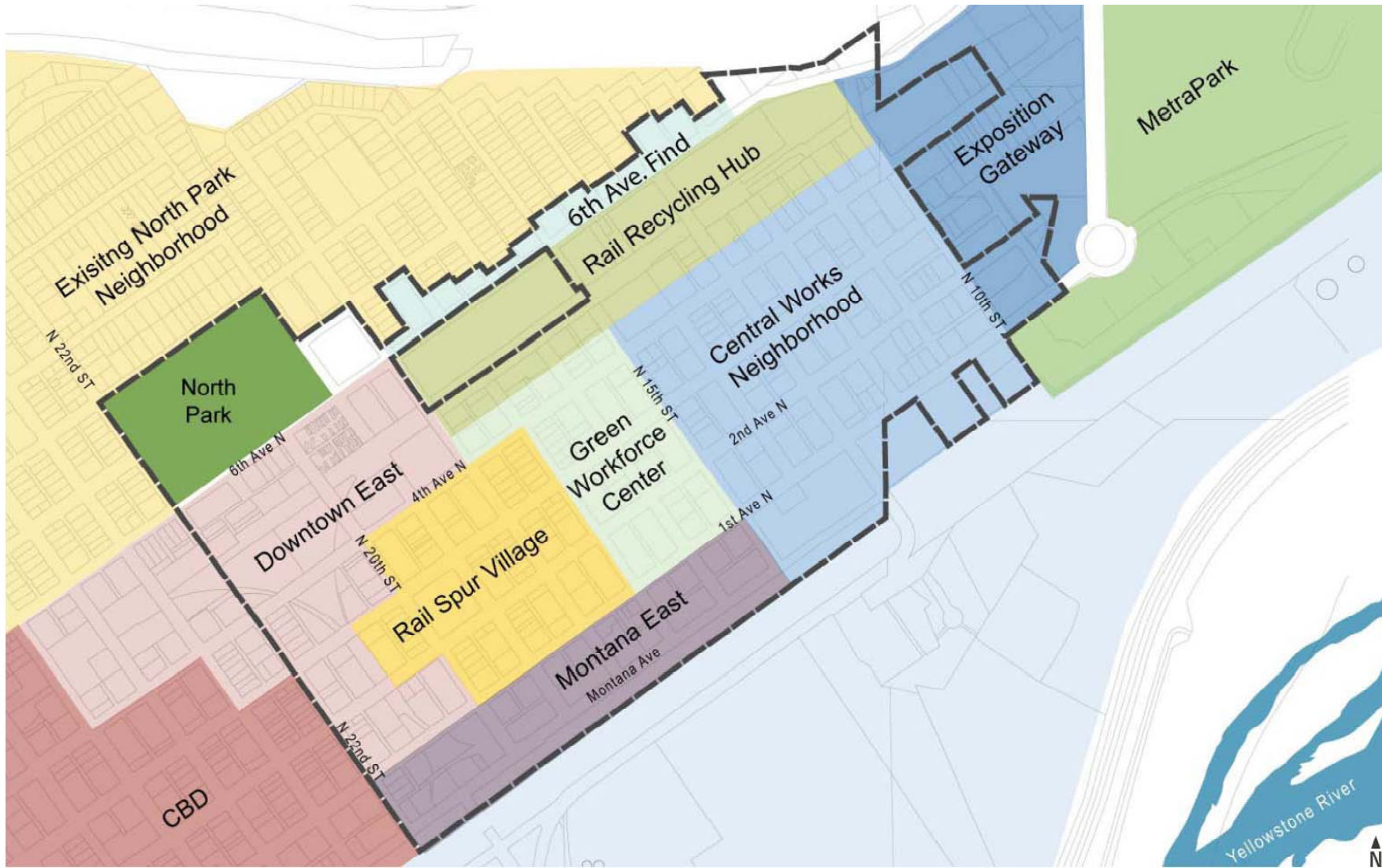
- Researching parking regulations for comparable districts
- Developing and evaluating alternative parking management and regulatory mechanisms for the East Billings Urban Renewal District (EBURD)
- Presenting alternatives during at least one public meeting
- Drafting any necessary text and map amendments to City/County codes, and
- Participating in the review and adoption processes and public meetings as necessary to support adoption and implementation.

In October and December of 2009, Nelson\Nygaard, the City of Billings, and the members of the parking steering committee further defined the scope of work. This effort will result in a zoning overlay for the entire EBURD, as well as a seven-block area west of the EBURD, southeast of 6<sup>th</sup> Avenue North, and northeast of the CBD, that is currently zoned Controlled Industrial.

Based on our evaluation of City plans and policies, goals and principles of the EBURD Master Plan, best practices in parking management in other communities, and feedback from Parking Steering Committee members and City staff, Nelson\Nygaard recommends adoption of district-wide policy goals to guide the supply, and management of parking in the District, and establishment of tools for parking management and regulation that can be applied to different parts of the district (see Figure 1) on an as-needed basis.

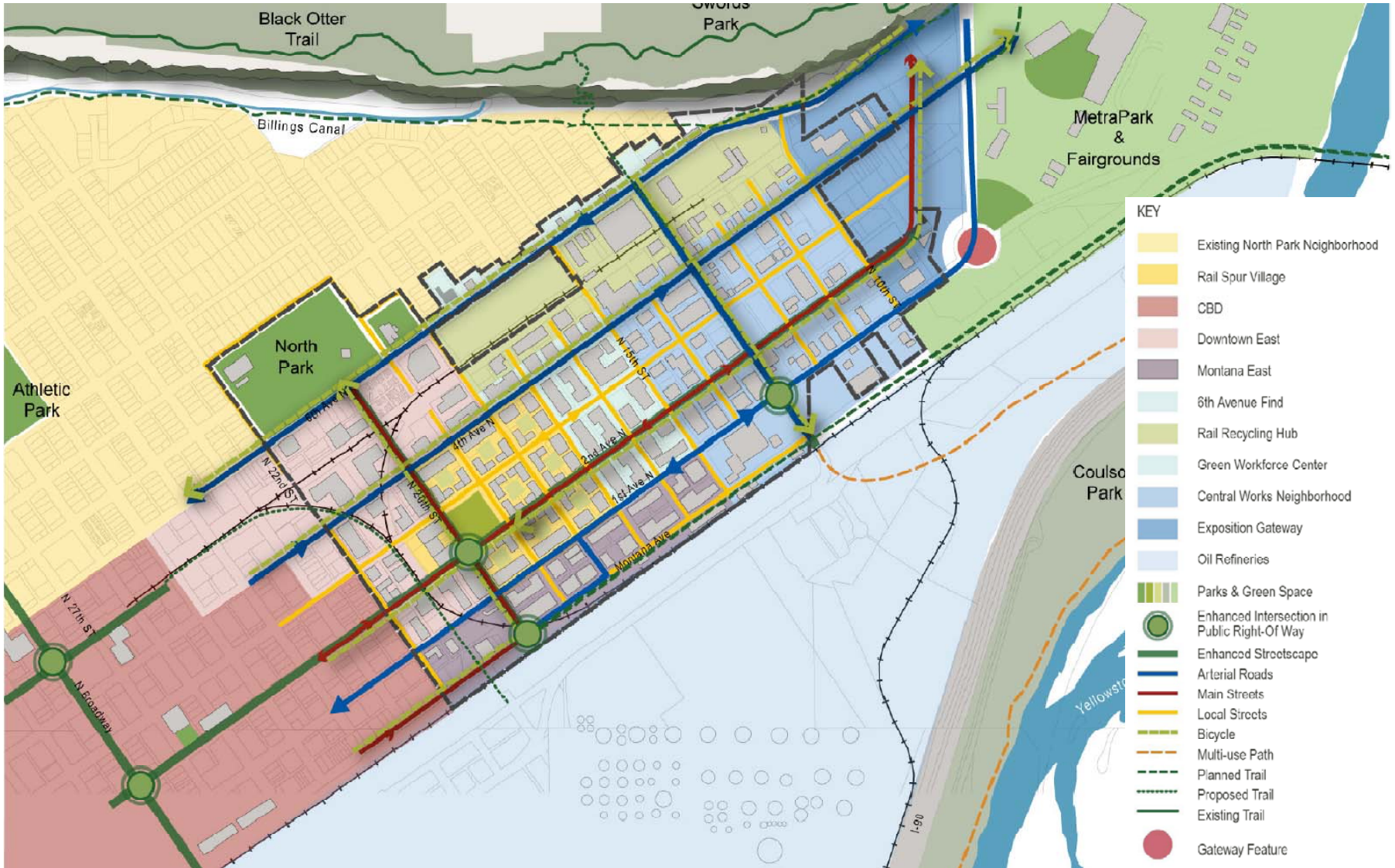
All of the options and recommendations for district parking management and regulation support the City's stated goal to "maximize the efficient use of existing infrastructure and services."

Figure 1 EBURD Sub-Area District Map



Source: Development Districts, East Billings Urban Renewal District Master Plan, Courtesy of EDAW AECOM

**Figure 2 EBURD Transportation Network Map**



Source: Development Concept, East Billings Urban Renewal District Master Plan, Courtesy of EDAA AECOM

This memorandum details the findings of our research on approaches to parking management and regulation in comparable districts (Task 2), and frames a set of options for managing and regulating on and off-street parking within the proposed parking overlay District (Task 3). We describe and evaluate alternative approaches to implementation highlighting tradeoffs and potential intended and unintended consequences of each. Appendix A illustrates how the parking policy options relate to the guiding principles of the *EBURD Master Plan*.

## Existing Parking Regulations

This section summarizes existing off-street parking regulations in the EBURD and Downtown Billings, included in the Buildings and Building Regulations chapter of the Billings City Code.

### Minimum Parking Requirements

Section 6-1203(j) of the City Code specifies off-street parking requirements that apply within city limits, including the EBURD. The requirements for selected land uses are listed in Figure 3 below.

**Figure 3 Minimum Off-Street Parking Requirements in Billings**

Example Land Use Category	General Minimum Requirement	Billings CBD
Residential Single Family or Duplex	2 spaces / dwelling unit	Minimums do not apply per 6-1203(j)
Residential Multi-Family	1 space / 1 BR unit 1.5 spaces / 2+ BR unit	
General Retail (< 5,000 sq. ft.)	1 space / 200 sq. ft. GFA	
Restaurants and bars	1 space / 100 sq. ft. GFA	
Banks, business and professional offices	1 space / 300 sq. ft. GFA	
Industrial / Manufacturing	1 space / 2 employees on maximum shift; at least 1 space / 800 sq. ft. GFA	

Source: Billings City Code, <http://ci.billings.mt.us/index.aspx?NID=152>. Note: GFA = Gross Floor Area

Section 6-1203(g) of the City Code exempts the CBD from the minimum parking requirements that apply to all other districts:

*Central business district. The table of minimum standards contained in subsection (j) of this section do not apply to that portion of the city zoned central business district except as specifically provided in this section.*

### Other Provisions

Other parking regulations that apply in Billings include:

- **Mixed Uses.** Parking requirements for mixed uses are the sum of the total requirements for the various uses computed separately. [6-1203(e)]
- **Joint Uses.** The City may authorize up to 50% of the required off-street parking for primarily night time uses to be leased or used jointly to meet the requirements of daytime uses.

## Tools for Parking Management and Regulation

Based on input from parking committee members (Task 1), the findings of our research on comparable districts (Task 2), feedback from Parking Steering Committee members and our knowledge of existing conditions and plans for the development of the EBURD, the

Nelson\Nygaard team has developed and evaluated – for stakeholder consideration – a set of potential strategies and mechanisms for the management and regulation of parking within the District. These tools include potential amendments to the City of Billings and Yellowstone County Unified Zoning Code, and other code provisions, such as those necessary to facilitate:

- Maintenance of on-street parking availability for short-term parkers, including residents, visitors, retail customers, and supply and delivery vehicles,
- Sharing of on and off-street parking resources between multiple different public and private land uses and activities,
- Customized parking and access management strategies for specific land uses, activities, and sites, where appropriate.

