

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

July 12, 2010

6:30 P.M.

CALL TO ORDER – Mayor Hanel

PLEDGE OF ALLEGIANCE – Mayor Hanel

INVOCATION – Councilmember Ronquillo

ROLL CALL

**MINUTES: June 14, 2010
June 28, 2010**

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and #3 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. Mayor Hanel recommends that Council confirm the following appointments:

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Benjamin Kerns	Tourism BID Board	07/12/10	06/30/2014

B. Bid Awards:

1. **SID 1388, Dorothy Lane - Street, Curb/Gutter, Drive Approach, and Storm Drain Improvements.** (Opened 6/29/10). Recommend H.L. Ostermiller Construction, Inc., \$249,358.08.

C. Contract for Professional Services for W.O. 10-23, Zimmerman Trail Alignment Analysis, HDR Engineering, Inc., amount not to exceed \$245,778.00.

D. Amendment #1 to the Commercial Aviation Ground Lease with Lynch Flying Service, Inc., DBA Edwards Jet Center, reducing the leasehold square footage by 470.44 sf and the annual rental fee by \$54.34 for the current lease year.

E. Amendment #2 to the Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., DBA Alpine Air, extending the lease expiration date to October 31, 2017.

F. Vehicle Lease Agreement with Underriner Motors to lease six vehicles for the City County Special Investigations Unit (CCSIU), July 1, 2010-June 30, 2011, \$30,600 total, budgeted through FY2011 Drug Forfeiture Fund.

G. Approval of Frequency Reassignment Agreement with Sprint Nextel for costs associated with radio frequency reassignment; total reimbursement to City of Billings, \$2,328,582.88.

H. Street Closures:

1. **Blue Knights 36th Annual International Convention Motorcycle Parade** on July 22, 2010, 12 noon - 2 p.m.; starting at the Holiday Inn Grand Montana on Midland Road, using the access road to Laurel Road, east to Montana Avenue, east on Montana Avenue to N. 27th, north on N. 27th to 4th Avenue North, east on 4th Avenue North, ending at MetraPark.

I. Resolution of Intent to Exclude Property to de-annex a portion of Broadwater Avenue located between 56th Street West and 58th Street West in Trails West Subdivision, and set a public hearing for August 9, 2010.

J. Resolution amending Resolution #10-18940 to reflect changes to the form and detail of the Department of Natural Resources and Conservation loan and bonds for the 2010 Annual Water Rehab Projects.

K. RESOLUTION fixing the form and detail of the Series 2010A Airport Refunding Bonds.

L. RESOLUTION declaring an emergency and waiving the requirement for competitive bids (MT Code Annotated 7-5-4303) to repair damages to Senator's Boulevard where Alkali Creek crosses and Nutter Boulevard where Castlerock Park drainage exits the park following the storm of June 20, 2010.

- M. Second/final reading ordinance for Zone Change #864 :** A zone change from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Lot 1, Block 1, North Pointe Square Subdivision, First Filing, located at 2408 Main Street in the Billings Heights. Cody Family, LLC, applicant; Ernie Dutton, agent.
- N. Second/final reading ordinance for Zone Change #865:** A text amendment to Section 27-1505(f) of the Billings, Montana City Code (BMCC) regulating the procedures of the Board of Adjustment when requests for zoning variances have been denied.
- O. Second/final reading ordinance for Zone Change #866:** A zone change request from Residential 7,000 (R-70) to Residential Professional (RP) on the east 90 feet of Lot 10, Block 2, Justiss Subdivision, located at 2320 Rosebud Drive. John & Paula Lambrecht, owners.
- P. Second/final reading ordinance** adopting the 2009 Edition of the International Fire Code by reference with certain amendments.
- Q. Approval** of one-year extension of preliminary plat approval date for Skyview Ridge Subdivision, 1st Filing; setting a new expiration date of August 13, 2011.
- R. Final Plat:**
 - 1. Hogan Homestead Subdivision, Amended Lot 4-A, Block 5
 - 2. Srite Acres, Amended Lot 3
- S. Bills and Payroll:**
 - 1. June 11, 2010
 - 2. June 18, 2010

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

REGULAR AGENDA:

- 2. PUBLIC HEARING AND RESOLUTION** authorizing the sale of Economic Development Revenue Bonds for Community Option Resource Enterprises, Inc. (COR Enterprises), in an amount not to exceed \$1,790,000, to finance a portion of the costs of design and construction of a new facility. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation).
- 3. RESOLUTION** authorizing the refunding of Series 2000 General Obligation Bonds (\$1,700,000) issued for the purpose of refurbishing and rehabilitating playgrounds, basketball courts, and tennis courts in existing parks, and for building bike/pedestrian trails. 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.

Regular City Council Meeting

Date: 07/12/2010

TITLE: Boards & Commissions –Appointment

PRESENTED BY: Wynnette Maddox, City Hall Administration

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Yellowstone County Lodging Association and the Tourism Business Improvement District (BID) Board request that the Mayor appoint Benjamin Kerns to the Tourism BID Board of Directors. The Mayor wishes to appoint him to the only available seat on the Board, which has been vacant since last year. The Council is being asked to confirm this appointment.

ALTERNATIVES ANALYZED

Council may:

- Confirm the appointment or
- Not confirm the appointment and provide guidance to the Mayor

FINANCIAL IMPACT

This action does not have a financial impact.

RECOMMENDATION

Mayor Hanel recommends that Council confirm the following appointment:

			Begins	Ends
1.	Benjamin Kerns	Tourism BID Board	07/12/10	06/30/2014

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 07/12/2010

TITLE: SID 1388 - Dorothy Lane Bid Award

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Bids were received for SID 1388 Dorothy Lane on June 29, 2010. The project consists of street, curb/gutter, drive approach, and storm drain improvements to Dorothy Lane from Bench Boulevard to the ditch just west of Hawthorne Lane. The City Council created the SID at its May 10, 2010 meeting.

ALTERNATIVES ANALYZED

The Council may:

- Award the contract for SID 1388 Dorothy Lane to H.L. Ostermiller Construction, Inc in the amount of \$249,358.08; or
- Reject all bids and do not award a contract for SID 1388.

FINANCIAL IMPACT

The City received four bids for this project as follows:

Engineer's Estimate \$366,000.00

Contractor	Base Bid
H.L. Ostermiller	\$249,358.08
Riverside Sand and Gravel	\$287,000.00
CMG Construction	\$347,252.00
Knife River - Billings	\$398,441.50

Costs associated with the improvements will be paid for by assessments levied against the properties with Dorothy Lane addresses. Funding also includes gas tax and storm drain funds. The gas tax will be used to pay for improvements in front of city property and to corner lots in accordance with the SID policy. The storm drain funds will be used for a portion of the overall storm drainage system to account for storm drainage from City property. Any remaining funds for this project shall be used for construction administration, staking, and change orders. A breakdown of the project funds per the CIP and approved SID 1388 is listed below:

SID 1388 Funding	
SID Assessments	\$378,326.91
Storm Drain Funds	\$36,793.06
Gas Tax Funds	\$35,273.57
Contract Amount (This Memo)	\$(249,358.08)
Remaining Funds	\$201,035.46

RECOMMENDATION

Staff recommends that Council award the bid for SID 1388 Dorothy Lane to H.L. Ostermiller Construction, Inc. in the amount of \$249,358.08.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 07/12/2010

TITLE: W.O. 10-23 Contract for Professional Services for Zimmerman Trail Alignment Analysis

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Mayor and Council are asked to consider authorizing and executing a Contract for Professional Services with HDR Engineering, Inc. to provide engineering services for W.O. 10-23, Zimmerman Trail Alignment Analysis. At the February 25, 2010, City-County meeting the Public Works Director and Deputy Director presented three general options for improvements to the road. At that time, Mayor, Council and the County Commissioners recommended entering into a contract with HDR Engineering, Inc. to analyze these three options. Once the analysis is complete, staff will provide the results and make recommendations to the Mayor and Council. HDR Engineering, Inc. was selected for this work based on prior approval by the Montana Department of Transportation for the Zimmerman Trail project.

ALTERNATIVES ANALYZED

The Council may:

- Approve the Contract for Professional Services with HDR Engineering, Inc.; or
- Not approve the Contract for Professional Services with HDR Engineering, Inc.

HDR Engineering will provide services up to 20% design on three options for Zimmerman trail for the city to make an informed decision for future improvements to the roadway. These three options are generally described as:

Option 1 – minor improvements

- Addition of a climbing lane from Rimrock Road through the first curve to about one-third of the distance to the second curve from Rimrock heading north.
- reconstructing this second curve to as close to a 30 MPH design speed corner as the topography will allow.
- A pedestrian facility will also be added from Rimrock Road to Highway 3 with the location to be determined during the design phase.

Option 2 –

- Addition of a climbing lane the entire distance from Rimrock Road to Highway 3 resulting in two lanes up and one down.
- Reconstruct entire road to as close to a 30 MPH design speed as the topography will allow.
- A pedestrian facility will also be added from Rimrock Road to Highway 3 with the location to be determined during the design phase.

Option 3 –Tunnel

- The tunnel would begin near the first curve from the south and continue under Highway 3 and daylight on the north side of Highway 3
- The new road would have loops back to Highway 3 from the daylight of the tunnel on the north end.
- There would be one lane up and one lane down within the tunnel
- Addition of a climbing lane from Rimrock to near the beginning of the tunnel.

FINANCIAL IMPACT

Funding for the professional services for this contract is from Arterial Fee and has been approved in the CIP projects (FY '11 for \$400,000.00).

RECOMMENDATION

Staff recommends that Council authorize the Mayor to sign a contract for professional services with HDR Engineering, Inc., for W.O. 10-23, Zimmerman Trail Alignment Analysis, in an amount not to exceed \$245,778.00.

APPROVED BY CITY ADMINISTRATOR

Attachments

Contract

Contract for Professional Architectural and Engineering Services

Project: ZIMMERMAN TRAIL ALIGNMENT ANALYSIS

In consideration of the mutual promises herein, City of Billings and HDR Engineering, Inc. agree as follows. This Contract consists of:

Part I, consisting of 6 Sections of Special Provisions;

Part II, consisting of 4 Sections of General Provisions;

Appendix A consisting of 12 pages and Supporting Documentation (Basic Services of Contractor);

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

Appendix C consisting of 1 pages (Additional Services of Contractor);

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

Appendix E consisting of 1 pages (Project Schedule);

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

PART I SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

- A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
- B. "Billings" means the City of Billings.
- C. "Contractor" means HDR Engineering, Inc.

Section 2. Scope of Services.

- A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
- B. Billings shall pay the Contractor in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.
- C. Billings shall not allow any claim for services other than those described in this Section. However, the Contractor may provide, at its own expense, any other services that are consistent with this Contract.
- D. The Contractor shall provide as-built drawings on mylar and in digital format, as approved by the City of Billings, to the Administrator within 30 days after the project

completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.

- E. The Contractor shall provide certified construction payrolls to the Administrator stating in writing that the payrolls have been reviewed and are acceptable.

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on December 31, 2010.

Section 4. Compensation; Method of Payment.

- A. Subject to the contractor's satisfactory performance, the City of Billings shall pay the contractor two hundred forty five thousand, seven hundred seventy eight dollars (\$245,778.00) in accordance with this Section and Appendix B.
- B. Each month, or at the conclusion of each phase of the Work for which payment is due, as negotiated on a per-task basis, the Contractor shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Contractor within 30 days of receiving an acceptable invoice.

Section 5. Termination of the Contractor's Services.

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

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

Section 6. Duties Upon Termination

- A. If Billings terminates the Contractor's services for convenience, Billings shall pay the Contractor for its actual costs reasonably incurred in performing before termination and Billings shall pay for services rendered prior to termination. Payment under this Subsection shall never exceed the total compensation

allowable under Section 4 of this Part. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Billings.

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

Section 7. Insurance.

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

Section 8. Assignments.

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

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

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

Section 10. Notices.

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

Billings:	Vern Heisler, P.E.	
	City of Billings	
	Public Works Department	
	2224 Montana Avenue	e-mail: heislerv@ci.billings.mt.us
	Billings, Montana 59105	FAX: (406) 237-6291

Contractor: Mark J. Burch
HDR Engineering, Inc.
626 Columbia Street NW Suite 2A
Olympia, WA 98501-1099 e-mail: mark.burch@hdrinc.com
FAX: (360) 570-7253

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

Section 11. Contract Budget.

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

Section 12. Force Majeure.

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

Section 13. Financial Management System.

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

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

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

Section 14. Funding Requirements.

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

Section 15. Subcontracts.

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

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

PART II GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

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

Section 3. Permits, Laws, and Taxes.

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

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Contractor: Vice President

Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

Section 9. Liability.

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

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

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

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

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

City of Billings

Contractor

City Council or Designee

Name: Amanda B. McInnis

Title: Vice President

Date: _____

Date: _____

ATTEST:

IRS Tax ID # 47-0680568

City Clerk

APPROVED AS TO FORM:

Date: _____

By _____

BRENT BROOKS, City Attorney

STATE OF MONTANA)
:ss.

COUNTY OF MISSOULA)

On this ____ day of _____, 2010, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of _____, and acknowledged to me that they executed the foregoing instrument on behalf of said corporation having first been authorized to do so.

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

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

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

Appendix A

Basic Services of Consultant

Section 1. Consultant's Rights and Duties.

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

- J. Contract administration duties will include review of contractor certified payrolls for wage rate compliance. Discrepancies in certified payrolls will be resolved with the Contractor. A signed Consultant's Payroll Check Sheet (included in the Standard Modifications to MPWSS) will be submitted as proof of this review with one copy of each payroll.
- K. Name a Task Director who shall be the liaison between Billings and the Consultant. For this project, the Task Director designated for the Consultant is Mark Burch.

Section 2. Billings Rights and Duties.

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

Section 3. Scope of Work.

I. Introduction

During the term of this AGREEMENT, HDR Engineering, Inc. (CONSULTANT) shall perform professional services for the City of Billings (CITY) in association with the Zimmerman Trail improvement project. This document shall be used to plan, conduct, and complete the work on the project.

The work under this AGREEMENT consists of developing conceptual plans for three possible options for the improvement of Zimmerman Trail. These options shall consist of implementing minor roadway improvements to the existing roadway; rebuilding the roadway to meet urban minor arterial standards; or constructing a tunnel through the Rimrocks to connect to State Highway 3 and utilizing the existing roadway to become a bike and pedestrian trail facility. This work will include providing surveying and geotechnical investigative services, in addition to conducting a tunneling analysis and value benefit assessment of the alternatives to identify a preferred option for improvement of the Zimmerman Trail corridor between Rimrock Road and State Highway 3.

II. General Project Information

The CITY desires to evaluate three options for improvement of the Zimmerman Trail corridor between Rimrock Road and State Highway 3. Zimmerman Trail is a historic sheep trail that has developed over the years as one of the few urban minor arterial roadways that descend from above the rim down into the City of Billings. The CITY procured funds a number of years ago for improving Zimmerman Trail and is moving forward with plans for improvement of the corridor.

During the term of this AGREEMENT, HDR Engineering, Inc. (CONSULTANT) together with Gall Zeidler Consultants (SUBCONSULTANT), Morrison-Maierle, Inc (SUBCONSULTANT), and Terracon Consultants (SUBCONSULTANT) shall perform professional services for the CITY in connection with the Zimmerman Trail – Alignment Analysis project. Work items include:

- Project Management
- Development of a Purpose and Need Statement
- Background Data Collection
- Public Involvement Support
- Surveying
- Geologic – Geotechnical Study
- Roadway Alignment Analysis
- Tunnel Considerations
- Planning Level Engineer's Estimate of Probable Construction Cost
- Value Benefit Assessment

The CONSULTANT will perform the work tasks identified in Section IV of this document. The work authorized is limited to this agreement. Work on subsequent phases may be authorized by supplement to this AGREEMENT, after negotiation of scope and budget.

III. Design Criteria

The CITY will designate the basic premises and criteria for plan development. Contract documents and plans, to the extent feasible, shall be developed in accordance with the latest edition and amendments of the following publications as of the date of the signing of this AGREEMENT. Modification of plans required due to changes in design standards or requirements after work has begun may result in Extra Work.

Measurements will be in English units:

- Design Standard: City of Billings/Montana Public Works Standard Specifications (MPWSS)
- Horizontal Datum: NAD 83 (99) Montana State Plane coordinates (GPS survey)
- Vertical Datum: NAVD 88 (GPS survey)

Design Standards Publications:

- City of Billings Standard Modifications to the MPWSS, 5th Edition, dated March 1, 2006
- City of Billings Stormwater Management Manual, 6th Ed., February 2003
- City of Billings Design Standards for Bikeways & Trails – May 2004
- MPWSS, 5th Ed., March 2003
- AASHTO Policy on Geometric Design of Highways and Streets (“Green Book”), 2004
- AASHTO Guide for the Development of Bicycle Facilities, 1999
- AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities, July 2004
- American With Disabilities Act (ADA)
- Manual of Uniform Traffic Control Devices (MUTCD), 2009 Edition
- National Fire Protection Association (NFPA 502)
- Highway Capacity Manual 2000
- Montana Department of Transportation (MDT) Traffic Engineering Manual
- MDT Road Design Manual

IV. Detailed Scope of Services

A. Tunneling and Alignment Analysis

TASK 1: Administration - Project Management

The purpose of this activity is to provide overall direction and control for the project. The CONSULTANT's project manager shall be responsible for administering the communication plan, including creation and updates of the project schedule, implementation of quality control measures, project reporting, project documentation, and overall performance of the project. Activities will include the following:

Task 1.1 – Project Reporting/Project Management

The CONSULTANT shall administer the project and coordinate with the CITY to facilitate efficient progress and timely completion. Elements of work included in this task include:

- Develop HDR Project Guide and QA/QC Plan
- Manage project activities, sub-consultant agreements, project budget and schedule
- Perform management reviews
- Prepare and submit monthly invoice/progress report to CITY Project Manager

Task 1.2 – Meetings

The CONSULTANT project manager, in addition to attending specific meetings as described in other tasks, shall attend the following meetings:

<u>Meetings</u>	<u>Purpose/Frequency</u>	<u>Preparation/Documentation</u>
Project Kick off Meeting – with CITY/CONSULTANT project team	Initial meeting to discuss project goals; expectations; strategies; and identify data needs for CONSULTANT core team	Prepare agenda, meeting minutes, summarize action items, strategies, and decisions made
CITY/CONSULTANT meetings	To update CITY Task Manager on status and progress of project	Prepare agenda, meeting minutes, summarize action items, strategies, and decisions made
CONSULTANT internal team meetings	Coordinate team's progress/effort, status of deliverables	Prepare agenda, summarize decisions made, and assign tasks/action items

Assumptions:

It is assumed that this project will be 6 months in duration.

Project Kickoff Meeting: Assumes one – two hour meeting with CITY staff. The kick-off meeting shall be attended by two CONSULTANT staff and one representative from each Sub-Consultant firm.

CITY/CONSULTANT Meetings: Assumes a total of 12 ~1-hour long meetings and be attended by two CONSULTANT Staff. Four of these meetings will be face-to-face meetings with CITY staff.

Face-to-face meetings will be held on days requiring out of town CONSULTANT staff to otherwise be present in Billings. It is assumed that these meetings will be held on dates required for the Kickoff Meeting, Open House/Public Meetings, and Alternative Alignment Screening meeting.

CONSULTANT/Internal Meetings: Assumes 12 – one hour team meetings during the duration of the project. Meetings will be conducted every two weeks during the duration of the project.

The Kickoff Meeting and CITY/CONSULTANT face-to-face meetings will be held at the City of Billings, Public Works offices. All other CITY/CONSULTANT meetings will be conference call meetings.

Task 1 Deliverables:

- Project Management
- Meeting minutes/agendas (one copy each meeting)
- Project schedule
- Progress reports/invoices (one per month)
- QA/QC plan

TASK 2: Purpose and Need

There are no tasks in this scope of work for developing a “Purpose and Need” statement for plan development for improvement of the Zimmerman Trail corridor at this time. Additional services for this developing a “Purpose and Need” statement for the project will be discussed at a later date with the CITY and added as supplemental work as necessary.

TASK 3: Background Data Collection

The purpose of this activity is to collect all existing available documents related to the Zimmerman Trail corridor to support development of this project and identify areas where additional research, environmental documentation, data, and mapping are needed for project development.

Task 3.1 – Project Resources

CONSULTANT shall collect and review all available CITY documentation and/or resources for use in development of the project. It is assumed that the following data is readily available from the CITY:

- GIS
- Aerial photography
- Existing Traffic Data

The CONSULTANT in conjunction with this project will derive the following data:

- Limited level of Topographic and reconnaissance survey data collection
- Limited level of Geological and Geotechnical Investigation

More thorough and in depth survey data collection and geotechnical investigation will be required for the project to support the preliminary and final design phase of development for improvement of the Zimmerman Trail corridor.

TASK 4: Public Involvement Support

There are no tasks in this scope of work for Public Involvement Support for this phase of development for improvement of the Zimmerman Trail corridor. Additional services for providing Public Involvement Support will be discussed at a later date with the CITY and added as supplemental work as necessary.

TASK 5: Surveying Services

This task shall consist of providing monumentation control points, topographic information, and associated fieldwork for use in development of conceptual plans, exhibits, and details for evaluating tunnel and alternative alignments for Zimmerman Trail improvements.

Survey services shall be provided by the CONSULTANT's SUB-CONSULTANT Morrison-Maierle Inc. A detailed scope of services for this work is attached to this document.

Assumptions:

The survey data collected for this project has been limited in scope to address the alignment alternatives being considered for the project. A more detailed survey may be required for the project once a preferred alignment has been approved by the CITY for improvement of the Zimmerman Trail corridor.

5.1 Survey Base Map Review

CONSULTANT shall review the SUB-CONSULTANT Base Map for accuracy/consistency for development of exhibits, alignments, and cost estimates developed for the project.

TASK 6: Geological and Geotechnical Study

This task shall consist of providing services for collecting geologic - geotechnical data for use in assessing tunnel design(s) to support evaluation of a tunnel component considered as part of the alignment analysis for improvement of Zimmerman Trail corridor.

Geologic and Geotechnical study services shall be provided by the CONSULTANT's, SUB-CONSULTANT Terracon Consultants. A detailed scope of services for this work is attached to this document.

Assumptions:

The geological and geotechnical investigation being derived for this project has been limited in scope to address the alignment alternatives being considered for the project. A more detailed geological and geotechnical investigation will be required for the project once a preferred alignment has been approved by the CITY for improvement of the Zimmerman Trail corridor.

6.1 Draft Geotechnical Report Review

CONSULTANT and SUB-CONSULTANT – Gall Zeidler- shall review the draft geotechnical report for the project for use in development of tunnel design, drawings, and exhibits for evaluation of the project.

Task 6 Deliverables:

- Draft Geotechnical Report

TASK 7: Roadway Alignment Analysis

This task shall consist of refining or expanding upon the conceptual tunnel and roadway alignments developed for the CITY as part of the Preliminary Feasibility Assessment completed in September 2009.

7.1 Horizontal and Vertical Alignments

This task will re-evaluate both the horizontal and vertical alignments of the three tunnel options described in the September 2009 - Preliminary Feasibility Assessment to identify other possible alignment geometrics that support implementation of a tunneling component.

This task will also re-evaluate the full-build and limited re-construction options considered for improvement of the existing Zimmerman Trail roadway.

Conceptual level plans/exhibits will be developed to illustrate the tunnel, limited reconstruction, and full build options being considered for improvement of the Zimmerman Trail corridor.

Assumptions:

- Alignments shall meet Montana Department of Transportation criteria for Urban Minor Arterials
- Alignments shall be developed considering geometrics meeting AASHTO – Low Speed Urban Design guidelines
- Conceptual plans/exhibits shall be used for evaluation in Task 10 – Value Benefit Assessment

- The conceptual plans/exhibits shall be developed using the limited survey data derived for the project and GIS by overlaying an alignment footprint over an aerial photograph

7.2 Typical Sections

This task will consist of developing typical roadway sections for improvement of existing Zimmerman Trail and that portion of Zimmerman Trail leading up to and out of the tunnel portals established in conjunction with Task 8.

Typical tunnel roadway sections will be developed under Task 8 – Tunnel Considerations.

Assumptions:

- Zimmerman Trail – Full Build – 2-Northbound Lanes, 1-Southbound Lane, with 10 foot shared Pedestrian/Bicycle facility
- Zimmerman Trail – Limited roadway reconstruction to include adding one 1200 linear foot northbound lane and horizontal curve reconstruction to meet design speed criteria
- Tunnel Options – 1 lane each direction with 10-foot outside shoulder; 4-foot inside shoulder with solid wall separation with emergency egress escape doors at intermittent locations inside tunnel.

7.3 Design Assumptions Technical Memorandum

This task will consist of developing a Design Assumptions Technical Memorandum that identifies the specific design decisions and design deviations considered for improvement of the Zimmerman Trail project.

The Design Assumptions Technical Memorandum will be developed to follow MDT Design Exception Report format.

Task 7 Deliverables:

- Horizontal and Vertical Alignment Layouts
- Typical Road Sections
- Design Assumptions Technical Memorandum
 - Draft Design Assumptions Technical Memorandum
 - Final Design Assumptions Technical Memorandum

TASK 8: TUNNEL CONSIDERATIONS

This task shall consist of the SUB-CONSULTANT Gail Zeidler (GZ) incorporating tunneling components into development of alignments being evaluated in Task 7 – Roadway Alignment Analysis.

A detailed scope of services for this work is attached to this document.

TASK 9: Planning Level Engineer Estimates of Probable Construction Costs

The purpose of this activity is to refine and/or expand upon the conceptual tunnel and roadway alignments developed as part of the Preliminary Feasibility Assessment completed for the project in September 2009. Refined or expanded cost estimates will include estimated square foot costs for right-of-way acquisition if warranted, tunnel and structures. Other costs will be estimated based off of recent CITY and MDT construction bids tabulations.

Assumptions:

In providing opinions of probable cost for the project, the CONSULTANT shall have no control over cost or price of labor and materials, unknown or latent conditions of existing equipment or structures that might affect operation or maintenance costs, competitive bidding procedures and market conditions, time or quality of performance by operating personnel or third parties, and other economic and operational factors that might materially affect the ultimate PROJECT cost or schedule. HDR therefore will not warranty that the actual PROJECT costs will not vary from HDR's opinions, analyses, projections, or estimates. Cost estimates will be based on existing unit bid prices for applicable construction items.

- Probable construction cost estimates for one – tunnel alternative alignment
- Probable construction cost estimate for limited reconstruction of Zimmerman Trail
- Probable construction cost estimate for Full Build – Zimmerman Trail

Task 9 Deliverables:

- One - tunnel alternative alignment – cost estimate
- Zimmerman Trail – limited reconstruction – cost estimate
- Zimmerman Trail - Full Build – cost estimate

TASK 10: Value Benefit Assessment

The purpose of this activity is to evaluate each viable alternative alignment developed in Task 7 through a screening process to provide supporting documentation for the CITY's use in making a decision for improvement of the Zimmerman Trail corridor.

Task 10.1 – Develop Screening Matrix

Task 10.1.2 – Technical Advisory Committee Coordination

Project development will require coordination with a project technical advisory committee. All coordination shall be conducted through the CITY project manager.

Assumptions:

The CONSULTANT assumes that the CITY will establish a technical advisory committee to assist in screening the alignment alternatives being evaluated for improvement of the Zimmerman Trail corridor.

Suggested technical advisory committee participants are as follows:

Montana Department of Transportation
Federal Highway Administration
Police
Fire Department
CITY Public Works Staff

The Technical Advisory Committee will assist in identifying the performance attributes expected in order to evaluate the corridor, assign a performance scale for each of the attributes, and participate in the screening process.

The screening process will be attended by two CONSULTANT staff.

Task 10.2 – Alternative Alignment Screening

The alternative alignment screening process will be more quantitative and evaluated by the CONSULTANT, CITY, and technical advisory committee. The alternatives to be evaluated will include the tunnel alternative, horizontal curve – reconstruction alternative, and full build alternative for improvement of the Zimmerman Trail corridor.

Criteria to be considered shall be as follows:

- Cost
- Traffic (Level of Service)
- Operations and Safety
- Aesthetics
- Right-of-way and Socio-Economic impacts

The Screening process shall include:

- A presentation of three viable alternative alignments to the Technical Advisory Committee
- Identifying performance attributes for evaluating each alignment
- Assigning a value (scale) for which each attribute is to be measured
- Identifying the alignment that provides the best value/benefit to the CITY for improvement of the Zimmerman Trail corridor between Rimrock Road and State Highway 3.

The CONSULTANT shall develop a draft and final alternative alignment screening technical memorandum that documents the process, the alternatives reviewed, and identifies which of the alternative alignments provide the best value/benefit for improvement of the Zimmerman Trail corridor.

Assumptions:

- Conceptual Schematic design work will be done to develop each alternative for screening evaluation in Task 7 and 8.
- No environmental field work will be conducted on alternatives prior to screening evaluation.
- The screening process shall be attended by CONSULTANT, CITY, and Technical Advisory Committee members.
- The CONSULTANT assumes one meeting for completing the screening process.

- The screened alternatives will be presented to the public at an Open House-Public Meeting as described in Task 4.

Meetings:

- One four-hour screening meeting. The meeting shall be attended by two CONSULTANT staff, one Sub-Consultant (Gall Zeidler) staff, the CITY, and select Technical Advisory Committee members.

Task 10 Deliverables:

- Alternative Alignment Screening
- Alternative Alignment Screening Technical Memorandum
 - Draft Alternative Alignment Screening Technical Memorandum
 - Final Alternative Alignment Screening Technical Memorandum

**TASK 11: Zimmerman Trail Scope/Budget Development
Costs**

There are no tasks in this scope of work for developing a scope and budget for providing services for moving the preferred alternative forward into the preliminary and final design phase of plan development for improvement of the Zimmerman Trail corridor. Additional services for this work will be discussed at a later date with the CITY and added as supplemental work as necessary.



ENGINEERS
SURVEYORS
PLANNERS
SCIENTISTS

315 NORTH 25TH STREET, SUITE 102 • BILLINGS, MT 59101
OFFICE: 406-656-6000 • FAX: 406-237-1201 • www.m-m.net

Zimmerman Trail – Preliminary Alternatives Analysis Preliminary Line and Grade Survey

Scope of Services:

Task 5: Surveying Services

Project Control: Horizontal control will be NAD 83 Montana State Plane Coordinates and Vertical control will be NAVD 88 elevations.

Primary control will be established by a minimally constrained GPS Static Survey. Secondary control will be established by Conventional Survey closed traverse.

The object is to provide a minimal detail topographic survey to be able to perform a preliminary alternatives analysis for Zimmerman Trail improvement options.

The critical points to be located are:

- Top of rims.
- Bottom of vertical face of rims
- Toe of the slope above the roadway
- The roadway pavement width, line and grade
- Concrete drainage structure
- Top and toe of the bottom slope.
- 1600 feet of topo at the intersection of Highway 3 and Zimmerman trail.
- Three intersecting streets and the intersection of Zimmerman trail and Rimrock road,
- Field topo/locate geotechnical boring locations
- See attached exhibit

Safety is of great concern for both the Survey team and the traffic on the roadway. Therefore the bottom of the vertical rims will be located by remote reflectorless distance measurement from a Leica Robotic total station.

GPS RTK will be used where applicable.

Total station will be used to locate the roadway and cross streets where paved and concrete surfaces appear.

This survey is not intended meet MDT Standards.

Auto CADD Drawing will be provided to HDR.



April 6, 2010

HDR Engineering, Inc.
2913 Millennium Circle
Billings, Montana 59102

Attn: Mr. Geoff Parkins, P.E.
Highway Business Class Manager

Re: Proposal for Geological and Geotechnical Services
Preliminary Zimmerman Trail Tunnel Analysis
Billings, Montana
Terracon Proposal No. D2610075R1

Dear Mr. Parkins:

Terracon Consultants, Inc. (Terracon) is pleased to submit this revised proposal for providing geological and geotechnical services for the above-referenced project. This proposal includes an outline of the project information and our proposed scope of services, fee, and schedule.

A. PROJECT INFORMATION

Based on the information provided, the proposed project consists of the construction of a new tunnel extending from Zimmerman Trail near the base of the rimrocks to the interchange at Highway 3 in Billings, Montana. At this time, the length and size of the tunnel has not been provided. Preliminary geological and geotechnical information has been requested for the development of general tunneling requirements.

B. SCOPE OF SERVICES

The purpose of the geological and geotechnical services will be to evaluate the subsurface soil and bedrock conditions, and to provide preliminary information regarding the feasibility of the proposed tunnel. The services to be provided by Terracon are summarized in the following paragraphs.

Existing Data Review – Terracon has recently completed a rock fall analysis for the City of Billings near the project site which included pertinent information of the site geology. Terracon will incorporate this information into the preliminary tunnel report along with our knowledge and experience with past projects in and around the area.

Terracon Consultants, Inc. 2110 Overland Avenue, Suite 124 Billings, Montana 59102
P. [406] 656 3072 F. [406] 656 3578 terracon.com

Geotechnical ■ Environmental ■ Construction Materials ■ Facilities

Field Review and Geologic Mapping – A site reconnaissance will be performed at the project site by a Terracon engineering geologist or geotechnical engineer. Terracon will map the existing geology of the project area paying particular attention to the extent and condition of the bedrock outcrops. The geology and geologic structure of the existing bedrock units will be mapped and documented.

Geotechnical Borings - As requested, a total of two (2) geotechnical borings will be drilled/cored to approximate depths of 350 feet below existing grades along the proposed tunnel alignment. The borings are to be drilled at least 10 feet outside of the proposed alignment. We anticipate the upper 10 to 20 feet of each boring will be drilled with hollow-stem augers and the remaining depths will be cored with HQ wire-line coring techniques. We understand HDR will assist in determining the location of the borings once information on the alignment is provided.

During drilling/coring, samples will be collected at appropriate intervals for the project requirements and subsurface conditions encountered. Once the samples have been collected and classified in the field, they will be prepared and placed in appropriate sample containers for transport to our laboratory. Once drilling is complete, the borings will be backfilled with grout to prevent surface water and/or perched water to infiltrate deeper geologic layers. Excess auger cuttings would be disposed of on the site.

All samples retrieved during the field exploration will be evaluated and classified in accordance with the Unified Soil Classification System. Competent bedrock will be cored and the quality of the bedrock estimated by measuring core recovery and using a Rock Quality Designation (RQD). The RQD is a modified core recovery percentage in which the lengths of all pieces of sound core over four inches are summed and divided by the length of the core run. The RQD is an index of rock quality in that problematic rock that is highly weathered, soft, fractured, sheared, and jointed typically yields lower RQD values. Samples of bedrock will be classified in accordance with our general Bedrock Classification notes, and hardness and fracturing of the bedrock will be classified according to guidelines presented in the US Bureau of Reclamation Engineering Geology Manual.