In developing these options, we have made the following assumptions about planning and development within the district:

- Based on observations made during the EBURD Master Planning process, current demand for parking on-street within the district is very low. Other than in the western edge of the district, this is likely to be the case until significant redevelopment occurs.
- Many streets within the district do not have curbs and gutters, making the striping and signing on street parking challenging. At the same time, these infrastructure improvements present an opportunity to increase the supply of on-street parking through the development of back-in angled parking spaces.
- The City of Billings does not currently own any parcels of land within the district.
- The City may convert 2<sup>nd</sup> and 3<sup>rd</sup> back to two-way streets (as recommended in the *EBURD Master Plan*), utilizing federal funds. This project would require restriping, resigning, signal improvements, and the addition of bicycle lanes in both directions,
- Streetscape improvements and on-street parking management strategies must permit the City to regularly sweep in the summer and plow in the winter

The following tools and strategies should be employed to achieve the goals of the *EBURD Master Plan* while maintaining access to and parking availability within the District. An example of a City that has adopted each policy is included in parenthesis next to each policy option highlighted; these examples are described in more detail in Section 3.

1. **Eliminate minimum parking requirements** by extending the CBD exemption from off-street parking requirements to all properties in the proposed Parking Overlay District (Billings and Missoula, MT)
2. **Adopt a goal of maintaining at least 15% vacancy** of on-street parking throughout the District with annual monitoring (Redwood City)
3. **Manage parking supply using permits and or meters** to maintain 15% on-street availability using one or more of the following approaches:
  - a. Variable meter pricing (Redwood City)

- b. Monthly paid parking permits available for purchase by District businesses and residents and potentially commuters (Pasadena, CA). Set price of permit each year at a level necessary to reduce wait list.
- 4. **Return parking meter/permit revenues to the District** by establishing a parking benefit district (recommendation includes investing a portion of parking meter/permit revenues in TDM measures)(Boulder, CO)
- 5. **Adopt local requirement for unbundled parking** (Bellevue, WA)
- 6. **Adopt local requirement for employers to “cash-out” parking subsidies** (Santa Monica, CA)
- 7. **Assess impact fees** for parking and/or other transportation facilities/services: Institute a transportation impact fee on new development to fund streetscape improvements (e.g. curbs, gutters, bike lanes, diagonal parking, new meters, signage, street amenities, etc.) and, if permitted, programs and services (e.g. Transportation Demand Management programs, expanded transit service to and within the District, etc.) (Portland, ME)
  - a. Alternate revenue sources for funding TDM programs (Boulder, CO and Missoula, MT)

## Application of Parking Tools and Strategy Options in EBURD and Comparable Districts

To define and evaluate alternative approaches to the management and regulation of parking within the EBURD, we have reviewed and evaluated regulatory tools used in comparable districts throughout the United States. For each recommended parking management tool or strategy, this section describes its goal or purpose, its application in one or more comparable district including specific provisions of the municipal code, and requirements for application in the EBURD Parking Overlay District. Where possible, we have highlighted tradeoffs between policy options and the potential intended and unintended consequences of implementation.

### 1. Eliminate minimum parking requirements throughout the proposed Parking Overlay District

*Purpose/Goal: Ensure the availability of on-street parking by replacing minimum off-street parking requirements with policies that directly address availability.*

Minimum parking requirements are not the most effective tools for ensuring the availability of street parking. Alternate policies that more directly promote parking availability include time limits (e.g. Petaluma, CA) or parking pricing, using permits or meters. Neighborhoods like East Billings, with a desire to grow into more dense, vibrant, walkable centers – as described in EBURD Master Plan – also increasingly recognize that minimum parking requirements represent a barrier to desired development. Eliminating parking minimums encourages developers to build as little or as much parking as they perceive is needed to satisfy demand (except in areas where maximum parking requirements are in effect, as discussed in the next section).

Minimum parking requirements were adopted by many cities to "alleviate or prevent traffic congestion and shortages of curbside parking spaces". In some cases, minimum parking requirements have succeeded in preventing shortages of on-street parking spaces, but also play a powerful role in increasing the number of vehicle trips on local streets and worsening traffic congestion throughout the City.

Minimum parking requirements worsen traffic congestion through a simple three step process:

1. Minimum parking requirements are set high enough to provide more than enough parking even when parking is free, even at isolated suburban locations and or locations with little or no transit service or access by other modes.
2. Parking is then provided for free at most destinations, and its costs hidden.
3. Bundling the cost of parking into higher prices for everything else skews travel choices toward cars and away from public transit, cycling and walking.

With three other recommendations – allowing on-street parking meter/permit prices to be adjusted by administrative action (Recommendation #3) to ensure at least one or two vacancies per block (Recommendation #2), and returning any resulting parking revenue to the neighborhood where it is generated (Recommendation #4) – in effect, off-street minimum parking requirements are no longer needed to prevent shortages of on-street parking. Instead, they only act to worsen traffic, and to discourage developers, employers, residents and other property owners from implementing strategies that reduce traffic and parking demand<sup>1</sup>.

## Case Studies

Cities that have determined that eliminating minimum parking requirements is essential to achieving development goals include:

- Stuart, Florida, eliminated all on-site parking requirements, which were preventing developers from renovating existing buildings. After four years, the number of downtown businesses had risen by 348, and the town was able to lower its tax rate.
- Eugene, Oregon, abolished minimum parking requirements in several districts and introduced maximum parking standards in order to promote high intensity, mixed-use development, historic preservation, and help meet environmental goals.
- Spokane, Washington, eliminated all minimum parking requirements in its downtown, and introduced parking maximums.
- Portland, Oregon, eliminated all minimum parking requirements in its downtown, and introduced parking maximums for specific land uses, as well as a cap on the number of parking spaces for the entire downtown area. The City has established maximum parking limits instead of minimum requirements for various reasons, including Portland's planners hope to "...improve mobility, promote the use of alternative modes, support existing and new economic development, maintain air quality, and enhance the urban form of the Central City"<sup>2</sup>.

The table below lists several successful downtown districts without minimum parking requirements. It illustrates that the availability and quality of public transit services varies widely in these cities and that eliminating minimum parking requirements does not require that all (or even any), off-street parking be provided by the City.

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<sup>1</sup> It is important to note that many lending institutions, critical to providing resources for developers, take a different view of parking requirements. Banks often see parking availability as an important condition for a property to maintain value. This should not preclude eliminating minimum requirements, but should be a consideration in the discussion around setting maximum parking requirements.

<sup>2</sup> Bureau of Planning, City of Portland, Oregon (1999). *Title 33: Planning and Zoning Code*. Chapter 33.510, Part Two, May 1999

**Figure 4 Downtown Districts without Minimum Parking Requirements**

City	Parking standard for mixed-use buildings downtown (Number of off-street parking spaces required)	Downtown area served by High Capacity Transit?	Single Occupant Vehicle commute mode share	Share of off-street parking downtown owned by the City
Pittsburgh, PA	0	Yes	32%	17%
San Francisco, CA	0	Yes	38.5%	20%
Phoenix, AZ	0	Yes	72%	30%
Madison, WI	0	No	71%	10%
Indianapolis, IN	0	No	74%	0%
San Antonio, TX	0	No	80%	25%
Winston-Salem, NC	0	No	90%	42%
Greenville, SC	0	No	99%	33%

Source: Transit Cooperative Research Program (TCRP) Report 95, Traveler Response to Transportation System Changes, Chapter 18: Parking Management & Supply, pp. 18-39.

In Montana, Missoula exempts its entire CBD from parking minimums.<sup>3</sup> It also exempts smaller retail uses from parking minimums in its B1 zoning district, applied to some parcels outside of downtown.

*B1 Zoning District. No off-street parking is required for retail sales uses in the B1 district unless such uses exceed 1,000 square feet of gross leasable floor area, in which case off-street parking [1 space per 300 square feet for general retail] must be provided for the floor area in excess of 1,000 square feet. On parcels occupied by 2 or more uses, the 1,000 square foot exemption may only be applied once.*

Missoula is also considering downtown and pedestrian-oriented overlay zones, whose aims include locating parking behind, within, or under a building, or to the side only if the depth of a parcel is limited.

### Implementation requirements

Amend Section 6-1203 of the Billings City Code (Off-street parking requirements) to exempt the EBURD from the minimum off-street parking standards specified in 9-1203(j).

### Discussion

There are currently no minimum off-street parking requirements in the downtown Billings Central Business District zone (see Existing Regulations above). Similarly exempting the EBURD and the adjacent blocks within the proposed Parking Overlay District from the minimum parking requirements that apply elsewhere in the city will remove a barrier to mixed-use development in the District and provide developers with the flexibility to supply off-street parking consistent with market demands. It also facilitate changes of uses for existing buildings and structures, which is essential for implementing the Master Plan to transform the District, while enabling preservation of historic structures.

<sup>3</sup> City of Missoula Zoning Ordinance, Section 20.60.010 (C), <http://www.co.missoula.mt.us/opgftp/Documents/CurrentRegulations/CityZoningTitle20/Title20Whole.pdf>

## **2. Adopt a goal of maintaining at least 15% vacancy of on-street parking throughout the District (with annual monitoring)**

*Purpose/Goal: Ensure the availability of at least 15% of the on-street parking supply at any given time, addressing any concerns about the 'spillover' parking impacts of particular land uses and activities.*

The stated purpose of off-street parking requirements is to ensure that no single land use or combination of land uses in a district results in congestion of public on-street parking supplies to such a degree that it negatively impacts travelers and other district stakeholders. However, off-street parking requirements are, at best, an indirect way to maintain the availability of on-street parking (off-street parking requirements have other impacts, described below).

A more direct way to ensure the availability of on-street parking for people seeking to access the district is to set a policy goal of maintaining approximately 15% vacancy of on-street parking spaces on any given block face. Achieving the 15% vacancy goal will mean that there will always be at least one to two spaces per block face available for incoming cars and trucks to use. This means that new arrivals to the District can always find a parking space within a block or two of their destination, reducing the traffic tie-ups that can occur when people continuously search and circle to find free, but limited on-street parking. UCLA Professor Donald Shoup, argues that with 15% of on-street spaces vacant, cities make the most efficient use of their on-street parking supply<sup>4</sup>.

Formally adopting a parking occupancy goal is an essential first step in designing, implementing, and adapting parking management practices and regulations that can achieve other District goals.

### **Case Studies**

In California, both Redwood City and Pasadena have adopted formal policies that tackle the problem of congestion of on-street parking and spillover parking impacts directly, aligning city code with true neighborhood parking goals and objectives. Both cities require their parking managers to monitor and adjust parking regulations, including on-street parking prices and time limits, as necessary to ensure that at least 15% of spaces are always available for new users.

While the effects of Redwood City's parking policies on retail sales has not been documented, sales tax revenue in Old Town Pasadena increased rapidly after parking meters were installed in 1993 (tenfold between 1992 and 1999), and revenue is now higher than in any other retail districts in the city. After parking revenues were invested in District improvements, Old Pasadena's sales tax revenues quickly exceeded those of Plaza Pasadena, a nearby shopping mall that offered free parking. As discussed in more detail in a subsequent section, local merchants were persuaded to accept installation of parking meters through creation of a Parking Benefit District that dedicated meter revenues to improvements within the district.

### **Implementation steps**

A 15% vacancy goal for on-street parking in the EBURD could be enacted by amending Article 24-400 (Division 4) of the Billings City Code. After an initial trial period, occupancy rates for each block should be reviewed and then adjusted down or up to achieve the 15% vacancy goal, as described earlier. To ensure that this happens on a regular schedule, promptly, and with clear assurance to policymakers, citizens and EBURD property-owners and stakeholders that the goal

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<sup>4</sup> Shoup, Donald (2004). *The High Cost of Free Parking*, Washington, DC: APA Planners Press.

of parking prices is to achieve the desired vacancy rate, the following procedure is recommended for adjusting parking meter rates and hours and/or permit supply and prices:

1. *Set Policy:* By ordinance, City Council should establish that the primary goal in setting parking meter rates, time limits, and/or parking permit supply and prices for each block and each public lot is to achieve an 15% vacancy rate. Additionally, the ordinance should both require and authorize city staff to raise or lower parking prices to meet this goal, without requiring further action by the City Council. A Downtown/EBURD Transportation Manager should be hired (unless there is already a person who can handle these duties), and charged with the responsibility of running the district, including monitoring occupancy rates and adjusting rates.
2. *Monitor occupancy:* Modern, wirelessly-networked multi-space parking meters (as described below) are capable of instantly transmitting current information on the number of spaces in use on each block where the meters are installed, giving the Transportation Manager the ability to constantly monitor parking usage in the system. Reports can also be generated to track occupancy by the hour over the course of a day, weeks, or months. Alternatively, the City can hire temporary staff to conduct traditional parking occupancy and turnover counts at selected times and locations.

## Discussion

A 15% vacancy goal ensures that on-street parking is available when and where it is most needed. Where vacancy is less than 15%, turnover of the parking supply can be accomplished through parking pricing or on-street parking permits. Using the revenue to fund public improvements and services that benefit the same area can help create public support for the policy.

It is likely that it would be years before the implementation of this policy would be necessary in most parts of the District; however, setting a clear goal for on-street management will help developers and financing institutions to understand that short-term parking supply will be managed to allow and maintain customer and short-term visitor access.

## **(Option) Manage on-street parking with meters**

As with any good or service, demand for on-street parking varies with the price charged. On block faces within the District where occupancy consistently exceeds 85%, and where vehicle turnover rates (the number of different vehicles parking in a given space during the course of a day) are highest, the City may consider installing and operating adjustable rate parking meters as a means of managing parking demand to maintain the availability of parking, consistent with adopted vacancy goals. It is important to note that in order to achieve vacancy goals under this option, parking meters should be installed and operated for the primary purpose of managing demand, rather than for revenue generation. Managing for the purpose of revenue generation might result in higher parking rates during non-peak hours, and higher or lower parking occupancy and turnover than are acceptable to District stakeholders. One key to ensuring that parking meters do not become utilized by the City as primarily a revenue mechanism is to establish a Parking Benefit District (PBD), as described subsequently (Recommendation #3), with a commitment to return all revenue to the District to fund streetscape and other access improvements and programs on the same blocks on which the revenue was raised.

## Case Study

Redwood City's parking ordinance<sup>5</sup> requires its Parking Manager to measure parking occupancy in its Downtown Meter Zone at least annually, but not more frequently than quarterly. Based on the survey results, the Parking Manager is required to adjust rates up or down in twenty-five cent (\$0.25) intervals in an effort to attain the city's 85% target occupancy rate (equivalent to a 15% vacancy rate). Rates vary by street, block, and direction. Meters are active from 10 am to 6 pm, however meters are active on some street segments and directions only on weekdays while on others meters are also active on Saturdays. The ordinance establishes a maximum hourly rate of \$1.50, without City Council approval. Similar provisions are in place for nine metered off-street public parking lots and garages. In three of the lots or garages, a higher peak rate of \$2.50 - \$5.00 applies on weekdays from 6:00 pm – 11:00 pm and on Saturdays, Sundays, and holidays from 10:00 am – 11:00 pm, although validation is allowed. The applicable code language includes:

*Sec. 20.120. PERIODIC ADJUSTMENT OF DOWNTOWN METER ZONE  
METER RATES:*

*...the City Council hereby adopts the following process for adjusting Downtown Meter Zone meter rates from time to time to manage the use and occupancy of the parking spaces for the public benefit in all parking areas within the Downtown Meter Zone.*

*A. To accomplish the goal of managing the supply of parking and to make it reasonably available when and where needed, a target occupancy rate of eighty-five percent (85%) is hereby established.*

## Implementation Requirements

Once occupancy and turnover counts conducted within the District confirm the need for metering on certain block faces in the EBURD, the City of Billings can install parking meters at those locations as necessary by amending City Code (Chapter 24, Division 4).

*Adjust rates:* Once meters are installed, parking occupancy should be periodically monitored to assess performance relative to adopted vacancy goals. Armed with good information on recent parking occupancy rates, the Transportation Manager should adjust the rates (and hours of operation) up or down on each block, to achieve the policy goal (a 15% vacancy rate) set by City Council. Typically, rates should be adjusted quarterly (four times per year), but in the case of major changes in the District, or downtown, such as the opening of a new development, it may be advisable to adjust rates in response to particular events. To provide additional input to the process, the steering committee should review the proposed rate changes and provide feedback to the Transportation Manager.

## Discussion

As noted previously, it does not appear that parking occupancy rates are currently high enough to justify the installation of parking meters as a parking management tool. Given the phasing of development planned for the district in the *EBURD Master Plan*, it will likely be years before on-street parking congestion necessitates implementation of this measure. Nevertheless, it is important for the City to adopt the policies necessary to install and operate meters, and manage meter pricing as necessary to achieve District parking vacancy and associated economic development and quality of life goals.

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<sup>5</sup> See Chapter 20, Article 7, Division 4, Sections 20.116 - 20.121 of the Redwood City Municipal Code, <http://library2.municode.com/default-test/home.htm?infobase=16574>

## **(Option) Manage on-street parking with commercial and/or residential parking permits**

*Purpose/Goal: Allow businesses, industrial users, commuters, or residents to buy a fixed number of permits for on-street parking on particular streets, or throughout the district.*

Commercial Parking Districts, with prices set to maintain one or two vacancies on each block, can be implemented for primarily commercial areas. Residential Parking Districts can be used to manage residential parking supply or to prevent spillover parking from nearby commercial areas wherever densities are high enough that the on-street parking might fill up if left unmanaged. In mixed-use Districts, such as the EBURD, a combined commercial and residential parking district may be most appropriate.

### **Case Studies**

When the city of Pasadena, CA, established one of its preferential residential parking districts, it allowed the Polytechnic School exclusive use of on-street parking along its building frontages. In this case, the city found that there would not be an adverse impact on residential parking availability, however it did not make a similar accommodation for Pasadena City College when its campus was included in a preferential parking district.<sup>6</sup> The amended Pasadena code, Section 10.41.095 (Other preferential parking permits), states:

*The director shall receive applications for preferential parking permits from duly authorized representatives of organizations, professions or other designated groups with real property interests within the preferential parking district where the director determines, based upon sound engineering principles, traffic investigation and/or surveys made from time to time, that such permits will further the objectives of this chapter and will not adversely affect parking conditions for residents and merchants within the district.*

In Pasadena, two criteria for establishing a parking district are: (i) minimum occupancy of 70 percent must be consistently observed during the days and times that the parking problem is said to exist and (ii) a minimum of 40 percent of those observed parked vehicles must be non-local.<sup>7</sup>

The City of Seattle created a Residential Parking Zone (RPZ) program in 1979 to help ease parking congestion in residential neighborhoods, and has over 30 RPZs. RPZs are typically only established in primary residential areas, bordering business districts or other significant demand generators such as universities, colleges, or hospitals. However, instead of spillover parking, residents in Seattle's South Lake Union district live in apartments or condominiums that are the minority use in a district dominated by large employers, light industry and a variety of businesses. While in 2000 there were less than 1,000 residents in South Lake Union, a number of new residential units were built. In 2006, SDOT conducted a two-year RPZ pilot program and now has implemented pay stations with a combination of 2-hour and 10-hour time limits to accommodate both retailers who require parking turnover and employees who need long-term parking. Other blocks are designated for residential RPZ permits, which are also allowed to use some of the 2-hour spaces without a time limit.<sup>8</sup>

The City of San Francisco allows businesses located in Residential Permit Parking Zones (RPPZ) to buy a single annual permit for the same district for \$76. The City also has a citywide

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<sup>6</sup> City of Pasadena Staff Report, [http://ww2.cityofpasadena.net/councilagendas/2001agendas/Mar\\_12\\_01/7B2.pdf](http://ww2.cityofpasadena.net/councilagendas/2001agendas/Mar_12_01/7B2.pdf)

<sup>7</sup> [http://ww2.cityofpasadena.net/trans/TPD/PPP/PPP\\_Procedures\\_200612.pdf](http://ww2.cityofpasadena.net/trans/TPD/PPP/PPP_Procedures_200612.pdf)

<sup>8</sup> See <http://www.seattle.gov/Transportation/parking/docs/NEWSLUParkingGuideHandout.pdf>

Contractor's parking permit; for \$636 per year, permit holders can park on-street in any RPPZ (or at a parking meter zone without paying the meter but subject to time limits).<sup>9</sup>

### Implementation requirements

An on-street permit parking program in the EBURD could be enacted by amending Article 24-400 (Stopping, Standing, and Parking) of the City Code.

### Discussion

Establishing a permit parking program can complement elimination of minimum parking standards by providing the City and the EBURD a targeted and flexible mechanism to address possible spillover of parking demand. To make paid permit parking politically feasible, the City may elect to "grandfather in" certain existing residents and businesses, charging them lower permit fees or no fees at all. A permit parking program can also provide a flexible tool for residents or small businesses in the district that worry about loss of currently available on-street parking resources. Any permit program should be designed and managed in a way that ensures that the total number of parking permits issued and sold does not result in parking occupancy that exceeds 85% on any single block face in the District. As with the management of meter rates, described in the previous section, the City should periodically monitor parking occupancy and turnover throughout the District and adjust the supply and price of permits, as necessary to maintain 15% vacancy on all blocks. The City may also consider differentiating permits for particular types of vehicles, such as trucks and other trade vehicles, and particular block faces to maintain the availability of parking for special uses within the district (eg. light industry and manufacturing).

## **3. Return parking permit/meter revenues to the District by establishing a Parking Benefit District**

*Purpose/Goal: Return revenue to local street improvements and enforcement of safety, which often has the benefit of making performance-based prices for on-street parking politically popular.*

### **A. Create a Commercial Parking Benefit District**

Net revenues from paid on-street parking should fund public improvements that benefit the blocks where the money is collected. If parking revenues seem to disappear into the General Fund, where they may appear to produce no direct benefit for the District where they are collected, there may be little support for installing parking meters, or for raising rates when needed to maintain decent vacancy rates and prevent cruising traffic. But when District merchants and property owners can clearly see that the monies collected are being spent for the benefit of their blocks, on projects that they have chosen, they become willing to support market rate pricing.

### **B. Establish Residential Parking Benefit District**

Residential Parking Benefit Districts should be implemented in residential areas, wherever there is the potential for spillover parking from nearby commercial areas, and wherever densities are high enough that the on-street parking might fill up if left unmanaged. Residential Parking Benefit Districts are similar to residential parking permit districts, but can also allow a limited number of commuters to pay to use surplus on-street parking spaces in the residential areas, and then return the resulting revenues to the neighborhood to fund public improvements.

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<sup>9</sup> San Francisco Transportation Code Sections 902(d) and 905. <http://www.sfmta.com/cms/pperm/13442.html#business>

## Case Studies

Boulder, CO, operates Residential Parking Benefit Districts. Boulder sells permits to residents for \$17 per vehicle per year, permits for businesses located within a zone for \$75 per year, and commuter permits for \$78 per quarter (\$312 per year). Each permit is valid on a specific block and a maximum of four non-resident permits are issued on any given block face within a zone, and only if the vacancy rate is greater than 25% during daytime. The program is currently revenue-neutral with all revenue from non-resident permits being used to reduce the price of the resident permits. For areas with higher parking demand than in Boulder, the revenues generated for a neighborhood could be significantly higher, however.

## 4. Adopt ordinance requiring unbundled parking costs

*Purpose/Goal: An ordinance requiring that parking costs be “unbundled” from the lease or sale of commercial space or residential units allows building tenants and owners to see the full cost of parking and to realize cost savings from enacting programs, or policies that reduce employee/resident demand for parking.*

### Case Study: Bellevue, WA

Bellevue “requires building owners to include parking costs as a separate line item in leases and to charge a minimum rate for monthly long-term parking that is equal or greater than the cost of a bus pass. This makes it easier for employers to determine the value of their current parking subsidies [when employers are establishing employee parking charges or parking cash-out programs].”<sup>10</sup> Additionally, this policy means that employers who successfully reduce parking demand and traffic to their worksites are able to reap financial benefits by leasing fewer parking spaces. As part of its downtown transportation management program ordinance, Bellevue requires that:

*1. The owner of a building with 50,000 gross square feet or more of office shall... perform or cause to be performed the following elements....*

***c. Identification of parking cost as a separate line item in such leases and a minimum rate for monthly long-term parking, not less than the cost of a current Metro two-zone pass....***

*2. Duration. The programmatic requirements shall continue for the life of the building.*

Source: City of Bellevue, Section 14.60.080, <http://www.bellevuewa.gov/bellcode/Bellevue14/Bellevue1460.html>

## Implementation requirements

The City of Billings could adopt an ordinance requiring unbundling of parking costs in commercial and residential leases.