Terracon will take reasonable efforts to reduce damage to the property, such as rutting of the ground surface. However, it should also be understood that in the normal course of our work some such disturbance could occur. We have not budgeted to restore the site beyond grouting our bore holes. If there are any restrictions or special requirements regarding this site or exploration, these should be known prior to commencing field work.

Laboratory Testing – The samples will be tested to determine physical engineering characteristics. Testing will be performed under the direction of a geotechnical engineer and/or geologist. At this time, a limited laboratory testing program consisting of moisture content (10), unit weight (10), sieve analysis (3), Atterberg Limits (3), and unconfined compression (10) is proposed.

Engineering Analysis and Report – The results of our field and laboratory programs will be evaluated by a Professional Geotechnical Engineer licensed in the State of Montana. Based on the results of our evaluation, an engineering report will be prepared that details the results of the testing performed, provides logs of the borings, and a diagram of the site/boring layout. The report will include the following:

- Interpretation of boring and test results
- Preliminary information regarding tunneling feasibility and difficulty

Schedule - We can generally begin the field exploration program within about one to two weeks after receipt of written authorization to proceed, if site and weather conditions permit. We estimate the field work will take approximately two to three weeks to complete. Laboratory testing is expected to be completed in one week. We estimate the final geotechnical report can be completed within about two to three weeks after the lab work is completed. In situations where information is needed prior to submittal of our report, we can provide verbal information or recommendations for specific project requirements after we have completed our field and laboratory programs.

C. COMPENSATION

For the scope of geotechnical services outlined in this proposal that includes drilling, laboratory testing, and an engineering report, the lump sum total fee would be \$54,000.00.

The fee for this project assumes a single drill rig mobilization to the site and assumes the boring locations are accessible to Terracon's two-wheel drive, truck-mounted drill rig. In the event the work locations are not accessible, costs incurred for tow trucks and/or remobilizations will be billed to the client.

Should conditions be encountered which require additional services, we will contact you prior to initiating such work, discuss the situation, and negotiate additional costs beyond those proposed herein. We will not proceed without your written authorization. We will provide you with minimum bi-weekly cost updates and invoicing.

D. AUTHORIZATION

We understand you will provide your standard agreement to cover these services. This proposal is valid only if authorized within sixty (60) days from the listed proposal date.

Proposal for Geological and Geotechnical Services
Preliminary Zimmerman Trail Tunnel Analysis ■ Billings, Montana
April 6, 2010 ■ Terracon Proposal No. D2610075R1

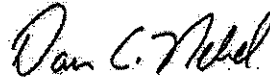
Terracon

We appreciate the opportunity to provide this proposal and look forward to the opportunity of working with you.

Sincerely,
Terracon Consultants, Inc.



Matt Geering, P.E.
Geotechnical Engineer



Dan Nebel, P.G.
Principal

8 TUNNEL CONSIDERATIONS

8.1 Alignment

8.1.1 Alignment study

A conceptual and preliminary stage Alignment Study will be produced. This study will address grade requirements, tie-in requirements, portal locations etc.

- Conceptual Stage: Development of an alignment based on morphology and best-fit of requirements (approximately 3 alignments).
- Preliminary Stage: Confirmation or adjustment of alignment based on Geological & Geotechnical Study; Narrowing down to 1 alignment option.

8.1.2 Services provided by GZ

GZ will provide input to the alignment studies and discussions from the tunneling standpoint. This includes general requirements by Authorities and Codes (e.g. NFPA, AASHTO, FHWA, DOT). It also includes discussion of tunnel construction methods, waterproofing, lining, egress and access means based on requirements.

8.2 Geological and Geotechnical Study

8.2.1 Geological Settings

The following are suggested activities to understand the geological settings in the project area:

- Visit potential portal locations to assess geological conditions at the surface (after selection of alignment);
- Review available geological information on the area;
- 2 core borings to assess the geological layering system, jointing, weathering and condition of rock mass in relation to depth below ground surface;
- Boring locations to be determined based on the results alignment study;
- All borings must be accompanied by groundwater table monitoring during boring;
- The borings shall not be located directly on the potential tunnel alignment, but at least 10' outside the potential footprint of the tunnel;
- All borings shall be backfilled with grout such to prevent surface water or perched water to penetrate deeper geological layers;

8.2.2 Geotechnical Study and Testing

Summary of geological/geotechnical findings from borings, portal site visit and literature;

8.2.3 Services provided by GZ

- Portal site visit;
- Borings and Testing:
 - Development of outline boring program;
 - Tunneling related interpretation of borings, literature and site visit;

8.3 Tunneling Related Preliminary Design Drawings

8.3.1 Directly Related to Mined Tunneling

Preliminary Design Drawings will be produced providing information on tunneling related issues as summarized below. Electrical and mechanical, operational, cut-and-cover and approach aspects are not covered and it is anticipated that these will be developed by HDR):

- Typical cross section, including standard cross section and niche section estimated 1 drawings (DWGs);
- Typical excavation and support sequence (cross sectional view); estimated 1 DWGs;
- Typical details; estimated 1 DWG;

8.3.2 Services provided by GZ

- GZ will provide all under 8.3.1 listed drawings;

8.4 Conceptual Tunnel Design Report

8.4.1 Contents

The list below shall summarize the expected contents of the report, but shall not be viewed as exhaustive:

- Purpose of report;
- Summary of basic geological and geotechnical data;
- Summary of tunnel construction related aspects (construction method, excavation method, support etc);
- Recommendations for waterproofing;
- Recommendations for final tunnel lining;
- Recommendations for tunnel ventilation;

8.4.2 Services provided by GZ

- GZ will generate the report indicated in 8.4.1;

8.5 Coordination Meetings and site visit

It is expected that attendance of GZ personnel will be required during the Conceptual Design development.

8.5.1 Attendance Estimate

The following meeting attendance is estimated:

- 2 - coordination meetings in Billings, MT, meetings to be attended by one GZ staff member;
- 1 - site visit for Geologist

Appendix B

Methods and Times of Payment

Section 1. Payments for Basic Services.

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

Partial payment shall be made to the Consultant upon receipt of the Consultant's pay estimate, said estimate being proportioned to the work completed by the Consultant. Billings shall deduct ten percent (10%) from each monthly pay estimate to be held until the completion of the final scope of work. The final payment shall be made only after acceptance of final documents by Billings, and determination that the scope of work has been satisfactorily completed.

- A. For services rendered prior to construction, Appendix A, the Consultant shall be paid based upon actual time accrued, but not to exceed \$245,778.00.
- B. Final payment shall be the above stated basic fee less all previous payments.

Section 2. Payments for Extra Services when Authorized by Billings.

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

Section 3. Corrections.

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

Section 4. Fee Increases

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

Appendix C

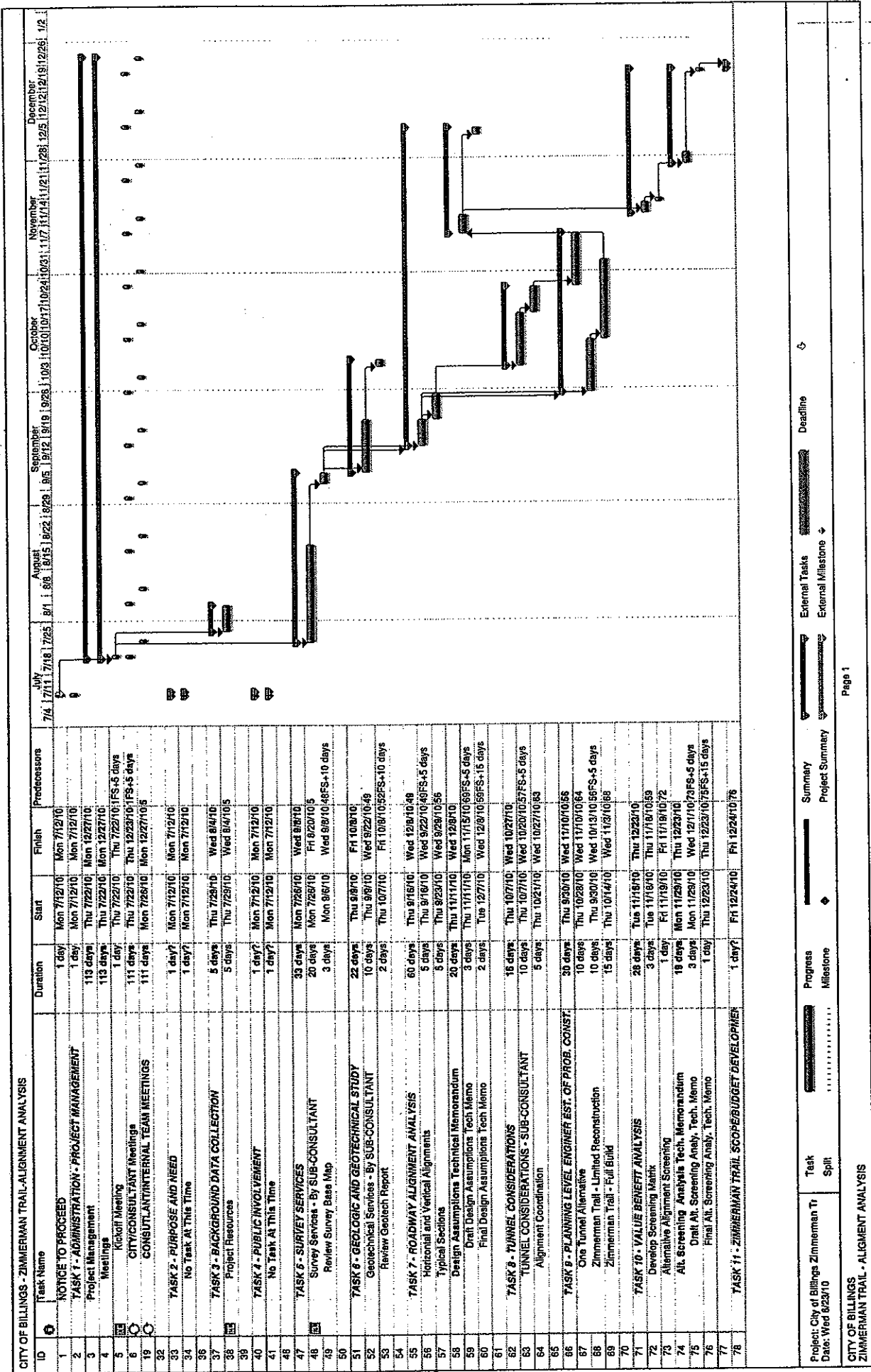
Additional Services of Consultant

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

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

Schedule of Professional Fees

CITY OF BILLINGS						
ZIMMERMAN TRAIL - ALIGNMENT ANALYSIS						
SCHEDULE OF PROFESSIONAL FEES						
		Jul-10	Aug-10	Sep-10	Oct-10	Nov-10
TASK - DESCRIPTION	Total Budget					Dec-10
TASK 1-Project Management	\$21,669	\$867	\$4,767	\$4,767	\$4,767	\$1,734
TASK 2-Purpose and Need	\$0	\$0	\$0	\$0	\$0	\$0
TASK 3-Background Data Collection	\$983	\$492	\$492			
TASK 4-Public Involvement	\$0					
TASK 5-Survey Service	\$24,634	\$2,463	\$21,062	\$1,109		
TASK 6-Geologic & Geotechnic Report	\$54,966			\$43,973	\$10,993	
TASK 7-Roadway Alignment Analysis	\$24,748			\$18,561		\$2,475
TASK 8-Tunnel Consideration	\$62,260				\$62,260	
TASK 9-Planning Level Engineer	\$28,726				\$18,672	\$10,054
TASK 10-Value Benift Analysis	\$20,875					\$19,831
TASK 11-Zimmerman Trail Scope/Budget Development	\$0	\$0	\$0	\$0	\$0	\$0
submarkup (5%)		\$277	\$1,522	\$1,522	\$1,522	\$553
TOTAL COST	\$245,778	\$4,098	\$27,842	\$69,931	\$98,214	\$39,886
						\$5,805





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/1/2011

5/25/2010

PRODUCER Lockton Companies, LLC-1 Kansas City
444 W. 47th Street, Suite 900
Kansas City MO 64112-1906
(816) 960-9000

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

INSURED
13147 HDR ENGINEERING, INC.
ATTN: LOUIS J. PACHMAN
8404 INDIAN HILLS DRIVE
OMAHA, NE 68114-4049
BELLEVUE/CYNTHIA RAMOLD

INSURERS AFFORDING COVERAGE**NAIC #**

INSURER A: Hartford Fire Insurance Company

19682

INSURER B: St. Paul Fire and Marine Insurance Co

24767

INSURER C: New Hampshire Insurance Company

23841

INSURER D: Insurance Company of the State of PA

19429

INSURER E: Zurich American Insurance Company

16535

THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.

COVERAGES

HDRIN01 SA

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	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS												
A		GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR ☒ CONTRACTUAL LIAB GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC	37CSEQU0950	6/1/2010	6/1/2011	<table><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 1,000,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 10,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td>PRODUCTS - COM/PROP AGG</td><td>\$ 2,000,000</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	MED EXP (Any one person)	\$ 10,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COM/PROP AGG	\$ 2,000,000
EACH OCCURRENCE	\$ 1,000,000																	
DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000																	
MED EXP (Any one person)	\$ 10,000																	
PERSONAL & ADV INJURY	\$ 1,000,000																	
GENERAL AGGREGATE	\$ 2,000,000																	
PRODUCTS - COM/PROP AGG	\$ 2,000,000																	
A		AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS	37CSEQU0951 (AOS) 37CSEQU0952 (HI)	6/1/2010 6/1/2010	6/1/2011 6/1/2011	<table><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$ 2,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$ XXXXXXXX</td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$ XXXXXXXX</td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$ XXXXXXXX</td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000	BODILY INJURY (Per person)	\$ XXXXXXXX	BODILY INJURY (Per accident)	\$ XXXXXXXX	PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX				
COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000																	
BODILY INJURY (Per person)	\$ XXXXXXXX																	
BODILY INJURY (Per accident)	\$ XXXXXXXX																	
PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX																	
		GARAGE LIABILITY ☐ ANY AUTO	NOT APPLICABLE			<table><tr><td>AUTO ONLY - EA ACCIDENT</td><td>\$ XXXXXXXX</td></tr><tr><td>OTHER THAN AUTO ONLY: EA ACC</td><td>\$ XXXXXXXX</td></tr><tr><td>AGG</td><td>\$ XXXXXXXX</td></tr></table>	AUTO ONLY - EA ACCIDENT	\$ XXXXXXXX	OTHER THAN AUTO ONLY: EA ACC	\$ XXXXXXXX	AGG	\$ XXXXXXXX						
AUTO ONLY - EA ACCIDENT	\$ XXXXXXXX																	
OTHER THAN AUTO ONLY: EA ACC	\$ XXXXXXXX																	
AGG	\$ XXXXXXXX																	
B		EXCESS / UMBRELLA LIABILITY ☒ OCCUR ☐ CLAIMS MADE DEDUCTIBLE ☒ UMBRELLA FORM RETENTION \$	QK08000912 (EXCLUDES PROF. LIAB)	6/1/2010	6/1/2011	<table><tr><td>EACH OCCURRENCE</td><td>\$ 2,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$ XXXXXXXX</td></tr><tr><td></td><td>\$ XXXXXXXX</td></tr><tr><td></td><td>\$ XXXXXXXX</td></tr></table>	EACH OCCURRENCE	\$ 2,000,000	AGGREGATE	\$ 2,000,000		\$ XXXXXXXX		\$ XXXXXXXX		\$ XXXXXXXX		
EACH OCCURRENCE	\$ 2,000,000																	
AGGREGATE	\$ 2,000,000																	
	\$ XXXXXXXX																	
	\$ XXXXXXXX																	
	\$ XXXXXXXX																	
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	3621195 (AOS) 3621196 (CA)	6/1/2010 6/1/2010	7/1/2011 7/1/2011	<table><tr><td>☒ WC STATUTORY LIMITS</td><td>OTH-ER</td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$ 1,000,000</td></tr></table>	☒ WC STATUTORY LIMITS	OTH-ER	E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000				
☒ WC STATUTORY LIMITS	OTH-ER																	
E.L. EACH ACCIDENT	\$ 1,000,000																	
E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000																	
E.L. DISEASE - POLICY LIMIT	\$ 1,000,000																	
E		OTHER ARCHS & ENGS PROFESSIONAL LIABILITY	EOC9260026-03	6/1/2010	6/1/2011	PER CLAIM: \$2,000,000. AGG: \$2,000,000.												

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

RE: CLIENT #000194: ALL PROJECTS. CITY OF BILLINGS, ITS OFFICIALS, OFFICERS, EMPLOYEES & AGENTS ARE NAMED AS ADDITIONAL INSURED AS RESPECTS GENERAL & AUTOMOBILE LIABILITY, AS PER WRITTEN CONTRACT. WAIVER OF SUBROGATION APPLIES.

CERTIFICATE HOLDER

2824447

CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT
ATTN: DAVE MUMFORD
2224 MONTANA AVE
2ND FLOOR
BILLINGS MT 59101

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

ACORD 25 (2009/01)

© 1988-2009 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

For questions regarding this certificate, contact the number listed in the 'Producer' section above and specify the client code 'HDRIN01'.

Regular City Council Meeting

Date: 07/12/2010

TITLE: Amendment One to Commercial Aviation Ground Lease for Tie Down Space with Lynch Flying Service, Inc. DBA Edwards Jet Center

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

On May 29, 2001, the Council approved a Commercial Aviation Ground Lease with Lynch Flying Service, Inc. DBA Edwards Jet Center (EJC) for a 19,500 square foot parcel of land that EJC uses for aircraft tie down space as part of its Fixed Base Operator (FBO) operations at the Airport. The parcel is located north of the Aerotronics and former Big Sky Airlines leaseholds. As part of its 2010 CIP, the Airport is constructing a new airfield vehicle access/incursion road that will cross a small portion of EJC's leased premises, making it unavailable as aircraft parking and tie down space. Staff desires to amend the leasehold description to omit the portion of land that will be part of the new road. No other changes to the original Lease terms are proposed.

ALTERNATIVES ANALYZED

The Council may:

- Approve Amendment One amending the leasehold description to omit the portion that will be utilized by the new vehicle access/incursion road; or
- Not approve Amendment One.

FINANCIAL IMPACT

The Amendment will reduce the leasehold square footage by 470.44 square feet, resulting in an annual rental reduction of \$54.34 for the current Lease year. The new annual rental amount will be \$2,197.94. The annual rental amount is adjusted each year on the anniversary date of the Lease, according to the Consumer Price Index for all Urban Consumers (CPI-U) for the previous twelve months.

RECOMMENDATION

Staff recommends that Council approve Amendment One to the Commercial Aviation Ground Lease for Tie Down Space with Lynch Flying Service, Inc. DBA Edwards Jet Center reducing the leased space.

APPROVED BY CITY ADMINISTRATOR

Attachments

Lynch Flying Service Amendment 1

AMENDMENT ONE

CITY OF BILLINGS

AND

LYNCH FLYING SERVICE, INC. DBA EDWARDS JET CENTER

COMMERCIAL AVIATION GROUND LEASE

W I T N E S S E T H

WHEREAS, on May 29, 2001, the City of Billings, Montana, as Lessor, entered into a Commercial Aviation Ground Lease with Lynch Flying Service, Inc., as Lessee, for a 19,500 square foot parcel of land, and

WHEREAS, the Lessee is a Fixed Base Operator (FBO) that operates at Billings Logan International Airport as Lynch Flying Service, Inc. DBA Edwards Jet Center and uses said parcel in its FBO operations for aircraft tie down space, and

WHEREAS, the Lessor will construct a new vehicle access/incursion road on the east portion of the airfield that will cross the parcel of land leased by Lessee, thereby reducing the amount of leased space available to Lessee for aircraft tie down space, and

WHEREAS, the Lessor and Lessee desire to amend the description of the leased premises to reduce the leasehold by deleting that portion of the leasehold that will constitute a portion of the new vehicle access/incursion road, and

WHEREAS, the Lessor also desires to incorporate into the amended description the section reference points in place of the former "D" line reference points.

NOW THEREFORE, Article I, Premises and Privileges, Section A, Description of the Premises, is hereby amended as follows:

ARTICLE I

PREMISES AND PRIVILEGES

A. Description of the Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that certain parcel of real property, together with improvements (hereinafter called the premises), for its exclusive use, specifically described as follows:

Main Parcel

Commencing at the N E Corner, Section 30, T. 1 N., R. 25 E., P.M.M., Yellowstone County, Montana; thence S 02°55'53" W a distance of 3,397.50 feet to the Point of Beginning; thence S 68°58'04" E a distance of 123.04 feet; thence S 65°27'17" E a distance of 152.50 feet; thence S 24°32'43" W a distance of 65.00 feet; thence N 65°27'17" W a distance of 300.00 feet; thence N 24°32'43" E a distance of 57.40 feet to the Point of Beginning.

Said Parcel containing 19,029.56 square feet.

Parcel is set forth on attached Exhibit A and by this reference made a part hereof.

All other terms and conditions of the original Lease remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hand this _____ day of _____ 20____.

ATTEST:

CITY OF BILLINGS

BY _____
CITY CLERK

BY _____
MAYOR

APPROVED AS TO FORM

LYNCH FLYING SERVICE, INC. DBA
EDWARDS JET CENTER

BY _____
CITY ATTORNEY

BY _____

Regular City Council Meeting

Date: 07/12/2010

TITLE: Amendment Two to Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc. DBA Alpine Air

PRESENTED BY: Tom Binford

Department: Aviation & Transit

Information

PROBLEM/ISSUE STATEMENT

On July 23, 2007, Alpine Aviation, Inc. DBA Alpine Air entered into a five year Limited Commercial Aviation Building and Ground Lease with the City of Billings, on a parcel located in the Airport Business Park and referred to as Hangar IP-5. On September 22, 2008, the Council approved Amendment One to the Lease with Alpine Air to add square footage to its leased premises to allow Alpine Air to construct additional office space in the hangar. Currently, Alpine Air leases 11,450 square feet of hangar and office space in IP-5. Alpine Air recently completed significant improvements to the interior of the leased hangar space, which includes an office remodel, cleaning and painting the hangar floor, and painting all the interior walls. Alpine Air has requested an extension to the Lease in order to have additional time over which to amortize the cost of these improvements. This Amendment adds an additional five years to the term of the Lease, extending the Lease expiration to October 31, 2017. All other terms and conditions of the Lease remain unchanged.

ALTERNATIVES ANALYZED

The Council may:

- Approve Amendment Two to the Lease with Alpine Air; or
- Not approve Amendment Two to the Lease with Alpine Air.

FINANCIAL IMPACT

There is no immediate financial impact to the City from this Amendment. However, the extension will provide for an additional five years of rental income in the future. The current annual rental is \$19,945.92. The annual rental amount is adjusted each year according to the Consumer Price Index for all Urban Consumers (CPI-U) for the previous twelve months.

RECOMMENDATION

Staff recommends that Council approve Amendment Two to the Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc. DBA Alpine Air, which extends the present lease five (5) years to October 31, 2017.

APPROVED BY CITY ADMINISTRATOR

Attachments

Alpine Air Amendment 2

AMENDMENT TWO

CITY OF BILLINGS, MONTANA

AND

ALPINE AVIATION, INC. DBA ALPINE AIR

LIMITED COMMERCIAL AVIATION BUILDING AND GROUND LEASE

W I T N E S S E T H

WHEREAS, on July 23, 2007, Alpine Aviation, Inc. DBA Alpine Air, a Utah Corporation, as Lessee, and the City of Billings, Montana, as Lessor, entered into a five (5) year Limited Commercial Aviation Building and Ground Lease for 8,648 square feet of hangar floor space and 1,755 square feet of office space in Airport Business Park Hangar IP-5, along with 65,582 square feet of land underneath and contiguous to said building, and

WHEREAS, on September 22, 2008, the Lessee and the Lessor executed Amendment One to the Lease, adding 1,047 square feet of office space to the leased premises in Hangar IP-5, for a revised total of 11,450 square feet of building space, and

WHEREAS, Lessee conducts a freight hauling operation for a postal service contract from the Hangar IP-5 premises, and

WHEREAS, Lessee, at its own cost, has made substantial improvements to the interior of Hangar IP-5, which include office remodeling, painting the hangar floor, and painting the interior walls of the building, and

WHEREAS, the current Lease is scheduled to expire on October 31, 2012, and the Lessee desires to have additional time over which to amortize its hangar improvement costs and has subsequently requested an extension of the term on the Lease, and

WHEREAS, the Lessor desires to provide an extension of the term on the Lease in order to provide additional time for Lessee to amortize its improvement costs to Hangar IP-5.

NOW THEREFORE, Lessee and the Lessor hereby agree to extend the term of the Lease by adding five (5) additional years to the term. Article II, Section A., Term, is hereby amended as follows:

ARTICLE II

TERM OF LEASE

A. Term. The term of this Lease shall be for a period of ten (10) years, commencing on the 1st day of November 2007 and terminating on the 31st day of October 2017.

All other terms and conditions of the original Lease remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hand this _____ day of _____ 20____.

ATTEST:

CITY OF BILLINGS

BY _____
CITY CLERK

BY _____
MAYOR

APPROVED AS TO FORM

ALPINE AVIATION, INC. DBA ALPINE AIR

BY _____
CITY ATTORNEY

BY _____

Regular City Council Meeting

Date: 07/12/2010

TITLE: Vehicle Lease Agreement with Underriner Motors for City County Special Investigations Unit (CCSIU)

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

For many years the Billings Police Department has had officers operating in an undercover capacity. The work entails the use of unmarked cars that are unique from standard detective vehicles. Because undercover officers and their equipment are routinely exposed to the criminal element, it is necessary to rotate equipment. The reason for frequent rotation of cars is to ensure the safety of the undercover officer and to prevent the operation from being compromised. Major car dealers in the City have been contacted for bids for these vehicles. Underriner Motors is the only dealer interested in leasing vehicles to the City for special operations purposes. Staff recommends Council approval of the attached agreement between Underriner Motors and the City of Billings to lease six (6) vehicles for the City contingent of the City County Special Investigations Unit (CCSIU) from July 1, 2010, to June 30, 2011, in the amount of \$30,600.

ALTERNATIVES ANALYZED

Council May:

- Approve vehicle lease agreement with Underriner Motors; or
- Not approve vehicle lease agreement with Underriner Motors.

FINANCIAL IMPACT

The cost of leasing 6 vehicles will be \$30,600 (\$425 per vehicle per month) and the dollars have been budgeted in the drug forfeiture fund for FY 11. This is an increase of \$25 per vehicle over last year's agreement.

RECOMMENDATION

Staff recommends Council approval of the attached agreement between Underriner Motors and the City of Billings to lease six (6) vehicles for the City contingent of the City County Special Investigations Unit (CCSIU) from July 1, 2010, to June 30, 2011, in the amount of \$30,600.00.

APPROVED BY CITY ADMINISTRATOR

Attachments

Agreement

AUTOMOBILE LEASE AGREEMENT

This AGREEMENT made _____, by and between **UNDERRINER MOTORS** with its principal place of business at 523 North 29th Street, Billings, Montana (the LESSOR), and **THE BILLINGS MONTANA POLICE DEPARTMENT**, P. O. Box 1554, Billings, MT 59103 (the LESSEE), for the lease of six (6) vehicles.

The terms of this agreement is for a period of 12 months from July 1, 2010, to June 30, 2011, subject to the terms and conditions set forth below:

1) **RENTAL:** The LESSEE shall pay to the LESSOR a monthly rental of FOUR HUNDRED DOLLARS (\$425.00) per vehicle (6 vehicles) for a total of THIRTY THOUSAND SIX HUNDRED DOLLARS (\$30,600.00), paid on an annual basis.

2) **MAINTENANCE:** The LESSEE will bear all expense of maintaining the leased vehicle in good operating condition. The LESSEE shall provide and pay for all gasoline, oil, maintenance, washing, tire and battery replacements, and all necessary repairs other than those covered by the standard manufacturer's limited warranty, where applicable. LESSEE also agrees to pay the deductible in connection with any collision losses.

3) **LICENSING:** The LESSEE agrees to pay at its own cost and expense, State License Fees imposed against said vehicle(s). Each lease vehicle shall bear a license plate, and title shall be registered in the name of the LESSOR.

4) **INSURANCE:**

A) The LESSEE agrees to furnish and keep in force and effect an acceptable public liability and property damage insurance policy covering all leased vehicles(s), naming therein or by endorsement thereto, the LESSOR as an additional insured. The minimum limits of liability coverage shall be in the amount of \$500,000 combined single limit for all person(s) killed or injured in any one accident, for property damage or loss of use of property of third persons as a result of any one accident. Prior to delivery of possession of said vehicle(s) hereunder, the LESSEE agrees to furnish the LESSOR with a valid certificate of an acceptable insurance company, licensed in Montana, certifying that such insurance is in force and agreeing that the same shall not be cancelled except upon ten days' prior written notice to the LESSOR.

B) LESSEE agrees that it will, and will cause its agents and employees and their families, to cooperate fully with LESSOR and all insurance carriers required by this lease in the investigation, prosecution, and defense of all claims arising from all hazards insured hereunder.

5) **EXCESS MILEAGE:** LESSEE agrees to pay for excess mileage at the rate of \$.10 per mile in excess of 15,000 miles per year. The payment for excess mileage shall be due at the end of the term of the lease.

6) **PERMISSION TO MOVE:** LESSEE agrees to notify and gain written permission from LESSOR should LESSEE decide to move the leased property as described above from the address stated above to another state on a permanent basis or for an extended period of time (longer than six (6) months).

7) **NOTICE:** LESSEE agrees to inform the LESSOR immediately regarding any accident, collision or other damage to the said vehicle(s). All other notices required to be given under the terms of this lease shall be in writing and shall be sent by United State Registered Mail or Certified Mail addressed to the party to be notified at its address as above stated.

8) **SECURITY AGREEMENT:** LESSOR shall have the right to finance any vehicle(s) now or hereafter covered by this lease by arranging for a Security Agreement thereon or by assigning LESSOR's interest under this lease or both, and LESSEE agrees that such Security Agreement placed by LESSOR shall be superior to this lease.

9) **REASONABLE CARE:** LESSEE agrees to use reasonable care in the operation of said vehicle(s) and, in good faith, to require reasonable care from users authorized by LESSEE hereunder, including the obligation to maintain the vehicle(s). In any event, LESSEE shall be held personally liable to LESSOR pursuant to the terms of this lease, regardless of permissive use by third parties.

10) **REPLACEMENT VEHICLES:** At any time during the initial or any renewal term of the within lease, the LESSOR may replace the above-described vehicle(s) with a vehicle of the same make and year, such replacement vehicle being in equal or better operating condition; in such event, all the terms and conditions of the within lease shall apply to any and all such replacement vehicle(s) for the term of this agreement or any renewal thereof.

11) **AGENTS:** LESSEE agrees to permit said vehicle(s) to be used only by LESSEE, (its) (his) agents or employees or the members of the immediate family thereof, and by no others. No operator or driver of said vehicle(s), including LESSEE shall have authority to act on behalf of the LESSOR under any circumstances.

12) **NON-LIABILITY:** LESSOR shall not be liable for any loss from the interruption of, or damage to the LESSEE'S business, and shall not be liable to any of the authorized uses hereunder, in connection with any operating failure of said vehicle(s) (or substitute vehicles provided to LESSEE during repair of the leased vehicle(s) or its replacement), or in connection with any delay in making repairs thereon or furnishing replacement(s) therefor.

13) **INDEMNITY:** LESSOR assumes no liability for any acts or omissions of the LESSEE or the LESSEE'S agents. The LESSEE hereby released and agrees to indemnify the LESSOR and hold the LESSOR harmless from any and all claims against the LESSOR of any kind or nature whatsoever, arising out of or resulting from the use and/or operation of the leased vehicles by the LESSEE, including any expenses and attorneys' fees which the LESSOR may incur in defending any such claims, except such claims or portions thereof as are covered by applicable insurance as otherwise herein provided.

14) **OWNERSHIP:** It is expressly understood and agreed that this Agreement is a contract for leasing only, and that the LESSEE acquires no ownership, title, or property right or interest in, of, or to the said motor vehicle(s) and equipment, but acquires only the right to use the vehicle(s) in accordance with the provision of this lease. Any accessories installed on said vehicle(s) by the LESSEE may be removed upon expiration of this lease. If such removal shall, in the opinion of the LESSOR, cause damage to said vehicle(s), the LESSEE agrees to pay the Lessor for such damage.

15) **RETURN:** Upon the termination of this lease, the leased vehicle(s), at the expense of the LESSEE, shall be returned to the place of business of the LESSOR in as good condition as when received, ordinary wear and tear excepted. This return provision shall apply to all substitute vehicles which may be the subject of this contract.

16) **EARLY TERMINATION:** Early termination of this Lease may result in an early termination charge to LESSEE.

17) **ASSIGNMENT, PLEDGE, LIENS, AND ENCUMBRANCES:** This lease may not be assigned, except by the LESSOR as provided herein. The LESSEE shall not have the right to pledge or otherwise encumber this lease or any interest therein nor shall the LESSEE have the right to encumber or otherwise suffer any lien to be placed against the leased vehicle(s), or abandon or conceal the leased vehicle(s). The LESSEE shall not sublet the leased vehicle(s) or any replacement vehicle(s) without the written consent of the LESSOR.

18) **WAIVER:** The failure of either party in any one or more instances to insist upon the performance of any of the terms, covenants or conditions of this lease, or to exercise any right or privilege in this lease conferred, or the waiver of any breach of any of the terms, covenants, or conditions of this lease, shall not be construed as thereafter waiving any such terms, covenants, conditions, rights or privileges, but the same shall continue and remain in full force and effect, as if no such forbearance or waiver had occurred.

19) **DEFAULT:** If the LESSEE shall default in the payment in any of the installments of rent as herein provided, or breach any of the terms, conditions or provisions herein contained, or, during the term of this lease, shall file a voluntary petition in bankruptcy, shall make an assignment for the benefit of creditors or shall be adjudicated bankrupt; if a receiver shall be appointed for LESSEE'S business; or if LESSOR deems itself insecure, LESSOR may at its election terminate this Agreement without notice to LESSEE and shall thereupon be entitled to the immediate possession of any and all vehicles in LESSEE'S possession hereunder. In the event this Agreement shall be so terminated, LESSEE shall not be released from any liability to LESSOR for LESSEE'S failure to make any of the payments required by this Agreement or for LESSEE'S failure or inability to perform the conditions of this Agreement, and LESSEE hereby waives all claims for injury suffered through or loss caused by such repossession.