## Discussion

Parking costs are traditionally subsumed into the sale or rental price of housing and commercial space. Unbundling refers to separating parking costs from both rental and sale prices of multifamily housing and commercial space. Donald Shoup of UCLA and Todd Litman of the Victoria Transportation Policy Institute (VTPI) identify several approaches for unbundling parking from residential and commercial units<sup>11</sup>:

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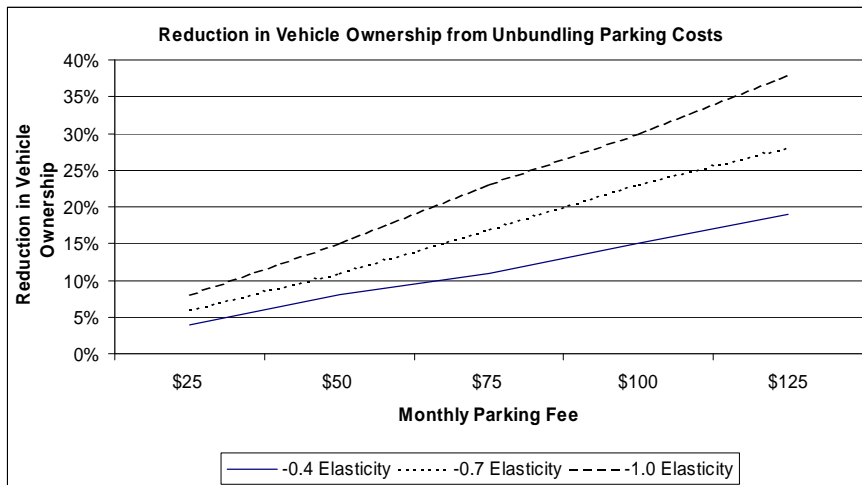
<sup>10</sup> VTPI, TDM Encyclopedia

<sup>11</sup> Donald Shoup. *The High Cost of Free Parking*. The American Planning Association, 2005; Todd Litman, TDM Encyclopedia, Victoria Policy Transportation Institute (VTPI), <http://www.vtpi.org/tdm/tdm96.htm>

- **Developers or owners allow parking spaces to be leased or purchased separately from housing or commercial units.** A unit can include no parking or only one space, with additional spaces available for purchase or rent if desired. The market would reveal the value of parking spaces and developers would not build parking spaces whose sale value is less than the construction and maintenance cost.
- **Residents lease parking spaces from the condominium association.** In this scenario outlined by Shoup, “the association would own the parking spaces as common property and lease them to the residents at a price that equates demand and supply. The rent from commonly owned parking spaces could then replace all or part of the association fees residents pay.... Parking wouldn’t be free, but those who own fewer cars would pay less.”
- **Require lease agreements to itemize parking costs separately,** even if spaces are automatically included. Seeing parking as separate line-item in lease contracts may encourage renters to negotiate changes, perhaps renting fewer spaces or trading parking spaces with other occupants. (e.g. Bellevue case study.)
- **Offer a discount to renters who use fewer parking spaces.** Rather than charging an additional fee, renters who receive two “free” spaces but only use one space would receive a monthly discount.
- **Create a secondary market for available parking spaces.** Building managers can maintain a list of residents who have excess parking spaces that are available for rent.

Figure 5 shows how unbundling parking costs reduces household vehicle ownership and parking demand, assuming three different levels of responsiveness to parking cost.

**Figure 5 Vehicle Ownership and Unbundling Parking Costs**



Source: Based on VTPI, 2004

## 5. Require employers to cash-out parking

*Purpose/Goal: Require all new and existing employers that provide subsidized employee parking to offer their employees the option to "cash out" their parking subsidy.*

The majority of all employers provide free or reduced price parking for their employees as a fringe benefit. Under a parking cash-out requirement, employers are allowed to continue this practice *on the condition that they offer the cash value of the parking subsidy to any employee who does not drive to work.* The primary benefit of parking cash out programs is their proven effect on reducing auto congestion and parking demand.

Other benefits of parking cash out are numerous, and include:

- Provides an equal transportation subsidy to employees who ride transit, carpool, vanpool, walk or bicycle to work.
- Provides a low-cost fringe benefit that can help individual businesses recruit and retain employees.
- Employers report that parking cash-out requirements are simple to administer and enforce, typically requiring just one to two minutes per employee per month to administer.

Since 1996, the City of Santa Monica has required all employers subject to California's parking cash out law include parking cash out as part of their trip reduction plan. Santa Monica requires proof of compliance with the State of California's parking cash out law (AB2109<sup>12</sup>) before issuing occupancy permits for new commercial development. Santa Monica Ordinance 1604<sup>13</sup> states:

*Employers are required to submit annual transportation plans to the City. Employers are notified by mail each year before their plan due date and provided with all necessary plan forms.*

*Employers of 10 - 49 employees are required to attend a City-sponsored workshop and submit a worksite Transportation Plan (WTP) to the City each year. The WTP outlines how the employer will provide all employees with ridesharing information.*

*Employers of 50 employees or more are required to designate a certified Employee Transportation Coordinator (ETC) and submit an annual Emission Reduction Plan which implements one of the following options:*

- *Employee Trip Reduction Plan. Employers must survey their employees to establish commute patterns.... employers choose the incentives and marketing strategies that will encourage their employees to rideshare to and from work rather than drive alone. Employers must submit a plan that they believe will result in an AVR of 1.5 employees per vehicle.*
- *MSERC (Mobile Source Emission Reduction Credits) – Employers may purchase... credits from a certified Broker in lieu of a commute reduction plan.*

Figure 6 illustrates the effect of parking cash-out at seven different employers located in and around Los Angeles. It should be noted most of the case study employers are located in areas that do not have good access to transit service, so that a large part of the reduced parking demand and driving to work that occurred with these parking cash out programs resulted when former solo drivers began carpooling.

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<sup>12</sup> <http://www.arb.ca.gov/planning/tsaq/cashout/cashout.htm>

<sup>13</sup> <http://www01.smgov.net/planning/transportation/tmofirmsandinformation.html>

**Figure 6 Effects of Parking Cash-Out on Parking Demand**



*Effects of parking cash-out on parking demand. Source: Derived from Donald Shoup, "Evaluating the Effects of Parking Cash-Out: Eight Case Studies," 1997. Based on the cost in 2005 dollars.*

### **Implementation Requirements**

Adopt a local ordinance requiring all employers with 10 or more employees to offer parking cash-out. As an enforcement mechanism, the ordinance should include a provision requiring that employers demonstrate upon renewal of their business license that they offer employees who use alternative modes of transportation cash in lieu of free or subsidized parking at the workplace.

It is also likely that better transit service to the District would be required to make this policy viable. While the western edge of the district can reasonably be accessed by transit from other parts of the city, transit service is more limited in the central and eastern sections of the district.

## **6. Assess a Multimodal Transportation Impact Fee**

*Purpose/Goal: Allow cities to use development fee revenues to fund transportation demand management programs and other services and capital improvements that can improve access while reducing vehicle demand.*

Instead of requiring off-street parking (or fees in-lieu), or in many cases in addition to off-street parking requirements, cities are imposing transportation impact fees to fund:

- Transit service
- Streetscape improvements
- Transportation Demand Management programs
- On-street and off-site off-street parking
- Indoor and outdoor bicycle parking and bicycle facilities such as showers and lockers

While many cities assess fees based on analysis of impacts to local auto level of service (LOS) measures, several California cities including San Francisco and Emeryville are developing impact fees based on the number of daily vehicle trips generated (VTG) by each land use. These VTG fees will more accurately reflect the environmental and multimodal transportation impacts of development, and promise to provide an incentive for property-owners and developers to reduce parking and implement site-specific transportation demand management programs.

## Case Studies

### Montana

In 2005, the Montana Legislature passed SB 185, allowing jurisdictions to enact impact fees designated for capital improvements including transportation, where the improvements have a “useful life of 10 years or more.”<sup>14</sup> The fee can be imposed on a local district or citywide and can be used to “recoup costs of excess capacity in existing capital facilities.” A two-thirds vote of the governing body is required to allow fee revenue to be used for facilities other than those defined in the legislation.

Several jurisdictions in Montana have since studied impact fees for transportation; in 2008 Missoula amended its existing fee ordinance to include a transportation impact fee.<sup>15</sup> summarizes strategies for funding transportation and parking improvements in several Montana cities.

**Figure 7 Transportation / Parking Funding Mechanisms in Montana Cities**

City	Strategies
Bozeman	Utilized Tax Increment Financing to fund a downtown parking garage.  Transportation impact fees (since 1996) are used for street capital improvements. Reduces impact fees for developments meeting the following characteristics (Trip Exchange District or TED). (1) Shared and consolidated parking; (2) A high degree of pedestrian and bicycle access (3) Public Transit availability (4) Extensive trip capture where a person will make one vehicle trip to the TED and then visit multiple businesses via a mode other than automobile thereby reducing the overall vehicle miles of capacity being consumed.
Great Falls	Allows businesses to convert meter parking adjacent to their storefront to courtesy parking in exchange for a fee.
Missoula	Increased parking fines. Enacted a Transportation Impact Fee in 2008, used for various improvements not including parking.

### *Portland, ME*

Portland, Maine, which has similar state restrictions on the use of impact fees, is researching legal issues related to a recommended “parking impact fee.” It is considering both the alternative use of in-lieu fees for a “sustainable transportation fund” and alternatives to minimum parking requirements. The fund would be used to “mitigate the need for parking through alternative transportation, or augment the amount of shared parking available by constructing new parking facilities in key locations.” The types of improvements proposed include:<sup>16</sup>

- (1) *Alternative transportation travel ways, including sidewalks, multi-use trails, public transit related street improvements, bicycle lanes and street markings, street signalization promoting alternative transportation;*
- (2) *Public Transit Capital expenses, including but not limited to bus shelters, bus stops, public transit signage, Transit vehicles, transportation information stations and kiosks, and lighting;*
- (3) *Bicycle parking and comfort stations; and,*
- (4) *Public parking*

<sup>14</sup> <http://data.opi.state.mt.us/bills/2005/BillHtml/SB0185.htm>; [http://data.opi.mt.gov/bills/mca\\_toc/7\\_6\\_16.htm](http://data.opi.mt.gov/bills/mca_toc/7_6_16.htm)

<sup>15</sup> <http://www.ci.missoula.mt.us/index.aspx?nid=141>

<sup>16</sup> <http://www.ci.portland.me.us/transportation/feeinlieuofparking.pdf>

## Implementation requirements

Montana law authorizes the use of transportation impact fees for long-term capital improvements and subjects fee ordinances enacted following passage of SB 185 to a number of requirements discussed previously. Section 23-1106 (Schedule of Fees) and Appendix P (Fee Schedule) of the Billings City Code could be amended to impose a transportation impact fee.

## Discussion

It would be sound public policy to use both capital improvements and services to address the goals of maintaining and improving access to and within the EBURD, and ensure the availability of parking within the district. The experience of Boulder and Missoula, suggests that funding programs and services may achieve the desired results more cost-effectively than physical improvements alone. Given the restrictions of SB 185, it appears that an alternate revenue source would need to be used to fund services or programs that manage transportation demand. For example, both Boulder and Missoula use parking meter revenues as a funding source for such programs. Alternatively, the City of Billings could work with other jurisdictions in the state to amend state law to explicitly permit expenditure of impact fee revenue on programs and services so long as there is a reasonable nexus between the impact and the use of revenues.

Note: Whether minimum off-street parking requirements are maintained or eliminated within the EBURD, the City of Billings can and should consider implementation of a multimodal transportation impact fee to fund streetscape, access and demand management improvements (These fees will be a key tool for funding necessary street and sidewalk improvements throughout the District in the near term, when on-street parking meter and permit revenues may be limited).

## **(Option) Other mechanisms for funding TDM and alternative transportation within the District**

Two cities in the Mountain West that have used parking revenues to fund Transportation Demand Management (TDM) programs include Boulder and Missoula.