Upon default, the balance of the installments of rent, to the end of this lease or any existing extension of it, shall, without notice or demand by the LESSEE, at once become due and

payable; and in addition thereto, the LESSEE hereby authorizes and empowers the LESSOR to enter its premises or any other place where the leased vehicle(s) may be found, forcibly if necessary, to take possession and carry away and remove such vehicle(s), with or without legal process and thereby terminate the LESSEE'S right to retention and use of such vehicle(s). In the event any legal proceedings shall be instituted by LESSOR against LESSEE to recover any sums due or to become due hereunder and/or for the repossession of the vehicle(s) leased hereunder, LESSEE shall pay to LESSOR reasonable attorneys' fees and costs of repossession.

20) **BINDING EFFECT:** This lease shall be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives, and assigns.

21) **ENTIRE AGREEMENT:** This lease together with the Vehicle Lease Disclosure Statement represents the entire Agreement between the parties. All prior negotiations have been merged into this lease, and there are no understandings, representations, or agreements, oral nor written, express or implied, other than those set forth herein. This lease shall not be modified or amended except by an agreement in writing signed by the parties.

22) **CONSTRUCTION:** This lease shall in all respects be governed by and construed in accordance with the laws of the State of Montana.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed the day and year first above written.

LESSEE:

CITY OF BILLINGS

BY _____
THOMAS W. HANEL, MAYOR

LESSOR:

UNDERRINER MOTORS

BY _____
BILL UNDERRINER , OWNER

ATTEST BY:

CARI MARTIN, CITY CLERK

APPROVED AS TO FORM:

BRENT BROOKS, CITY ATTORNEY

CONTRACTS: LEASE AGREEMENT WITH UNDERRINER MOTORS.CCSIU

Regular City Council Meeting

Date: 07/12/2010

TITLE: Frequency Reassignment Agreement

PRESENTED BY: Paul Dextras

Department: Fire

Information

PROBLEM/ISSUE STATEMENT

In an effort to resolve serious interference issues between the Sprint Nextel Cellular network and public safety agencies using certain radio frequencies within the 800 MHz band, the Federal Communications Commission (FCC) issued a 2004 Order mandating radio frequency reassignment. This reassignment allows Sprint Nextel domain over a dedicated slice of the 800 MHz spectrum that is separated from the part of the 800 MHz spectrum allocated to public safety agencies. As part of the FCC Order, Sprint Nextel is required to pay all costs associated with radio frequency reassignment for all agencies that must vacate their current radio frequencies.

The City of Billings is currently licensed for two of the 800 MHz frequencies affected by the FCC Order. Costs were identified for replacement of radio infrastructure components, mobile radios, portable radios, as well as costs associated with administrative, labor, and legal services. Negotiations were conducted between the City of Billings and Sprint Nextel and an agreement was reached on _____.

Once approved, the agreement between the City of Billings and Sprint Nextel requires Sprint Nextel to replace 532 portable radios (and associated peripheral equipment such as batteries and chargers), 256 mobile radios, and reimburse the City of Billings for all expenses related to radio frequency reassignment.

ALTERNATIVES ANALYZED

City Council may:

- Approve the Frequency Reassignment Agreement with Sprint Nextel; or
- Not approve the Frequency Reassignment Agreement with Sprint Nextel

FINANCIAL IMPACT

24

24 This agreement requires Sprint Nextel to recompense the City of Billings as follows:

\$55,725.08	Cash – for staff time required to reconfigure the existing radio facilities
\$2,232,177.80 provided	Goods & Services – for radios, infrastructure upgrades, and support by our radio vendor, E.F. Johnson Technologies
\$40,740.00 Rogers	Legal Services, Negotiation Support, and FCC Filings provided by Shulman

\$2,328,582.88 Total Reimbursement

RECOMMENDATION

Staff recommends that the Council approve the Frequency Reassignment Agreement with Sprint Nextel.

APPROVED BY CITY ADMINISTRATOR

Attachments

Frequency Reassignment Agreement

FREQUENCY RECONFIGURATION AGREEMENT

THIS FREQUENCY RECONFIGURATION AGREEMENT (this "Agreement") is made as of this ____ day of _____, 2010 ("Effective Date"), by and between the **City of Billings**, a political subdivision of the State of Montana ("Incumbent" or "Licensee"), and **Nextel West Corp.** ("Nextel"), a wholly owned indirect subsidiary of Sprint Nextel Corp., a Kansas corporation (each is referred to in this Agreement as a "Party" and collectively as the "Parties").

RECITALS

- A. On August 6, 2004, the Federal Communications Commission ("FCC") issued a Report and Order that modified its rules governing the 800 MHz band. The purpose of the Order was to reconfigure the 800 MHz band to minimize harmful interference to public safety radio communications systems in the band ("Reconfiguration").
- B. On December 22, 2004, the FCC issued a Supplemental Order and Order on Reconsideration. The August 6, 2004 and December 22, 2004 FCC orders, and any supplemental FCC Orders in the Reconfiguration proceeding or subsequent actions after the date of this Agreement, are collectively referred to as the "Order."
- C. Pursuant to the Order, Incumbent and Nextel are licensed on frequency allocations subject to Reconfiguration.
- D. Pursuant to the Order, Nextel will pay Incumbent an amount to effect a Reconfiguration of Incumbent's affected frequency allocations ("Reconfiguration Cost"). Incumbent will certify to the Transition Administrator appointed pursuant to the Order (the "Transition Administrator") that the Reconfiguration Cost is the minimum cost necessary to accomplish rebanding in a reasonable, prudent, and timely manner in order to provide comparable facilities.

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

1. **Frequencies to be Reconfigured:** Incumbent is the licensee under the license(s) granted by the FCC identified in Schedule A (the "Incumbent Licenses") for the operation of certain 800 MHz frequencies at the locations identified on Schedule A (the "Incumbent Frequencies"). Nextel, including its subsidiaries or affiliates, is the licensee under license(s) granted by the FCC (the "Nextel Licenses") for the operation of Specialized Mobile Radio ("SMR") systems on the frequencies and at the locations identified in Schedule B (the "Replacement Frequencies"). Pursuant to the Order, Incumbent must relinquish the Incumbent Frequencies and relocate its system to the Replacement Frequencies.

2. **Frequency Reconfiguration Process:**

(a) On or before the Closing Date (as defined below) (i) Nextel or Incumbent will cause the modification of the Incumbent Licenses to add the Replacement Frequencies or Nextel will cause the creation of a new FCC license for Incumbent that includes the Replacement Frequencies; (ii) Incumbent will cause the assignment of the Incumbent Frequencies to Nextel or will cause the deletion of the Incumbent Frequencies from the Incumbent Licenses following Reconfiguration of Incumbent's system; and (iii) Nextel will cause the modification and/or cancellation of the FCC licenses it holds for the operation of 800 MHz frequencies that are co-channels of the Replacement Frequencies, to the extent required to meet the

technical short-spacing requirements of Section 90.621(b) of the FCC's Rules, 47 C.F.R. § 90.621(b), as such rule may be amended from time to time by the FCC.

(b) The parties agree that Nextel and the Incumbent (as appropriate) will make the FCC assignment filings for the Replacement Frequencies on a future date to be determined by the parties through mutual agreement, as provided in Section 5. The Parties agree to notify Nextel and the Incumbent (as appropriate) of the FCC assignment filings in accordance with the Notice provision of this Agreement.

3. **Reconfiguration Costs:**

(a) **Acknowledgement of Obligations.** Incumbent agrees that:

(i) the cost estimate in Schedule C (the "Cost Estimate") sets forth all of the work required to reconfigure Incumbent's existing facilities to comparable facilities that will operate on the Replacement Frequencies;

(ii) after all of the work contemplated by the Cost Estimate has been performed in accordance with this Agreement and Nextel has paid all amounts required by this Agreement, the Incumbent's reconfigured system shall be deemed for all purposes of the Order to be "comparable" to Incumbent's existing system prior to Reconfiguration, and Nextel shall be deemed to have satisfied its obligations under the Order to pay the cost of relocating Incumbent's system from the Incumbent Frequencies to the Replacement Frequencies.

(b) **Payment Terms.** In order to facilitate the Incumbent's transition to the Replacement Frequencies, Nextel will pay the costs incurred to reconfigure Incumbent's system in an amount not to exceed the Cost Estimate. Except as modified pursuant to Section 3(b)(iii) and Section 8, of this Agreement, Nextel will pay the amount of the Cost Estimate in accordance with the payment terms identified on Schedule C and as set forth below for both payments made directly to Incumbent and payments made on behalf of Incumbent directly to each third party service vendor identified on the Cost Estimate ("Vendor").

(i) Within thirty (30) days of completion of the Incumbent's reconfiguration and prior to the Reconciliation Date (defined below), Incumbent will submit to Nextel financial documentation (including, by way of example, but not limited to: invoices (including travel, equipment, warehouse, and other costs associated with the reconfiguration), bills of lading, receipts, and timesheets with the employee title, hours, activity performed and hourly rate stated (Vendor and/or Incumbent internal labor as applicable) or equivalent substantive documentation) demonstrating the actual costs that Incumbent reasonably incurred or paid to other entities to reconfigure Incumbent's system ("Actual Costs"). Upon receipt by Nextel of documentation of the Actual Costs, and subject to Section 20(b), Nextel and Incumbent will reconcile the Actual Costs against the payments made by Nextel to Incumbent and Vendor(s) (the "Reconciliation"). The Parties will prepare a reconciliation statement (the "Reconciliation Statement") that will identify what the Parties agree upon as the amount of any additional payments (subject to Section 8) due to Incumbent and Vendor(s) or any refunds due to Nextel. The date of receipt by Nextel of the Reconciliation Statement signed by Incumbent and Incumbent's counsel is the "Reconciliation Date." Should the Parties be unable to agree upon the amount of the additional payments, the Parties shall follow the dispute resolution procedures detailed in the FCC Order.

(ii) Any additional payments due to Incumbent from Nextel will be disbursed to Incumbent within thirty (30) days of the Reconciliation Date, provided the additional payments do not result from Actual Costs that exceed the Cost Estimate (in which case the provisions of Section 3(b)(iii) of this Agreement will apply). Any refunds due from the Incumbent to Nextel will be made within thirty (30) days of the Reconciliation Date.

(iii) In the event Incumbent's Actual Costs exceed the Cost Estimate, Incumbent must submit a Change Notice pursuant to Section 8 of this Agreement describing the change in scope of work that resulted in Incumbent's Actual Costs exceeding the Cost Estimate. Approval of any Change Notice will not be automatic but will be processed in accordance with Section 8 of this Agreement. Additional payments due to Incumbent, which result from an excess of Actual Costs over the Cost Estimate, as agreed on the Reconciliation Date, will be disbursed to Incumbent within thirty (30) days of execution by the Parties of the Amendment documenting the approved changes from such Change Notice.

(iv) Prior to the Closing Date, Nextel will pay on behalf of itself and Incumbent, both Parties' applicable sales and transfer taxes, if any, and all FCC fees in connection with the preparation and filing of the necessary FCC applications for the assignment(s) described in Section 2 of this Agreement.

4. **Reconfiguration Equipment.** If needed in order to facilitate the Incumbent's transition to the Replacement Frequencies, Nextel will loan any equipment identified in Schedule D as "Loaned Reconfiguration Equipment" and/or will provide any equipment identified in Schedule D as "Replacement Equipment". The Loaned Reconfiguration Equipment and Nextel Replacement Equipment may be referred to collectively as the "Nextel Schedule D Equipment". Nextel will deliver any Nextel Schedule D Equipment to Incumbent in accordance with Schedule D. Incumbent will fax to Nextel a bill of lading associated with each shipment of Nextel Schedule D Equipment signed by an authorized representative of Incumbent acknowledging receipt of the Nextel Schedule D Equipment in good working order. Any Loaned Reconfiguration Equipment will be returned to Nextel by Incumbent prior to the Reconciliation Date.

5. **Retuning Cooperation:** The Parties acknowledge that the number of frequencies and locations covered by this Agreement will require the Parties to cooperate closely in performing their respective reconfiguration activities. The Parties agree that: (i) as of the Effective Date, the Incumbent may begin the reconfiguration of its subscriber units, in accordance with the appropriate sections of Schedule C and Schedule D, (ii) Incumbent may commence such other activities associated with the reconfiguration of its system as further detailed on Schedule C as of the Effective Date; and (iii) the Parties will agree on a schedule to make the FCC filings, clear the Replacement Frequencies and decommission the Incumbent Frequencies (the "Schedule"). Depending on the timing of the adoption of this Schedule, it may require the submission of a Change Notice in accordance with Section 8 and/or an Amendment to this Agreement, but in any event the Parties agree to adopt the Schedule no later than: (a) sixty (60) days from the Effective Date of this Agreement, or (b) pursuant to a Schedule agreed upon at a TA scheduled "Implementation Planning Session" that includes the Incumbent's system, provided the Implementation Planning Session has been scheduled by the TA prior to the expiration of 60 days from the Effective Date of this Agreement (provided, however, in the event the Implementation Planning Session is not scheduled within the expiration of 60 days from the Effective Date of this Agreement, this subsection (b) will be preserved and the Parties will negotiate an Amendment to this Agreement pursuant to Section 8 herein), or (c) such other date as the FCC may require (the "Scheduling Period"). Notwithstanding the aforementioned, in the event the completion date in the Schedule for the reconfiguration of Incumbent's system extends beyond the completion date for such tasks in Incumbent's proposed implementation timetable (as submitted by Incumbent to the FCC in accordance with the Order), the completion date(s) in the Schedule may be subject to FCC approval. If by the end of the Scheduling Period, no agreement on the Schedule has been reached by the Parties, the Parties will jointly seek resolution in accordance with the dispute resolution provisions of the Order, including dispute resolution procedures adopted by the Transition Administrator; as they may be amended from time to time. Nothing in this Section shall prohibit the Incumbent from beginning work immediately on replacement of the subscriber units and/or subscriber software programming.

6. **Representations and Warranties:** Each Party represents and warrants to the other as follows:

(i) it is duly organized, validly existing and in good standing under the laws of the state of its incorporation;

(ii) this Agreement has been duly authorized and approved by all required organizational action of the Party;

(iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will conflict with, or result in any material violation or default under, any term of its articles of incorporation, by-laws or other organizational documents or any agreement, mortgage, indenture, license, permit, lease, encumbrance or other instrument, judgment, decree, order, law or regulation by which it is bound;

(iv) it is the lawful and exclusive FCC licensee of its respective license(s) described in this Agreement, such licenses are valid and in good standing with the FCC, and it has the authority to request the FCC to assign, modify or cancel such licenses;

(v) to the best of its knowledge there is no pending or threatened action or claim that would have the possible effect of enjoining or preventing the consummation of this Agreement or awarding a third party damages on account of this Agreement; and

(vi) to the best of its knowledge, all information provided to the other Party concerning the transactions contemplated by this Agreement is true and complete.

All representations and warranties made in this Agreement shall survive the Closing Date (defined below) for two (2) years.

7. **Covenants:** From the Effective Date until the Closing Date (defined below), each Party will promptly notify the other Party upon becoming aware of any pending or threatened action by the FCC or any other governmental entity or third party to suspend, revoke, terminate or challenge any license described in this Agreement or to investigate the construction, operation or loading of any system authorized under such licenses. From the Effective Date until the Closing Date, Incumbent will not enter into any agreement resulting in, or otherwise cause, the encumbrance of any license for the Incumbent Frequencies, and Nextel will not enter into any agreement resulting in, or otherwise cause, the encumbrance of any of the Replacement Frequencies.

8. **Changes:** The Parties acknowledge that as the Reconfiguration of Incumbent's facilities proceeds in accordance with the work contemplated by the Cost Estimate, the need for changes to the scope of such work may arise. The Parties agree that their review of any such needed changes must be performed expeditiously to keep the work on schedule and that they will provide sufficient staff to manage changes. If either Party believes that a change to the work contemplated by the Cost Estimate is required (including changes by Vendors), such Party will promptly notify the other Party in writing. Such written notice (the "Change Notice") shall set forth (i) a description of the scope of the change to the work contemplated by the Cost Estimate believed to be necessary and (ii) an estimate of any increase or decrease in the Cost Estimate and in the time required to reconfigure Incumbent's existing facilities to operate on the Replacement Frequencies. A Party receiving a Change Notice shall immediately perform its own analysis of the need for and scope of the change and its impact on the Cost Estimate and schedule and negotiate the change in good faith with the other Party. After the Parties have agreed upon a change to this Agreement, they shall prepare a proposed amendment to this Agreement pursuant to Section 25 and submit to the Transition Administrator a copy of the proposed amendment together with a written request for its approval. Such request shall be accompanied by reasonable documentation supporting the need for and scope of the change and any proposed increase or decrease in the Cost Estimate and in the

time required to reconfigure Incumbent's existing facilities to operate on the Replacement Frequencies. Incumbent is responsible for all unauthorized changes necessary as it relates to work performed by a Vendor on behalf of Incumbent. No change to the Cost Estimate, the work contemplated by the Cost Estimate or the time required to reconfigure Incumbent's existing facilities to operate on the Replacement Frequencies shall become effective until both Parties have signed an amendment incorporating such approved change into this Agreement pursuant to Section 25 and the Transition Administrator has approved the amendment in writing. In this regard, in the event that the Transition Administrator is unable to approve the proposed amendment within ten (10) business days, then the deadline by which the Incumbent must clear all users from the Incumbent Frequencies, pursuant to Section 5, will be automatically extended by the number of days beyond ten (10) business days in which the Transition Administrator does not take final action to approve the proposed amendment. Should the Transition Administrator not approve the proposed amendment, either Party may appeal the decision consistent with the FCC Order, in which event the deadline in Section 5 will be extended by the number of days it takes for such appeal to be resolved. If the Parties are unable to agree on modification of this Agreement consistent with the Change Notice, either Party may request mediation consistent with the FCC Order. Once mediation has been requested, the deadline in Section 5 will be extended by the number of days it takes for all appeals to be resolved.

9. **Closing:** The closing ("Closing") of the transactions contemplated by this Agreement will take place within thirty (30) days after (i) FCC approval of the assignment of the Incumbent Frequencies to Nextel and/or deletion of the Incumbent Frequencies from the Incumbent Licenses, (ii) FCC approval of the modification to add the Replacement Frequencies to the Incumbent Licenses with no material conditions or the creation of a new license for Incumbent with no material conditions that includes the Replacement Frequencies, (iii) notification by Incumbent to Nextel that the Incumbent Licenses have been cleared of all Incumbent users pursuant to Section 5 of this Agreement, (iv) delivery by Incumbent of all receipts, invoices and other documentation required to substantiate the Actual Cost and signing by Incumbent and Incumbent's counsel and delivery to Nextel of the Reconciliation Statement and other documents required to complete the Reconciliation similar to those identified on Exhibit B, (v) FCC approval of the modification and/or cancellation of the FCC licenses Nextel holds for the operation of 800 MHz frequencies that are co-channels of the Replacement Frequencies, to the extent required to meet the technical short-spacing requirements of Section 90.621(b) of the FCC's Rules, 47 C.F.R. § 90.621(b), as such rule may be amended from time to time by the FCC, (vi) the refund to Nextel or payment to Incumbent as described in Section 3(b)(ii), (if applicable) and (vii) the satisfaction of all other conditions specified in this Agreement (the "Closing Date").

10. **Closing Conditions:** Performance of each Party's Closing obligations is subject to satisfaction of the following conditions (except to the extent expressly waived in writing by the other Party):

(a) the continued truth and accuracy of the other Party's representations and warranties set forth in this Agreement;

(b) all of the covenants of the other Party described in this Agreement are performed in all material respects; and

(c) execution and delivery by the other Party of Closing documents as well as any other Closing instruments and documents either Party or its counsel may reasonably request. Incumbent will execute and deliver to Nextel a closing certification required by the Transition Administrator.

(d) The Parties will cooperate in good faith and exercise their reasonable best efforts to finalize and execute these instruments and documents on or prior to the Closing Date in order to effect the Reconfiguration contemplated.

11. **Review Rights:** Incumbent agrees to maintain records and other supporting evidence related to the costs that Incumbent has expended in connection with the Reconfiguration contemplated by this Agreement and that Nextel has paid or will pay to Incumbent pursuant to this Agreement. Incumbent agrees to maintain such records and make them reasonably available to the Transition Administrator for review or reproduction until eighteen (18) months after the date of Incumbent's executed Completion Certification required by this Agreement or for a longer period if Incumbent, for its own purposes, retains such records for a longer period of time. As used in this provision, "records" includes books, documents, accounting procedures and practices and other data regardless of type and regardless of whether such items are in written form, in the form of computer data or in any other form. Nextel shall be responsible for post-Closing audit expenses of the Incumbent, except those expenses resulting from fraudulent activity on behalf of the Incumbent. To the extent that any post-Closing audit determines that Nextel paid a third-party vendor more than provided for under the FCC Order, Nextel's sole remedy is to seek reimbursement directly from the third-party vendor, unless such overpayment was the result of fraud or negligence of the Incumbent.

12. **Excluded Assets; No Assumption of Liabilities:** Nothing in this Agreement should be construed as a transfer or assignment from either Party to the other Party of any assets (including FCC licenses) except as expressly set forth in this Agreement. Other than as expressly provided in this Agreement, neither Party is obligated to assign and transfer to the other Party any asset, tangible or intangible, nor is either Party entitled to assume any asset, tangible or intangible. Neither Party is assuming, nor is either Party responsible for, any liabilities or obligations of the other Party arising out of or in connection with the other Party's licenses (or related systems and facilities) that are the subject of this Agreement.

13. **Confidentiality:** The terms of this Agreement and any proprietary, non-public information regarding the Incumbent Frequencies, Replacement Frequencies, Nextel's business and Incumbent's business must be kept confidential by the Parties and their employees, shareholders, agents, attorneys and accountants (collectively, "Agents"), which confidentiality will survive the Closing or termination of this Agreement for a period of two (2) years. The Parties may make disclosures (i) as required by law, (ii) to the Transition Administrator, (iii) to a manufacturer of Replacement Equipment to allow for the provisioning of that equipment to Incumbent (but only to the extent such disclosure specifically relates to that manufacturer's equipment as identified on Schedule D); and (iv) to a Vendor (but only to the extent that such disclosure specifically relates to that Vendor's work and costs under this Agreement (as identified on Schedule C) as required to perform obligations under this Agreement. Nextel, Incumbent and their respective Agents may make disclosures regarding the terms of this Agreement to other public safety licensees and their Agents in accordance with the FCC Order, WT Docket No. 02-55, adopted January 8, 2007. Each Party will cause all of its Agents to honor the provisions of this Section.

14. **Cooperation:** The Parties will cooperate with each other and the Transition Administrator with respect to the Reconfiguration work contemplated by this Agreement. Without limiting the foregoing obligations, the Parties agree to cooperate in the preparation of any applications required to be filed with the FCC, and Incumbent agrees to provide reasonable access to its facilities so that the Transition Administrator may comply with any audit obligations and so any Reconfiguration work contemplated by this Agreement may be performed in accordance with the Cost Estimate and performance schedule. If a Party is subject to a denial of FCC benefits for delinquent non-tax debts owed to the FCC that would prevent or delay the timely processing of any FCC applications, such Party shall cure such delinquency in an expeditious manner and at its sole expense.

15. **Indemnification:** From and after the Closing Date, each Party (the "Indemnifying Party") will indemnify and defend the other Party, its officers, directors, employees and agents (collectively, the "Indemnified Party"), from and against all third party demands, claims, actions, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and expenses

(collectively, “Costs”), asserted against, imposed upon or incurred by the Indemnified Party arising from or related to: (i) any breach of any covenant, agreement, representation or warranty of the Indemnifying Party contained in, or made pursuant to, this Agreement; or (ii) any and all liabilities (including successor liabilities) or obligations relating to periods prior to the Closing Date resulting from the Indemnifying Party’s operation of the system operated pursuant to the Incumbent Licenses or the Nextel Licenses, as applicable, or the ownership or use of those licenses or from the Indemnifying Party’s employment, or termination of employment, of its employees. The obligations under this Section shall survive the Closing for a period of one (1) year.

16. **Disputes:** The Parties agree that any dispute related to the Replacement Frequencies, Nextel’s obligation to pay any cost of the Reconfiguration of Incumbent’s system contemplated by this Agreement, or the comparability of Incumbent’s reconfigured system to Incumbent’s existing system prior to Reconfiguration, which is not resolved by mutual agreement, shall be resolved in accordance with the dispute resolution provisions of the Order, including the dispute resolution procedures adopted by the Transition Administrator, as they may be amended from time to time.

17. **No Gratuities:** No gift, gratuity, credit, thing of value or compensation of any kind shall be offered or provided by Incumbent or Nextel, directly or indirectly, to any officer, employee or official of either Party for the purpose of improperly obtaining or rewarding favorable treatment under this Agreement.

18. **Liens:** If any liens or security interests (“Liens”) attach to any of Incumbent’s facilities in favor of any Vendor or service provider that is performing any Reconfiguration work contemplated by this Agreement as a result of Nextel’s breach of any obligation to make direct payment (not in dispute) to such Vendor or services provider, Nextel upon receipt of Notice from Incumbent will cooperate to remove any Liens.

19. **Vendor Performance Issues:** Incumbent will select and contract directly with any vendor or service provider performing work required to reconfigure the Incumbent’s existing facilities to operate on the Replacement Frequencies. Neither the Transition Administrator nor Nextel will be responsible for, or assume the risk of any failure of that Vendor to perform its obligations under any contract entered into between Incumbent and such Vendor in connection with the Reconfiguration contemplated by this Agreement.

20. **Nextel Replaced Equipment:**

(a) If the reconfiguration of the Incumbent’s existing facilities to operate on the Replacement Frequencies involves the replacement of any of Incumbent’s existing equipment with equipment provided by Nextel (as identified on Schedule D) or equipment the cost of which is being paid by Nextel pursuant to this Agreement as listed in Schedule C (collectively the “Nextel Replacement Equipment”), then (i) title to the equipment replaced by the Nextel Replacement Equipment (the “Nextel Replaced Equipment”) as listed in Schedule D shall pass to Nextel at Closing free and clear of liens and any other encumbrances, and Incumbent shall execute such documentation as Nextel may reasonably request to transfer title to Nextel, (ii) title to Nextel Replacement Equipment provided by Nextel will pass to Incumbent at Closing and Nextel shall execute such documentation as Incumbent may reasonably request to transfer title to Incumbent free and clear of liens; and (iii) Incumbent shall deliver the Replaced Equipment to Nextel at Nextel’s cost, pursuant to Nextel’s shipment instructions, and prior to the Reconciliation Date.

(b) If Incumbent fails to return any item of the Nextel Replaced Equipment in working condition to Nextel, Incumbent must return to Nextel those items of the Nextel Replacement Equipment that would have replaced the Nextel Replaced Equipment not returned, in the same condition it was received (i.e. new for new or used for used) prior to the Reconciliation Date. If Incumbent fails to return

any item of the Nextel Replaced Equipment to Nextel under this Section 20(b) and a Product Typical Value is set forth in Schedule E for the item of Replacement Equipment then either: (i) Nextel will deduct the Product Typical Value (as set forth in Schedule E) for those items of Nextel Replacement Equipment provided to replace the Nextel Replaced Equipment not returned to Nextel (including tax (if any) and shipping) (the "Nextel Equipment Refund") from the final payment due to Incumbent after the Reconciliation; (ii) Incumbent must pay Nextel the Nextel Equipment Refund in accordance with Section 3(b)(ii) (if no final payment is due to Incumbent); or (iii) Nextel will deduct the portion of the Nextel Equipment Refund up to the value of the final payment due to Incumbent, and Incumbent must pay Nextel the remaining Nextel Equipment Refund not covered by the final payment in accordance with Section 3(b)(ii) (if the final payment due Incumbent is less than the Nextel Equipment Refund); or (iv) Incumbent may choose to purchase Comparable Equipment, defined below, from any source and send the equipment, along with adequate documentation, to Nextel prior to the Reconciliation Date. Comparable Equipment shall mean equipment of the same condition (e.g. new for new or used for used) and from the same manufacturer, that is the identical model and includes the same options and accessories as the Replacement Equipment provided by Nextel.

(c) In the event of a dispute between the Parties concerning a discrepancy of the number of units of Nextel Replaced Equipment returned to Nextel, or to the condition of the Nextel Replaced Equipment returned to Nextel, the Parties acknowledge and agree that, absent material evidence to the contrary as reasonably determined by Nextel, receipt by Nextel of an affidavit (signed by the person or persons authorized by Incumbent to pack the Nextel Replaced Equipment for return to Nextel) will be considered conclusive evidence of the return of the stated count and condition of the Nextel Replaced Equipment by Incumbent, provided, however that such affidavit: (1) indicates that the Nextel Replaced Equipment was packed in working condition by such authorized person by Incumbent, and (2) documents the model, options and accessories, serial numbers, and quantity of Nextel Replaced Equipment packed and shipped to Nextel. Nothing in this Section shall restrict or prevent either Party from resolving any disputes related to this Section in accordance with the terms of this Agreement.

21. **Termination:** This Agreement may be terminated and the transactions contemplated by this Agreement abandoned: (i) by mutual consent of the Parties provided in writing; (ii) for cause by either Party upon material breach of the other Party, following a thirty (30) day period for cure by the breaching Party following written notice of the breach; (iii) by Incumbent, in the event that a proposed amendment is not approved, pursuant to Section 8; or (iv) by Nextel prior to Closing in the event of any Adverse Decision affecting the Order by any governmental entity of competent jurisdiction. For purposes of this Agreement, an "Adverse Decision affecting the Order" means an order, decree, opinion, report or any other form of decision by a governmental entity of competent jurisdiction that results, in whole or part, in a stay, remand, or reversal of the Order. In the event of termination, the Parties shall take all necessary action (including preparing and filing FCC documents) to return the *status quo ante* on the date of this Agreement. In the event of termination, Nextel shall pay all costs associated with the return to the *status quo ante*, as well as all Incumbent costs expended in the Agreement negotiations and implementation, except if such termination was due to an uncured material breach by Incumbent. Should Incumbent terminate this Agreement pursuant to subsection (iii), Incumbent shall not be released of its obligations under the Order.

22. **Attorney's Fees:** Except for the mediation requirements pursuant to Section 16 herein, in any legal proceeding by a Party to enforce its rights under this Agreement against the other Party, the Party prevailing in such proceeding will be entitled to recover its reasonable attorney's fees and costs from the other Party.

23. **Notices:** All notices and other communications under this Agreement must be in writing and will be deemed given (i) the same day if delivered personally or sent by facsimile; (ii) the next business day if sent by overnight delivery via a reliable express delivery service; or (iii) after five (5) business days if sent

by certified mail, return receipt requested, postage prepaid. All notices are to be delivered to the Parties at the following addresses:

If to Incumbent, to: City of Billings Billings City/County 9-1-1 2305 8th Ave. North Billings, MT 59101 Attn: Anne Kindness Communication Center Manager Phone: (406) 657-8444 E-mail: KindnessA@ci.billings.mt.us	If to Nextel, to: Nextel West Corp. c/o Nextel Communications, Inc. 2001 Edmund Halley Drive Reston, VA 20191 Attn: Heather P. Brown, Esq. Phone: (703) 433-4467 Fax: (703) 433-4483
With a copy that shall not constitute Notice: Alan S. Tilles, Esquire Shulman Rogers Gandal Pordy & Ecker, P.A. 12505 Park Potomac Avenue, Sixth Floor Potomac, MD 20854 Rockville, Maryland 20852 Phone: (301) 231-0930 Fax: (301) 230-2891 atilles@shulmanrogers.com	With a copy that shall not constitute Notice: Nextel Communications, Inc. 6575 The Corners Parkway Norcross, GA 30092 Attn: William Jenkins, VP Spectrum Resources Phone: (770) 326-7484 Fax: (678) 405-8252

24. **Assignment:** This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns. Either Party may assign this Agreement to any direct or indirect subsidiary or affiliate of the Party, upon delivery of written notice to the other Party provided, however, that any direct or indirect subsidiary or affiliate of Nextel that assumes this Agreement, shall assume all of Nextel's obligations under this Agreement and shall be liable with respect to Nextel's obligations under this Agreement pursuant to the Order. Notwithstanding the foregoing, the obligation of Sprint Nextel Corp. to perform under the Order shall not be affected by any such assignment.

25. **Amendments:** This Agreement, including without limitation the scope of work contemplated hereby and the Estimated Cost thereof to be paid by Nextel, may be amended or modified only by a written instrument signed by authorized representatives of both Parties, provided, however, no amendment or modification to this Agreement shall become effective until approved by the Transition Administrator, or the FCC after an adverse decision by the Transition Administrator.

26. **Benefits:** This Agreement is for the benefit of the Parties and their successors and permitted assigns, and nothing in this Agreement gives or should be construed to give any legal or equitable rights under this Agreement to any person or entity, other than (i) the successors and assigns of the Parties, and (ii) the Transition Administrator as specifically provided in this Agreement.

27. **Miscellaneous:** If any provision(s) of this Agreement is held in whole or part, to be invalid, void or unlawful by any administrative agency or court of competent jurisdiction, then such provision(s) will be deemed severable from the remainder of this Agreement, will in no way affect, impair or

invalidate any other provision contained in the Agreement and the Parties will use their commercially reasonable efforts to amend this Agreement to make the unlawful provision compliant with applicable law so as to preserve the rights and obligations of the Parties. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement, together with the Schedules, constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. This Agreement is governed by the laws of the State of Montana without regard to conflicts of law principles thereof. This Agreement may be executed in one or more counterparts, including by facsimile, which will be effective as original agreements of the Parties executing the counterpart. In consideration of the mutual consideration set forth herein, this Agreement is effective as a legally binding agreement between the Parties upon execution by the Parties.

INCUMBENT:
City of Billings, Montana

NEXTEL:
Nextel West Corp.

By:_____

By:_____

Name:

Name:

Title:

Title:

SCHEDULE A

Incumbent Frequencies

Incumbent Name: City of Billings, Montana

The Incumbent Frequencies listed on this Schedule A, represent the transmit (base station) frequencies on the Incumbent Licenses. Although not specifically listed, all related mobile frequencies and/or station classes listed on the Incumbent Licenses are herein incorporated by reference.