### *Case Study: Boulder, CO*

Boulder uses parking meter revenues to fund a range of demand reduction alternatives, including free transit passes for downtown employees. All downtown parking meter revenue – more than \$1 million per year – is returned to the Downtown's business improvement district. Among other things, the revenue is used to fund more than \$325,000 per year worth of transportation demand management programs, including:

- Fully subsidized transit passes (Eco-Pass program) on the Regional Transportation District's light rail and buses for more than 8,300 employees, employed by 1,200 different businesses in downtown. The district pays a flat fee for each employee who is enrolled in the program, regardless of whether the employee actually rides transit. The program has led to double digit increases in transit mode share, helps increase the peak parking supply available for customers, and helps downtown businesses attract and retain employees; it is less expensive to provide employees with transit passes than with parking.
- A Guaranteed Ride Home program
- Ride-matching services
- Bicycle parking

### *Case Study: Missoula, MT*

Missoula also uses parking meter revenues to fund TDM programs. In FY 2007, \$32,500 of municipal parking revenue was used to fund programs such as EZ Pass, an annual bus pass that provides employees of all participating businesses with unlimited use of Mountain Line buses and access to the Guaranteed Ride Home program.

## Next Steps

This memo provides information on best practices in parking management in similar districts throughout the United States and recommends a series of specific parking and transportation demand management tools and regulations for the proposed Parking Overlay District. Recommended strategies are those that can best meet the immediate and long-term needs of the EBURD and adjacent neighborhoods.

After receiving feedback on these concepts and recommendations from the City of Billings, and public stakeholders in January 2010 (Task 4), Nelson\Nygaard will draft zoning text and map amendments necessary to implement the City's preferred approach to parking management and regulation (Task 5).

# Appendix A

## Relationship between EBURD Master Plan Guiding Principles and Parking Policies

The table below illustrates how the recommended parking policies relate to the EBURD master plan guiding principles.

EBURD Master Plan Guiding Principles	Selected Parking Management and Regulation Tools					Explanation and Relationship to Principles
	Eliminate minimum parking requirements	Adopt a 15% vacancy goal for on-street parking	Manage on-street parking to achieve occupancy goal (meters and/or permits)	Establish a Parking Benefit District (spend parking revenue on programs within the District including TDM)	Assess a multimodal transportation impact fee	
<b>1. Economic Growth:</b> Foster economic growth in the District & surrounding region.	✓	✓	✓	✓	✓	Eliminating requirements to build expensive parking facilities and ensuring availability of on-street parking facilitates economic development. The costs of providing excess parking (up to \$10,000 to \$20,000 per space) are passed on to consumers in the form of higher prices.
<b>2. Centers:</b> Foster distinct mixed use, industrial, and hospitality centers with a strong sense of place and character.	✓			✓		Eliminating off-street parking requirements encourages shared parking and reduces surface space used, allowing property owners to cluster uses and establishing a stronger sense of place and character.
<b>3. Affordable Housing:</b> Create affordable housing opportunities and choices for the Billings workforce, seniors, families, and students.	✓					Eliminating requirements for excess parking promotes housing affordability. Parking can add \$10,000-\$20,000 to the cost of each housing unit.
<b>4. Industrial Uses:</b> Ensure existing industrial uses can continue to operate as desired.			✓			Existing industrial users could continue to use existing off-street parking and be grandfathered in to on-street permitting and pricing systems at reduced rates.
<b>5. Trees &amp; Open Space:</b> Improve the natural beauty of the District [with] trees and environmental features.	✓			✓	✓	Not requiring excess parking frees up more land for trees, open space, parkland and environmental features within the district.

Selected Parking Management and Regulation Tools						
EBURD Master Plan Guiding Principles	Eliminate minimum parking requirements	Adopt a 15% vacancy goal for on-street parking	Manage on-street parking to achieve occupancy goal (meters and/or permits)	Establish a Parking Benefit District (spend parking revenue on programs within the District including TDM)	Assess a multimodal transportation impact fee	Explanation and Relationship to Principles
<b>6. River Connections:</b> Extend non-motorized connections from the Billings Core to MetraPark, the Yellowstone River, and the Heights.			✓	✓	✓	A benefit district can dedicate revenues (from meters, permits, and/or impact fees) to expansion of non-motorized transportation infrastructure within the District and connections to these and other key destinations.
<b>7. Edges:</b> Integrate the edges of the District with the North Park Neighborhood, the Downtown Core, the Medical Corridor, and the University.	✓			✓		Currently, there are no minimum off-street parking requirements in the CBD. As the East Billings District is integrated with downtown it makes sense to manage these areas under the same policy.
<b>8. Transportation:</b> Provide a variety of transportation connections and choices throughout the District and surrounding areas.	✓			✓	✓	Eliminating minimum off-street parking requirements effectively removes a requirement to subsidize one mode of access over others, thereby expanding transportation choices and connections.
<b>9. Infrastructure:</b> Complete the sewer and stormwater infrastructure and encourage methods for treating stormwater on site.	✓			✓	✓	
<b>10. Environmental Risks:</b> Understand and reduce historic environmental risks, while encouraging future high environmental quality...	✓					By removing requirements for excess parking, elimination of minimum off-street parking requirements frees up private and public resources for use on other healthier and more environmentally sustainable transportation alternatives.
<b>11. Environmental Consciousness:</b> Encourage environmental consciousness, green development, clean technology, and healthy living	✓					

Selected Parking Management and Regulation Tools						
EBURD Master Plan Guiding Principles	Eliminate minimum parking requirements	Adopt a 15% vacancy goal for on-street parking	Manage on-street parking to achieve occupancy goal (meters and/or permits)	Establish a Parking Benefit District (spend parking revenue on programs within the District including TDM)	Assess a multimodal transportation impact fee	Explanation and Relationship to Principles
12. <b>Collaboration:</b> Encourage community and stakeholder collaboration.	✓			✓		Encouraging shared parking in a “park once” neighborhood will necessitate community collaboration and partnerships.
13. <b>Predictable Choice:</b> Make development decisions predictable, fair, and cost effective.	✓				✓	Eliminating minimum parking requirements removes a significant cost barrier to development and allows decisions about the amount of off-site parking to be based on market demand (enhancing fairness and predictability of the development process).

**GRAFIX**  
504-A2 N. 20 Street  
Billings, MT 59101 U.S.A.



January 20, 2010

Nicole Cromwell  
P&CS Department Cityof Billings  
510 N. Broadway  
Billings, MT 59101

RE: City Zone Change #857 [Proj. 10-08]  
EBURD- Parking Overlay District

Nicole,

Thanks for being there and saving us both, phone tag fatigue. I called the City and they do not know when, but the III Steps Property has been incorporated into the City of Billings. 233

Please consider including My property on Block 5, Lots 4 through 10 and the Vacant 20 Foot Adjacent Alley of North Park Subdivision, Section 33 of Township 01 North, Range 26 East, into City Zone Change # 857. It is .68 of the neatest acres in this part of Billings.

Thank you, Rich Clawson    Grafix Studio    III Steps





February 17, 2010

Leonard Dailey Jr.  
Zoning Commission Chair  
Planning & Community Services  
510 N Broadway  
Parmly Library, 4<sup>th</sup> Floor  
Billings, MT 59101

Re: Support for parking management and regulation in the EBURD with restrictions.

The Nelson/Nygaard report dated January 11, 2010 is very thorough and in our opinion covers 75% of the concerns of our 212 property owners located in the EBURD.

I will address our recommendations in the same order as the Nelson/Nygaard report. *Blue italic prints are our additions and changes.*

The BIRD supports and recommends adoption of the following parking tools and strategy in the EBURD:

1. Eliminate minimum parking requirements throughout the proposed parking overlay district.
2. Adopt a goal of maintaining at least a 15% vacancy on on-street parking throughout the district with annual or *requested* monitor.
  - a) Manage on-street parking with *fee assessments*. *The BIRD would like to strike reference from the word parking meters, as parking meters are outdated, expensive to install, maintain and collect the money. There are considerable other alternatives that would be more progressive for the EBURD district and then could be used in other parts of the city with a higher degree of consumer acceptance. The BIRD under separate cover will provide some of those options.*
  - b) Manage on-street parking with commercial and/or residential parking permits.
  - c) *Off-site parking*. *A provision that would provide that a developer and land owner could purchase additional land within 5 city blocks of the subject property for parking for*

*employees. This additional parking would count towards the number of on-site parking places. Both pieces of real property would have covenants to tie them together so that they could not be separated through sale.*

- d) **City purchase of land.** *The city needs land in EBURD for two purposes; one is for parking surface to begin with which could eventually be the site of a parking garage and second, as catch basins for storm water that needs to settle out before the water goes to the river to meet the new EPA requirements.*
2. Return parking permit revenues to the district by establishing a parking benefit district.
    - a) Create a commercial parking benefit district.
    - b) Establish a residential parking benefit district.
  3. Adopt an ordinance requiring unbundled parking costs.
  4. Employers *at their option* to cash out parking of employees.  
*The BIRD is opposed to any mandate on businesses by city government that interferes between the relationship between business and their employees.*

At the present time, the BIRD cannot support the assessment of multimodal transportation impact fees or other mechanisms for funding Traffic Demand Management for alternative transportation within the district. The BIRD board sees this recommendation as overreaching. The board supports the items listed above which will have a major beneficial impact on the area and be a test model for the rest of the city without imposing too many restrictions on developers or land owners.

The board requests the chance to review a copy of the finalized proposed ordinance before it goes to city council. This will allow an open discussion of any areas of concern as we want to support better regulatory tools that will enhance the development within the district.

Thank you for the opportunity to submit our input. We will be happy to meet with your commission if you desire for a more detailed discussion.

Cordially yours,

Martin R Connell, President

Cc: BIRD Board  
Candi Beaudry, Planning Director  
BESEDA

**Draft Ordinance and Map Amendment Zone Change #857  
East Billings Parking Overlay District**

**ORDINANCE NO. 10- \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A NEW SECTION 27-1460 – EAST BILLINGS PARKING OVERLAY DISTRICT ADOPT THE ADDITION AS AN AMENDMENT TO THE ZONING 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.** *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations and map hereinafter described. 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 proposed amendments to the City Zoning Regulations.*

**Section 2. DESCRIPTION.** The East Billings Parking Overlay District shall include all of the property in the city limits within the following described district:

**Starting at the intersection of Montana Avenue and North 22nd Street, extending north down the centerline of North 22nd to the intersection of 3<sup>rd</sup> Avenue North, extending westerly down the centerline of 3<sup>rd</sup> Avenue North to the intersection of North 23<sup>rd</sup> Street, then northerly along the centerline of North 23<sup>rd</sup> Street to the intersection of 4<sup>th</sup> Avenue North, then westerly along the centerline of 4<sup>th</sup> Avenue North to the intersection of North 25<sup>th</sup> Street, then northerly along the centerline of North 25<sup>th</sup> Street to the intersection of 6<sup>th</sup> Avenue North, then easterly along the centerline of 6<sup>th</sup> Avenue North to the intersection of North 22<sup>nd</sup> Street, then northerly along the centerline of to the intersection of 8<sup>th</sup> Avenue North, extending east down the centerline of 8th Avenue North to the intersection of 8<sup>th</sup> Avenue North and North 19<sup>th</sup> Street, extending south down the centerline of North 19<sup>th</sup> Street to the intersection of North 19<sup>th</sup> Street and 7<sup>th</sup> Avenue North, extending east along the centerline of 7<sup>th</sup> Avenue North to the intersection of North 18<sup>th</sup> Street and 7<sup>th</sup> Avenue North, extending south down the centerline of North 18<sup>th</sup> Street to be**

perpendicular with the northern most edge of property line of LT 23 & 24 BLK 274 BILLINGS 1<sup>ST</sup> ADD, extending east along the Northern edge of LT 23 & 24 BLK 274 BILLINGS 1<sup>ST</sup> ADD, and hence eastward including in their entirety the southern most properties most directly adjacent to 6th Avenue North to the city boundary line including Lots 4-10 of Block 5 and the vacated 20 foot adjacent alley of North Park Subdivision, extending southerly and westerly along the city boundary lines to the northern edge of the rail road tracks, extending west along the northern edge of the railroad tracks to the centerline of North 22<sup>nd</sup> Street, extending north along the centerline of North 22<sup>nd</sup> Street to the ending point at the intersection of Montana Avenue and North 22<sup>nd</sup> Street. Excluding the non-incorporated land that envelops the Empire Steel property LTS 3 TO 23 & VAC 10FT ADJ ALLEY & E 404T ADJ N 16<sup>TH</sup> ST BLK 258 & 259.