Incumbent Assigns to Nextel:

Call Sign	Frequencies	Licensee	Location(s)	Expiration Date	Lat (N)	Long (W)
WQJM353	866.0125	BILLINGS, CITY OF	BILLINGS , MT	11/29/2009	45-46-44	108-28-30
WQJM353	866.5125	BILLINGS, CITY OF	BILLINGS , MT	11/29/2009	45-46-44	108-28-30
WQJM353	866.5125	BILLINGS, CITY OF	BILLINGS , MT	11/29/2009	45-47-51.8	108-29-25.5

SCHEDULE B

Replacement Frequencies

Incumbent Name: City of Billings, Montana

The related mobile frequencies and/or station classes for the Replacement Frequencies listed in this Schedule B, will be assigned from Nextel to Incumbent based on the Incumbent Licenses listed in Schedule A.

Nextel Assigns to Incumbent:

Replacement Frequencies	Replacement Call Sign	Lat (N)	Long (W)	ERP (W)	Gnd Elev (ft)	Ant. Height (ft)	New Licensee	Location(s)
851.0125	WQJM353	45-46-44	108-28-30	50	3504	33	BILLINGS, CITY OF	Billings, MT
851.5125	WQJM353	45-46-44	108-28-30	50	3504	33	BILLINGS, CITY OF	Billings, MT
851.5125	WQJM353	45-47-51.8	108-29-25.5	200	3448	16	BILLINGS, CITY OF	Billings, MT
852.0125	WQJM353	45-46-44	108-28-30	50			BILLINGS, CITY OF	Billings, MT
852.5125	WQJM353	45-46-44	108-28-30	50			BILLINGS, CITY OF	Billings, MT
853.0125	WQJM353	45-46-44	108-28-30	50			BILLINGS, CITY OF	Billings, MT
853.5125	WQJM353	45-46-44	108-28-30	50			BILLINGS, CITY OF	Billings, MT

SCHEDULE C

800 MHZ RECONFIGURATION

COST ESTIMATE - CERTIFIED REQUEST

Request for Reconfiguration Funding

Incumbent's Name: Billings, City of, MT

Pursuant to the Order, Incumbent is required to reconfigure its existing facilities and requests Nextel to fund the estimated reconfiguration costs included below:

Incumbent Payment Terms: Nextel will pay Incumbent an amount not to exceed the Estimated Cost(s) for Incumbent with respect to each category of work, as set forth below. Nextel will pay Incumbent \$27,862.54 within 15 days (30 days if Incumbent elects to be paid by check rather than electronic funds transfer) after receipt by Nextel of the fully executed Agreement and fully completed Incumbent Information Form (as set forth on Exhibit A). Nextel will pay any outstanding balance of the Actual Costs due to Incumbent within 30 days after the Reconciliation Date (as "Actual Costs" and "Reconciliation Date" are defined in Section 3(b)(i)).

Vendor Payment Terms: Nextel will pay each Vendor an amount not to exceed the Estimated Cost(s) for that Vendor with respect to each category of work, as set forth below. Nextel will pay each Vendor within 30 days after receipt by Nextel of (A) an invoice from the Vendor and (B) Incumbent's approval of receipt of goods and services and approval of associated costs included on the Vendor invoice.

1. System Description: The primary system infrastructure is a 3 Site simulcast Multi-Net System, originally supplied by EFJohnson, operating in the 855-858 MHz portion of the 800 MHz band. Each site has 5 channel capacity with a total of 15 active channels. The three simulcast system sites are commonly referred to as Fox, Swords and Landfill. Sites are connected via fixed microwave links of wireline carrier services to an RNT3000 switch which provides the interface between Sites and the dispatch center. In addition, Agency operates a conventional NPSPAC 800MHz / VHF back to back repeater system at the Swords Park site for Mutual Aid, plus two Mutual Aid NPSPAC 800MHz base stations at the Sacrifice Cliff site. The base stations at Sacrifice Cliff are connected via UHF links to the central electronics bank (Orbacom CPP) at the dispatch center. Collectively, the 4 sites shall be referred to as the System Infrastructure. All subscriber equipment is programmed for the Multi-Net system, and for the Mutual Aid Channels.

The major system elements to be reconfigured are summarized in the table below:

	Total In System	Total Included in FRA
Base station frequencies	3	3
- Voice channels	0	0
- Home/Control channels	0	0
Repeater sites	4	4
Other sites (remote recv, BDA)	0	0

Subscriber units retuned	0	0
Subscriber units reprogrammed	0	0
Subscriber units replaced	839	839
Subscriber units rebanded total	839	839
Entities operating on the system	0	0

2. Reconfiguration Milestones: Identify the anticipated start date of the overall reconfiguration of your system (Project Start). Then, for each major reconfiguration milestone listed in the table below, provide (1) the anticipated number of days after project start date required to begin execution of the task identified, and (2) the estimated duration in number of days required to complete the task identified. As an FRA is negotiated, it is not always possible to know an actual start date for specific reconfiguration tasks. In such a case, it is acceptable to forecast an estimated start date from execution of the FRA (i.e., "contract execution + xx days") and estimate the duration of each task.

Reconfiguration Task	Start Date	# of Days After Project Start Date for Start of Task	Estimated Duration in # of Days
Project Start	Effective date of FRA		
Reconfiguration Planning		14	42
Reconfigure Subscriber Equipment		56	182
Reconfigure Infrastructure Equipment		238	7
System Acceptance		245	7

3. Implementation Plan: The attached EF Johnson Statement of Work ("SOW") sets forth the procedures, responsibilities, time line and costs agreed to by EF Johnson ("Vendor") and City of Billings ("Agency") pursuant to which the Agency's existing Multi-Net® system will be reconfigured consistent with the Orders of the Federal Communications Commission ("FCC") on the rebanding of the 800 MHz band ("Orders" or "Rebanding Orders") and as implemented and overseen by the FCC's designee, the Transition Administrator ("TA"). This SOW includes a description of the required subscriber equipment replacement, and services that will be required for the Agency's system to operate consistent with the Rebanding Orders. Vendor will work directly with the Agency to plan and complete this rebanding effort. This SOW is subject to the terms and conditions of the Rebanding Agreement.

4. Cost Estimate:

Description of Work To Be Performed	Payee(separately identify Incumbent and each Vendor being paid for work performed)	Estimated Cost(s) for Incumbent and Each Vendor (Not to Exceed listed amount)
I. Subscriber Reconfiguration Services - First Touch ----- Subscriber ----- Subscriber Inventory	(Incumbent) Billings, City	\$5,510.60

User Coordination Staff time to bring in the equipment & replace it 943 units at 15 minutes each (236hrs @ \$23.35 /hr = \$5,510.60)		
----- Subscriber ----- Ref: 6.3 - Subscriber Programming Templates - Labor - Technician (40hrs @ \$145.00 /hr = \$5,800.00) Ref: 6.4 - Create Subscriber Programming Files - Labor - Technician (48hrs @ \$145.00 /hr = \$6,960.00) Ref: 6.6 & 6.7 - Subscriber Inventory Control - Labor - Logistics (250hrs @ \$110.00 /hr = \$27,500.00) Ref: 6.8.1 - Program Subscriber Equipment - Existing - Labor - Technician - Reprogram (53 units @ 0.60 hrs each @ \$145.00 /hr = \$4,611.00) - Labor - Technician - Software Update (53 units @ 0.50 hrs each @ \$145.00 /hr = \$3,842.50) Ref: 6.8, 6.9, 6.11 - Program, Setup & Deploy New Portables - Labor - Technician (532 units @ 0.60 hrs each @ \$145.00 /hr = \$46,284.00) Ref: 6.8, 6.9, 6.11 - Program, Setup & Install New Mobiles - Labor - Technician - Install Dash Mount (256 units @ 2.75 hrs each @ \$145.00 /hr = \$102,080.00) - Labor - Technician - Install Remote Mount (16 units @ 3.50 hrs each @ \$145.00 /hr = \$8,120.00) Ref: 6.8, 6.9, 6.11 - Program, Setup & Install New Control Stations - Labor - Technician - Install Local Control (34 units @ 3.80 hrs each @ \$145.00 /hr = \$18,734.00) - Labor - Technician - Remote Control (1 units @ 4.80 hrs each @ \$145.00 /hr = \$696.00) - Labor - Technician - Desk set (remote) (5 units @ 1.00 hrs each @ \$145.00 /hr = \$725.00) Ref: 6.14 - Reprogram Subscriber Equipment	(Vendor) EF Johnson	\$225,352.50
II. Infrastructure Reconfiguration - Services	(Vendor)	\$2,100.00

----- Infrastructure ----- Ref: 7.6.1 - Reconfigure Site - Swords Park - Labor - Technician (6hrs @ \$175.00 /hr = \$1,050.00) Ref: 7.6.2 - Reconfigure Site - Sacrifice Cliff - Labor - Technician (6hrs @ \$175.00 /hr = \$1,050.00)	EF Johnson	
III. Project Management, including on site supervision ----- Professional Services ----- Overall Project Management Overall Project Management including Vendor contract, negotiation with Sprint Nextel, FCC Filings. Documented Hours Accrued at Documented Blended Rate (78hrs @ \$37.98 /hr = \$2,962.44)	(Incumbent) Billings, City	\$2,962.44
----- Professional Services ----- Ref: 7.1 - Infrastructure Program Management - Labor - Program Manager (24hrs @ \$200.00 /hr = \$4,800.00) - Labor - Program Manager (114hrs @ \$200.00 /hr = \$22,800.00)	(Vendor) EF Johnson	\$27,600.00
IV. Engineering Services ----- Infrastructure ----- Ref: 7.2 - Infrastructure Inventory Evaluation - Labor - Engineer (4hrs @ \$175.00 /hr = \$700.00) Ref: 7.4 - Migration Methodology - Labor - Engineer (2hrs @ \$175.00 /hr = \$350.00) ----- Testing ----- Ref: 7.5 - Create Acceptance Test Plan - Labor - Engineer (4hrs @ \$175.00 /hr = \$700.00) Ref: 7.7 - Acceptance Testing - Labor - Engineer (4hrs @ \$175.00 /hr = \$700.00)	(Vendor) EF Johnson	\$2,450.00
V. Travel (except third party legal, which should be included in Contract, Legal and Regulatory Filings) ----- Professional Services ----- - Travel (1 @ \$1,166.67 /unit = \$1,166.67) - Rental Car (4 @ \$100.00 /unit = \$400.00) - Living (4 @ \$283.33 /unit = \$1,133.33) - Travel (4 @ \$1,166.67 /unit = \$4,666.67)	(Vendor) EF Johnson	\$12,750.01

- Rental Car (8 @ \$100.00 /unit = \$800.00) - Living (8 @ \$283.33 /unit = \$2,266.67) ----- Subscriber ----- - Travel (1 @ \$1,166.67 /unit = \$1,166.67) - Rental Car (3 @ \$100.00 /unit = \$300.00) - Living (3 @ \$283.33 /unit = \$850.00)		
VI. Training ----- Subscriber ----- Train the Trainer 4 Sessions x 15 people x 3 hours Each (60 units @ 3.00 hrs each @ \$23.35 /hr = \$4,203.00) User Training - Police - 227 people x 1.5 hours OT Rate (116 units @ 1.50 hrs each @ \$40.14 /hr = \$6,984.36) - Met Transit - 116 people x 1.5 hours OT Rate (56 units @ 1.50 hrs each @ \$27.66 /hr = \$2,323.44) - Sanitation - 227 people x 1.5 hours OT Rate (55 units @ 1.50 hrs each @ \$33.08 /hr = \$2,729.10) - Field Worker - 716 people x 1.5 hours Regular Rate (716 units @ 1.50 hrs each @ \$23.35 /hr = \$25,077.90)	(Incumbent) Billings, City	\$41,317.80
----- Subscriber ----- Ref: 6.12 - Train the Trainer Training Labor - Training Specialist (24hrs @ \$175.00 /hr = \$4,200.00)	(Vendor) EF Johnson	\$4,200.00
VII. Contract, Legal and Regulatory Filings (includes all third party tasks, including project management, travel) ----- Legal ----- Internal Legal - Internal Legal Hours Accrued (6hrs @ \$50.30 /hr = \$301.80) - Internal Legal Hours - Negotiation and Contract Support Moving Forward (30hrs @ \$50.30 /hr = \$1,509.00)	(Incumbent) Billings, City	\$1,810.80
----- Legal ----- - Contract Negotiations, Review of Contract and Closing Documents (80hrs @ \$435.00 /hr = \$34,800.00) - FCC Regulatory filings, 2 sets of applications, Consummation Notices, Rebidding deadline notices and deadline	(Vendor) SRGP&E	\$40,740.00

coordination (8hrs @ \$180.00 /hr = \$1,440.00) - Review of Closing Documents (1hrs @ \$1,000.00 /hr = \$1,000.00) - Travel Costs (1hrs @ \$3,500.00 /hr = \$3,500.00)		
VIII. Subscriber Reconfiguration - Equipment ----- Sch C Equipment ----- - Portable, black, limited keypad - Model No:242-557D-810-HA6 (273 @ \$1,925.00 /Each = \$525,525.00) - Portable black, full keypad - Model No:242-557E-810-HA6 (38 @ \$2,124.50 /Each = \$80,731.00) - Portable, black, I/S, limited keypad - Model No:242-557G-860-HA6 (144 @ \$1,960.00 /Each = \$282,240.00) - Portable, black, I/S, full keypad - Model No:242-557H-860-HA6 (77 @ \$2,159.50 /Each = \$166,281.50) - Portable - Model No: Freight (532 @ \$7.08 /Each = \$3,766.56) - Mobile, dash-mount - Model No:242-5571-301-AAAB6 (291 @ \$2,373.00 /Each = \$690,543.00) - Mobile, remote-mount - Model No:242-5572-301-RAAB6 (16 @ \$2,817.50 /Each = \$45,080.00) - Mobile - Model No: Freight (307 @ \$17.50 /Each = \$5,372.50) - Speaker Microphone (16 ohm) - Model No:589-0015-052 (46 @ \$112.50 /Each = \$5,175.00) - Spare Battery - Model No:587-5100-367 (97 @ \$75.00 /Each = \$7,275.00) - Spare Battery, I/S - Model No:587-5100-363 (80 @ \$93.75 /Each = \$7,500.00) - Charger Kit, 120 Volt - Model No:250-5100-230 (522 @ \$112.50 /Each = \$58,725.00) 4-Unit Charger Kit, 120 Volt - Model No:250-5100-240 (5 @ \$412.50 /Each = \$2,062.50) - Leather case with D swivel - Model No:585-5100-14012 (158 @ \$52.50 /Each = \$8,295.00) - PC Tune Portable Service Kit - Model No:250-5100-005 (2 @ \$300.00 /Each = \$600.00) - Impact DC-1 vehicular charger - Model No:888-1190-004 (22 @ \$120.00 /Each =	(Vendor) EF Johnson	\$1,953,465.29

\$2,640.00) • Multi-Net encryption(DES) - Model No:/NPN (31 @ \$1,090.50 /Each = \$33,805.50) • Advance TEC AT4-5059 CPA 4 station analyzer - Model No:/NPN (2 @ \$1,307.00 /Each = \$2,614.00) • Portable Accessory - Model No: Freight (965 @ \$2.50 /Each = \$2,412.50) • PC Tune Mobile Service Kit - Model No:250-5300-006 (2 @ \$450.00 /Each = \$900.00) • Ascend ES Control Head Removal Tool - Model No:721-5100-010 (2 @ \$71.25 /Each = \$142.50) • Mobile Accessory - Model No: Freight (4 @ \$2.50 /Each = \$10.00) • Desktop Microphone - Model No:589-0012-022 (35 @ \$93.75 /Each = \$3,281.25) • Power supply 15 Amp 120 Volt - Model No:585-4001-202 (35 @ \$221.25 /Each = \$7,743.75) • IDA to Ascend interface cable - Model No:585-5300-112 (1 @ \$60.00 /Each = \$60.00) • IDA Programming Kit - Model No:585-5300-102 (1 @ \$97.50 /Each = \$97.50) • Custom Application Cable (dB14) - Model No:597-2002-249 (35 @ \$141.32 /Each = \$4,946.20) • IDA 431-24-66HMSK Deskset - Model No:888-3280-015 (5 @ \$922.67 /Each = \$4,613.35) • IDA 431-RBC-611 4-wire audio option - Model No:888-3280-016 (5 @ \$38.67 /Each = \$193.35) • IDA 431-20-28 Termination panel - Model No:888-3280-014 (1 @ \$333.33 /Each = \$333.33) • IDA 431-RTM-601 Cabinet - Model No:888-3280-018 (1 @ \$66.67 /Each = \$66.67) • IDA 431-RTM-602 digital Signaling - Model No:888-3280-019 (1 @ \$133.33 /Each = \$133.33) • Control Station Accessory - Model No: Freight (120 @ \$2.50 /Each = \$300.00)		
IX. Planning FRA / Preparation / Negotiation ----- Professional Services ----- • Negotiation and Contract Support Moving Forward (30hrs @ \$37.98 /hr = \$1,139.40) ----- Subscriber -----	(Incumbent) Billings, City	\$4,123.44

6 Departments at average of 8 hours (48hrs @ \$27.63 /hr = \$1,326.24) - Fire Department Inventory (60hrs @ \$27.63 /hr = \$1,657.80)		
----- Subscriber ----- Ref: 6.2 - Subscriber Inventory Evaluation Labor - Engineer (24hrs @ \$175.00 /hr = \$4,200.00)	(Vendor) EF Johnson	\$4,200.00
Billings, City	Incumbent	\$55,725.08
EF Johnson	Vendor	\$2,232,117.80
SRGP&E	Vendor	\$40,740.00
Total Estimated Costs		\$2,328,582.88

Certification

Pursuant to the Order, Incumbent hereby certifies to the Transition Administrator appointed pursuant to the Order that Incumbent and its Vendors have determined (as listed in Schedule C) the minimum funds necessary to reconfigure Incumbent's facilities in a reasonable, prudent and timely manner, in order to make such rebanded facilities comparable to those presently in use. If applicable, Incumbent further certifies, to the best of Incumbent's knowledge, that any vendor costs listed on Schedule C are comparable to costs that vendor previously charged Incumbent for similar work.

Signature: _____
Print Name: _____
Title: _____
Phone Number: _____
E-mail: _____
Date: _____

SCHEDULE D

Billings, City of, MT

1) Reserved

2) Reserved

3) Replaced Equipment (to be delivered to Nextel prior to the Reconciliation Date)

Quantity	Manufacturer	Description	Model Number
15	EFJ	Portable, Ascend Series 2, limited keypad	5584
86	EFJ	Portable, Avenger, limited keypad (Must be NPSPAC Capable)	8160-102
172	EFJ	Portable, Viking, limited keypad	8587-x15
1	EFJ	Portable, Avenger, full keypad (Must be NPSPAC Capable)	8160-202
37	EFJ	Portable, Viking, full keypad	8587-x16
144	EFJ	Portable, Viking, IS, limited keypad	8588-x15
30	EFJ	Portable, Avenger, IS, full keypad	8161-202
16	EFJ	Portable, Viking, IS, full keypad	8588-x16
31	EFJ	Portable, Viking, IS, full keypad (with DES Encryption)	8588-x16
245	EFJ	Mobile, Summit, dash mount	97xx
35	EFJ	Tiger Control Station	8606
11	EFJ	Viking Remote Control Unit	250-8610-505
16	EFJ	Mobile, Summit Remote mount	9754 / 9756
46	EFJ	Viking Speaker Microphone	589-0015-027
97	EFJ	Viking Spare Battery	587-8565-171
80	EFJ	Viking Spare IS Battery	587-8565-162
517	EFJ	Avenger / Viking Charger	585-5020-020 / 239-5800-376
5	EFJ	Viking 5 Unit Charger	239-5800-400
158	EFJ	Viking Leather Case (with D swivel)	023-8560-125
22	EFJ	Viking Vehicular Adapter & Charger	239-5810-500
1	Alexander	Alexander 2006 Battery Analyzer	Battery Analyzer
35	EFJ	86xx Desk Microphone	250-0742-010
35	EFJ	86xx AC Power Supply, 115 Volt	239-0226-113
5	Zetron	Deskset 230A	Deskset
1	Zetron	Termination Panel	Termination Panel

4) Reserved

5) Reserved

SCHEDULE E

Nextel Replacement Equipment

The Product Typical Values for Nextel Replacement Equipment shall be:

- a. for Nextel Replacement Equipment set forth on Schedule C, the cost shown on Schedule C for the item of Nextel Replacement Equipment; or
- b. for Nextel Replacement Equipment comprising EFJohnson 5100 & 5300 series radios and associated accessories, the most recent list price as of the date a reconciliation statement is sent to Incumbent by Nextel, less 25%

In lieu of paying the Product Typical Value for Nextel Replacement Equipment as stated above, Incumbent may choose to purchase Comparable Equipment, defined below, from any source and send the equipment, along with adequate documentation, to Nextel prior to the Reconciliation Date. Comparable Equipment, shall mean equipment of the same condition (e.g. new for new or used for used) and from the same manufacturer, that is the identical model and includes the same options and accessories as the Nextel Replacement Equipment.

Exhibit A

Incumbent Information

The following questions are required for processing Electronic Funds Transfers and if Incumbent wants Nextel to complete the FCC filings on its behalf. All information contained herein shall be kept strictly confidential and will be used only in completion of the Frequency Reconfiguration transaction.

I. INCUMBENT INFORMATION

Please provide the following information:

Company/Name: _____

Contact: _____ Title: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Email: _____

Check Appropriate Box: ☐ Individual/Sole Proprietor ☐ Corporation ☐ Partnership
☐ Other _____

II. BANK ACCOUNT INFORMATION (Required for payment processing.)

Please select preferred payment method: ☐ Wire Transfer ☐ ACH ☐ Check

Name of Bank: _____

Address of Bank: _____

City/State/Zip: _____

Bank Phone #: _____

ABA (Routing #): _____

Account #: _____

Name on Account: _____

Federal, State or Individual SS #: _____

Name of Brokerage Firm (if applicable): _____

Brokerage Account # (if applicable): _____

In the event Incumbent will not provide information for Wire Transfer or ACH, Incumbent acknowledges that all payments will be made by check.

**Acknowledged by Incumbent: _____ (signature
required only if Incumbent does not want an electronic funds transfer)**

III. TAX INFORMATION

The Internal Revenue Service and state tax authorities require Nextel to report all transactions, even if the transaction is exempt from taxation (if so, it will be reported to the IRS as a like-kind exchange). Therefore, it is necessary for Nextel to collect the information below. If you have specific questions about your tax implications in this transaction, you should consult your own accountant or financial advisor.

Incumbent's Federal or Individual Tax ID #, FEIN
(Federal) or SSN (individuals): _____

State(s) – sales tax license, resale permit,
employment, etc.): _____

Local (if applicable): _____

Current State and County location for your
principal executive office: _____

If there has been more than one location for the
principal executive office within the past five (5)
years, list each such City/County/State location: _____

IV. FINANCIAL RECONCILIATION CONTACT INFORMATION (indicate one)

A. Check here if *same* as indicated in Item I above _____

B. Fill in below if *different* from Item I above as follows:

Financial Contact Name: _____

Title: _____

Address: _____

City/State/Zip: _____

Phone: _____ **Fax:** _____

Email: _____

V. REGULATORY INFORMATION

Would you like Nextel's Regulatory department to prepare and file all necessary FCC paperwork on your behalf? Yes / No

If yes, please provide the following **Universal Licensing System (“ULS”)** information for your licenses:

FRN (FCC Registration Number): _____

ULS PASSWORD: _____

Contact Representative for any FCC related issues:

Name: _____

Phone Number: _____

If no, please provide the following information regarding who will take care of the preparation and filing of all necessary FCC paperwork on your behalf:

Contact Name: _____

Organization: _____

Address: _____

City: _____

State/Zip: _____

Phone Number: _____

Email Address: _____

I hereby acknowledge that all of the information provided herein is true and correct as of the date signed below.

Incumbent Signature: _____

Print Name: _____

Title: _____

Date: _____

Exhibit B(1)
Reconciliation Documentation
Certification of Labor

Incumbent hereby certifies that the internal labor information provided for the Frequency Reconfiguration Agreement, dated _____, with Nextel (the “FRA”) is true and complete to the best of Incumbent's knowledge. Incumbent further certifies that the number of planning or reconfiguration tasks that the Incumbent performed using internal labor for each labor category on the TA-approved Cost Estimate and/or the number of internal labor hours incurred in performing planning or reconfiguration tasks for each labor category on the TA-approved Cost Estimate (included in the FRA) were for 800MHz Planning or Reconfiguration and have been documented in accordance with the TA's policy on Incumbent Labor at <http://www.800ta.org/content/PDF/policy/IncumbentLaborPolicy.pdf> as of the Effective Date of the FRA. Incumbent acknowledges that the reconciliation documentation and related supporting records for the FRA are subject to the Review Rights (as that term is defined in the FRA with Nextel) of the TA.

Incumbent Name: _____

Signature: _____

Name: _____

Title: _____

Date: _____

Exhibit B(2)
Reconciliation Documentation
Time Sheet Documentation

THIS IS AN EXAMPLE DOCUMENT
THE ACTUAL DOCUMENT IS AVAILABLE FROM THE NEXTEL FINANCE DEPARTMENT

Deal ID:

Deal Name:

Name	* Date	** <u>Schedule C</u> Category of Work	Description of Work Performed (ties back to <u>Schedule C</u>)	Actual Hours Worked	*** Rate (hourly)	Total Cost
					TOTAL COST	\$

CERTIFICATION:

Incumbent hereby certifies that the internal labor information provided for the Frequency Reconfiguration Agreement, dated _____, with Nextel (the "FRA") is true and complete to the best of Incumbent's knowledge. Incumbent further certifies that the number of internal labor hours incurred in performing planning or reconfiguration tasks for each labor category on the TA-approved Cost Estimate (included in the FRA) were for 800MHz Planning or Reconfiguration and have been documented in accordance with the TA's policy on Incumbent Labor at <http://www.800ta.org/content/PDF/policy/IncumbentLaborPolicy.pdf> as of the Effective Date of the FRA. Incumbent acknowledges that the reconciliation documentation and related supporting records for the FRA are subject to the Review Rights (as that term is defined in the FRA with Nextel) of the TA.

Incumbent Name: _____

Signature: _____

Title: _____

Date: _____

*Separate entries for each date when labor expense was incurred must be provided on a per employee basis. Date ranges will not be accepted.

**A total should be provided for each Schedule C category. Subtotals can be provided within the page or a separate page can be used for each category/grouping.

***Hourly rates may not exceed the Schedule C negotiated rate for similar reconfiguration/planning activities unless accompanied by an approved change notice that explains why a higher rate was necessary to complete reconfiguration/planning.

Exhibit B(3)
Reconciliation Documentation
Per Unit Summary Documentation

THIS IS AN EXAMPLE DOCUMENT
THE ACTUAL DOCUMENT IS AVAILABLE FROM THE NEXTEL FINANCE DEPARTMENT

Deal ID:

Deal Name:

* Schedule C Category of Work	Description of Work Performed (ties back to Schedule C)	** Quantified Units	*** Rate (Per Unit)	Total Cost
				\$

CERTIFICATION:

Incumbent hereby certifies that the internal labor information provided for the Frequency Reconfiguration Agreement, dated _____, with Nextel (the "FRA") is true and complete to the best of Incumbent's knowledge. Incumbent further certifies that the number of planning or reconfiguration tasks that the Incumbent performed using internal labor for each labor category on the TA-approved Cost Estimate (included in the FRA) were for 800MHz Planning or Reconfiguration and have been documented in accordance with the TA's policy on Incumbent Labor at <http://www.800ta.org/content/PDF/policy/IncumbentLaborPolicy.pdf> as of the Effective Date of the FRA. Incumbent acknowledges that the reconciliation documentation and related supporting records for the FRA are subject to the Review Rights (as that term is defined in the FRA with Nextel) of the TA.

Incumbent Name: _____

Signature: _____

Title: _____

Date: _____

*A total should be provided for each Schedule C category. Subtotals can be provided within the page or a separate page can be used for each category/grouping.

**A detailed list identifying the individual units (by serial number or other unique identifying factor) must be provided in addition to this summary document.

***Per unit rates may not exceed the Schedule C negotiated rate for similar reconfiguration/planning activities unless accompanied by an approved change notice that explains why a higher rate was necessary to complete reconfiguration/planning.

Regular City Council Meeting

Date: 07/12/2010

TITLE: Blue Knights Parade

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Blue Knights would like to hold a short motorcycle parade 1:00 pm. - 2:00 p.m., Thursday, July 22, 2010. The parade route starts at the Holiday Inn Grand Montana on Midland Road to Montana Avenue via Laurel Road. The parade will then continue on Montana Avenue through downtown Billings turning north on 27th St. N, then east on 4th Ave N. and ending at Metra Park.

Recommended conditions of approval include The Blue Knights:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Provide a certificate of insurance with required liability amounts naming City of Billings as additional insured
6. The police department will assist by providing the same traffic control services that they provide for other parades

ALTERNATIVES ANALYZED

The Council may:

- Approve the request for the parade route and temporary street closure; or
- Deny the request

FINANCIAL IMPACT

There are no costs to the City of Billings for this event other than administrative time to process the permit. Police, traffic control and litter removal are to be paid for by The Blue Knights.

RECOMMENDATION

Staff recommends that Council approve the parade route and temporary street closure on Thursday, July 22, 2010, 1:00 - 2:00 p.m.

APPROVED BY CITY ADMINISTRATOR

Attachments

Blue Knights Attach

June 8, 2010

To Whom It May Concern:

The community of Billings is privileged to welcome the Blue Knights 36th Annual International Convention this summer, July 18-23, 2010. This is a fantastic event designed for motorcycle enthusiasts and meant to encourage community involvement. The Billings Chamber of Commerce/Convention and Visitors Bureau is excited to assist with bringing this group to Billings.

The Blue Knights would like to hold a short parade running from the Holiday Inn Grand Montana on Midland Rd to Montana Avenue via Laurel Rd. They will then continue through downtown Billings, turning north on 27th St N, then east on 4th Ave N, ending at MetraPark. Each bike is lavishly decorated and it is a fun event for the participants and spectators alike.

The event is a perfect size for Billings and the Blue Knights inform us that their members are ecstatic to be in our town! We would appreciate your assistance in making these folks feel welcome.

Please feel free to contact me with any other questions you may have.

Sincerely,

Joan E. Kronebusch
Director, Billings Convention and Visitors Bureau
PO Box 31177, Billings, MT 59107
406-245-4111



City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Dave Evans

ORGANIZATION MAKING APPLICATION Blue Knights - Montana 1

PHONE 406-672-6585

ADDRESS 1940 Toni Dr Billings MT 59105

EMAIL ADDRESS mttinstar@hotmail.com

APPROXIMATE TIME EVENT WILL:

Assemble 12:00 PM Start 1:00 PM Disband 2:00 PM

DATE OF EVENT Thursday July 22, 2010

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

Description is attached

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

Begin at Holiday Inn Grand Montana. Take Access Rd to Laurel Rd heading east. Continue on Laurel Rd to Montana Ave heading east. Turn left (North) on N 27th St. Turn right (East) on 4th Ave N. Continue on and terminate at MetraPark

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

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 David W Evans DATE 6/9/10

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

FEE: _____

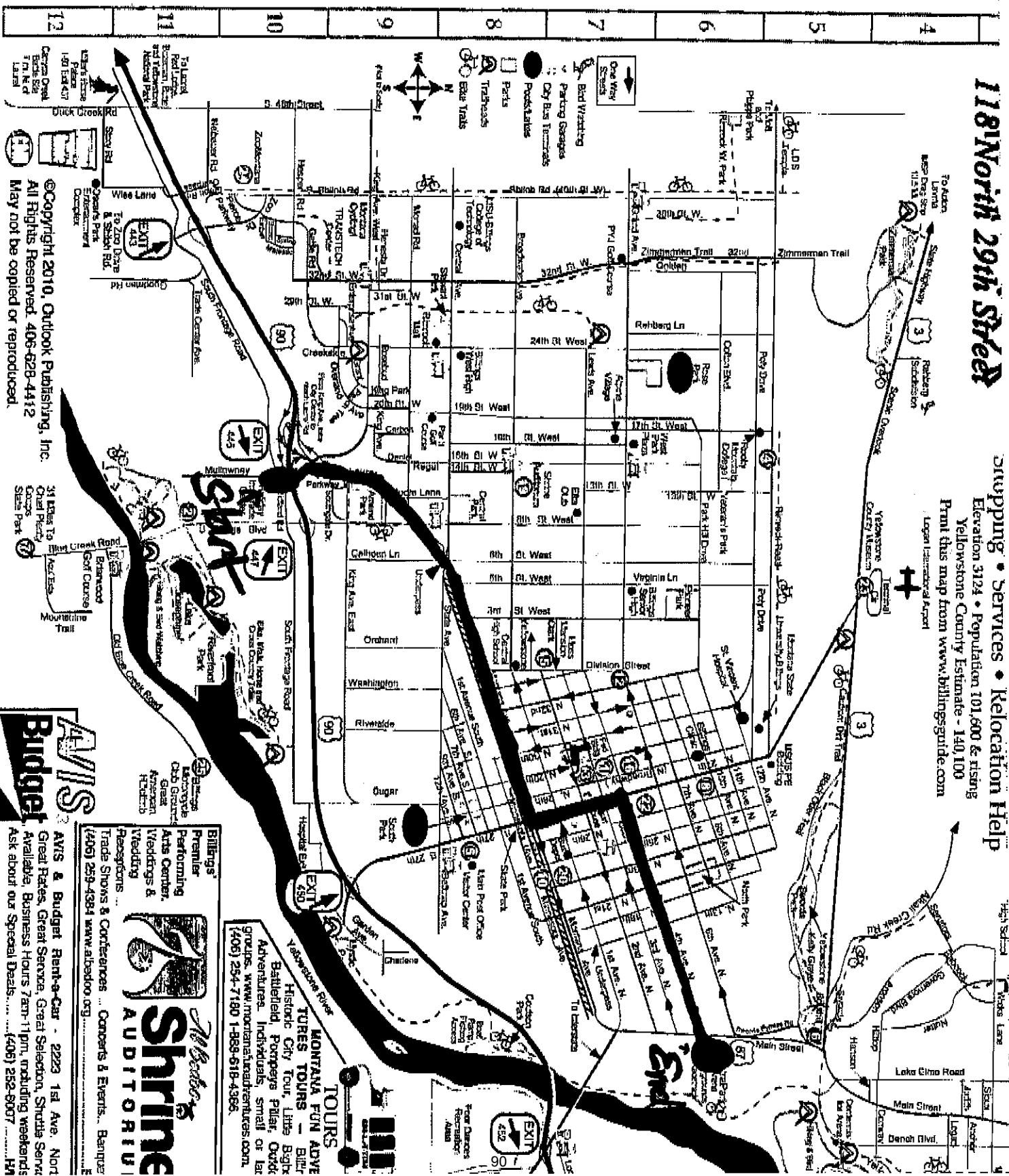
APPLICANT NOTIFIED BY: _____

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

118 North 29th Street

Shopping • Services • Relocation Help
 Elevation 5124 • Population 101,600 & rising
 Yellowstone County Estimate - 140,100
 Print this map from www.billingguide.com
 Local International Airport



©Copyright 2010, Outlook Publishing, Inc.
 All Rights Reserved. 406-628-4412
 May not be copied or reproduced.