**Section 3.** That the Billings, Montana City Code be amended by adding a new Section 27-1460 to read as follows:

**SEC. 27-1460.** EAST BILLINGS PARKING OVERLAY DISTRICT.

**Sec. 27-1461.** Purpose.

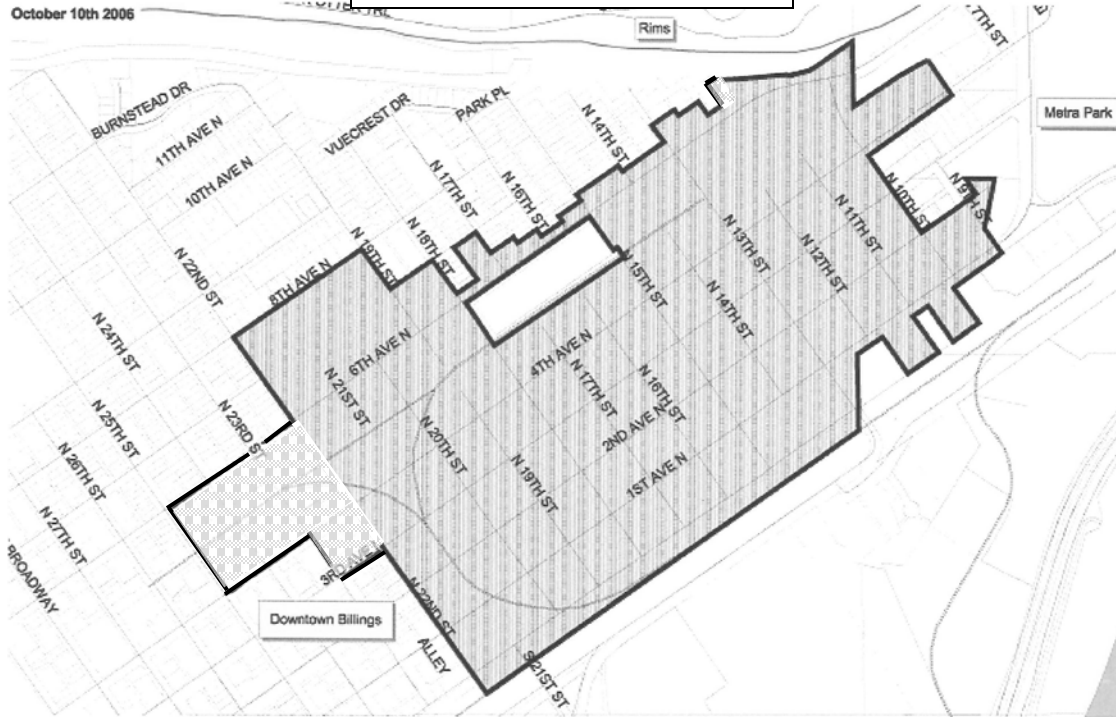
The purposed of the East Billings Parking Overlay District is to provide alternative off-street parking standards to encourage the development and re-development of property. The overlay zoning does not alter the category of permitted uses in the underlying zoning.

**Sec. 27-1462.** District boundaries.

The boundaries of the East Billings Parking Overlay District shall be as follows:

Starting at the intersection of Montana Avenue and North 22nd Street, extending north down the centerline of North 22nd to the intersection of 3<sup>rd</sup> Avenue North, extending westerly down the centerline of 3<sup>rd</sup> Avenue North to the intersection of North 23<sup>rd</sup> Street, then northerly along the centerline of North 23<sup>rd</sup> Street to the intersection of 4<sup>th</sup> Avenue North, then westerly along the centerline of 4<sup>th</sup> Avenue North to the intersection of North 25<sup>th</sup> Street, then northerly along the centerline of North 25<sup>th</sup> Street to the intersection of 6<sup>th</sup> Avenue North, then easterly along the centerline of 6<sup>th</sup> Avenue North to the intersection of North 22<sup>nd</sup> Street, then northerly along the centerline of to the intersection of 8<sup>th</sup> Avenue North, extending east down the centerline of 8th Avenue North to the intersection of 8<sup>th</sup> Avenue North and North 19th Street, extending south down the centerline of North 19<sup>th</sup> Street to the intersection of North 19<sup>th</sup> Street and 7<sup>th</sup> Avenue North, extending east along the centerline of 7<sup>th</sup> Avenue North to the intersection of North 18<sup>th</sup> Street and 7<sup>th</sup> Avenue North, extending south down the centerline of North 18<sup>th</sup> Street to be perpendicular with the northern most edge of property line of LT 23 & 24 BLK 274 BILLINGS 1<sup>ST</sup> ADD, extending east along the Northern edge of LT 23 & 24 BLK 274 BILLINGS 1<sup>ST</sup> ADD, and hence eastward including in their entirety the southern most properties most directly adjacent to 6th Avenue North to the city boundary line including Lots 4-10 of Block 5 and the vacated 20 foot adjacent alley of North Park Subdivision, extending southerly and westerly along the city boundary lines to the northern edge of the rail road tracks, extending west along the northern edge of the railroad tracks to the centerline of North 22<sup>nd</sup> Street, extending north along the centerline of North 22<sup>nd</sup> Street to the ending point at the intersection of Montana Avenue and North 22nd Street. Excluding the non-incorporated land that envelops the Empire Steel property LTS 3 TO 23 & VAC 10FT ADJ ALLEY & E 404T ADJ N 16<sup>TH</sup> ST BLK 258 & 259.

Official Map – East Billings  
Parking Overlay District



**Sec. 27-1463. Application of Regulations.**

Within this district, the regulations found within BMCC 24-480 and 24-490 as amended shall apply to all property within the East Billings Parking Overlay District. These regulations include but are not limited to the following:

- (a) No minimum off-street parking spaces are required at the time of development, re-development, expansion, change of use or addition to public, commercial, industrial or residential property.
- (b) Where off-street parking spaces are developed, the design of such spaces and parking lots shall meet the standards set forth in BMCC 6-1203(o) through 6-1203(u) and other design standards for off-street parking that are adopted policies of the City Engineer.
- (c) These regulations in no way diminish or reduce a property owner's liability or obligation to provide accessibility in compliance with the federal Americans with Disabilities Act (ADA) standards.

**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, March 22, 2010.

PASSED, ADOPTED AND APPROVED on second reading, April 12<sup>th</sup>, 2010.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY:  
Cari Martin, City Clerk

(ZC #857 – Text and Map Amendment – East Billings Parking Overlay District – add new Section 27-1460)

ORDINANCE NO. 10-\_\_\_\_\_

AN ORDINANCE AMENDING THE BILLINGS CITY  
CODE BY AMENDING SECTION 6-1203 TO  
PROVIDE EXEMPTION OF OFF-STREET PARKING  
MINIMUM STANDARDS WITHIN THE EAST  
BILLINGS PARKING OVERLAY DISTRICT

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

**Section 1.** Amend Sec 6-1203 of the Billings Municipal Code, as follows:

Section 6-1203 (g) Central Business District. The table of minimum standards contained in subsection (j) of this section do not apply to that portion of the city zoned central business district or to the East Billings Parking Overlay District as defined in Section 27-1460, except as specifically provided in this section.

**Section 2.** Effective Date. This ordinance shall be effective May 12, 2010.

**Section 3.** Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 22<sup>nd</sup> day of March, 2010.

PASSED, ADOPTED and APPROVED on second reading this 12th day of April, 2010.

CITY OF BILLINGS

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

Thomas W. Hanel, Mayor

ATTEST:

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

Cari Martin, City Clerk

ORDINANCE NO. 10-\_\_\_\_\_

AN ORDINANCE AMENDING THE BILLINGS CITY CODE BY AMENDING 24-400 - DIVISION 4 - PARKING METERS AND ZONES BY REVISING SECTIONS 24-451, 24-452, 24-454, 24-456, 24-462 AND BY ADDING NEW SECTIONS 24-480- USE OF REVENUE FROM PARKING PERMIT SALES WITHIN PARKING PERMIT DISTRICTS and 24-490, 24-491, and 24-492 – EAST BILLINGS PARKING OVERLAY DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY BILLINGS THAT:

**Section 1.** That sections 24-451, 24-452, 24-454, 24-456, and 24-462 of the Billings Montana City Code are amended so that such sections shall read as follows:

**Sec. 24-451. Definitions.**

Whenever in this division the following terms are used, they shall have the meanings respectively ascribed to them in this section:

*City administrator* means the city administrator or his designee.

*City lot* means any city owned or regulated off-street parking lot which is controlled with parking meters or with monthly or hourly parking fees.

*City parking space* means a metered or non-metered place for the parking of a vehicle in any city lot, parking meter zone, parking garage or on the city streets, public property or public right-of-way.

*Parking garage* means any parking structure owned by the city and operated wholly or in part for the benefit of the public.

*Parking meter zones* means city lots, parking permit districts, and portions of streets described and established by the city as zones within which the parking of vehicles shall be controlled, regulated and inspected with the aid of timing devices or meters, herein referred to as parking meters or meters.

*Parking permit district* means an area designated by ordinance to regulate the parking of vehicles in city parking spaces through issuance of permits to occupy such spaces within the district.

*Roadway* means portions of a street between the regularly established curb lines.

*Sidewalk* means portions of a street between the curb lines and the adjacent property lines.

*Street* means every way set apart for public travel except alleyways, bridle paths and footpaths.

*Vehicle* means a conveyance propelled by motor power.

**Sec. 24-452. Establishment.**

(a) Parking meters shall be established upon such streets and avenues and in such parking lots as the city council from time to time shall designate and pursuant to such designation the city administrator shall install parking meters. The city council may

designate parking lots by entering into agreements with the owner of the lots or by resolution.

(b) Parking permit districts may be established by ordinance. The establishment of a parking permit district may include restrictions for parking on specific days or weeks during the year. The City Council must make the following findings prior to establishment of the zone:

(1) Seventy-five percent (75%) or more of the capacity available for on-street parking and public off-street parking on six contiguous blocks (and/or 12 block faces) in such proposed district is generally occupied at the hour and day of peak observed demand;

(2) Over thirty-five percent (35%) of the vehicles parked on-street and in public off-street parking facilities in the area at the hour and day of peak observed demand are not owned by property owners, commercial lessees or residents of the designated area;

(3) That limiting the parking of vehicles along the public streets will provide ample motor vehicle parking for property owners, commercial lessees or residents of the area; and

(4) Creation of a parking permit area will promote tranquility between commuters and residents, increase pedestrian safety and reduce traffic hazards.

(c) An ordinance designating an area of the city as a permit parking district shall describe the following;

(1) The designated on-street parking and off-street public parking area where parking will be limited to permit holders;

(2) Hours of each day and days of each week the parking permit regulations shall be in effect;

(3) The individuals eligible to purchase a permit;

(4) Effective dates of annual permits;

(5) Any special provisions or exceptions applicable to schools, churches, businesses, commercial lessees, public park use, etc. within the district; and

(6) Visitor permits or special gathering provisions for the area.

(d) Peak-hour parking occupancy within a proposed parking permit district shall be determined by a parking occupancy survey of all public on-street and off-street parking facilities within the proposed district and shall be conducted by the City prior to establishment of the District and after that, on an as needed basis as determined by the City Administrator. These parking occupancy surveys shall be conducted during at least three days within a fourteen day period, including the days and times that the parking problem is alleged to exist.

(e) Within each parking permit district, the City administrator shall set the supply, rates and rules for distribution of permits, and the time limits or other restrictions applicable to non-permit holders as deemed necessary to achieve a target occupancy of eighty-five percent (85%) for on-street parking and ninety-percent (90%) for public off-street parking facilities, at the hour and day of the week of peak observed demand for parking in the District.

(f) The City administrator may expand or reduce boundaries of an existing parking permit district by two (2) contiguous blocks or less, and/or adjust the supply, rates and rules for distribution of permits, and the time limits or other restrictions applicable to

non-permit holders, as deemed necessary to achieve a target occupancy of eighty-five percent (85%) for on-street parking and ninety-percent (90%) for public off-street parking facilities at the hour and day of the week of peak observed demand for parking in the district.

(g) The City Council may dissolve a parking permit district when it determines that dissolution best serves the public interest or meets at least one of the following criteria, including but not limited to:

1. Low permit sales in a district;
2. A small number of blocks with parking permit district signs; or
3. The absence of the original traffic generator.

If approved by the City Council, the district would be dissolved at the beginning of a new permit cycle.

#### **Sec. 24-454. Space designations.**

(a) The city administrator shall place lines or marks on the curb or on the street to designate the parking space to be used, and each shall park within the lines or markings so established. It is unlawful to park any vehicle across any such line or mark or to park such vehicle in such a way that the same is not within the area so designated by such lines or markings.