AVIS Budget
 AVIS & Budget Rent-a-Car - 2223 1st Ave. North
 Great Rates, Great Service, Great Selection, Shuttle Service
 Available, Business Hours 7am-11pm, including weekends
 Ask about our Special Deals. (406) 252-8007

Shrine Auditorium
 Premier Performing Arts Center
 Weddings & Receptions
 Trade Shows & Conferences
 Concerts & Events
 (406) 259-4384 www.shrine.org

Montana Fun Adventure Tours
 Historic City Tour, Little Bighorn Battlefield, Porcupine, Pallet, Outback Adventures, Individuals, small or large groups.
 (406) 254-7180 1-888-618-4366



CERTIFICATE OF LIABILITY INSURANCE

OP ID EM
BLUER-1

DATE (MM/DD/YYYY)

06/25/10

PRODUCER Western States Ins - Billings P O Box 80308 Billings MT 59108 Phone: 406-656-9800 Fax: 406-656-1199		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Blue Knights of Montana David Evans 1940 Toni Dr Billings MT 59105		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: Big Sky Underwriters	
		INSURER B	
		INSURER C	
		INSURER D	
		INSURER E	

COVERAGES

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

INSURANCE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
X X	GENERAL LIABILITY	CPS1221307	07/22/10	07/23/10	EACH OCCURRENCE \$ 1,500,000
	☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) \$ 5,000
					PERSONAL & ADV INJURY \$ 1,500,000
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COMP/OP AGG \$ 2,000,000
					GEN'L AGGREGATE LIMIT APPLIES PER POLICY ☐ PROJECT ☐ LOC
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$
	☐ ANY AUTO				BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	☐ HIRED AUTOS				
	☐ NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	☐ ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY AGG \$
	EXCESS / UMBRELLA LIABILITY				EACH OCCURRENCE \$
	☐ OCCUR ☐ CLAIMS MADE				AGGREGATE \$
					\$
	☐ DEDUCTIBLE				\$
	RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUS ☐ OTHER ☐
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E L EACH ACCIDENT \$
	If yes, describe under SPECIAL PROVISIONS below				E L DISEASE - EA EMPLOYEE \$
					E L DISEASE - POLICY LIMIT \$
	OTHER				

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

City of Billings to be listed as the additional insured with regards to the General Liability.
Special Event 7/22/10 (Motorcycle Parade)

CERTIFICATE HOLDER

CITYBIL City of Billings Public Works Office 510 North Broadway 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

Michael B. Swann

ACORD 25 (2009/01)

© 1988-2009 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Regular City Council Meeting

Date: 07/12/2010

TITLE: Resolution of Intent to Exclude Broadwater Avenue Road Tract and Set a Public Hearing

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The Planning Division is requesting City Council approve a Resolution of Intent to Exclude Property to deannex the portion of Broadwater Avenue located between 56th Street West and 58th Street West and set a public hearing for August 9, 2010. The deannexation will result in the vacation and disposition of the road tract and the title will revert to the owners of the adjacent property pursuant to 7-2-4808, MCA. The road tract was previously annexed as part of the Trails West Subdivision annexation. The subdividers agreed to pursue abandonment of the road tract as part of the subdivision process when the road tract was owned by the County. It was discovered after the preliminary plat was approved, that the City annexed this road tract in 2007. In order to achieve the final objective of transferring the tract to the adjoining property owners, it is necessary to deannex the road tract. The road tract is currently used as a private driveway. Once the property is conveyed to the adjoining land owners, a temporary access easement will be recorded to ensure legal access to those lots and land west of 58th Street West until which time the proposed new access (Stockman Trail) is developed in the Trails West Subdivision future filings. Upon dedication and construction of Stockman Trail, the temporary access easement will convert to a permanent easement restricting access to the adjoining lots only.

The road tract is 30 feet wide and 1,304 feet long. It has a gravel surface and does not meet City standards. The requested deannexation is consistent with the City's deannexation policy in that:

1. The property is not currently connected to City water, wastewater or storm drainage facilities, and cannot connect to these facilities without an unreasonable expenditure of personal or public funds, and
2. The property is not adjacent to public rights-of-way (upon vacation and deannexation of this road tract, the property will not be adjacent to any City right-of-way), and
3. The property is not encumbered by any indebtedness of any improvement district of which the territory is a part, and
4. The property is located on the outer perimeter of the City limits and upon exclusion of the property will not result in a parcel wholly surrounded by City limits, and
5. The property is not adjacent to acceptable limits of annexation as defined on the most recent update of the Limits of Annexation Map.

ALTERNATIVES ANALYZED

Council may:

- Approve the Resolution of Intent to Exclude Property to deannex the above-mentioned road tract and set a public hearing for August 9, 2010; or
- Not approve the Resolution of Intent.

FINANCIAL IMPACT

There is no financial impact to approving the Resolution of Intent and setting this public hearing.

RECOMMENDATION

Staff recommends that Council approve the Resolution of Intent to Exclude the portion of Broadwater Avenue between 56th Street West and 58th Street West from the city limits, and set a public hearing for August 9, 2010.

APPROVED BY CITY ADMINISTRATOR

Attachments

Deannexation petition 10-01

Deannexation resolution 10-01

PETITION
FOR DE-ANNEXATION
FROM THE CITY OF BILLINGS

NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the DE-annexation of property from the City, pursuant to MCA Title 7, Chapter 2, Part 48. Procedures for de-annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of not less than 75% of the Resident Freeholder Electors to be considered for de-annexation.

INSTRUCTIONS

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting de-annexation and all other property within one-quarter (1/4) mile.

The map must show:

- a. The boundaries of the municipality;
- b. The present streets, major trunk water mains and sewer mains;
- c. The zoning of the property requesting de-annexation and the property immediately adjacent to it.

3. The Petition should be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parnly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, Parks and Recreation Department, and the Finance Department. If the departments find no problems with the Petition, the City Clerk will schedule the Petition for City Council action.

4. If the Council finds that the petition is signed by the required number of owners of the territory to be excluded, and that the granting of said petition will be to the best interest of the city and the inhabitants thereof and will not materially mar the symmetry of the city, they shall pass a resolution of intent to De-Annex the territory. Then the City Clerk shall publish in the newspaper for two successive notice of the Council's Resolution of Intent to De-annex, of a 20-day comment period, and of an upcoming public hearing on the question of de-annexation.

5. A description of the territory to be de-annexed from the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

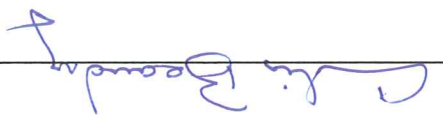
Date	Print Name	Name Signature	Address
5-21-10	WINDY BAKER		5745 Heron Glen Ln
5/22/09	City of Billings	Chandee Beaudry, Director Planning & Community Services Dept	
5/20/10	Timothy E. Zent	Timothy E. Zent	675 Heron Glen Ln
5/20/10	Rebecca Zent	Rebecca Zent	675 Heron Glen Ln
5/20/10	Heidi Stevens	Heidi Stevens	644 56th St W
5/20/10	Chris Stevens		644 56th St W
5/21/10	JEFF BAKER		5745 Heron Glen Ln

(continued on separate page)

--	--	--	--	--	--	--

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

Date Submitted:
6-4-10

Received By:


Petition Number:
10-01

Fee Paid:
NA

RESOLUTION 10 - _____

A RESOLUTION OF INTENT TO EXCLUDE TERRITORY UNDER THE PROVISIONS OF TITLE 7, CHAPTER 2, PART 48 OF THE MONTANA CODE ANNOTATED, AND FIXING A DATE FOR A PUBLIC HEARING ON THE QUESTION OF EXCLUSION.

WHEREAS, the City Council of the City of Billings has determined that a petition to exclude the territory now within the City of Billings was signed by the requisite number of qualified electors of the City, and that granting of the petition is in the best interest of the City of Billings and will not materially mar the symmetry of the City; and

WHEREAS, the Billings City Council intends to consider excluding said territory from the City of Billings pursuant to Title 7, Chapter 2, Part 48 of the Montana Code Annotated; and

WHEREAS, the boundaries of the territory that the Billings City Council intends to consider excluding is particularly described as follows:

Broadwater Avenue, annexed under Resolution No. 07-18653, Recorded December 24, 2007, Under Document No. 3449522, Records of Yellowstone County, Montana,

Broadwater Avenue Tract:

Basis of bearings Certificate of Survey No. 1322, Recorded June 27, 1973, Under Document No. 937794, Records of Yellowstone County, Montana,

Commencing at the East 1/4 corner of Section 5, T.1S., R.25E., P.M.M.; thence N 89°48'30" W along the E-W mid section line of said Section 5 for a distance of 40.0 feet to the True Point of Beginning; thence continuing along the E-W mid section line of said Section 5 N 89°48'30" W for a distance of 1264.60 feet; thence S 00°05'30" W for a distance of 30.0 feet; thence S 89°48'30" E for a distance of 1264.6 feet; thence N 00°04' E for a distance of 30.0 feet to the Point of Beginning. Said Tract containing 0.871 acres.

(# 10-01) See Exhibit "A" Attached

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

1. The Billings City Council intends to consider excluding the above described contiguous territory.
2. All registered voters in the territory to be embraced are to be immediately notified, in writing.
3. Notice of the City Council's intent to exclude said territory shall be published as provided in Section 7-1-4127, MCA, with notice that for a period of twenty (20) days after first publication of the notice, the Billings City Clerk shall accept written comments approving

or disapproving the proposed exclusion of the above described territory from the City of Billings from registered voters residing in the area proposed to be excluded.

4. The City Clerk shall forward all written communication received by the Clerk to the City Council for consideration.

A public hearing on the question of exclusion of said territory shall be held on August 9, 2010.

APPROVED AND PASSED by the City Council of the City of Billings this 12th day of July, 2010.

THE CITY OF BILLINGS

BY: _____

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____

Cari Martin, CITY CLERK

EXHIBIT A



Regular City Council Meeting

Date: 07/12/2010

TITLE: Resolution amending Resolution #10-18940 Fixing the Form and Detail of the DNRC for 2010 Water Rehab projects

PRESENTED BY: Patrick M Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

On May 24, 2010, the City Council approved a resolution which authorized the issuance and fixed the terms and conditions of the 2010 Water Rehab DNRC bonds.

After the resolution was approved, the City received notice from DNRC that a portion of the 2010 Water Rehab Loan is eligible for principal forgiveness. Staff is requesting that the City Council accept the DNRC's offer and adopt this Supplemental Resolution to reflect the changes in the terms of the 2010 Water Rehab Loan.

ALTERNATIVES ANALYZED

The Council may:

- Approve the resolution amending the form and detail of the DNRC loan and bonds; or
- Not approve the resolution amending the form and detail of the DNRC loan and bonds.

FINANCIAL IMPACT

The original terms of the loan were \$3,300,000 over the term of 20 years at an interest rate of 3.75%. With the new terms, \$500,000 of the loan will be forgiven. The remaining balance of \$2,800,000 will be paid over the term of 20 years at a rate of 3.75%.

RECOMMENDATION

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

APPROVED BY CITY ADMINISTRATOR

Attachments

Amended DNRC loan resolution

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. ____, entitled: "RESOLUTION RELATING TO \$3,300,000 WATER SYSTEM REVENUE BONDS (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), CONSISTING OF \$500,000 SUBORDINATE LIEN TAXABLE SERIES 2010A BOND AND \$2,800,000 SERIES 2010B BOND; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF; AND SUPERSEDING AND RENDERING OF NO FURTHER FORCE OR EFFECT RESOLUTION NO. 10-18940, DATED MAY 24, 2010" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at its regular meeting on July 12, 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 Council Members voted in favor thereof: _____
_____; voted against the same: _____
_____; abstained from voting thereon: _____; or
were absent: _____.

WITNESS my hand officially this ____ day of July, 2010.

City Clerk

SUPPLEMENTAL RESOLUTION

Relating to

\$3,300,000

WATER SYSTEM REVENUE BONDS

(DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM)

CONSISTING OF

\$500,000 SUBORDINATE LIEN TAXABLE SERIES 2010A BOND,
AND \$2,800,000 SERIES 2010B BOND

CITY OF BILLINGS, MONTANA

Adopted: July 12, 2010

TABLE OF CONTENTS

(For convenience only, not a part of this Supplemental Resolution)

	Page
Recitals.....	1
ARTICLE I	
DEFINITIONS, RULES OF CONSTRUCTION AND APPENDICES	
Section 1.1. Definitions	2
Section 1.2. Other Rules of Construction.....	9
Section 1.3. Appendices	9
ARTICLE II	
AUTHORIZATION, FINDINGS, REPRESENTATIONS AND COVENANTS	
Section 2.1. Authorization and Findings	10
Section 2.2. Representations.....	11
Section 2.3. Covenants	14
Section 2.4. Covenants Relating to the Tax-Exempt Status of the State Bonds	16
Section 2.5. Maintenance of System; Liens	17
Section 2.6. Maintenance of Existence; Merger Consolidation, Etc.; Disposition of Assets	17
ARTICLE III	
USE OF PROCEEDS; THE 2010 Project	
Section 3.1. Use of Proceeds	18
Section 3.2. The 2010 Project.....	19
Section 3.3. 2010 Project Representations and Covenants.....	19
Section 3.4. Completion or Cancellation or Reduction of Costs of the 2010 Project.....	20
ARTICLE IV	
THE LOAN	
Section 4.1. The Loan; Disbursement of Loan.....	20
Section 4.2. Commencement of Loan Term.....	23
Section 4.3. Termination of Loan Term	23
Section 4.4. Loan Closing Submissions	23

ARTICLE V REPAYMENT OF 2010 Loans

Section 5.1.	Repayment of 2010 Loans	23
Section 5.2.	Additional Payments.....	26
Section 5.3.	Prepayments.....	27
Section 5.4.	Obligations of Borrower Unconditional	27
Section 5.5.	Limited Liability	27

ARTICLE VI

INDEMNIFICATION OF DNRC AND DEQ	28
---------------------------------------	----

ARTICLE VII ASSIGNMENT

Section 7.1.	Assignment by Borrower	28
Section 7.2.	Assignment by DNRC	28
Section 7.3.	State Refunding Bonds	28

ARTICLE VIII THE SERIES 2010 BONDS

Section 8.1.	Net Revenues Available	28
Section 8.2.	Issuance and Sale of the Series 2010 Bonds.....	29
Section 8.3.	Terms	29
Section 8.4.	Negotiability, Transfer and Registration	29
Section 8.5.	Execution and Delivery	30
Section 8.6.	Form.....	30
Section 8.7.	2010 Acquisition and Construction Account.....	30

ARTICLE IX

SECURITY FOR THE SERIES 2010 BONDS	21
--	----

ARTICLE X TAX MATTERS

Section 10.1.	Use of 2010 Project.....	31
Section 10.2.	General Covenant.....	31
Section 10.3.	Arbitrage Certification	32
Section 10.4.	Arbitrage Rebate Exemption	32
Section 10.5.	Information Reporting	32
Section 10.6.	“Qualified Tax-Exempt Obligations”	32

ARTICLE XI

CONTINUING DISCLOSURE	33
-----------------------------	----

ARTICLE XII

IMPLEMENTATION OF SECTION 6.7 OF ORIGINAL RESOLUTION	33
--	----

ARTICLE XIII MISCELLANEOUS

Section 13.1.	Notices	34
Section 13.2.	Binding Effect	35
Section 13.3.	Severability	35
Section 13.4.	Amendments	35
Section 13.5.	Applicable Law	35
Section 13.6.	Captions; References to Sections	35
Section 13.7.	No Liability of Individual Officers, Directors or Trustees	35
Section 13.8.	Payments Due on Holidays	35
Section 13.9.	Right of Others To Perform Borrower's Covenants	35
Section 13.10.	Authentication of Transcript	36
Section 13.11.	Supersedure	36
Section 13.12.	Effective Date	36

APPENDIX A – Description of the 2010 Project	A-1
APPENDIX B-1 – Form of Series 2010A Bond	B-1-1
APPENDIX B-2 – Form of Series 2010B Bond	B-2-1
APPENDIX C – Additional Representations and Covenants	C-1
APPENDIX D – Compliance Certificate and Request	D-1

RESOLUTION NO. ____

RESOLUTION RELATING TO \$3,300,000 WATER SYSTEM REVENUE BONDS (DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM), CONSISTING OF \$500,000 SUBORDINATE LIEN TAXABLE SERIES 2010A BOND AND \$2,800,000 SERIES 2010B BOND; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF; AND SUPERSEDING AND RENDERING OF NO FURTHER FORCE OR EFFECT RESOLUTION NO. 10-18940, DATED MAY 24, 2010

WHEREAS, pursuant to the Drinking Water State Revolving Fund Act, Montana Code Annotated, Title 75, Chapter 6, Part 2, as amended (the “Act”), the State of Montana (the “State”) has established a revolving loan program (the “Program”) to be administered by the Department of Natural Resources and Conservation of the State of Montana, an agency of the State (the “DNRC”), and by the Department of Environmental Quality of the State of Montana, an agency of the State (the “DEQ”), and has provided that a drinking water state revolving fund (the “Revolving Fund”) be created within the state treasury and all federal, state and other funds for use in the Program be deposited into the Revolving Fund, including, but not limited to, all federal grants for capitalization of a state drinking water revolving fund under the federal Safe Drinking Water Act (the “Safe Drinking Water Act”), all repayments of assistance awarded from the Revolving Fund, interest on investments made on money in the Revolving Fund and payments of principal of and interest on loans made from the Revolving Fund; and

WHEREAS, the Act provides that funds from the Program shall be disbursed and administered for the purposes set forth in the Safe Drinking Water Act and according to rules adopted by the DEQ and the DNRC; and

WHEREAS, the 2010 EPA Capitalization Grant (as hereinafter defined) requires that loans under the Program funded in whole or in part by such grant in the aggregate and not on a loan-by-loan basis be structured in such a way that a dollar amount in the aggregate equal to at least 15% of the total proceeds of such grant be subject to loan forgiveness; and

WHEREAS, the City of Billings, Yellowstone County, Montana (the “Borrower”) has applied to the DNRC for the 2010 Loans (as hereinafter defined) from the Revolving Fund to enable the Borrower to finance, refinance or reimburse itself for the costs of the 2010 Project (as hereinafter defined) which will carry out the purposes of the Safe Drinking Water Act; and

WHEREAS, on May 24, 2010, the Borrower adopted Resolution No. 10-18940 authorizing the issuance of \$3,300,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2010; and

WHEREAS, the Borrower has subsequently received notice from DNRC that a portion of the 2010 Loans is eligible for principal forgiveness; and

WHEREAS, the Borrower desires to take advantage of the DNRC's offer and adopt this Supplemental Resolution to reflect the changes in the terms of the 2010 Loans; and

WHEREAS, the Borrower is authorized under the Original Resolution (as hereinafter defined), applicable laws, ordinances and regulations to adopt this Supplemental Resolution and to issue the Series 2010 Bonds (as hereinafter defined) to evidence the 2010 Loans (as hereinafter defined) for the purposes set forth herein; and

WHEREAS, the DNRC will fund: (i) the 2010A Loan (as hereinafter defined) entirely from proceeds of the 2010 EPA Capitalization Grant, and (ii) the 2010B Loan (as hereinafter defined) in part, directly or indirectly, with proceeds of State Bonds (as hereinafter defined) and in part, directly or indirectly, with funds provided by the United States Environmental Protection Agency under the Safe Drinking Water Act.

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

ARTICLE I

DEFINITIONS, RULES OF CONSTRUCTION AND APPENDICES

Section 1.1 Definitions. Unless a different meaning clearly appears from the context, terms used with initial capital letters but undefined in this Supplemental Resolution shall have the meanings given them in the Original Resolution, the Indenture, or as follows:

“Accountant” or “Accountants” means an independent certified public accountant or a firm of independent certified public accountants satisfactory to the DNRC.

“Acquisition and Construction Account” means the Series 2010 Acquisition and Construction Account created in the Water System Fund pursuant to Section 8.7 of this Supplemental Resolution.

“Act” means Montana Code Annotated, Title 75, Part 6, Chapter 2, as amended from time to time.

“Additional Bonds” means any Bonds issued pursuant to Section 10.3 of the Original Resolution.

“Administrative Expense Surcharge” means, (i) in respect of the 2010B Loan, in any event, and (ii) in respect of the 2010A Loan, upon the delivery of a Noncompliance Statement as provided by this Supplemental Resolution, a surcharge equal to seventy-five hundredths of one percent (0.75%) per annum on the outstanding principal amount of the 2010 Loans from the date of each advance thereof, payable by the Borrower on a Payment Date.

“Authorized DNRC Officer” means the Director or Deputy Director of the DNRC, and, when used with reference to an act or document, also means any other individual authorized by resolution of the Department of Natural Resources and Conservation to perform such act or sign

such document. If authorized by the Department of Natural Resources and Conservation, an Authorized DNRC Officer may delegate all or a portion of his authority as an Authorized DNRC Officer to another individual, and such individual shall be deemed an Authorized DNRC Officer for purposes of exercising such authority.

“Bond Counsel” means any Counsel acceptable to the DNRC which is nationally recognized as bond counsel. Counsel is nationally recognized as bond counsel if it has rendered a legal opinion as to the validity and enforceability of state or municipal bonds and as to the exclusion of interest thereon from gross income for federal income tax purposes (short-term issues excluded) during the two-year period preceding the date of determination.

“Bond Register” means, with respect to the Series 2010 Bonds, the registration books maintained by the Registrar pursuant to Section 8.4 of this Supplemental Resolution.

“Bonds” means the Series 2005 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2009D Bond, the Series 2010B Bond, and any Additional Bonds; “Bonds” does not include the Series 2009A Bond and the Series 2010A Bond.

“Borrower” means the City.

“Business Day” means any day which is not a Saturday or Sunday, a legal holiday in the State or a day on which banks in Montana are authorized or required by law to close.

“City” means the City of Billings, Montana, or any permitted successor or assign.

“Closing” means the date of delivery of the Series 2010A Bond and the Series 2010B Bond to the DNRC.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral Documents” means any security agreement, guaranty or other document or agreement delivered to the DNRC securing the obligations of the Borrower under this Supplemental Resolution and the Series 2010 Bonds. If no Collateral Documents secure such obligations, any reference to Collateral Documents in this Supplemental Resolution shall be without effect.

“Committed Amount” means, collectively, the amount of the 2010A Loan and 2010B Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1 of this Supplemental Resolution, as such amount may be reduced pursuant to Sections 3.2 and 3.4 of this Supplemental Resolution.

“Compliance Certificate and Request” means the certificate and request substantially in the form of the attached Appendix D delivered by the DNRC to the Borrower following the final advance of principal of the 2010A Loan, to be completed, executed and delivered by the Borrower to the DNRC pursuant to Section 5.1.2 of this Supplemental Resolution.

“Consultant” means a nationally recognized consultant or firm of consultants, or an independent engineer or firm of independent engineers, or an Accountant, which in any case is

qualified and has skill and experience in the preparation of financial feasibility studies or projections for facilities similar to the System or the 2010 Project, selected by the Borrower and satisfactory to the DNRC.

“Council” means the City Council of the Borrower.

“Counsel” means an attorney duly admitted to practice law before the highest court of any state and satisfactory to the DNRC.

“Debt” means, without duplication, (1) indebtedness of the Borrower for borrowed money or for the deferred purchase price of property or services; (2) the obligation of the Borrower as lessee under leases which should be recorded as capital leases under generally accepted accounting principles; and (3) obligations of the Borrower under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clause (1) or (2) above.

“DEQ” means the Department of Environmental Quality of the State of Montana, an agency of the State, or any successor to its powers, duties and obligations under the Act or the EPA Agreements.

“Determination Statement” means a Forgiveness Statement or a Noncompliance Statement.

“DNRC” means the Department of Natural Resources and Conservation of the State of Montana, an agency of the State, and any successor to its powers, duties and obligations under the Act.

“Enabling Act” means Montana Code Annotated, Title 7, Chapter 7, Part 44, as amended, which authorizes the Borrower to own and operate the System, to undertake the 2010 Project and to issue the Series 2010 Bonds to finance all or a portion of the costs of the 2010 Project.

“EPA” means the Environmental Protection Agency, an agency of the United States of America, and any successor to its functions under the Safe Drinking Water Act.

“EPA Agreements” means all capitalization grant agreements and other written agreements between the DEQ, the DNRC and the EPA concerning the Program.

“EPA Capitalization Grant” means a grant of funds to the State by the EPA under Section 1452 of the Safe Drinking Water Act.

“Estimated Completion Date” means June 30, 2010, the date by which it is estimated by the Borrower that the 2010 Project will be substantially completed.

“Forgiveness Statement” means a written statement delivered to the Borrower by the DNRC in response to a Compliance Certificate and Request that the Borrower’s obligation to repay the principal of the Series 2010A Bond is forgiven.

“Fund” means the Water System Fund established pursuant to Section 11.1 of the Original Resolution.

“Governmental Unit” means governmental unit as such term is used in Section 145(a) of the Code.

[“Green Infrastructure” means the portion of the 2010 Project that addresses green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities, as described more particularly in EPA policies or guidelines.]

“Indenture” means the Indenture of Trust, dated as of May 1, 1998, between the Board of Examiners of the State and the Trustee, as such may be supplemented or amended from time to time in accordance with the provisions thereof, pursuant to which, among other things, the State Bonds are to be or have been issued.

“Loan Loss Reserve Surcharge” means, (i) in respect of the 2010B Loan, in any event, and (ii) in respect of the 2010A Loan, upon the delivery of a Noncompliance Statement as provided by this Supplemental Resolution, a surcharge equal to one percent (1.00%) per annum on the outstanding principal amount of the 2010 Loans, payable by the Borrower on a Payment Date.

“Loan Repayments” means periodic installments of principal and interest by Borrower in repayment of the Series 2010B Bond, and, if the DNRC delivers a Noncompliance Statement, of the Series 2010A Bond, at the rates and times specified in Article V of this Supplemental Resolution.

“Net Revenues” means the entire amount of the gross revenues of the System (as described in Section 11.1 of the Original Resolution) remaining upon each such monthly apportionment, after crediting to the Operating Account the amount required hereby, including sums required to maintain the Operating Reserve in the minimum amount herein stated.

“Noncompliance Statement” means a written statement delivered to the Borrower by the DNRC that the Borrower’s obligation to repay the principal of the Series 2010A Bond is not forgiven.

“Operating Account” means the account created in the Water System Fund pursuant to Sections 11.1 and 11.3 of the Original Resolution.

“Operating Expenses” means those expenses of the System defined as such in Section 11.3 of the Original Resolution.

“Operating Reserve” means the reserve to be maintained in the Operating Account as required by Section 11.3 of the Original Resolution.

“Opinion of Counsel” means a written opinion of Counsel.

“Original Resolution” means Resolution No. 05-18329 of the Borrower adopted on September 12, 2005, as amended and supplemented by Resolution Nos. 09-18852 and 09-

18869, adopted by the City Council of the City on July 27, 2009 and September 14, 2009, respectively.

“Person” means any Private Person or Public Entity.

“Private Person” means an individual, corporation, partnership, association, joint venture, joint stock company or unincorporated organization, except a Public Entity.

“Payment Date” means, with respect of the 2010B Loan, each January 1 and July 1 during the term of the 2010B Loan on which a payment of interest or principal and interest is due, as determined under this Supplemental Resolution, and, if a Noncompliance Statement is delivered with respect to the 2010A Loan, each January 1 and July 1 during the term of the 2010A Loan on which a payment of interest or principal and interest is due, as determined under this Supplemental Resolution.

“Program” means the Drinking Water State Revolving Fund Program established by the Act.

“Project” means the costs of designing, engineering, acquiring, constructing, installing, improving, or enlarging the System, or any part thereof, financed, refinanced or the cost of which is being reimbursed to the Borrower in whole or in part with proceeds of the Bonds or other funds of the Borrower, including the 2010 Project.

“Public Entity” means a municipality, city, county, school district, political or administrative subdivision of State government, irrigation district, drainage district or other public body established by State law.

“Registrar” has the meaning set forth in Section 8.4 of this Supplemental Resolution.

“Regulations” means the Treasury Department, Income Tax Regulations, as amended or any successor regulation thereto, promulgated under the Code or otherwise applicable to the Series 2010 Bonds.

“Replacement and Depreciation Account” means the Account created in the Water System Fund pursuant to Sections 11.1 and 11.6 of the Original Resolution.

“Reserve Account” means the account created in the Water System Fund pursuant to Section 11.5 of the Original Resolution.

“Reserve Requirement” means, as of the date of calculation, an amount equal to the maximum amount of principal of and interest payable on outstanding Bonds in the current or any future fiscal year (giving effect to mandatory sinking fund redemption, if any).

“Resolution” means the Original Resolution, as amended and supplemented by Resolution Nos. 09-18852, 09-18869, this Supplemental Resolution, and other supplemental resolutions.

“Revenue Bond Account” means the account created in the Water System Fund pursuant to Sections 11.1 and 11.4 of the Original Resolution.

“Safe Drinking Water Act” means Title XIV of the Public Health Service Act, commonly known as the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., as amended, and all regulations, rules and interpretations issued by the EPA thereunder.

“Series 2005 Bond” means the Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2005, issued by the Borrower, in the original principal amount of \$17,300,000 pursuant to the Resolution as then in effect.

“Series 2009 Bonds” means, collectively, the Series 2009A Bond, the Series 2009B Bond, the Series 2009C Bond, and the Series 2009D Bond.

“Series 2009A Bond” means the Subordinate Lien Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Taxable Series 2009A, issued by the Borrower, in the original principal amount of \$416,300 pursuant to the Resolution as then in effect.

“Series 2009B Bond” means the Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009B, issued by the Borrower, in the original principal amount of \$333,700 pursuant to the Resolution as then in effect.

“Series 2009C Bond” means the Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009C, issued by the Borrower, in the original principal amount of \$2,750,000 pursuant to the Resolution as then in effect.

“Series 2009D Bond” means the Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009D, issued by the Borrower, in the original principal amount of \$7,412,000 pursuant to the Resolution as then in effect.

“Series 2010 Bonds” means, collectively, the Series 2010A Bond and the Series 2010B Bond.

“Series 2010A Bond” means the \$500,000 Subordinate Lien Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Taxable Series 2010A, issued to the DNRC to evidence the 2010A Loan.

“Series 2010B Bond” means the \$2,800,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2010B, issued to the DNRC to evidence the 2010B Loan.

“State” means the State of Montana.

“State Act” means Montana Code Annotated, Title 75, Part 6, Chapter 2, as amended from time to time.

“State Bonds” means the State’s General Obligation Bonds (Drinking Water State Revolving Fund Program), issued or to be issued pursuant to the Indenture.

“Subordinate Obligations” means the Series 2009A Bond, the Series 2010A Bond, and any other subordinate obligations issued under Section 10.4 of the Original Resolution

“Supplemental Resolution” means this Resolution No. ____ of the Borrower adopted on July 12, 2010.

“Surplus Account” means the account created in the Water System Fund pursuant to Sections 11.1 and 11.7 of the Original Resolution.

“Surplus Net Revenues” shall mean that portion of the Net Revenues in excess of the current requirements of the Operating Account, the Revenue Bond Account and the Reserve Account.

“System” means the existing water system of the Borrower and all extensions, improvements and betterments thereof hereafter constructed and acquired, including, without limitation, the 2010 Project.

“Trustee” means U.S. Bank National Association, in Seattle, Washington, or any successor trustee under the Indenture.

“2010A Committed Amount” means the amount of the 2010A Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1 of this Supplemental Resolution, as such amount may be reduced pursuant to Section 3.2 and Section 3.4 of this Supplemental Resolution.

“2010B Committed Amount” means the amount of the 2010B Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1 of this Supplemental Resolution, as such amount may be reduced pursuant to Section 3.2 and Section 3.4 of this Supplemental Resolution.

“2010 EPA Capitalization Grant” means that EPA Capitalization Grant made available to the Program from 2010 federal appropriations.

“2010B First Advance” means the first advance of funds of the 2010B Loan by the DNRC to the Borrower in an amount of at least \$50,001.

“2010 Loans” or “Loan” means, collectively, the 2010A Loan and the 2010B Loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the Committed Amount to provide funds to pay all or a portion of the costs of the 2010 Project, to fund a deposit to the Reserve Account and to pay costs of issuance of the Series 2010 Bonds.

“2010A Loan” means the loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the 2010A Committed Amount to provide funds to pay a portion of the costs of the 2010 Project and to pay a portion of costs of issuance of the Series 2010 Bonds.

“2010B Loan” means the loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the 2010B Committed Amount to provide funds to pay a portion of the costs of the 2010 Project, to fund deposits to the Reserve Account, and to pay a portion of the costs of issuance of the Series 2010 Bonds.

“2010 Project” means the designing, engineering, and construction of the facilities, improvements and activities financed, refinanced or the cost of which is being financed by or reimbursed to the Borrower in part with proceeds of the 2010 Loans, described in Appendix A hereto.

“Undisbursed Committed Amount” means any undisbursed Committed Amount which is not required to pay costs of the 2010 Project upon completion thereof as provided in Section 3.4 of this Supplemental Resolution.

“Water Debt” means all Bonds and any other Debt incurred to acquire, construct, extend, improve, add to or otherwise pay expenses of or related to the System, without regard to the source of payment and security for such Debt (i.e., without regard to whether it is general obligation or revenue Debt).

“Water System Fund” means the fund created by Section 11.1 of the Original Resolution.

Section 1.2 Other Rules of Construction. For all purposes of this Supplemental Resolution, except where the context clearly indicates otherwise:

(a) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted government accounting standards.

(b) Terms in the singular include the plural and vice versa.

(c) All references to time shall refer to Helena, Montana time, unless otherwise provided herein.

(d) All references to mail shall refer to first-class mail postage prepaid.

(e) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(f) “Or” is not exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.