(b) Signs shall be erected along the streets, city parking spaces, and in any off-street public parking area within the parking permit district prior to any enforcement of the parking permit regulation. The parking signs erected shall give notice of the general nature of the parking limitation and shall indicate the hours and days when such parking limitations shall be in effect.

#### **Sec. 24-456. Violations--Designated.**

(a) It is unlawful and a violation of the provisions of this division for any person to:

- (1) Leave a vehicle parked at an expired meter between the times of 8:00 a.m. and 5:00 p.m., weekdays;
- (2) Deposit or cause to be deposited in a parking meter a coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal maximum parking time which has been established for the parking space;
- (3) Park or cause to be parked in any parking meter zone or parking garage a vehicle which does not display a valid and current license plate as required by state law;
- (4) Park or cause to be parked in any parking garage a vehicle which does not have a valid permit paid for within the first ten (10) days of the month. Said valid permit designates rental of the use of a space for parking for one month. Payment of parking fees upon exit from the parking garage shall also constitute a valid permit.

(b) Each meter shall show on its face the maximum parking time allowed per each deposit of coins. When any person violates any of the terms of this division, and such violation continues longer than the maximum time as shown on the face of the meter, then such period of time constitutes a separate violation.

(5) Park or cause to be parked a vehicle on any street, city parking space, or off-street public parking area designated a permit only parking area during the hours and on the

days set forth in an ordinance adopted by the City Council except in the following circumstances:

- (1) Those vehicles displaying a valid parking permit or a temporary visitor's permit for the area; or
- (2) An emergency vehicle including but not limited to an ambulance, fire engine or police vehicle; or
- (3) A clearly marked business vehicle which is under the control of a person providing a service to persons or property located in the designated permit only parking area including but not limited to a delivery vehicle.

**Sec. 24-461. Reserved.**

**Sec. 24-462. Parking in city lots.**

There is established a parking meter zone for all city controlled and established metered parking lots subject to the following conditions:

- (1) This division shall be applicable to parking meters and parking upon the established city parking lots; provided, however, that parking meters upon the parking lots shall be in operation and subject to the payment of fees for parking privileges during the full twenty-four (24) hours of each and every day.
- (2) Except as herein otherwise provided, all provisions of this division now in effect shall apply to the parking of automobiles or other motor vehicles upon city controlled and operated parking lots.
- (3) City-controlled parking lots within a permit parking district shall be subject to the issuance of permits as set forth in the ordinance adopting such district.

**Section 2. That the Billings, Montana City Code is amended to add a new section to be numbered 24-480, which shall read as follows:**

**Sec. 24-480 –USE OF REVENUE FROM PARKING PERMIT SALES WITHIN PARKING PERMIT DISTRICTS:**

A. Revenues generated from the sale of permits for on-street and public off-street parking within any parking permit district established by the City Council shall be accounted for separately from other City funds and may be used only for the following purposes within or for the benefit of the district wherein the revenues were collected:

1. All expenses of administration of the parking permit program.
2. All expenses of installation, operation and control of parking equipment and facilities within or designed to serve the parking permit district.
3. All expenses for the control of traffic (including pedestrian, bicyclist and motor vehicle safety, comfort and convenience), which may affect or be affected by the parking of vehicles in the district, including the enforcement of traffic regulations as to such traffic.
4. All expenses for alternative transportation and transportation demand management programs and services that help reduce parking demand and alleviate traffic congestion within the district.

5. All expenses for streetscape enhancements including the installation of curbs and gutters, provision of lighting, benches, and other improvements that enhance the comfort and convenience of pedestrians.

6. Such other expenditures within or for the benefit of the District as the City Council may, by resolution, determine to be legal and appropriate.

**Section 3. That the Billings, Montana City Code is amended to add a new Division 6 in Article 24-400 to read as follows:**

**Sec. 24-490. EAST BILLINGS PARKING OVERLAY DISTRICT**

The East Billings Parking Overlay District provides alternative off-street parking standards as set out in Chapter 27 to encourage the development and re-development of property. Parking management within the District may be established as set out in this Division.

**24-491. Parking management**

To manage the use and occupancy of city parking spaces for the public benefit in all areas within the East Billings Parking Overlay District, the following standards, policies and criteria shall apply.

(a) To accomplish the goal of managing the supply of parking and to make it reasonably available when and where needed, target occupancy rates of eighty-five percent (85%) for on-street parking and ninety percent (90%) for public off-street parking are hereby established.

(b) The City may survey the occupancy of all on-street and public off-street parking areas in the East Billings Parking Overlay District on an as needed basis. These parking occupancy surveys shall be conducted during at least three days within a fourteen-day period.

(c) Peak parking occupancy for each block face and each off-street parking facility shall be defined as the day and hour of the survey with the highest observed occupancy during the days and times surveyed.

(d) If the surveys indicate such measures are necessary to achieve the target occupancy rates established in Section 24-490(a), the City administrator may take the following actions:

(1) Propose the establishment of a new parking permit district or annexation of the area to an existing parking permit district pursuant to Sec. 24-452;

(2) Establish a means of charging for use on an hourly basis for all public on-street parking spaces and off-street parking facilities;

(3) Install signs indicating on-street parking spaces are time limited;

(4) Or any combination of the above actions.

(e) The base parking rate within a permit parking district, in a public off-street parking facility, or for on-street parking spaces, and any adjustments to that rate shall become effective upon the adoption of such rates by the City administrator as set forth in 24-452. A current schedule of parking rates shall be available at the City Clerk's office.

(f) Based on survey results for each area with on-street regulated parking or for public off-street parking facilities for which an hourly or daily use fee is charged, the City administrator may adjust the rates up or down in twenty-five cent (\$0.25) intervals to

seek to achieve the on and off-street target occupancy rates established in Section 24-490(a).

**Sec. 24-492. Use of parking revenue.**

Revenues generated from on-street and public off-street parking within the East Billings Parking Overlay District Boundaries shall be accounted for separately from other City funds and may be used only for the following purposes within or for the benefit of the District:

(a) All expenses of administration of the parking program.

(b) All expenses of installation, operation and control of parking equipment and facilities within or designed to serve city parking spaces within the East Billings Parking Overlay District.

(c) All expenses for the control of traffic (including pedestrian, bicyclist, and motor vehicle safety, comfort and convenience), which may affect or be affected by the parking of vehicles in the East Billings Parking Overlay District, including the enforcement of traffic regulations as to such traffic.

(d) All expenses for alternative transportation and transportation demand management programs and services that help reduce parking demand and alleviate traffic congestion within the District.

(e) All expenses for streetscape enhancements including the installation of curbs and gutters, lighting, benches, and other improvements that enhance the comfort and convenience of pedestrians.

(f) Such other expenditures within or for the benefit of the Billings Parking Overlay District as the City Council may, by resolution, determine to be legal and appropriate.

**Section 4.** Effective Date. This ordinance shall be effective May 12, 2010.

**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.

PASSED by the City Council on first reading this 22<sup>nd</sup> day of March, 2010.

PASSED, ADOPTED and APPROVED on second reading this 12th day of April, 2010.

CITY OF BILLINGS

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

Thomas W. Hanel, Mayor

ATTEST:

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

Cari Martin, City Clerk

Date: 03/22/2010

TITLE: Amendment to Site Development 6-1203 - EBURD Parking Overlay District - Public Hearing & 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

**PROBLEM/ISSUE STATEMENT**

This is a companion code amendment to accomplish the parking management goals for the East Billings Urban Renewal District (EBURD). These goals and strategies have been prepared and recommended by Nelson/Nygaard Associates, the consultant firm working with the City on this project. The Zoning Commission has conducted a public hearing on the proposed parking overlay district and zoning code amendments. The Zoning Commission also received a draft of this companion code amendment. The City Council is expected to conduct a public hearing for this amendment at the same meeting that the zoning code amendments are considered by the Council.

**ALTERNATIVES ANALYZED**

The consultant and Steering Committee reviewed the options available to better manage parking within the EBURD district. The current parking code is a disincentive to reinvestment in the district. This amendment is considered a key element of the three proposed code amendments that will achieve several goals of the EBURD Master Plan approved by the City Council in July 2009. Those goals are as follows:

1. Foster economic growth in the District & surrounding region.
2. Foster distinct mixed use, industrial, and hospitality centers with a strong sense of place and character.
3. Ensure existing industrial uses can continue to operate as desired.
4. Integrate the edges of the District with the North Park Neighborhood, the Downtown Core, the Medical Corridor, and the University.
5. Provide a variety of transportation connections and choices throughout the District and surrounding areas.
6. Encourage environmental consciousness, green development, clean technology, and healthy living.
7. Make development decisions predictable, fair, and cost effective.

**FINANCIAL IMPACT**

There should be no financial impact to the city from adoption of this amendment to the Site Development code.

**RECOMMENDATION**

The Planning Division recommends the city conduct a public hearing and approve the amendment to Section 6-1203 and remove the off-street minimum parking space requirements from the East Billings Parking Overlay district.

**APPROVED BY CITY ADMINISTRATOR**

Attachments

Link: [Ordinance](#)

ORDINANCE NO. 10-\_\_\_\_\_

AN ORDINANCE AMENDING THE BILLINGS CITY  
CODE BY AMENDING SECTION 6-1203 TO  
PROVIDE EXEMPTION OF OFF-STREET PARKING  
MINIMUM STANDARDS WITHIN THE EAST  
BILLINGS PARKING OVERLAY DISTRICT

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

**Section 1.** Amend Sec 6-1203 of the Billings Municipal Code, as follows:

Section 6-1203 (g) Central Business District. The table of minimum standards contained in subsection (j) of this section do not apply to that portion of the city zoned central business district or to the East Billings Parking Overlay District as defined in Section 27-1460, except as specifically provided in this section.

**Section 2.** Effective Date. This ordinance shall be effective May 12, 2010.

**Section 3.** Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 22<sup>nd</sup> day of March, 2010.

PASSED, ADOPTED and APPROVED on second reading this 12th day of April, 2010.

CITY OF BILLINGS

By: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

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

Cari Martin, City Clerk

Date: 03/22/2010

TITLE: Amendment to Sec-451 and adding new Sec 24-480 and Sec 24-490 - Parking Meters and Zones Public Hearing and 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a companion code amendment to accomplish the parking management goals for the East Billings Urban Renewal District (EBURD). These goals and strategies have been prepared and recommended by Nelson/Nygaard Associates, the consultant firm working with the City on this project. The Zoning Commission has conducted a public hearing on the proposed parking overlay district and zoning code amendments. The Zoning Commission also received a draft of this companion code amendment. The City Council is expected to conduct a public hearing and take action on this amendment at the same meeting when the zoning code amendments are also considered.

ALTERNATIVES ANALYZED

The consultant and Steering Committee reviewed the options available to better manage parking within the EBURD district. The current parking code is a disincentive to reinvestment in the district. This amendment is considered a key element of the three proposed code amendments that will achieve several goals of the EBURD Master Plan approved in July 2009. Those goals are as follows:

1. Foster economic growth in the District & surrounding region.
2. Foster distinct mixed use, industrial, and hospitality centers with a strong sense of place and character.
3. Ensure existing industrial uses can continue to operate as desired.
4. Integrate the edges of the District with the North Park Neighborhood, the Downtown Core, the Medical Corridor, and the University.
5. Provide a variety of transportation connections and choices throughout the District and surrounding areas.
6. Encourage environmental consciousness, green development, clean technology, and healthy living.
7. Make development decisions predictable, fair, and cost effective.

FINANCIAL IMPACT

There will be a financial impact on the City's Parking Division if future development in the district requires implementation of a Permit Parking district or installation of parking meters and signage to manage the demand for on-street parking.

This amendment does not require the city to survey on-street parking vacancy within the district. The city may initiate an on-street parking survey on an as needed basis. The estimated inventory of on-street parking spaces is 1,950 (parrallel parking) and 6,600 off-street parking spaces. Supply of parking in the district exceeds demand at this time.

RECOMMENDATION

The Planning Division recommends the City Council approve the amendment to Section 24-451 Parking Meters and Zones and the addition of two new sections 24-480 Permit Parking Districts and 24-490 East Billings Parking Overlay District.