Section 1.3 Appendices. Attached to this Supplemental Resolution and hereby made a part hereof are the following Appendices:

Appendix A: a description of the 2010 Project;

Appendix B-1: the form of the Series 2010A Bond;

Appendix B-2: the form of the Series 2010B Bond;

Appendix C: additional agreements and representations of the Borrower; and

Appendix D: Compliance Certificate and Request.

ARTICLE II

AUTHORIZATION, FINDINGS, REPRESENTATIONS AND COVENANTS

Section 2.1 Authorization and Findings.

(a) Authorization. Under the provisions of the Enabling Act, the Borrower is authorized to issue and sell its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of a municipal water system or to refund revenue bonds issued for such purpose; provided that the bonds and the interest thereon are to be payable solely out of the net income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by such water system, and are not to create any obligation for the payment of which taxes may be levied except to pay for services provided by the water system to the Borrower.

(b) The System. The Borrower, pursuant to the Enabling Act and other laws of the State, has established and presently owns and operates the System.

(c) The 2010 Project. After investigation of the facts and as authorized by the Enabling Act, this Council has determined it to be necessary and desirable and in the best interests of the Borrower to construct the 2010 Project.

(d) Outstanding Bonds. Pursuant to the Act and the Resolution, the Borrower has issued its Series 2005 Bond and its Series 2009 Bonds to finance improvements to the System. The Series 2005 Bond, the Series 2009B Bond, the Series 2009C Bond, and the Series 2009D Bond are parity bonds payable from and secured by Net Revenues of the System. The Series 2009A Bond is a Subordinate Obligation payable, if at all, from Surplus Net Revenues. No other bonds or indebtedness are currently outstanding that are payable from Revenues of the System.

(e) Series 2010 Bonds. Based on a certificate executed or to be executed by the Mayor and Financial Services Manager, or either of them, it is hereby determined that the Borrower is authorized to issue the Series 2010A Bond in the maximum principal amount of \$500,000 and the Series 2010B Bond in the maximum principal amount of \$2,800,000, with the Series 2010B Bond payable from and secured by the Net Revenues. For purposes of the foregoing certificate, principal of and interest on the 2010A Loan are disregarded. The Borrower acknowledges and agrees that if it fails to deliver timely an acceptable Compliance Certificate and Request as provided in Section 5.1 of this Supplemental Resolution as determined in the sole and complete discretion of the DNRC, then principal and interest and surcharges will become due and owing on the Series 2010A Bond as provided in Section 5.1 of this Supplemental Resolution, and the Borrower shall thereupon, and in any event no later than three (3) months after delivery of a Noncompliance Statement, to the extent required by Section 6.7 of the Original Resolution, adjust its schedule of fees, rates, and charges applicable to the System to cause Net Revenues and Surplus Net Revenues to be produced in an amount at least equal to that required by the Resolution.

(f) Additional Parity Bonds. The Borrower reserved the right under Section 10.3 of the Original Resolution to issue additional Bonds payable from the Revenue Bond Account of the

Fund on a parity as to both principal and interest with the outstanding Bonds, if the Net Revenues of the System for the last complete fiscal year preceding the date of issuance of such additional Bonds have equaled at least 125% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent fiscal year during the term of the outstanding Bonds, on all Bonds then outstanding and on the additional Bonds proposed to be issued. For the purpose of the foregoing computation, the Net Revenues for the fiscal year preceding the issuance of the additional Bonds shall be those shown by the financial reports caused to be prepared by the Borrower pursuant to Section 2.2(f) of the Original Resolution, except that if the rates and charges for services provided by the System or finally authorized to go into effect within 60 days after the issuance of the additional Bonds have been changed since the beginning of such preceding fiscal year, then the rates and charges in effect at the time of issuance of the additional Bonds shall be applied to the quantities of service actually rendered and made available during such preceding fiscal year to ascertain the gross revenues, from which there shall be deducted to determine the Net Revenues, the actual operation and maintenance cost plus any additional annual costs of operation and maintenance the Consultant estimates will be incurred because of the improvement or extension of the System to be constructed from the proceeds of the additional Bonds proposed to be issued. In no event shall any additional Bonds be issued and made payable from the Revenue Bond Account if the Borrower is then in default in any payment of principal of or interest on any outstanding Bonds payable therefrom, or if there then exists any deficiency in the balances required by the Original Resolution to be maintained in any of the accounts of the Fund, which will not be cured or restored upon the issuance of the additional Bonds. Based on a certificate executed or to be executed by the Mayor and the City Financial Services Manager, or either of them, it is hereby determined that the Borrower is authorized to issue \$2,800,000 in aggregate principal amount of additional Bonds pursuant to Section 10.3 of the Original Resolution payable from and secured by the Net Revenues on a parity with the outstanding Series 2005 Bond, the Series 2009B Bond, the Series 2009C Bond, and the Series 2009D Bond.

Section 2.2 Representations. The Borrower represents as follows:

(a) Organization and Authority. The Borrower:

(1) is duly organized and validly existing as a municipal corporation and political subdivision of the State;

(2) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the System and to carry on its current activities with respect to the System, to adopt this Supplemental Resolution and to enter into the Collateral Documents and to issue the Series 2010 Bonds and to carry out and consummate all transactions contemplated by the Supplemental Resolution, the Series 2010 Bonds and the Collateral Documents;

(3) is a Governmental Unit and a Public Entity; and

(4) has taken all proper action to authorize the execution, delivery and performance of its obligations under this Supplemental Resolution, the Series 2010

Bonds and the Collateral Documents and the incurrence of the Debt evidenced by the Series 2010 Bonds in the maximum amount of the Committed Amount.

(b) Litigation. There is no litigation or proceeding pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower in any court or before or by any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the existence, corporate or otherwise, of the Borrower, or the ability of the Borrower to make all payments and otherwise perform its obligations under the Resolution, the Series 2010 Bonds and the Collateral Documents, or the financial condition of the Borrower, or the transactions contemplated by the Resolution, the Series 2010 Bonds and the Collateral Documents or the validity and enforceability of the Resolution, the Series 2010 Bonds and the Collateral Documents. If any such litigation should be initiated or threatened, the Borrower will forthwith notify in writing the DNRC, and will furnish the DNRC a copy of all documents, including pleadings, in connection with such litigation. No referendum petition has been filed with respect to any resolution or other action of the Borrower relating to the 2010 Project, the Series 2010 Bonds or any Collateral Documents and the period for filing any such petition will have expired before issuance of the Series 2010 Bonds.

(c) Borrowing Legal and Authorized. The adoption of this Supplemental Resolution, the execution and delivery of the Series 2010 Bonds and the Collateral Documents and the consummation of the transactions provided for in this Supplemental Resolution, the Series 2010 Bonds and the Collateral Documents and compliance by the Borrower with the provisions of the Resolution, the Series 2010 Bonds and the Collateral Documents:

(1) are within the powers of the Borrower and have been duly authorized by all necessary action on the part of the Borrower; and

(2) do not and will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower pursuant to any ordinance, resolution, indenture, loan agreement or other agreement or instrument (other than the Resolution and any Collateral Documents) to which the Borrower is a party or by which the Borrower or its property may be bound, nor will such action result in any violation of the provisions of any charter or similar document, if applicable, any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the Borrower, its properties or operations are subject.

(d) No Defaults. No event has occurred and no condition exists that, upon execution and delivery of the Series 2010 Bonds and the Collateral Documents, would constitute a default under the Resolution or the Collateral Documents. The Borrower is not in violation of any term of any agreement, bond resolution, trust indenture, charter or other instrument to which it is a party or by which it or its property may be bound which violation would materially and adversely affect the transactions contemplated hereby or the compliance by the Borrower with the terms hereof or of the Series 2010 Bonds and the Collateral Documents.

(e) Governmental Consent. The Borrower has obtained or made all permits, findings and approvals required to the date of adoption of this Supplemental Resolution by any governmental

body or officer for the making and performance by the Borrower of its obligations under this Supplemental Resolution, the Series 2010 Bonds and the Collateral Documents (including any necessary water rate increase) or for the 2010 Project, the financing or refinancing thereof or the reimbursement of the Borrower for the costs thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental authority (other than those, if any, already obtained) is required on the part of the Borrower as a condition to adopting this Supplemental Resolution, issuing the Series 2010 Bonds or entering into the Collateral Documents and the performance of the Borrower's obligations hereunder and thereunder. If a utility board or commission manages or controls the System, such board or commission has agreed with the DNRC to abide by the terms of the Resolution and the Collateral Documents, including approving any necessary water rate increases.

(f) Binding Obligation. The Resolution, the Series 2010 Bonds and any Collateral Document to which the Borrower is a party are the valid and binding special, limited obligations and agreements of the Borrower, enforceable against the Borrower in accordance with their terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, moratorium, reorganization, insolvency or similar laws affecting creditors' rights and general principles of equity.

(g) The 2010 Project. The 2010 Project consists and will consist of the facilities, improvements and activities described in Appendix A, as such Appendix A may be amended from time to time in accordance with Article III of this Supplemental Resolution. The 2010 Project comprises facilities of a type that, as determined by the EPA, will facilitate compliance with the national primary drinking water regulations applicable to the System or will otherwise significantly further the health protection objectives of the Safe Drinking Water Act.

(h) The System. The System is a "community water system" within the meaning of the State Act and the Safe Drinking Water Act in that it is a public water system, comprising collection, treatment, storage and distribution facilities for the provision to the public of water for human consumption, that serves not less than 15 service connections used by year-round residents of the area served by the System or regularly serves not less than 25 year-round residents.

(i) Full Disclosure. There is no fact that the Borrower has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the Borrower can now foresee), except for pending or proposed legislation or regulations that are a matter of general public information, that will materially and adversely affect the properties, operations and finances of the System, the Borrower's status as a Public Entity and Governmental Unit, its ability to own and operate the System in the manner it is currently operated or the Borrower's ability to perform its obligations under the Resolution, the Series 2010 Bonds and the Collateral Documents and to pledge any revenues or other property pledged to the payment of the Series 2010 Bonds.

(j) Compliance With Law. The Borrower:

(1) is in compliance with all laws, ordinances, governmental rules and regulations and court or other governmental orders, judgments and decrees to which it is subject and

which are material to the properties, operations and finances of the System or its status as a Public Entity and Governmental Unit; and

(2) has obtained all licenses, permits, franchises or other governmental authorizations necessary to the ownership of the System and the operation thereof and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for the System and the operation thereof, which failure to obtain might materially and adversely affect the ability of the Borrower to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the Borrower's ability to perform its obligations under the Resolution, the Series 2010 Bonds and the Collateral Documents.

Section 2.3 Covenants.

(a) Insurance. The Borrower at all times shall keep and maintain with respect to the System property and casualty insurance and liability insurance with financially sound and reputable insurers, or self-insurance as authorized by State law, against such risks and in such amounts, and with such deductible provisions, as are customary in the State in the case of entities of the same size and type as the Borrower and similarly situated and shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for all such insurance. Nothing herein shall be construed to prohibit or preclude the Borrower from self-insuring or participating in a self-insurance program in compliance with the provisions of Montana law. All such insurance policies shall name the DNRC as an additional insured to the extent permitted under the policy or program of insurance of the Borrower. Each policy must provide that it cannot be cancelled by the insurer without giving the Borrower and the DNRC 30 days' prior written notice. The Borrower shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this Section 2.3(a) and of each renewal, replacement, change in coverage or deductible under or amount of or cancellation of each such insurance policy and the amount and coverage and deductibles and carrier of each new or replacement policy. Such notice shall specifically note any adverse change as being an adverse change. The Borrower shall deliver to the DNRC at Closing a certificate providing the information required by this Section 2.3(a).

(b) Right of Inspection and Notice of Change of Location. The DNRC, the DEQ and the EPA and their designated agents shall have the right at all reasonable times during normal business hours and upon reasonable notice to enter into and upon the property of the Borrower for the purpose of inspecting the System or any or all books and records of the Borrower relating to the System.

(c) Further Assurance. The Borrower shall execute and deliver to the DNRC all such documents and instruments and do all such other acts and things as may be necessary or required by the DNRC to enable the DNRC to exercise and enforce its rights under the Resolution, the Series 2010 Bonds and the Collateral Documents and to realize thereon, and record and file and re-record and refile all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the DNRC to validate, preserve and protect the position of the DNRC under the Resolution, the Series 2010 Bonds and the Collateral Documents.

(d) Maintenance of Security, if Any; Recordation of Interest.

(1) The Borrower shall, at its expense, take all necessary action to maintain and preserve the lien and security interest of the Resolution and the Collateral Documents so long as any amount is owing under the Resolution or the Series 2010 Bonds;

(2) The Borrower shall forthwith, after the execution and delivery of the Series 2010 Bonds and thereafter from time to time, cause the Resolution and any Collateral Documents granting a security interest in revenues or real or personal property and any financing statements or other notices or documents relating thereto to be filed, registered and recorded in such manner and in such places as may be required by law in order to perfect and protect fully the lien and security interest hereof and thereof and the security interest in them granted by the Resolution and, from time to time, shall perform or cause to be performed any other act required by law, including executing or causing to be executed any and all required continuation statements and shall execute or cause to be executed any further instruments that may be requested by the DNRC for such perfection and protection; and

(3) Except to the extent it is exempt therefrom, the Borrower shall pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of the documents described in subparagraph (2), and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Series 2010 Bonds and the Collateral Documents and the documents described in subparagraph (2).

(e) Additional Agreements. The Borrower covenants to comply with all representations, covenants, conditions and agreements, if any, set forth in Appendix C hereto.

(f) Financial Information. This Section 2.3(f) supplements, and is not intended to limit, the requirements in Section 2.2(f) of the Original Resolution. The Borrower agrees that for each fiscal year it shall furnish to the DNRC and the DEQ, promptly when available, in addition to those matters specified in Section 2.2(f) of the Original Resolution:

(1) the preliminary budget for the System, with items for the 2010 Project shown separately; and

(2) when adopted, the final budget for the System, with items for the 2010 Project shown separately.

(g) 2010 Project Accounts. The Borrower shall maintain Project accounts in accordance with generally accepted government accounting standards.

(h) Records. After reasonable notice from the EPA or the DNRC, the Borrower shall make available to the EPA or the DNRC such records as the EPA or the DNRC reasonably requires to review and determine compliance with the Safe Drinking Water Act, as provided in Section 75-6-224(1)(d) of the Act.

(i) Compliance with Safe Drinking Water Act. The Borrower has complied and shall comply with all conditions and requirements of the Safe Drinking Water Act pertaining to the 2010 Loans and the 2010 Project and shall maintain sufficient financial, managerial and technical capability to continue to effect such compliance.

(j) Compliance with DEQ Requirements. The Borrower shall comply with plan, specification and other requirements for public water systems established by the DEQ, as required by Section 75-6-224(1)(h) of the Act.

Section 2.4 Covenants Relating to the Tax-Exempt Status of the State Bonds.

(a) The Borrower covenants and agrees that it will not use or permit to be used any of the proceeds of the Series 2010 Bonds or any other funds of the Borrower in respect of the 2010 Project or the Series 2010 Bonds, directly or indirectly, in a manner that would cause, or take any other action that would cause, any State Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code or would otherwise cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(b) The Borrower agrees that it will not enter into, or allow any “related person” (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the State Bonds or any other obligations of the DNRC in an amount related to the amount of the 2010 Loans or the portion of the 2010 Loans derived directly or indirectly from proceeds of the State Bonds or that would otherwise cause any State Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

(c) The Borrower shall not use or permit the use of the 2010 Project directly or indirectly in any trade or business carried on by any Person who is not a Governmental Unit. For the purpose of this subparagraph, use as a member of the general public (within the meaning of the Regulations) shall not be taken into account and any activity carried on by a Person other than a natural person shall be treated as a trade or business.

(d) Any portion of the 2010 Project being refinanced or the cost of which is being reimbursed was acquired by and is now and shall, during the term of the 2010 Loans, be owned by the Borrower and not by any other Person. Any portion of the 2010 Project being financed shall be acquired by and shall, during the term of the 2010 Loans, be owned by the Borrower and not by any other Person. Notwithstanding the previous two sentences, the Borrower may transfer the 2010 Project or a portion thereof to another Governmental Unit which is also a Public Entity if such transfer is otherwise permitted under the Resolution and if such organization agrees with the DNRC to comply with Section 2.3(h), Section 2.3(i) and Section 2.4 of this Supplemental Resolution and if the DNRC receives an Opinion of Bond Counsel that such transfer will not violate the Act or the Safe Drinking Water Act or adversely affect the exclusion of interest on the State Bonds from gross income or purposes of federal income taxation. In addition, except as otherwise provided in the Resolution or in any Collateral Documents, the Borrower may sell or otherwise dispose of any portion of the 2010 Project which has become obsolete or outmoded or is being replaced or for other reasons is not needed by the Borrower or beneficial to the general public or necessary to carry out the purposes of the Safe Drinking Water Act.

(e) At the Closing of the 2010 Loans, the DNRC will, if necessary to obtain the Opinion of Bond Counsel described in Section 7.05(a) of the Indenture, deliver to the Borrower instructions concerning compliance by the Borrower with the arbitrage rebate requirements of Section 148 of the Code (the "Arbitrage Rebate Instructions"). The Borrower shall comply with the Arbitrage Rebate Instructions, if any, delivered to it by the DNRC at Closing, as such Instructions may be amended or replaced by the DNRC from time to time. The Arbitrage Rebate Instructions may be amended or replaced by new Arbitrage Rebate Instructions delivered by the DNRC and accompanied by an Opinion of Bond Counsel to the effect that the use of said amended or new Arbitrage Rebate Instructions will not adversely affect the excludability of interest on the State Bonds or any Additional State Bonds (except State Bonds the interest on which the State did not intend to be excluded from gross income for federal income tax purposes) from gross income of the recipients thereof for federal income tax purposes.

(f) The Borrower agrees that during the term of the 2010 Loans it will not contract with or permit any Private Person to manage the 2010 Project or any portion thereof except according to a written management contract and upon delivery to the DNRC of an opinion of Bond Counsel to the effect that the execution and delivery of such management contract will not violate the Act or the Safe Drinking Water Act or adversely affect the exclusion of interest on State Bonds from gross income or purposes of federal income taxation.

(g) The Borrower may not lease the 2010 Project or any portion thereof to any Person other than a Nonexempt Person which agrees in writing with the Borrower and the State not to cause any default to occur under the Resolution; provided the Borrower may lease all or any portion of the 2010 Project to a Nonexempt Person pursuant to a lease which in the Opinion of Bond Counsel delivered to the DNRC will not cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(h) The Borrower shall not change the use or nature of the 2010 Project if (i) such change will violate the Safe Drinking Water Act, or (ii) so long as the State Bonds are outstanding unless, in the Opinion of Bond Counsel delivered to the DNRC, such change will not result in the inclusion in gross income of interest on the State Bonds for federal income tax purposes.

Section 2.5 Maintenance of System; Liens. The Borrower shall maintain the System, including the 2010 Project, in good condition and make all necessary renewals, replacements, additions, betterments and improvements thereto. The Borrower shall not grant or permit to exist any lien on the 2010 Project or any other property making up part of the System, other than liens securing Debt where a parity or senior lien secures the Series 2010 Bonds; provided that this Section 2.5 shall not be deemed to be violated if a mechanic's or contractor's lien is filed against any such property so long as the Borrower uses its best efforts to obtain the discharge of such lien and promptly reports to the DNRC the filing of such lien and the steps it plans to take and does take to discharge of such lien.

Section 2.6 Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets. The Borrower shall maintain its corporate existence, except that it may consolidate with or merge into another Governmental Unit or permit one or more Governmental Units to consolidate with or merge into it or may transfer all or substantially all of its assets to another Governmental Unit and then dissolve if the surviving, resulting or transferee entity (if other than

the Borrower) (i) is a Public Entity and (ii) assumes in writing all of the obligations of the Borrower under the Resolution, the Series 2010 Bonds and the Collateral Documents, and (a) such action does not result in any default in the performance or observance of any of the terms, covenants or agreements of the Borrower under the Resolution, the Series 2010 Bonds and the Collateral Documents, (b) such action does not violate the Act or the Safe Drinking Water Act and does not adversely affect the exclusion of interest on the Series 2010 Bonds or the State Bonds from gross income for federal income tax purposes and (c) the Borrower delivers to the DNRC on the date of such action an Opinion of Bond Counsel that such action complies with this Section 2.6.

Other than pursuant to the preceding paragraph, the Borrower shall not transfer the System or any portion thereof to any other Person, except for property which is obsolete, outmoded, worn out, is being replaced or otherwise is not needed for the operation of the System, unless the provisions of (a) and (b) of the preceding paragraph are satisfied and the Borrower delivers to the DNRC an Opinion of Bond Counsel to that effect and, in addition, the DNRC consents to such transfer.

ARTICLE III

USE OF PROCEEDS; THE 2010 PROJECT

Section 3.1 Use of Proceeds. The Borrower shall apply the proceeds of the 2010 Loans from the DNRC solely as follows:

(a) The Borrower shall apply the proceeds of the 2010 Loans solely to the financing, refinancing or reimbursement of the costs of the 2010 Project as set forth in Appendix A hereto and this Section 3.1. The 2010 Loans will be disbursed in accordance with ARTICLE IV hereof and Article VII of the Indenture. If the 2010 Project has not been completed prior to Closing, the Borrower shall, as quickly as reasonably possible, complete the 2010 Project and expend proceeds of the 2010 Loans to pay the costs of completing the 2010 Project.

(b) No portion of the proceeds of the 2010 Loans shall be used to reimburse the Borrower for costs paid prior to the date of adoption of this Supplemental Resolution of a Project the construction or acquisition of which occurred or began earlier than June 1, 1993. In addition, if any proceeds of the 2010 Loans are to be used to reimburse the Borrower for 2010 Project costs paid prior to the date of adoption of this Supplemental Resolution, the Borrower shall have complied with Section 1.150-2 of the Regulations in respect of such costs.

(c) Any Debt to be refinanced with proceeds of the 2010 Loans was incurred after June 1, 1993, or with respect to a Project the construction or acquisition of which began after June 1, 1993. No proceeds of the 2010 Loans shall be used for the purpose of refinancing an obligation the interest on which is exempt from federal income tax or excludable from gross income for purposes of federal income taxation unless the DNRC has received an Opinion of Bond Counsel, satisfactory to it, to the effect that such refinancing will not adversely affect the exclusion of interest on the State Bonds from gross income for purposes of federal income taxation.

Section 3.2 The 2010 Project. Set forth in Appendix A to this Supplemental Resolution is a description of the 2010 Project, which describes the property which has been or is to be acquired, installed, constructed or improved and the other activities, if any to be funded from the 2010 Loans (the 2010 Project may consist of more than one facility or activity), and an estimated budget relating to the 2010 Project, including the amount of proceeds of the 2010A Loan and the 2010B Loan estimated to be applied to Green Infrastructure. The 2010 Project may be changed and the description thereof in Appendix A may be amended from time to time by the Borrower but only after delivery to the DNRC of the following:

(a) A certificate of the Borrower setting forth the amendment to Appendix A and stating the reason therefor, including statements whether the amendment would cause an increase or decrease in the cost of the 2010 Project, an increase or decrease in the amount of proceeds of the 2010 Loans which will be required to complete the 2010 Project and whether the change will materially accelerate or delay the construction schedule for the 2010 Project;

(b) A written consent to such change in the 2010 Project by an Authorized DNRC Officer;

(c) An Opinion or Opinions of Bond Counsel stating that the 2010 Project, as constituted after such amendment, is, and was at the time the State Bonds were issued, eligible for financing under the Act and is, and was at the time the Series 2010 Bonds was issued, eligible for financing under the Enabling Act, such amendment will not violate the Act or the Enabling Act and such amendment will not adversely affect the exclusion of interest on the State Bonds or the Series 2010 Bonds from gross income for purposes of federal income taxation. Such an Opinion of Bond Counsel shall not be required for amendments which do not affect the type of facility to be constructed or activity to be financed.

The Borrower acknowledges and agrees that an increase in the principal amount of the 2010 Loans may be made only upon an application to the DEQ, the DNRC and the Trustee, in such form as the DEQ shall specify, which is approved by the DEQ and the DNRC, in their sole and absolute discretion, and adoption by the governing body of the Borrower of a resolution amendatory of or supplementary to the Resolution authorizing the additional loan and delivery of written certifications by officers of the Borrower to the DEQ, the DNRC and the Trustee to the effect that all representations and covenants contained in the Resolution as it may be so amended or supplemented are true as of the date of closing of the additional loan. No assurance can be given that any additional loan funds will be available under the Program at the time of any such application or thereafter. The Borrower acknowledges and agrees that neither the DEQ, the DNRC, the Trustee nor any of their agents, employees or representatives shall have any liability to the Borrower and have made no representations to the Borrower as to the sufficiency of the 2010 Loans to pay costs of the 2010 Project or as to the availability of additional funds under the Program to increase the principal amount of the 2010 Loans.

Section 3.3 2010 Project Representations and Covenants. The Borrower hereby represents to and covenants with the DNRC that:

(a) all construction of the 2010 Project has complied and will comply with all federal and state standards, including, without limitation, EPA regulations and standards;

(b) all future construction of the 2010 Project will be done only pursuant to fixed price construction contracts. The Borrower shall obtain a performance and payment bond from the contractor for each construction contract in the amount of 100% of the construction price and ensure that such bond is maintained until construction is completed to the Borrower's, the DNRC's and the DEQ's satisfaction;

(c) all future construction of the 2010 Project will be done in accordance with plans and specifications on file with the DNRC and the DEQ, provided that changes may be made in such plans and specifications with the written consent of an Authorized DNRC Officer and the DEQ;

(d) all laborers and mechanics employed by contractors and subcontractors on the 2010 Project have been and will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code;

(e) the 2010 Project is a project of the type permitted to be financed under the Enabling Act, the Act and the Program and Section 1452 of the Safe Drinking Water Act; and

(f) the Borrower will undertake the 2010 Project promptly after the Closing Date and will cause the 2010 Project to be completed as promptly as practicable with all reasonable dispatch, except only as completion may be delayed by a cause or event not reasonably within the control of the Borrower; it is estimated by the Borrower that the 2010 Project will be substantially completed by the Estimated Completion Date.

Section 3.4 Completion or Cancellation or Reduction of Costs of the 2010 Project.

(a) Upon completion of the 2010 Project, the Borrower shall deliver to the DNRC a certificate stating that the 2010 Project is complete and stating the amount, if any, of the Undisbursed Committed Amount. If Appendix A describes two or more separate projects as making up the 2010 Project, a separate completion certificate shall be delivered for each.

(b) If all or any portion of the 2010 Project is cancelled or cut back or its costs are reduced or for any other reason the Borrower will not require the full Committed Amount, the Borrower shall promptly notify the DNRC in writing of such fact and the amount of the Undisbursed Committed Amount.

ARTICLE IV

THE LOAN

Section 4.1 The Loan; Disbursement of Loan.

(a) The DNRC has agreed to lend to the Borrower, from time to time as the requirements of this Section 4.1 are met, an amount up to (i) \$500,000 (the "2010A Committed Amount") for the purposes of financing, refinancing, or reimbursing the Borrower for a portion of the costs of the 2010 Project and paying for the costs of issuance of the Series 2010 Bonds, and (ii) \$2,800,000 (the "2010B Committed Amount") for the purposes of financing, refinancing or

reimbursing the Borrower for a portion of the costs of the 2010 Project and funding a deposit to the Reserve Account and paying for the costs of issuance of the Series 2010 Bonds; provided the DNRC shall not be required to loan any proceeds of the State Bonds to the Borrower after the Estimated Completion Date. The Committed Amount may be reduced as provided in Section 3.2 and Section 3.4 of this Supplemental Resolution.

(b) The DNRC intends to disburse the 2010 Loans through the Trustee. In consideration of the issuance of the Series 2010 Bonds by the Borrower, the DNRC shall make, or cause the Trustee to make, a disbursement of all or a portion of the 2010 Loans upon receipt of the following documents:

(1) an Opinion of Bond Counsel as to the Series 2010A Bond and an Opinion of Bond Counsel as to the validity and enforceability of the Series 2010B Bond and the security therefor and stating in effect that interest on the Series 2010B Bond is not includable in gross income of the owner thereof for purposes of federal income taxation, in form and substance satisfactory to the DNRC;

(2) the Series 2010A Bond and the Series 2010B Bond, fully executed and authenticated;

(3) a certified copy of the Original Resolution and this Supplemental Resolution;

(4) any other security instruments or documents required by the DNRC or DEQ as a condition to their approval of the 2010 Loans;

(5) if all or part of a Loan is being made to refinance a Project or reimburse the Borrower for the costs of a Project paid prior to the Closing, evidence, satisfactory to the DNRC and the Bond Counsel referred to in (1) above, (A) that the acquisition or construction of the Project was begun no earlier than June 1, 1993 or the debt was incurred no earlier than June 1, 1993, (B) of the Borrower's title to the Project, (C) of the costs of such Project and that such costs have been paid by the Borrower and (D) if such costs were paid before adoption of this Supplemental Resolution that the Borrower has complied with Section 1.150-2 of the Regulations;

(6) the items required by the Indenture for the portion of the 2010 Loans to be disbursed at Closing; and

(7) such other certificates, documents and other information as the DNRC, the DEQ or the Bond Counsel giving the opinion referred to in subparagraph (1) may require (including any necessary arbitrage rebate instructions).

(c) In order to obtain a disbursement of a portion of the 2010 Loans to pay costs of the 2010 Project, the Borrower shall submit to the DNRC and the Trustee a signed request for disbursement on the form prescribed by the DNRC, with all attachments required by such form. The Borrower may obtain disbursements only for costs which have been legally incurred and are due and payable. All Loan disbursements will be made to the Borrower only upon proof that cost was incurred.

(d) Provided that the 2010 EPA Capitalization Grant is available to the Program, from and after the 2010B First Advance, the 2010 Loans shall be disbursed, subject to the other terms and conditions of this Supplemental Resolution, in the following order:

(1) First, at the Closing, the 2010B First Advance will be advanced from the 2010B Loan.

(2) Second, after the 2010B First Advance has been disbursed to the Borrower, the entire amount of the 2010A Loan may then be disbursed to the Borrower as and when needed. For the avoidance of doubt, any amounts of the 2010 Loans to be disbursed at Closing in excess of the 2010B First Advance will be disbursed as proceeds of the 2010A Loan to the extent of the 2010A Committed Amount.

(3) Third, after the entire principal amount of the 2010A Loan has been disbursed to the Borrower, the remaining amount of the 2010B Loan will be disbursed to the Borrower as and when needed.

(e) For refinancings, a disbursement schedule complying with the requirements of the Safe Drinking Water Act shall be established by the DNRC and the Borrower at Closing.

(f) If all or a portion of the 2010 Loans is made to reimburse a Borrower for Project costs paid by it prior to Closing, the Borrower shall present at Closing the items required by Section 4.1(b) of this Supplemental Resolution relating to such costs. The Trustee shall disburse such amounts to the Borrower pursuant to a disbursement schedule complying with the requirements of the Safe Drinking Water Act established by the DNRC and the Borrower at the Closing.

(g) Notwithstanding anything else provided herein, the Trustee shall not be obligated to disburse the 2010 Loans any faster or to any greater extent than it has available EPA Capitalization Grants, Bond proceeds and other amounts available therefor in the Revolving Fund. The DNRC shall not be required to do “overmatching” pursuant to Section 5.04(b) of the Indenture, but may do so in its discretion. The Borrower acknowledges that if Project costs are incurred faster than the Borrower projected at Closing, there may be delays in making 2010 Loan disbursements for such costs because of the schedule under which EPA makes EPA Capitalization Grant money available to the DNRC. The DNRC will use its reasonable best efforts to obtain an acceleration of such schedule if necessary.

(h) Upon making each 2010A Loan disbursement and 2010B Loan disbursement, the Trustee shall note such disbursement on Schedule A to the Series 2010A Bond and the Series 2010B Bond, respectively. A Schedule A reflecting the amount of the 2010B First Advance will first be attached to the Series 2010B Bond at Closing.

(i) The Borrower agrees that it will deposit in the Reserve Account upon receipt thereof, on the date of the 2010B First Advance and any subsequent disbursement dates, any proceeds of the 2010B Loan borrowed for the purpose of increasing the balance in the Reserve Account to the Reserve Requirement. The Borrower further acknowledges and agrees that any portions of the 2010 Loans representing capitalized interest shall be advanced only on Payment Dates and

shall be transferred by the Trustee on the Payment Date directly to the Revenue Bond Account. The amount of any such transfer shall be a credit against the interest payments due on the Series 2010 Bonds and interest thereon shall accrue only from the date of transfer.

(j) Compliance by the Borrower with its representations, covenants and agreements contained in the Original Resolution, this Supplemental Resolution and the Collateral Documents shall be a further condition precedent to the disbursement of the 2010 Loans in whole or in part. The DNRC and the Trustee, in their sole and absolute discretion, may make one or more disbursements, in whole or in part, notwithstanding such noncompliance, and without liability to make any subsequent disbursement of the 2010 Loans.

Section 4.2 Commencement of Loan Term. The Borrower's obligations under this Supplemental Resolution and the Collateral Documents shall commence on the date hereof unless otherwise provided in this Supplemental Resolution. However, the obligation to make payments under ARTICLE V hereof shall commence only upon the first disbursement by the Trustee of the 2010B Loan proceeds.

Section 4.3 Termination of Loan Term. The Borrower's obligations under this Supplemental Resolution and the Collateral Documents in respect of the Series 2010 Bonds shall terminate upon payment in full of all amounts due under the Series 2010 Bonds and this Supplemental Resolution; provided, however, that the covenants and obligations provided in ARTICLE VI and Section 10.3 of this Supplemental Resolution shall survive the termination of this Supplemental Resolution.

Section 4.4 Loan Closing Submissions. On or prior to the Closing, the Borrower will have delivered to the DNRC and the Trustee the closing submissions required by Section 7.05 of the Indenture.

ARTICLE V

REPAYMENT OF 2010 LOANS

Section 5.1 Repayment of 2010 Loans. The Borrower shall repay the amounts lent to it pursuant to Section 4.1 hereof in accordance with this Section 5.1.