APPROVED BY CITY ADMINISTRATOR

**Attachments**

Link: [Draft Ordinance Amending Sec 24-400](#)

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ORDINANCE NO. 10-\_\_\_\_\_

AN ORDINANCE AMENDING THE BILLINGS CITY CODE BY AMENDING 24-400 - DIVISION 4 - PARKING METERS AND ZONES BY REVISING SECTIONS 24-451, 24-452, 24-454, 24-456, 24-462 AND BY ADDING NEW SECTIONS 24-480- USE OF REVENUE FROM PARKING PERMIT SALES WITHIN PARKING PERMIT DISTRICTS and 24-490, 24-491, and 24-492 – EAST BILLINGS PARKING OVERLAY DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY BILLINGS THAT:

**Section 1.** That sections 24-451, 24-452, 24-454, 24-456, and 24-462 of the Billings Montana City Code are amended so that such sections shall read as follows:

**Sec. 24-451. Definitions.**

Whenever in this division the following terms are used, they shall have the meanings respectively ascribed to them in this section:

*City administrator* means the city administrator or his designee.

*City lot* means any city owned or regulated off-street parking lot which is controlled with parking meters or with monthly or hourly parking fees.

*City parking space* means a metered or non-metered place for the parking of a vehicle in any city lot, parking meter zone, parking garage or on the city streets, public property or public right-of-way.

*Parking garage* means any parking structure owned by the city and operated wholly or in part for the benefit of the public.

*Parking meter zones* means city lots, parking permit districts, and portions of streets described and established by the city as zones within which the parking of vehicles shall be controlled, regulated and inspected with the aid of timing devices or meters, herein referred to as parking meters or meters.

*Parking permit district* means an area designated by ordinance to regulate the parking of vehicles in city parking spaces through issuance of permits to occupy such spaces within the district.

*Roadway* means portions of a street between the regularly established curb lines.

*Sidewalk* means portions of a street between the curb lines and the adjacent property lines.

*Street* means every way set apart for public travel except alleyways, bridle paths and footpaths.

*Vehicle* means a conveyance propelled by motor power.

**Sec. 24-452. Establishment.**

(a) Parking meters shall be established upon such streets and avenues and in such parking lots as the city council from time to time shall designate and pursuant to such designation the city administrator shall install parking meters. The city council may

designate parking lots by entering into agreements with the owner of the lots or by resolution.

(b) Parking permit districts may be established by ordinance. The establishment of a parking permit district may include restrictions for parking on specific days or weeks during the year. The City Council must make the following findings prior to establishment of the zone:

(1) Seventy-five percent (75%) or more of the capacity available for on-street parking and public off-street parking on six contiguous blocks (and/or 12 block faces) in such proposed district is generally occupied at the hour and day of peak observed demand;

(2) Over thirty-five percent (35%) of the vehicles parked on-street and in public off-street parking facilities in the area at the hour and day of peak observed demand are not owned by property owners, commercial lessees or residents of the designated area;

(3) That limiting the parking of vehicles along the public streets will provide ample motor vehicle parking for property owners, commercial lessees or residents of the area; and

(4) Creation of a parking permit area will promote tranquility between commuters and residents, increase pedestrian safety and reduce traffic hazards.

(c) An ordinance designating an area of the city as a permit parking district shall describe the following;

(1) The designated on-street parking and off-street public parking area where parking will be limited to permit holders;

(2) Hours of each day and days of each week the parking permit regulations shall be in effect;

(3) The individuals eligible to purchase a permit;

(4) Effective dates of annual permits;

(5) Any special provisions or exceptions applicable to schools, churches, businesses, commercial lessees, public park use, etc. within the district; and

(6) Visitor permits or special gathering provisions for the area.

(d) Peak-hour parking occupancy within a proposed parking permit district shall be determined by a parking occupancy survey of all public on-street and off-street parking facilities within the proposed district and shall be conducted by the City prior to establishment of the District and after that, on an as needed basis as determined by the City Administrator. These parking occupancy surveys shall be conducted during at least three days within a fourteen day period, including the days and times that the parking problem is alleged to exist.

(e) Within each parking permit district, the City administrator shall set the supply, rates and rules for distribution of permits, and the time limits or other restrictions applicable to non-permit holders as deemed necessary to achieve a target occupancy of eighty-five percent (85%) for on-street parking and ninety-percent (90%) for public off-street parking facilities, at the hour and day of the week of peak observed demand for parking in the District.

(f) The City administrator may expand or reduce boundaries of an existing parking permit district by two (2) contiguous blocks or less, and/or adjust the supply, rates and rules for distribution of permits, and the time limits or other restrictions applicable to

non-permit holders, as deemed necessary to achieve a target occupancy of eighty-five percent (85%) for on-street parking and ninety-percent (90%) for public off-street parking facilities at the hour and day of the week of peak observed demand for parking in the district.

(g) The City Council may dissolve a parking permit district when it determines that dissolution best serves the public interest or meets at least one of the following criteria, including but not limited to:

1. Low permit sales in a district;
2. A small number of blocks with parking permit district signs; or
3. The absence of the original traffic generator.

If approved by the City Council, the district would be dissolved at the beginning of a new permit cycle.

### **Sec. 24-454. Space designations.**

(a) The city administrator shall place lines or marks on the curb or on the street to designate the parking space to be used, and each shall park within the lines or markings so established. It is unlawful to park any vehicle across any such line or mark or to park such vehicle in such a way that the same is not within the area so designated by such lines or markings.

(b) Signs shall be erected along the streets, city parking spaces, and in any off-street public parking area within the parking permit district prior to any enforcement of the parking permit regulation. The parking signs erected shall give notice of the general nature of the parking limitation and shall indicate the hours and days when such parking limitations shall be in effect.

### **Sec. 24-456. Violations--Designated.**

(a) It is unlawful and a violation of the provisions of this division for any person to:

- (1) Leave a vehicle parked at an expired meter between the times of 8:00 a.m. and 5:00 p.m., weekdays;
- (2) Deposit or cause to be deposited in a parking meter a coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal maximum parking time which has been established for the parking space;
- (3) Park or cause to be parked in any parking meter zone or parking garage a vehicle which does not display a valid and current license plate as required by state law;
- (4) Park or cause to be parked in any parking garage a vehicle which does not have a valid permit paid for within the first ten (10) days of the month. Said valid permit designates rental of the use of a space for parking for one month. Payment of parking fees upon exit from the parking garage shall also constitute a valid permit.

(b) Each meter shall show on its face the maximum parking time allowed per each deposit of coins. When any person violates any of the terms of this division, and such violation continues longer than the maximum time as shown on the face of the meter, then such period of time constitutes a separate violation.

(5) Park or cause to be parked a vehicle on any street, city parking space, or off-street public parking area designated a permit only parking area during the hours and on the

days set forth in an ordinance adopted by the City Council except in the following circumstances:

- (1) Those vehicles displaying a valid parking permit or a temporary visitor's permit for the area; or
- (2) An emergency vehicle including but not limited to an ambulance, fire engine or police vehicle; or
- (3) A clearly marked business vehicle which is under the control of a person providing a service to persons or property located in the designated permit only parking area including but not limited to a delivery vehicle.

**Sec. 24-461. Reserved.**

**Sec. 24-462. Parking in city lots.**

There is established a parking meter zone for all city controlled and established metered parking lots subject to the following conditions:

- (1) This division shall be applicable to parking meters and parking upon the established city parking lots; provided, however, that parking meters upon the parking lots shall be in operation and subject to the payment of fees for parking privileges during the full twenty-four (24) hours of each and every day.
- (2) Except as herein otherwise provided, all provisions of this division now in effect shall apply to the parking of automobiles or other motor vehicles upon city controlled and operated parking lots.
- (3) City-controlled parking lots within a permit parking district shall be subject to the issuance of permits as set forth in the ordinance adopting such district.

**Section 2. That the Billings, Montana City Code is amended to add a new section to be numbered 24-480, which shall read as follows:**

**Sec. 24-480 –USE OF REVENUE FROM PARKING PERMIT SALES WITHIN PARKING PERMIT DISTRICTS:**

A. Revenues generated from the sale of permits for on-street and public off-street parking within any parking permit district established by the City Council shall be accounted for separately from other City funds and may be used only for the following purposes within or for the benefit of the district wherein the revenues were collected:

1. All expenses of administration of the parking permit program.
2. All expenses of installation, operation and control of parking equipment and facilities within or designed to serve the parking permit district.
3. All expenses for the control of traffic (including pedestrian, bicyclist and motor vehicle safety, comfort and convenience), which may affect or be affected by the parking of vehicles in the district, including the enforcement of traffic regulations as to such traffic.
4. All expenses for alternative transportation and transportation demand management programs and services that help reduce parking demand and alleviate traffic congestion within the district.

5. All expenses for streetscape enhancements including the installation of curbs and gutters, provision of lighting, benches, and other improvements that enhance the comfort and convenience of pedestrians.

6. Such other expenditures within or for the benefit of the District as the City Council may, by resolution, determine to be legal and appropriate.

**Section 3. That the Billings, Montana City Code is amended to add a new Division 6 in Article 24-400 to read as follows:**

**Sec. 24-490. EAST BILLINGS PARKING OVERLAY DISTRICT**

The East Billings Parking Overlay District provides alternative off-street parking standards as set out in Chapter 27 to encourage the development and re-development of property. Parking management within the District may be established as set out in this Division.

**24-491. Parking management**

To manage the use and occupancy of city parking spaces for the public benefit in all areas within the East Billings Parking Overlay District, the following standards, policies and criteria shall apply.

(a) To accomplish the goal of managing the supply of parking and to make it reasonably available when and where needed, target occupancy rates of eighty-five percent (85%) for on-street parking and ninety percent (90%) for public off-street parking are hereby established.

(b) The City may survey the occupancy of all on-street and public off-street parking areas in the East Billings Parking Overlay District on an as needed basis. These parking occupancy surveys shall be conducted during at least three days within a fourteen-day period.

(c) Peak parking occupancy for each block face and each off-street parking facility shall be defined as the day and hour of the survey with the highest observed occupancy during the days and times surveyed.

(d) If the surveys indicate such measures are necessary to achieve the target occupancy rates established in Section 24-490(a), the City administrator may take the following actions:

(1) Propose the establishment of a new parking permit district or annexation of the area to an existing parking permit district pursuant to Sec. 24-452;

(2) Establish a means of charging for use on an hourly basis for all public on-street parking spaces and off-street parking facilities;

(3) Install signs indicating on-street parking spaces are time limited;

(4) Or any combination of the above actions.

(e) The base parking rate within a permit parking district, in a public off-street parking facility, or for on-street parking spaces, and any adjustments to that rate shall become effective upon the adoption of such rates by the City administrator as set forth in 24-452. A current schedule of parking rates shall be available at the City Clerk's office.

(f) Based on survey results for each area with on-street regulated parking or for public off-street parking facilities for which an hourly or daily use fee is charged, the City administrator may adjust the rates up or down in twenty-five cent (\$0.25) intervals to

seek to achieve the on and off-street target occupancy rates established in Section 24-490(a).

**Sec. 24-492. Use of parking revenue.**

Revenues generated from on-street and public off-street parking within the East Billings Parking Overlay District Boundaries shall be accounted for separately from other City funds and may be used only for the following purposes within or for the benefit of the District:

(a) All expenses of administration of the parking program.

(b) All expenses of installation, operation and control of parking equipment and facilities within or designed to serve city parking spaces within the East Billings Parking Overlay District.

(c) All expenses for the control of traffic (including pedestrian, bicyclist, and motor vehicle safety, comfort and convenience), which may affect or be affected by the parking of vehicles in the East Billings Parking Overlay District, including the enforcement of traffic regulations as to such traffic.

(d) All expenses for alternative transportation and transportation demand management programs and services that help reduce parking demand and alleviate traffic congestion within the District.

(e) All expenses for streetscape enhancements including the installation of curbs and gutters, lighting, benches, and other improvements that enhance the comfort and convenience of pedestrians.

(f) Such other expenditures within or for the benefit of the Billings Parking Overlay District as the City Council may, by resolution, determine to be legal and appropriate.

**Section 4.** Effective Date. This ordinance shall be effective May 12, 2010.

**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.

PASSED by the City Council on first reading this 22<sup>nd</sup> day of March, 2010.

PASSED, ADOPTED and APPROVED on second reading this 12th day of April, 2010.

CITY OF BILLINGS

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

Thomas W. Hanel, Mayor

ATTEST:

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

Cari Martin, City Clerk