5.1.1. Interest and Surcharges. Until a Determination Statement is delivered by the DNRC to the Borrower and so long as the Borrower's obligation to repay the principal of the 2010A Loan is forgiven as provided in Section 5.1.2 below, amounts disbursed by the DNRC under Section 4.1 hereof that are evidenced by the Series 2010A Bond bear interest at the rate of zero percent (0.00%) per annum from the date of each advance; provided, however, if the DNRC delivers to the Borrower a Noncompliance Statement, then all principal of the Series 2010A Bond advanced by the DNRC shall be payable and amounts disbursed by the DNRC under Section 4.1 hereof that are evidenced by the Series 2010A Bond shall bear interest at the rate of two percent (2.00%) per annum and in addition the Borrower shall pay the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge on the outstanding principal amount of the Series 2010A Bond from the date of each advance under thereunder. The Series 2010B Bond shall bear interest at the rate of two percent (2.00%) per annum and in

addition the Borrower shall pay the Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal amount of the 2010B Loan from the date of each advance thereunder. For purposes of this Supplemental Resolution and the Program, with respect to the 2010A Loan and the 2010B Loan, the term “interest on the 2010 Loans” or “interest on the 2010A Loan” or “interest on the Series 2010B Loan” when not used in conjunction with a reference to any surcharges, shall include the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge. The Borrower shall pay all Loan Repayments and surcharges in lawful money of the United States of America to the DNRC. Interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge shall be calculated on the basis of a year of 360 days comprising 12 months of 30 days each.

5.1.2. Repayment of 2010A Loan; Principal Forgiveness.

(a) The Borrower is obligated to repay the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the 2010A Loan, unless the DNRC forgives the Borrower’s obligation to repay the principal of the 2010A Loan as provided in Section 5.1.2(b). Subject to the provisions of Section 5.1.2(b), the Loan Repayments and the Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the 2010A Loan shall be due on each Payment Date, as follows:

- (1) interest and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge on the outstanding principal balance of the 2010A Loan shall be payable from and after the date of each advance of principal of the 2010A Loan on each Payment Date at the rate of 3.75% per annum, beginning on the first Payment Date following the date of delivery by the DNRC of a Noncompliance Statement and concluding on July 1, 2030; and
- (2) the principal of the 2010A Loan shall be repayable on each Payment Date, beginning on the Payment Date that is the first to occur following delivery by the DNRC of a Noncompliance Statement, and concluding on July 1, 2030, and the amount of each principal payment shall be calculated on the basis of a substantially level debt service at the rate of 3.75% per annum; provided that the principal of the 2010A Loan is payable only in amounts that are multiples of \$1,000.

(b) Notwithstanding Section 5.1.2(a), so long as the Borrower is proceeding diligently to completion of the 2010 Project and the Borrower has executed and delivered the Compliance Certificate and Request to the DNRC in form and substance satisfactory to the DNRC and the DEQ, within thirty (30) days after the date that the Compliance Certificate and Request is provided to the Borrower by the DNRC, the DNRC will, following review and approval of the Compliance Certificate and Request, deliver to the Borrower a Forgiveness Statement and the Borrower will thereafter have no obligation to repay amounts advanced under the Series 2010A Bond or interest or surcharges thereon and the Series 2010A Bond will be marked “CANCELLED” and returned by the DNRC to the Borrower. However, in the event the Borrower fails to deliver timely the Compliance Certificate and Request, or the Borrower cannot submit the Compliance Certificate and Request because it cannot make the certifications required

therein, or the Compliance Certificate and Request is delivered in a form that deviates materially from that attached hereto as Appendix D as determined in the sole and complete discretion of the DNRC or the DEQ, or the DNRC or the DEQ determine at any time that the 2010 Project or any portion thereof or of the work relating thereto fails to comply with Program requirements, then the DNRC will deliver to the Borrower a Noncompliance Statement. Upon delivery of a Noncompliance Statement by the DNRC to the Borrower, all principal advanced or to be advanced under the Series 2010A Bond, together with interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge thereon from the date of each advance, shall be payable as provided in Section 5.1.2 (a).

(c) In addition, in the event the DNRC delivers a Noncompliance Statement (i) the Series 2010A Bond will continue in effect as a Subordinate Obligation, and (ii) the Borrower will forthwith comply with the rate covenant set forth in Section 6.7 of the Original Resolution, as implemented as described in Article XII of this Supplemental Resolution, and, if necessary, increase the rates and charges of the System to satisfy such rate covenant as soon as practicable and in any event no later than three (3) months after the date of delivery to the Borrower by the DNRC of a Noncompliance Statement.

5.1.3. Repayment of 2010B Loan. The Loan Repayments on the 2010B Loan required by this Section 5.1 shall be due on each Payment Date, as follows:

- (1) interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal balance of the 2010B Loan shall be payable from and after the date of each advance of principal of the 2010B Loan on each Payment Date at the rate of 3.75% beginning on January 1, 2011 and concluding on July 1, 2030; and
- (2) the principal of the 2010B Loan shall be repayable on each Payment Date, beginning on January 1, 2011, and concluding on July 1, 2030, and the amount of each principal payment shall be calculated on the basis of a substantially level debt service at a rate of 3.75% per annum; provided that principal of the 2010B Loan is payable only in amounts that are multiples of \$1,000.

5.1.4. Details Regarding 2010 Loan Repayments. Loan Repayments and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge on the 2010B Loan and, if applicable, on the 2010A Loan, shall be due on the dates specified above and on the dates and in the amounts shown in Schedule B to the Series 2010B Bond and, if applicable, on the 2010A Loan, as such Schedule B shall be modified from time to time as provided in Section 5.1.2 and below. Schedule B will first be attached to the Series 2010B Bond and, if applicable, the Series 2010A Bond at Closing. The portion of each such Loan Repayment consisting of principal and the portion consisting of interest and the amount of each Administrative Expense Surcharge and the amount of each Loan Loss Reserve Surcharge shall be set forth in Schedule B to the Series 2010A Bond and the Series 2010B Bond on and after Closing. Upon each disbursement of 2010 Loan amounts to the Borrower pursuant to Section 4.1 hereof, the Trustee shall enter or cause to be entered the amount advanced on Schedule A to the applicable Series 2010A Bond and the Series 2010B Bond under “Advances” and the total amount advanced under

Section 4.1, including such disbursement, under “Total Amount Advanced.” Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on such advance shall accrue from the date the advance is made and shall be payable on each Payment Date thereafter. Once the completion certificate for the 2010 Project has been prepared and delivered to the DNRC pursuant to Section 3.4 of this Supplemental Resolution, the Trustee shall revise Schedule B to the Series 2010B Bond in accordance with this Section 5.1 and the Trustee shall send a copy of such Schedule B to the Borrower within one month after delivery of the completion certificate.

If the DNRC shall have delivered a Noncompliance Statement, then Schedule B to the Series 2010A Bond shall continue to reflect interest and surcharges on amounts advanced under the Series 2010A Bond at the rate of 3.75% per annum, as may be revised to reflect the full principal amount advanced under the Series 2010A Bond, the initial Payment Date, and the periodic total loan payment, and the Trustee shall send a copy of such schedules to the Borrower within one month after delivery by the DNRC of the Noncompliance Statement. If the DNRC delivers a Forgiveness Statement, Schedule B to the Series 2010A Bond will be disregarded and of no effect.

Past-due Loan Repayments and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid.

Any payment of principal and interest as to the Series 2010B Bond and, if applicable, the Series 2010A Bond, and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge as to the Series 2010B Bond, and, if applicable, the Series 2010A Bond under this Section 5.1 shall be credited against the same payment obligation under each of the Series 2010B Bond and, as applicable, the Series 2010A Bond.

Section 5.2 Additional Payments. The Borrower shall also pay, within 30 days after receipt of a bill therefor, from any legally available funds therefor, including proceeds of the 2010 Loans, if the Borrower so chooses, all reasonable expenses of the DNRC and the Trustee in connection with the 2010 Loans, the Collateral Documents and the Series 2010 Bonds, including, but not limited to:

- (a) the cost of reproducing this Supplemental Resolution, the Collateral Documents and the Series 2010 Bonds;
- (b) the fees and disbursements of Bond Counsel and other Counsel utilized by the DNRC and the Trustee in connection with the 2010 Loans, this Supplemental Resolution, the Collateral Documents and the Series 2010 Bonds and the enforcement thereof; and
- (c) all taxes and other governmental charges in connection with the execution and delivery of the Collateral Documents or the Series 2010 Bonds, whether or not the Series 2010 Bonds are then outstanding, including all recording and filing fees relating to the Collateral Documents and the pledge of the State’s right, title and interest in and to the Series 2010 Bonds, the Collateral Documents and this Supplemental Resolution and all expenses, including

attorneys' fees, relating to any amendments, waivers, consents or collection or enforcement proceedings pursuant to the provisions hereof or thereof.

Section 5.3 Prepayments. The Borrower may not prepay all or any part of the outstanding principal amount of the Series 2010B Bond, and, if applicable, the Series 2010A Bond, unless (i) a Determination Statement has been delivered, (ii) it obtains the prior written consent of the DNRC thereto, and (iii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest and, if applicable, Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2010 Bonds are prepaid in part pursuant to this Section 5.3, such prepayments shall be applied to principal payments in inverse order of maturity.

Section 5.4 Obligations of Borrower Unconditional. The obligations of the Borrower to make the payments required by this Supplemental Resolution and the Series 2010 Bonds and to perform its other agreements contained in this Supplemental Resolution, the Series 2010 Bonds and Collateral Documents shall be absolute and unconditional, except as otherwise provided herein or in such documents. The Borrower (a) shall not suspend or discontinue any payments provided for in this Supplemental Resolution and the Series 2010 Bonds, (b) shall perform all its other agreements in this Supplemental Resolution, the Series 2010 Bonds and the Collateral Documents and (c) shall not terminate this Supplemental Resolution, the Series 2010 Bonds or the Collateral Documents for any cause, including any acts or circumstances that may constitute failure of consideration, destruction of or damage to the 2010 Project or the System, commercial frustration of purpose, any dispute with the DNRC or the EPA, any change in the laws of the United States or of the State or any political subdivision of either or any failure of the DNRC to perform any of its agreements, whether express or implied, or any duty, liability or obligation arising from or connected with this Supplemental Resolution. Provided, however, if the 2010 Loans are not made and no funds are disbursed to the Borrower, this Supplemental Resolution may be terminated.

Section 5.5 Limited Liability. All payments of principal of and interest on the 2010 Loans and other payment obligations of the Borrower hereunder and under the Series 2010 Bonds shall be special, limited obligations of the Borrower payable, with respect to the Series 2010B Bond, solely out of the Net Revenues or, with respect to the Series 2010A Bond solely out of Surplus Net Revenues, and shall not, except at the option of the Borrower and as permitted by law, be payable out of any other revenues of the Borrower. The obligations of the Borrower under the Resolution and the Series 2010 Bonds shall never constitute an indebtedness of the Borrower within the meaning of any state constitutional provision or statutory or charter limitation and shall never constitute or give rise to a pecuniary liability of the Borrower or a charge against its general credit or taxing power. The taxing powers of the Borrower may not be used to pay principal of or interest on the Series 2010 Bonds, and no funds or property of the Borrower other than the Net Revenues or, as appropriate, Surplus Net Revenues may be required to be used to pay principal of or interest on the Series 2010 Bonds.

ARTICLE VI

INDEMNIFICATION OF DNRC AND DEQ

The Borrower shall, to the extent permitted by law, indemnify and save harmless the DNRC and the DEQ and their officers, employees and agents (each an "Indemnified Party" or, collectively, the "Indemnified Parties") against and from any and all claims, damages, demands, expenses, liabilities and losses of every kind asserted by or on behalf of any Person arising out of the acts or omissions of the Borrower or its employees, officers, agents, contractors, subcontractors, or consultants in connection with or with regard or in any way relating to the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation or financing of the 2010 Project. The Borrower shall also, to the extent permitted by law, indemnify and save harmless the Indemnified Parties against and from all costs, reasonable attorneys' fees, expenses and liabilities incurred in any action or proceeding brought by reason of any such claim or demand. If any proceeding is brought against an Indemnified Party by reason of such claim or demand, the Borrower shall, upon notice from an Indemnified Party, defend such proceeding on behalf of the Indemnified Party.

ARTICLE VII

ASSIGNMENT

Section 7.1 Assignment by Borrower. The Borrower may not assign its rights and obligations under the Resolution or the Series 2010 Bonds.

Section 7.2 Assignment by DNRC. The DNRC will pledge its rights under and interest in the Resolution, the Series 2010 Bonds and the Collateral Documents (except to the extent otherwise provided in the Indenture) as security for the payment of the State Bonds and may further assign such interests to the extent permitted by the Indenture, without the consent of the Borrower.

Section 7.3 State Refunding Bonds. In the event the State Bonds and Additional State Bonds are refunded by bonds which are not Additional State Bonds, all references in the Resolution to State Bonds and Additional State Bonds shall be deemed to refer to the refunding bonds and any bonds of the State on a parity with such refunding bonds (together, the "Refunding Bonds") or, in the case of a crossover refunding, to the State Bonds and Additional State Bonds and the Refunding Bonds. In the event the State Bonds are refunded by an issue of Additional State Bonds, all references in the Resolution to the State Bonds shall be deemed to refer to such Additional State Bonds or, in the case of a crossover refunding, both the State Bonds and such Additional State Bonds.

ARTICLE VIII

THE SERIES 2010 BONDS

Section 8.1 Net Revenues Available. The Borrower is authorized to charge just and equitable rates, charges and rentals for all services directly or indirectly furnished by the System,

and to pledge and appropriate to the Series 2010B Bond the Net Revenues (and in respect of the Series 2010A Bond, if necessary, the Surplus Net Revenues) to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired. The Net Revenues to be produced by such rates, charges and rentals during the term of the Series 2010B Bond are expected to be more than sufficient to pay the principal and interest when due on the Bonds, and to create and maintain reasonable reserves therefor and to provide an adequate allowance for replacement and depreciation, as prescribed herein. For purposes of the foregoing statement, principal of and interest on the 2009A Loan and the 2010A Loan are disregarded. The Borrower acknowledges and agrees that if the DNRC delivers a Noncompliance Statement to the Borrower as provided in Section 5.1.2 as determined in the sole and complete discretion of the DNRC, then principal and interest and surcharges will become due and owing on the 2010A Loan evidenced by the Series 2010A Bond as provided in Section 5.1 and the Borrower shall thereupon, and no later than three months after delivery of such a statement, to the extent required by Section 6.7 of the Original Resolution, as implemented as described in Article XII of this Supplemental Resolution, adjust its schedule of fees, rates, and charges applicable to the System to cause Net Revenues and Surplus Net Revenues to be produced in an amount at least equal to that required by the Resolution.

Section 8.2 Issuance and Sale of the Series 2010 Bonds. The Council has investigated the facts necessary and hereby finds, determines and declares it to be necessary and desirable for the Borrower to issue the Series 2010 Bonds to evidence the 2010 Loans. The Series 2010 Bonds are issued to the DNRC without public sale pursuant to Montana Code Annotated, Section 7-7-4433(2)(a).

Section 8.3 Terms. The Series 2010A Bond and the Series 2010B Bond shall be in the maximum principal amount equal to the original 2010A Committed Amount and 2010B Committed Amount, respectively, shall each be issued as a single, fully registered bond numbered R-1, shall be dated as of the date of delivery to the DNRC, and shall bear interest at the rate charged by the DNRC on the 2010A Loan and 2010B Loan, respectively. The principal of and interest on the Series 2010B Bond, and, if applicable, the principal of and interest on the Series 2010A Bond and any Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be payable on the same dates on which Loan Repayments are payable. Advances of principal of the Series 2010A Bond or Series 2010B Bond shall be deemed made when advances of the 2010A Loan or 2010B Loan, respectively, are made under Section 4.1, and such advances shall be payable in accordance with Schedule B to the Series 2010B Bond, and, if applicable, the Series 2010A Bond, as the case may be, as it may be revised by the DNRC from time to time in accordance with Section 5.1. The Series 2010A Bond is a Subordinate Obligation payable only from the Surplus Net Revenues available in the Water System Fund. The Series 2010B Bond is a Bond.

The Borrower may prepay the Series 2010 Bonds, in whole or in part, only upon the terms and conditions under which it can prepay the 2010 Loans under Section 5.3.

Section 8.4 Negotiability, Transfer and Registration. The Series 2010 Bonds shall be fully registered as to both principal and interest, and shall be initially registered in the name of and payable to the DNRC. While so registered, principal of and interest on the Series 2010 Bonds shall be payable to the DNRC at the Office of the Department of Natural Resources and

Conservation, 1625 Eleventh Avenue, Helena, Montana 59620-1601 or such other place as may be designated by the DNRC in writing and delivered to the Borrower. The Series 2010 Bonds shall be negotiable, subject to the provisions for registration and transfer contained in this Section. No transfer of the Series 2010 Bonds shall be valid unless and until (1) the holder, or his duly authorized attorney or legal representative, has executed the form of assignment appearing on the Series 2010 Bonds, and (2) the Financial Services Manager of the Borrower (or successors, the "Registrar"), as Bond Registrar, has duly noted the transfer on the Series 2010 Bonds and recorded the transfer on the registration books of the Registrar. The Registrar may, prior to noting and recording the transfer, require appropriate proof of the transferor's authority and the genuineness of the transferor's signature. The Borrower shall be entitled to deem and treat the Person in whose name the Series 2010 Bonds is registered as the absolute owner of the Series 2010 Bonds for all purposes, notwithstanding any notice to the contrary, and all payments to the registered holder shall be valid and effectual to satisfy and discharge the Borrower's liability upon such Series 2010 Bond to the extent of the sum or sums so paid.

Section 8.5 Execution and Delivery. The Series 2010 Bonds shall be executed on behalf of the Borrower by the manual signatures of the Mayor, the Financial Services Manager, and the City Clerk. Any or all of such signatures may be affixed at or prior to the date of delivery of the Series 2010 Bonds. The Series 2010 Bonds shall be sealed with the corporate seal of the Borrower. In the event that any of the officers who shall have signed the Series 2010 Bonds shall cease to be officers of the Borrower before the Series 2010 Bonds are issued or delivered, their signatures shall remain binding upon the Borrower. Conversely, the Series 2010 Bonds may be signed by an authorized official who did not hold such office on the date of adoption of this Supplemental Resolution. The Series 2010 Bonds shall be delivered to the DNRC, or its attorney or legal representative.

Section 8.6 Form. The Series 2010A Bond shall be prepared in substantially the form attached as Appendix B-1 and the Series 2010B Bond shall be prepared in substantially the form attached as Appendix B-2.

Section 8.7 2010 Acquisition and Construction Account. The 2010 Acquisition and Construction Account (the "Acquisition and Construction Account") is hereby created as a separate account within the Water System Fund and shall be used only to pay as incurred and allowed, costs which under accepted accounting practice are capital costs of the 2010 Project and of such future reconstructions, improvements, betterments or extensions of the System as may be authorized in accordance with law, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, reimbursement of any advances made from other Borrower funds, and all other expenses incurred in connection with the acquisition, construction and financing of any such undertaking and the issuance of the Series 2010 Bonds. To the Acquisition and Construction Account shall be credited as received the portion of the proceeds of Series 2010 Bonds for costs of the 2010 Project and for costs of issuance of the Series 2010 Bonds and any other funds appropriated by the Borrower to the Acquisition and Construction Account for improvements to the System, and all income received from the investment of the Acquisition and Construction Account.

ARTICLE IX

SECURITY FOR THE SERIES 2010 BONDS

The Series 2010B Bond is issued as an additional Bond under Section 10.3 of the Original Resolution, and shall, with the Series 2009B Bond, Series 2009C Bond, and any other additional Bonds issued under the provisions of Article X of the Original Resolution be equally and ratably secured by the provisions of the Resolution and payable out of the Net Revenues appropriated to the Revenue Bond Account of the Water System Fund, without preference or priority, all as provided in the Resolution, and secured by the Reserve Account, as further provided in Section 11.5 of the Original Resolution and in the following sentence. Upon advancement of principal of the Series 2010B Bond, the Financial Services Manager of the Borrower shall transfer from proceeds of the Series 2010B Bond such amount or amounts to the Reserve Account to cause the balance therein to equal the Reserve Requirement, treating such principal amount as outstanding. Upon each advance of the Series 2010B Bond, the deposit to the Reserve Account shall be sufficient to cause the balance in the Reserve Account to equal the Reserve Requirement in respect of the Series 2010B Bond so advanced. The Series 2010A Bond is a Subordinate Obligation issued under Section 10.4 of the Original Resolution and payable from the Surplus Net Revenues that are available after required credits to the Operating Account, the Revenue Bond Account, and the Reserve Account. No payment of principal or interest shall be made on any Subordinate Obligation, including the Series 2010A Bond, if the City is then in default in the payment of principal of or interest on any Bond or if there is a deficiency in the Operating Account or the Revenue Bond Account or the balance in the Reserve Account is less than the Reserve Requirement. In the event the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge become payable under the Series 2010A Bond, the Borrower shall cause rates and charges to be increased to produce Net Revenues at least equal to the amount required under Section 6.7 of the Original Resolution, as implemented as described in Article XII of this Supplemental Resolution, within three (3) months following delivery of a Noncompliance Statement. The Borrower shall keep, perform and observe each and every one of its covenants and undertakings set forth in the Resolution for the benefit of the registered holders from time to time of the Series 2010 Bonds.

ARTICLE X

TAX MATTERS

Section 10.1 Use of 2010 Project. The 2010 Project and the System will be owned and operated by the Borrower and available for use by members of the general public on a substantially equal basis. The Borrower shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the 2010 Project or the System or security for the payment of the Series 2010B Bond which might cause the Series 2010B Bond, to be considered a “private activity bond” or “private loan bond” within the meaning of Section 141 of the Code.

Section 10.2 General Covenant. The Borrower covenants and agrees with the owners from time to time of the Series 2010B Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2010B

Bond to become includable in gross income for federal income tax purposes under the Code and the Regulations, and covenants to take any and all actions within its powers to ensure that the interest on the Series 2010B Bond will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 10.3 Arbitrage Certification. The Mayor, Financial Services Manager, and City Clerk, being the officers of the Borrower charged with the responsibility for issuing the Series 2010B Bond pursuant to this Supplemental Resolution, are authorized and directed to execute and deliver to the DNRC a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2010B Bond, it is reasonably expected that the proceeds of the Series 2010B Bond will be used in a manner that would not cause the Series 2010B Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the Regulations.

Section 10.4 Arbitrage Rebate. The City acknowledges that the Series 2010B Bond is subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2010B Bond from gross income for federal income tax purposes, unless the Series 2010B Bond qualifies for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Series 2010B Bond (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the Mayor, the Financial Services Manager, and the City Clerk are hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof..

Section 10.5 Information Reporting. The Borrower shall file with the Secretary of the Treasury, not later than November 15, 2010, a statement concerning the Series 2010B Bond containing the information required by Section 149(e) of the Code.

Section 10.6 “Qualified Tax-Exempt Obligations.” Pursuant to Section 265(b)(3)(B)(ii) of the Code, the Borrower hereby designates the Series 2010B Bond as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code. The Borrower has not designated any obligations in 2010, other than its \$182,000 Special Improvement District No. 1389 Bonds and the Series 2010B Bond, under Section 265(b)(3). The Borrower hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including “qualified 501(c)(3) bonds” but excluding other “private activity bonds,” as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the Borrower and all “subordinate entities” of the Borrower in 2010 in an amount greater than \$30,000,000.

ARTICLE XI

CONTINUING DISCLOSURE

The Borrower understands and acknowledges that the DNRC is acquiring the Series 2010 Bonds under the Program pursuant to which the State issues from time to time State Bonds to provide funds therefor. The Borrower covenants and agrees that, upon written request of the DNRC from time to time, the Borrower will promptly provide to the DNRC all information that the DNRC reasonably determines to be necessary or appropriate to offer and sell State Bonds or to provide continuing disclosure in respect of State Bonds, whether under Rule 15c2-12 (17 C.F.R. § 240.15c2-12) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, or otherwise. Such information shall include, among other things and if so requested, financial statements of the Borrower prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time (such financial statements to relate to a fiscal year or any period therein for which they are customarily prepared by the Borrower, and, if for a fiscal year and so requested by the DNRC, subject to an audit report and opinion of an accountant or government auditor, as permitted or required by the laws of the State). The Borrower will also provide, with any information so furnished to the DNRC, a certificate of the Financial Services Manager of the Borrower to the effect that, to the best of their knowledge, such information does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make the statements made, in light of the circumstances under which they are made, not misleading.

ARTICLE XII

IMPLEMENTATION OF SECTION 6.7 OF ORIGINAL RESOLUTION

For purposes of the calculation described in Section 6.7 of the Original Resolution, as of the date of this Supplemental Resolution, principal of and interest on the Series 2010A Bond shall initially be disregarded and interest on the Series 2010B Bond is calculated at 3.75% per annum. However, in the event the DNRC delivers a Noncompliance Statement, the Borrower shall forthwith (and in any event no later than three (3) months after the delivery of such Noncompliance Statement) cause the rates, charges and rentals charged to all recipients of water services to be revised whenever and as often as may be necessary, according to schedules such that the revenues for each fiscal year will be at least sufficient to pay the Operating Expenses, to maintain the Operating Reserve established in the Resolution, and to produce Net Revenues during each fiscal year commencing with the fiscal year ending June 30 of that fiscal year in which the DNRC shall have delivered such Noncompliance Statement, not less than 125% of the maximum annual principal and interest payable on the outstanding Bonds in the current or any future fiscal year, including, without limitation, the maximum annual principal and interest payable on the Series 2009B Bond, the Series 2009C Bond and Series 2010B Bond calculated at 3.75% per annum, and to produce Surplus Net Revenues adequate to pay the principal of and interest on the Series 2009A Bond and Series 2010A Bond as and when due.

The establishment of the ratio of Net Revenues available for the Revenue Bond Account and the provision for adequate Surplus Net Revenues in the event the Borrower's obligation to repay the principal of the Series 2010A Bond is not forgiven are deemed necessary for the DNRC to make the 2010 Loans to the Borrower upon terms most advantageous. The excess of the Net Revenues over the annual principal and interest and Reserve Requirement may be used as authorized in Article XI of the Original Resolution. The Series 2010B Bond may be prepaid according to its terms on any date, and in the estimation of the governing body of the Borrower any excess, prior to that date, of Net Revenues over principal and interest payments actually due and the balance required to be maintained in the Reserve Account, will be needed to pay or to provide reserves for payment of replacements, renewals and improvement costs, in order to provide adequate service for the present population and the increase thereof reasonably to be expected; and after that date, any excess not required for such purposes in the judgment of the governing body of the Borrower may be used to prepay the Series 2010B Bond and thereby reduce the interest cost thereon to the Borrower and to the persons served by the System.

The Series 2010A Bond is a Subordinate Lien Obligation issued under Section 10.4 of the Original Resolution. In the event the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge become payable under the Series 2010A Bond, the Borrower shall cause rates and charges to be increased to produce Net Revenues at least equal to the amount required under Section 6.7 of the Original Resolution.

ARTICLE XIII

MISCELLANEOUS

Section 13.1 Notices. All notices or other communications hereunder shall be sufficiently sent or given and shall be deemed sent or given when delivered or mailed by certified mail, postage prepaid, to the parties at the following addresses:

DNRC: Department of Natural Resources and Conservation
1625 Eleventh Avenue
P. O. Box 201601
Helena, Montana 59620-1601
Attn: Conservation and Resource
Development Division

Trustee: U.S. Bank National Association
c/o Corporate Trust Services
1420 Fifth Avenue, 7th Floor
Seattle, Washington 98101
Attn: Corporate Trust Department

Borrower: City of Billings

PO Box 1178
Billings, Montana 59103
Attn: Financial Services Manager

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices or other communications shall be sent.

Section 13.2 Binding Effect. This Supplemental Resolution shall inure to the benefit of and shall be binding upon the DNRC, the Borrower and their respective successors and assigns.

Section 13.3 Severability. If any provision of this Supplemental Resolution shall be determined to be unenforceable at any time, it shall not affect any other provision of the Resolution or the enforceability of that provision at any other time.

Section 13.4 Amendments. This Supplemental Resolution may not be effectively amended without the written consent of the DNRC.

Section 13.5 Applicable Law. This Supplemental Resolution shall be governed by and construed in accordance with the internal laws of the State.

Section 13.6 Captions; References to Sections. The captions in this Supplemental Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Supplemental Resolution. References to Articles and Sections are to Articles and Sections of this Supplemental Resolution, unless the context otherwise requires.

Section 13.7 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Supplemental Resolution shall be had against any director, officer or employee, as such, past, present or future, of the DNRC, the DEQ or the Trustee, either directly or through the DNRC, the DEQ or the Trustee, or against any officer, or member of the governing body or employee of the Borrower, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer or member of the governing body or employee of the DNRC, the Trustee or the Borrower is hereby expressly waived and released by the Borrower and by the DNRC as a condition of and in consideration for the adoption of this Supplemental Resolution and the making of the Loan.

Section 13.8 Payments Due on Holidays. If the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Supplemental Resolution or the Series 2010 Bonds, shall not be Business Day, such payments may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Supplemental Resolution or the Series 2010 Bonds.

Section 13.9 Right of Others To Perform Borrower's Covenants. In the event the Borrower shall fail to make any payment or perform any act required to be performed hereunder, then and in each such case the DNRC or the provider of any Collateral Document may (but shall

not be obligated to) remedy such default for the account of the Borrower and make advances for that purpose. No such performance or advance shall operate to release the Borrower from any such default and any sums so advanced by the DNRC or the provider of any Collateral Document shall be paid immediately to the party making such advance and shall bear interest at the rate of ten percent (10.00%) per annum from the date of the advance until repaid. The DNRC and the provider of any Collateral Document shall have the right to enter the 2010 Project or the facility or facilities of which the 2010 Project is a part or any other facility which is a part of the System in order to effectuate the purposes of this Section.

Section 13.10 Authentication of Transcript. The officers of the Borrower are hereby authorized and directed to furnish to the DNRC and to Bond Counsel certified copies of all proceedings relating to the issuance of the Series 2010 Bonds and such other certificates and affidavits as may be required to show the right, power and authority of the Borrower to issue the Series 2010 Bonds, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the Borrower as to the truth of the statements of fact purported to be shown thereby.

Section 13.11 Supersedure. This Supplemental Resolution supersedes and renders of no further force or effect Resolution No. 10-18940, adopted by the City Council of the City on May 24, 2010. All actions taken by the Borrower or officers of the Borrower under Resolution No. 10-18940 are hereby ratified, confirmed and approved and are valid and effective as though this Supplemental Resolution had been in effect as of the day of such actions.

Section 13.12 Effective Date. This Supplemental Resolution shall take effect immediately.

Adopted by the City Council of the City of Billings, Montana, on this 12th day of July, 2010.

Mayor

Attest: _____
City Clerk

(SEAL)

APPENDIX A

Description of the 2010 Project

The 2010 Project g generally consists of designing, engineering, and replacing existing water lines and valves and related improvements.

Estimated 2010 Project Budget

2010 Project Costs	Series <u>2010A Bond</u>	Series <u>2010B Bond</u>	<u>Borrower</u> <u>Funds</u>	<u>Total</u>
Preliminary Engineering			\$9,200	\$9,200
Engineering/Arch. Design			436,143	436,143
Construction Engineering Services			327,365	327,365
Construction	\$500,000	\$2,521,179		3,021,179
Contingency		278,821	57,529	336,350
Audit Fees			5,000	5,000
Loan Reserves			201,768	201,768
Bond Counsel			10,000	10,000
TOTALS	\$500,000	\$2,800,000	\$1,047,005	\$4,347,005

Green Infrastructure

Of the amount shown above for construction of and improvements to be included in the 2010 Project, the Borrower estimates that \$_____ of the proceeds of the Series 2010A Bond and \$_____ of the Series 2010B Bond will be applied to the costs of Green Infrastructure.

APPENDIX B-1

[Form of the Series 2010A Bond]

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF YELLOWSTONE

CITY OF BILLINGS

SUBORDINATE LIEN WATER SYSTEM REVENUE BOND
(DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM)
TAXABLE SERIES 2010A

R-1

\$500,000

FOR VALUE RECEIVED, THE CITY OF BILLINGS, MONTANA (the “Borrower”), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the Department of Natural Resources and Conservation of the State of Montana (the “DNRC”), or its registered assigns, solely out of available Surplus Net Revenues in the Replacement and Depreciation Account or the Surplus Account of its Water System Fund (the “Fund”), the principal sum equal to the sum of the amounts entered on Schedule A attached hereto under “Total Amount Advanced,” with interest on each such amount from the date such amount is advanced hereunder at the rate of two percent (2.00%) per annum on the unpaid balance until paid. In addition, the Borrower shall pay an Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal amount of this Bond from the date of each advance of principal at the rate of seventy-five hundredths of one percent (0.75%) and one percent (1.00%) per annum, respectively, all subject to the effect of the immediately following paragraph. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be payable in semiannual installments payable on each January 1 and July 1 (each a “Loan Repayment Date”) commencing with the Loan Repayment Date that is the first to occur following delivery by the DNRC to the Borrower of a statement that the Borrower’s obligation to repay the principal amount of the 2010A Loan is not forgiven and ending on the July 1, 2030, all as described in the Resolution (as hereinafter defined). Principal shall be payable on the dates set forth in Schedule B hereto. Each installment shall be in the amount set forth opposite its due date in Schedule B attached hereto under “Total Loan Payment.” The portion of each such payment consisting of principal, the portion consisting of interest, the portion consisting of Administrative Expense Surcharge, and the portion consisting of Loan Loss Reserve Surcharge shall be as set forth in Schedule B attached hereto. Upon each disbursement of 2010A Loan amounts to the Borrower pursuant to the Resolution described below, the DNRC shall enter (or cause to be entered) the amount advanced on Schedule A under “Advances” and the total amount advanced under the Resolution (as hereinafter defined), including such disbursement, under “Total Amount Advanced.” The DNRC shall prepare Schedule B and any revised Schedule B, or cause Schedule B and any revised Schedule B to be prepared, as provided in Section 5.1 of the

Supplemental Resolution authorizing the Bond, and the final Schedule B will reflect repayments under Section 5.1.5 of such resolution. Schedule B shall be calculated and recalculated on a level debt service basis assuming an interest rate of three and seventy-five hundredths percent (3.75%) per annum. Past-due payments of principal and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each. All payments under this Bond shall be made to the registered holder of this Bond, at its address as it appears on the Bond register, in lawful money of the United States of America.

NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS BOND, IN THE EVENT THAT THE BORROWER TIMELY DELIVERS A COMPLIANCE CERTIFICATE AND REQUEST (AS DEFINED IN THE RESOLUTION) IN FORM AND SUBSTANCE SATISFACTORY TO THE DNRC AND THE DNRC IN RESPONSE THERETO SUPPLIES TO THE BORROWER A FORGIVENESS STATEMENT, THEN THEREUPON INTEREST SHALL BE DEEMED TO ACCRUE ON THE PRINCIPAL OF THIS SERIES 2010A BOND FROM THE DATE OF EACH ADVANCE AT THE RATE OF ZERO PERCENT (0.00%) PER ANNUM AND THE BORROWER'S OBLIGATION TO REPAY PRINCIPAL ADVANCED HEREUNDER SHALL BE FORGIVEN, AND THE BORROWER SHALL HAVE NO OBLIGATION TO REPAY THE DNRC OR ITS REGISTERED ASSIGNS ANY AMOUNTS ADVANCED HEREUNDER OR INTEREST OR ANY SURCHARGE THEREON. THIS BOND SHALL THEREUPON BE MARKED "CANCELLED" AND RETURNED BY THE HOLDER TO THE BORROWER, AND THIS BOND SHALL NO LONGER CONSTITUTE AN OBLIGATION OF THE BORROWER OR OF THE SYSTEM (AS HEREINAFTER DEFINED). IN ADDITION, UNTIL THE DELIVERY OF A DETERMINATION STATEMENT BY THE DNRC TO THE BORROWER, THE OBLIGATION OF THE BORROWER TO REPAY THE OUTSTANDING PRINCIPAL AMOUNT HEREOF SHALL BE DEFERRED UNTIL THE LOAN REPAYMENT DATE FIRST OCCURRING AFTER DELIVERY OF A NONCOMPLIANCE STATEMENT AND INTEREST SHALL BE DEEMED TO ACCRUE ON THE PRINCIPAL OF THIS SERIES 2010A BOND FROM THE DATE OF EACH ADVANCE UNTIL DELIVERY OF SUCH A NONCOMPLIANCE STATEMENT AT THE RATE OF ZERO PERCENT (0.00%) PER ANNUM.

This Bond is one of an issue of Water System Revenue Bonds of the Borrower authorized to be issued in one or more series from time to time, and constitutes a series in the maximum authorized principal amount of \$500,000 (the "Series 2010A Bond"). The Series 2010A Bond is issued to finance a portion of the costs of the construction of certain improvements to the water system of the Borrower (the "System") and to pay a portion of costs of issuance of the Series 2010 Bonds. The Series 2010A Bond is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended, and ordinances and resolutions duly adopted by the governing body of the Borrower, including Resolution 05-18329 (the "Original Resolution"), adopted by the City Council on September 12, 2005, as amended and supplemented by Resolution Nos. 09-18852, 09-18869, and _____, adopted July 27, 2009, September 14, 2009, and July 12, 2010, respectively (as so amended and supplemented, the "Resolution"). Terms used with initial capital letters but not defined herein have the meanings

given to them in the Resolution. The Series 2010A Bond is issuable only as a single, fully registered bond. The Series 2010A Bond is issued as a Subordinate Obligation payable out of available Surplus Net Revenues in the Replacement and Depreciation Account or the Surplus Account in the Fund of the Borrower. Simultaneously herewith, the Borrower is issuing its Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2010B (the "Series 2010B Bond") which is payable from the Revenue Bond Account in the Fund of the Borrower on a parity with the Borrower's outstanding Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2005 (the "Series 2005 Bond"), Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009B (the "Series 2009B Bond"), Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009C (the "Series 2009C Bond"), and Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009D (the "Series 2009D Bond") (all such Bonds, collectively, the "Outstanding Bonds"). Following the 2010B First Advance, principal amounts of this Series 2010A Bond are advanced until all of the principal of this Series 2010A Bond is advanced prior to advances under the Series 2010B Bond.

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2010A Bond has been issued, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the Borrower, and the rights of the owners of the Series 2010A Bond.

The Borrower may prepay the principal of the Series 2010A Bond only if (i) a Determination Statement has been delivered, (ii) it obtains the prior written consent of the DNRC thereto, and (iii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest, and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2010A Bond is prepaid in part, such prepayments shall be applied to principal payments in inverse order of maturity.

This Series 2010A Bond, including interest and any premium for the redemption thereof, are payable solely from the Surplus Net Revenues available for the payment hereof and do not constitute a debt of the Borrower within the meaning of any constitutional or statutory limitation or provision.

The Borrower may deem and treat the person in whose name this Series 2010A Bond is registered as the absolute owner hereof, whether this Series 2010A Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and the Borrower shall not be affected by any notice to the contrary. The Series 2010A Bond may be transferred as hereinafter provided.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the Borrower will forthwith construct and complete the improvements to the System hereinabove described; that it will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, including all additions thereto and replacements and improvements thereof, and has created a special Water System Fund into which the gross revenues of the System will be paid, and a separate and special Replacement and Depreciation

Account and Surplus Account in that Fund, into which will be paid, subject to the prior lien thereon of the Operating Account, the Revenue Bond Account and the Reserve Account, Surplus Net Revenues; that the rates and charges for the System will from time to time be made and kept sufficient, to provide gross income and revenues adequate to pay promptly the reasonable and current expenses of operating and maintaining the System, to produce during each fiscal year Net Revenues not less than 125% of the maximum annual principal and interest payable on the outstanding Bonds in the current or any future subsequent fiscal year and to produce in each fiscal year adequate Surplus Net Revenues to pay the principal of and interest on the Series 2009A Bond and the Series 2010A Bond as and when due; that additional bonds issued on a parity with the Outstanding Bonds and refunding Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Outstanding Bonds and other parity Bonds, upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues of the System, unless the lien thereof shall be expressly made subordinate to the lien of the Outstanding Bonds and any additional parity Bonds on such Net Revenues (such as is the case with this Series 2010A Bond); that all provisions for the security of the holder of this Series 2010A Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the Borrower to be done, to exist, to happen and to be performed in order to make this Series 2010A Bond a valid and binding special obligation of the Borrower according to its terms have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; and that this Series 2010A Bond and the interest hereon are payable solely out of available Surplus Net Revenues in the Replacement and Depreciation Account or the Surplus Account of the Fund and do not constitute a debt of the Borrower within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2010A Bond does not cause either the general or the special indebtedness of the Borrower to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Billings, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor, the Financial Services Manager, and City Clerk, and has caused the official seal of the Borrower to be affixed hereto, and has caused this Bond to be dated as of the ____ day of _____, 2010.

Mayor

Financial Services Manager

(SEAL)

City Clerk

REGISTRATION AND TRANSFER

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

REGISTER

The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City of Billings, Montana in the name of the registered holder appearing on the first page hereof or as last noted below:

<u>Date of Registration</u>	<u>Name and Address of Registered Holder</u>	<u>Signature of Financial Services Manager</u>
_____, 2010	Department of Natural Resources and Conservation 1625 Eleventh Avenue Helena, MT 59620	_____

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

The Financial Services Manager of the City, acting as Registrar, has transferred, on the books of the City, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

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

FORM OF ASSIGNMENT

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

By: _____
(Authorized Signature)

For: _____
(Holder)

SCHEDULE A

SCHEDULE OF AMOUNTS ADVANCED

[illegible]

SCHEDULE B

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Administrative Expense Surcharge</u>	<u>Loan Loss Reserve Surcharge</u>	<u>Total Loan Payment</u>
-------------	------------------	-----------------	---	--	-------------------------------

APPENDIX B-2

[Form of the Series 2010B Bond]

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF YELLOWSTONE

CITY OF BILLINGS

WATER SYSTEM REVENUE BOND
(DNRC DRINKING WATER STATE REVOLVING LOAN PROGRAM)
SERIES 2010B

R-1

\$2,800,000

FOR VALUE RECEIVED, THE CITY OF BILLINGS, MONTANA (the “Borrower”), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the Department of Natural Resources and Conservation of the State of Montana (the “DNRC”), or its registered assigns, solely from the Revenue Bond Account of its Water System Fund, the principal sum equal to the sum of the amounts entered on Schedule A attached hereto under “Total Amount Advanced,” with interest on each such amount from the date such amount is advanced hereunder at the rate of two percent (2.00%) per annum on the unpaid balance until paid. In addition, the Borrower shall pay an Administrative Expense Surcharge and a Loan Loss Reserve Surcharge on the outstanding principal amount of this Bond at the rates of seventy-five hundredths of one percent (0.75%) per annum and one percent (1.00%) per annum, respectively. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be payable in semiannual installments payable on each January 1 and July 1 (each a “Loan Repayment Date”) commencing January 1, 2011. Principal shall be payable on the dates set forth in Schedule B hereto. Each installment shall be in the amount set forth opposite its due date in Schedule B attached hereto under “Total Loan Payment.” The portion of each such payment consisting of principal, the portion consisting of interest, the portion consisting of Administrative Expense Surcharge, and the portion consisting of Loan Loss Reserve Surcharge shall be as set forth in Schedule B attached hereto. Upon each disbursement of 2010B Loan amounts to the Borrower pursuant to the Resolution described below, the DNRC shall enter (or cause to be entered) the amount advanced on Schedule A under “Advances” and the total amount advanced under the Resolution (as hereinafter defined), including such disbursement, under “Total Amount Advanced.” The DNRC shall prepare Schedule B and any revised Schedule B, or cause Schedule B and any revised Schedule B to be prepared, as provided in Section 5.1 of the Supplemental Resolution (as hereinafter defined). Schedule B shall be calculated and recalculated on a level debt service basis assuming an interest rate of three and seventy-five hundredths percent (3.75%) per annum. Past-due payments of principal and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid. Interest and Administrative Expense

Surcharge and Loan Loss Reserve Surcharge shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each. All payments under this Bond shall be made to the registered holder of this Bond, at its address as it appears on the Bond register, in lawful money of the United States of America.

This Bond is one of an issue of Water System Revenue Bonds of the Borrower authorized to be issued in one or more series from time to time, and constitutes a series in the maximum authorized principal amount of \$2,800,000 (the "Series 2010B Bond"). The Series 2010B Bond is issued to finance a portion of the costs of the construction of certain improvements to the water system of the Borrower (the "System"), to fund deposits to the Reserve Account, and to pay a portion of costs of issuance of the Series 2010 Bonds. The Series 2010B Bond is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended, and ordinances and resolutions duly adopted by the governing body of the Borrower, including Resolution No. 05-18329 (the "Original Resolution"), adopted by the City Council on September 12, 2005, as amended and supplemented by Resolution Nos. 09-18852, 09-18869, and _____, adopted July 27, 2009, September 14, 2009, and July 12, 2010, respectively (as so amended and supplemented, the "Resolution"). Terms used with initial capital letters but not defined herein have the meanings given them in the Resolution. The Series 2010B Bond is issuable only as a single, fully registered bond. The Series 2010B Bond is issued on a parity with the Borrower's outstanding Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2005, Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009B, Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009C, and Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2009D (all such Bonds, collectively, the "Outstanding Bonds"). The Borrower is also issuing simultaneously herewith its Subordinate Lien Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Taxable Series 2010A.

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2010B Bond has been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which additional bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with the Outstanding Bonds (collectively with the Series 2010B Bond, the "Bonds") or otherwise, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the Borrower, and the rights of the owners of the Series 2010B Bond.

The Borrower may prepay the principal of the Series 2010B Bond only if (i) a Determination Statement has been delivered, (ii) it obtains the prior written consent of the DNRC thereto, and (iii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest, and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2010B Bond is prepaid in part, such prepayments shall be applied to principal payments in inverse order of maturity.

This Series 2010B Bond, including interest and any premium for the redemption thereof, are payable solely from the Net Revenues pledged for the payment thereof and do not constitute a debt of the Borrower within the meaning of any constitutional or statutory limitation or provision.

The Borrower may deem and treat the person in whose name this Series 2010B Bond is registered as the absolute owner hereof, whether this Series 2010B Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and the Borrower shall not be affected by any notice to the contrary. The Series 2010B Bond may be transferred as hereinafter provided.

This Series 2010B Bond has been designated by the Borrower as a “qualified tax-exempt obligation” pursuant to Section 265 of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the Borrower will forthwith construct and complete the improvements to the System hereinabove described; that it will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, including all additions thereto and replacements and improvements thereof, and has created a special Water System Fund into which the gross revenues of the System will be paid, and a separate and special Revenue Bond Account in that Fund, into which will be paid each month, from and as a first and prior lien on the Net Revenues of the System then on hand, an amount equal to not less than the sum of one-sixth of the interest to become due within the next six months and one-twelfth of the principal to become due within the next twelve months with respect to all Bonds payable from that Account; that the Borrower has created a Reserve Account in such fund into which shall be paid additional Net Revenues, after required credits to the Revenue Bond Account sufficient to maintain a reserve therein equal to the maximum amount of principal and interest payable in any subsequent fiscal year on all such Bonds; that the Revenue Bond Account will be used only to pay the principal of, premium, if any, and interest on the Bonds and any other additional Bonds issued pursuant to the Resolution on a parity therewith; that the rates and charges for the System will from time to time be made and kept sufficient, to provide gross income and revenues adequate to pay promptly the reasonable and current expenses of operating and maintaining the System and to produce during each fiscal year Net Revenues not less than 125% of the maximum annual principal and interest payable on the outstanding Bonds in the current or any future fiscal year; that additional bonds issued on a parity with the Outstanding Bonds and refunding Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Outstanding Bonds and other parity Bonds, upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues of the System, unless the lien thereof shall be expressly made subordinate to the lien of the Outstanding Bonds and additional parity Bonds on such Net Revenues; that all provisions for the security of the holder of this Series 2010B Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the Borrower to be done, to exist, to happen and to be performed in order to make this Series 2010B Bond a valid and binding special obligation of the Borrower according to its terms have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; and that this

Series 2010B Bond and the interest hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Revenue Bond Account and do not constitute a debt of the Borrower within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2010B Bond does not cause either the general or the special indebtedness of the Borrower to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Billings, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor, the Financial Services Manager, and City Clerk, and has caused the official seal of the Borrower to be affixed hereto, and has caused this Bond to be dated as of the ____ day of _____, 2010.

Mayor

Financial Services Manager

(SEAL)

City Clerk

REGISTRATION AND TRANSFER

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

REGISTER

The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of the City of Billings, Montana in the name of the registered holder appearing on the first page hereof or as last noted below:

<u>Date of Registration</u>	<u>Name and Address of Registered Holder</u>	<u>Signature of Financial Services Manager</u>
_____, 2010	Department of Natural Resources and Conservation 1625 Eleventh Avenue Helena, MT 59620	_____

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

The Financial Services Manager of the City, acting as Registrar, has transferred, on the books of the City, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

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

FORM OF ASSIGNMENT

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

By: _____
(Authorized Signature)

For: _____
(Holder)

SCHEDULE A

SCHEDULE OF AMOUNTS ADVANCED

<u>Date</u>	<u>Advances</u>	<u>Total Amount Advanced</u>	<u>Notation Made By</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

SCHEDULE B

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Administrative Expense Surcharge</u>	<u>Loan Loss Reserve Surcharge</u>	<u>Total Loan Payment</u>
-------------	------------------	-----------------	---	--	-------------------------------

APPENDIX C

ADDITIONAL REPRESENTATIONS AND COVENANTS

None

APPENDIX D

\$3,300,000
Water System Revenue Bonds
(DNRC Drinking Water State Revolving Loan Program)
consisting of \$500,000 Subordinate Lien Taxable Series 2010A Bond
and \$2,800,000 Series 2010B Bond
City of Billings, Montana

COMPLIANCE CERTIFICATE AND REQUEST

We, _____ and _____, hereby certify that we are on the date hereof the duly qualified and acting Mayor and the City Financial Services Manager, respectively, of the City of Billings, Montana (the “Borrower”), and that:

1. Pursuant to Resolution 05-18329, adopted by the City Council on September 12, 2005, as amended and supplemented by Resolution Nos. 09-18852 and 09-18869 adopted on July 27, 2009 and September 14, 2009, respectively (the “Original Resolution”), as amended and supplemented by Resolution No. _____, adopted on July 12, 2010, entitled “Resolution Relating to \$3,300,000 Water System Revenue Bonds (DNRC Drinking Water State Revolving Loan Program), Consisting of \$500,000 Subordinate Lien Taxable Series 2010A Bond and \$2,800,000 Series 2010B Bond; Authorizing the Issuance and Fixing the Terms and Conditions Thereof” (the “Supplemental Resolution”), the Borrower issued its Subordinate Lien Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Taxable Series 2010A, dated, as originally issued, as of _____, 2010, in the maximum aggregate principal amount of \$500,000 (the “Series 2010A Bond”), and its Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2010B, dated, as originally issued, as of _____, 2010, in the maximum aggregate principal amount of \$2,800,000 (the “Series 2010B Bond”). The Borrower has reviewed the Supplemental Resolution, including, without limitation, Articles II and III thereof, and the definitions relating thereto. The Borrower acknowledges and agrees that the Series 2010A Bond evidences a loan made to the Borrower from the DNRC from funds made available to the DNRC from the 2010 EPA Capitalization Grant, and that this Certificate is being relied upon by the DNRC for ensuring compliance with requirements applicable to the Borrower, the DNRC, and the 2010 Project (as hereinafter defined). Capitalized terms used herein without definition shall have the meanings given them in the Original Resolution, as amended and supplemented by the Supplemental Resolution (as so amended and supplemented, the “Resolution”).

2. The Series 2010A Bond is issued to finance a portion of the costs of construction and installation of various improvements to the System, generally described as the 2010 Project (the “2010 Project”) in the Resolution. Construction of the 2010 Project has complied with all federal and state standards, including, without limitation, EPA regulations and standards. The 2010 Project is expected to be completed and placed in service on or about _____, 20__.

3. Costs of the 2010 Project in the amount of \$_____ have been paid as of the date of delivery of this Certificate. The Borrower hereby waives its right to any remaining

2010A Committed Amount not advanced or to be advanced upon delivery hereof. The Borrower specifically confirms and agrees that any remaining amounts of the 2010 Loans to be lent to the Borrower, if any, shall be evidenced by the Series 2010B Bond.

4. As of the date hereof, the Borrower has spent the following amounts in connection with the 2010 Project and costs related thereto:

Preliminary Engineering	
Engineering/Arch. Design	
Construction Engineering Services	
Construction	
Contingency	
Audit Fees	
Loan Reserves	
Bond Counsel	
TOTALS	_____

Of such amounts, \$_____ were paid from advances of proceeds of the Series 2010A Bond and \$_____ of the proceeds have been applied to Green Infrastructure.

5. The Trustee has delivered to the Borrower a copy of Schedule B to be attached to the Series 2010A Bond, which reflects the amortization of all advances made or to be made on the date hereof of proceeds of the Series 2010A Bond (i.e., \$_____). The Borrower hereby acknowledges and agrees that Schedule B has been calculated in accordance with the provisions of the Resolution and the Indenture, and that the Series 2010A Bond, with said Schedule B attached thereto, has been duly issued pursuant to the Resolution and is a valid and binding obligation of the Borrower in accordance with its terms and the terms of the Resolution; provided, however, if the DNRC delivers a Forgiveness Statement, the Borrower's obligation to repay the principal of the Series 2010A Bond and interest and surcharges thereon is thereupon forgiven, and if the DNRC delivers a Noncompliance Certificate, amounts advanced under the 2010A Loan evidenced by the Series 2010A Bond shall bear interest from and after the first advance of principal of the Series 2010A Bond at the rate of two percent (2.00%) per annum and the Borrower shall pay currently with interest the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge, all as described in Section 5.1.2 of the Supplemental Resolution authorizing the Series 2010A Bond.

6. The representations of the Borrower contained in Articles II and III of the Supplemental Resolution are true and complete as of the date hereof as if made on this date, except to the extent that the Borrower has specifically advised the DEQ and the DNRC otherwise in writing.

7. No default in any covenant or agreement on the part of the Borrower contained in the Resolution has occurred and is continuing.

8. The Borrower is delivering this Certificate to the DNRC, in part, to ensure compliance with EPA regulations and standards. The Borrower certifies that all laborers and mechanics employed by contractors and subcontractors on the 2010 Project have been and will

be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code.

9. The Borrower acknowledges and agrees that this Certificate completed by the Borrower in form satisfactory to the DNRC must be executed and delivered to the DNRC by the date that is 30 days after receipt of the form of this Certificate from the DNRC. By submitting this Certificate, the Borrower requests that the DNRC forgive the obligation of the Borrower to repay the principal of the Series 2010A Bond, together with interest and surcharges thereon. The Borrower acknowledges and agrees that (i) the forgiveness of principal of and interest and surcharges on the Series 2010A Bond by the DNRC is contingent on the timely delivery of this Certificate by the Borrower in satisfactory form as determined in the DNRC's sole and complete discretion, (ii) the DNRC has no obligation to grant such forgiveness, and (iii) if the DNRC delivers to the Borrower a Noncompliance Certificate, (a) the obligation of the Borrower to repay the principal of the Series 2010A Bond plus interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge thereon shall continue in full force and effect until the principal of the Series 2010A Bond advanced and interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge thereon are paid in full, as set forth in Schedule B delivered pursuant to paragraph 5 above, and as provided in the Series 2010A Bond and the Resolution, and (b) the Borrower shall, as necessary, within the 3-month period specified in the Supplemental Resolution, adjust its rates and charges to produce Net Revenues and Surplus Net Revenues required by the rate covenant in the Resolution.

WITNESS our hands on behalf of the Borrower and the seal of the Borrower as of this _____ day of _____, 2010.

CITY OF BILLINGS, MONTANA

(SEAL)

By _____
Mayor

By _____
City Financial Services Manager

Regular City Council Meeting

Date: 07/12/2010

TITLE: Fixing the Form and Detail of the 2010A Airport Refunding Bonds

PRESENTED BY: Patrick M Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

On June 14, 2010 the Council authorized the refunding of the Airport revenue bonds. The attached resolution prescribes the terms and conditions for the issuance of the Airport Refunding Bonds Series 2010A . The resolution does contain blanks because the purchase price of the bonds will be determined on July 8. Once the price has been determined, the resolution will be completed.

ALTERNATIVES ANALYZED

The Council may:

- Approve the resolution: or
- Not approve the resolution

FINANCIAL IMPACT

A debt savings will be achieved by refunding the airport bonds. The final savings will be determined when the bonds are priced.

RECOMMENDATION

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

APPROVED BY CITY ADMINISTRATOR

Attachments

Airport Bond resolution

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 a Resolution entitled: "RESOLUTION RELATING TO THE CITY OF BILLINGS AIRPORT; PRESCRIBING TERMS AND CONDITIONS FOR THE ISSUANCE OF AIRPORT REVENUE REFUNDING BONDS, SERIES 2010A, TO REFUND THE AIRPORT REVENUE BONDS AND FIXING THE TERMS AND CONDITIONS THEREOF; CREATING SPECIAL FUNDS AND ACCOUNTS AND PLEDGING CERTAIN REVENUES AS SECURITY FOR BONDS" (the "Resolution"), on file in the original records of the Council in my legal custody; that the Resolution was duly adopted by the Council at a meeting on July [___], 2010, and that the meeting was duly held by the Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand and seal officially this ____ day of July, 2010.

City Clerk

(SEAL)

TABLE OF CONTENTS

	Page
SECTION 1. DEFINITIONS, AUTHORIZATIONS AND FINDINGS	1
1.01. Definitions.....	1
1.02. Rules of Interpretation	10
1.03. Authorization	11
1.04. Outstanding Obligations	11
1.05. Resolution Regarding Negotiated Sale of Series 2010A Bonds, Etc.....	11
1.06. Revenues Available	12
1.07. Official Statement	12
SECTION 2. THE BONDS	12
2.01. General Title	12
2.02. General Limitations; Issuable in Series	12
2.03. Special, Limited Obligations	13
2.04. Payment on Business Day	13
2.05. Terms of Particular Series.....	13
2.06. Form and Denominations of Particular Series	13
2.07. Execution and Authentication.....	14
2.08. Temporary Bonds.....	14
2.09. System of Registration.....	14
SECTION 3. ISSUANCE AND SALE OF THE SERIES 2010A BONDS, PRELIMINARY OFFICIAL STATEMENT	16
3.01. Issuance and Sale of the Series 2010A Bonds; Savings	16
3.02. Delivery of the Series 2010A Bonds	16
3.03. General Terms of Bonds	16
3.04. Terms of the Series 2010A Bonds	16
3.05. Optional Redemption.....	17
3.06. [Mandatory Sinking Fund Redemption	17
3.07. Extraordinary Optional Redemption.....	18
3.08. [Notice of Redemption.....	18
3.09. Partial Redemption of a Series 2010A Bond	19
3.10. Appointment of Registrar and Paying Agent.....	19
3.11. Securities Depository for the Series 2010A Bonds.....	19
3.12. Execution and Delivery.....	21
3.13. Form of Series 2010A Bonds.....	21
3.14. Deposit of Series 2010A Bond Proceeds	21
SECTION 4. DEFEASANCE OF REFUNDED BONDS; ESCROW AGREEMENT	22
4.01. Defeasance of Refunded Bonds	22
4.02. Escrow; Redemption of Series 2000 Bonds.....	22

SECTION 5. LIEN ON NET REVENUES; PASSENGER FACILITY CHARGES; CUSTOMER FACILITY CHARGES; ADDITIONAL BONDS	23
5.01. Parity Lien on Net Revenues; Passenger Facility Charges; Customer Facility Charges; Special Purpose Facility Bonds	23
5.02. General Provisions	24
5.03. Completion Bonds	24
5.04. Additional Bonds for Projects.....	25
5.05. Additional Bonds Issued as Refunding Bonds.....	29
5.06. Subordinate Obligations Permitted	30
5.07. Notes	30
SECTION 6. AIRPORT FUND AND ACCOUNTS	31
6.01. Continuation of Airport Fund	31
6.02. Accounts	31
6.03. Construction Account	31
6.04. Revenue Account	32
6.05. Maintenance and Operating Account.....	32
6.06. Debt Service Account	33
6.07. Debt Service Reserve Account	34
6.08. Maintenance and Operating Reserve Account.....	36
6.09. Subordinate Obligations Account	36
6.10. Capital Account	36
6.11. Passenger Facility Charge Account	37
6.12. Customer Facility Charge Account.....	38
6.13. Rebate Account.....	38
6.14. Deposit and Investment of Funds	38
6.15. Valuation of Investments	38
SECTION 7. COVENANTS	39
7.01. General.....	39
7.02. Competing Service.....	39
7.03. Property Insurance	39
7.04. Liability Insurance and Surety Bonds.....	40
7.05. Business Interruption Insurance.....	40
7.06. Disposition of Property	40
7.07. Annual Budgets.....	41
7.08. Books and Records	41
7.09. Cost of Insurance and Accounting.....	42
7.10. Handling of Funds.....	42
7.11. Rate Covenant	42
7.12. Contractual Obligations	43
7.13. Compliance with PFC Regulations.....	43
SECTION 8. DEFAULT AND REMEDIES.....	44

SECTION 9.	SUPPLEMENTAL RESOLUTIONS	44
9.01.	Without Bondholder Consent	44
9.02.	With Consent of Bondholders.....	45
9.03.	Notice.....	45
9.04.	Manner of Consent.....	45
SECTION 10.	DEFEASANCE.....	46
10.01.	General.....	46
10.02.	At Maturity.....	46
10.03.	Upon Redemption	46
10.04.	Escrow.....	46
SECTION 11.	TAX MATTERS.....	46
11.01.	General Covenant.....	46
11.02.	Arbitrage Certification	47
11.03.	Arbitrage Rebate	47
11.04.	Information Reporting	48
SECTION 12.	CONTINUING DISCLOSURE.....	48
SECTION 13.	TRANSCRIPT CERTIFICATION	53
SECTION 14.	MISCELLANEOUS	53
14.01.	Effective Date	53
14.02.	Partial Invalidity.....	53
14.03.	Benefits of the Bond Resolution Limited to Parties	53

RESOLUTION NO. [_____]

RESOLUTION RELATING TO THE CITY OF BILLINGS
AIRPORT; PRESCRIBING TERMS AND CONDITIONS FOR
THE ISSUANCE OF AIRPORT REVENUE REFUNDING
BONDS, SERIES 2010A, TO REFUND THE AIRPORT
REVENUE BONDS AND FIXING THE TERMS AND
CONDITIONS THEREOF; CREATING SPECIAL FUNDS AND
ACCOUNTS AND PLEDGING CERTAIN REVENUES AS
SECURITY FOR BONDS

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

Section 1. Definitions, Authorizations and Findings.

1.01. Definitions. The terms defined in this Section 1.01 shall for all purposes of this Resolution have the meanings herein specified, unless the context clearly otherwise requires:

Accountant shall mean a Person engaged in the practice of accounting as a certified public accountant in accordance with the provisions of Title 37, Chapter 50, M.C.A.

Accreted Amount of any Bond shall mean, as of any date of computation, an amount equal to the sum of (i) the Original Principal Amount of such Bond, plus (ii) interest thereon from the Issue Date to the date of computation at the rate, compounded semiannually, which is necessary to produce the approximate yield to maturity shown for Bonds of the same maturity on such Bond.

Act shall mean Montana Code Annotated, Title 67, Chapters 10 and 11, as heretofore and hereafter amended or supplemented.

Act of Bankruptcy shall mean a petition filed by or against a Person seeking relief as a debtor under the federal bankruptcy laws or under any similar applicable law or statute of the United States of America relating to bankruptcy or insolvency.

Additional Bonds shall mean any Bonds issued pursuant to Section 5 and shall not include Special Purpose Facility Bonds, Subordinate Obligations or Notes.

Airport or Airport System shall mean Billings Logan International Airport, which shall include the land owned and used by the City primarily for the landing and takeoff of aircraft, together with the buildings and other improvements located on such land and any equipment, machinery and other items of personal property located on such land or in such buildings, as such properties may at any time exist, including any future additions or expansions thereof or alternative or supplementary facilities that the City determines to be part of the Airport or Airport System. “Airport” includes, without limitation, terminal buildings, runways, hangars, service roads, roadways and automobile parking facilities and Car Rental Facilities. “Airport” does not include Special Purpose Facilities.

Airport Consultant shall mean an Independent airport management consultant appointed by the City Council who has a favorable national reputation for special skill and knowledge in methods of the development, operation, and management of airports and airport facilities.

Airport Fund shall mean the fund so named maintained pursuant to Section 6.01.

Allocation Date shall mean the twenty-fifth day of each month, commencing [_____] 25, 2010, as of which date money on hand in the Revenue Account is to be allocated to various other accounts in the Airport Fund as provided in Section 6.04.

Annual Debt Service Requirement shall mean the Debt Service Requirement for a Fiscal Year.

Audited Fiscal Year shall mean a Fiscal Year for which the City has received an audited report of the financial statements of the City conducted by an Independent Accountant.

Bonds shall mean the Series 2010A Bonds and any Additional Bonds.

Bond Counsel shall mean any firm of nationally recognized bond counsel experienced in matters relating to tax-exempt financing, retained by the City.

Bondholder shall mean the Person in whose name a Bond is registered in the Bond Register.

Bond Purchase Agreement shall mean (i) with respect to any series of Bonds the agreement between the City and the Original Purchaser of such series of Bonds and (ii) with respect to the Series 2010A Bonds the agreement between the City and Piper Jaffray & Co., as the Original Purchaser of the Series 2010A Bonds, dated [_____] 2010.

Bond Register shall mean the register maintained by the Registrar pursuant to Section 2.09.

Business Day shall mean any day other than a Saturday, Sunday or other day on which the Registrar is not open for business.

Capital Account shall mean the account so named created by Section 6.10.

Capital Appreciation Bond shall mean a Bond the accrued interest on which is not payable at fixed intervals but which by its terms appreciates in value to a stated amount at Maturity and which may be issued as Serial Bonds or Term Bonds.

Car Rental Facilities shall mean any City-owned facility at the Airport specifically developed, constructed, set aside or utilized, in whole or in part, by an on-airport rental car company.

CFC Bonds shall mean any Additional Bonds that finance or refinance the costs of Car Rental Facilities, and that are secured by a pledge of Customer Facility Charges, in addition to the pledge of Net Revenues.

Charter shall mean the home-rule charter of the City, as amended from time to time, or any successor charter or like document adopted as the organic law of the City.

City shall mean the City of Billings, Montana, its successors and assigns.

City Clerk shall mean the City Clerk, or a deputy clerk of the City whenever the Clerk is unable to act in such capacity, or their designees, and their successors in functions, if any.

City Resolution shall mean a resolution, ordinance or other appropriate enactment by the Council certified by the City Clerk to have been duly adopted and to be in full force and effect.

Code shall mean the Internal Revenue Code of 1986, as amended, including applicable Treasury Regulations, rulings and procedures promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

Completion Bonds shall mean Bonds issued for the purpose of defraying additional costs of a Project and thereby effecting its completion, issued in accordance with Section 5.03.

Construction Account shall mean the account so named created by Section 6.03.

Consulting Engineer shall mean any Independent registered or licensed professional engineer, any licensed architect or any firm of such engineers or architects, as from time to time appointed and designated by the City:

(i) who has a favorable reputation for skill and experience in the field of designing, preparing plans and specifications for, and supervising construction of, airports and airport facilities, and

(ii) who is licensed to practice and is practicing as such under the laws of the State.

Costs of Issuance shall mean all items of expense directly or indirectly payable by or reimbursable to the City and related to the authorization, issuance, sale, and delivery of Bonds, including but not limited to costs of preparation and reproduction of documents; printing expenses; filing and recording fees; initial fees and charges of the Paying Agent; legal fees and charges; fees and disbursements of consultants and professionals; initial fees and charges relating to any Credit Facility and fees and charges for preparation, execution, and safekeeping of Bonds; and any other cost, charge, or fee in connection with the original issuance of Bonds.

Council shall mean the governing body of the City.

Counsel shall mean an attorney, licensed to practice law in any state or the District of Columbia, selected by the Council. Except as otherwise provided herein, Counsel may be an employee of or regularly retained by the City.

Credit Enhanced Bonds shall mean Bonds, the payment of which, or other rights in respect of which, are secured in whole or in part by a Credit Facility.

Credit Facility shall mean any letter of credit, policy of bond insurance, surety bond, guarantee or similar instrument issued by a financial institution, insurance company or other institution whose outstanding long term indebtedness is rated by a Rating Agency in one of its three highest Rating Categories, and which provides security or liquidity for any Bonds as specified in a Supplemental Resolution relating to such Bonds.

Credit Facility Obligations shall mean repayment or other monetary obligations incurred by the City with respect to draws or other payments or disbursements made under a Credit Facility; but only if and to the extent such obligations have a lien on the Net Revenues and, but only if and as applicable, the CFCs or PFCs, of the Airport System on a parity with the lien of the Bonds.

Current Interest Bond shall mean a Bond the accrued interest on which by its terms is payable on Interest Payment Dates before the Stated Maturity thereof and which may be issued as Term or Serial Bonds.

Customer Facility Charge or CFC shall mean the charges imposed on automobile rentals at the Airport pursuant to the Customer Facility Charge Ordinance to the extent such charges are pledged to the payment of debt service on and coverage requirements of CFC Bonds.

Customer Facility Charge Ordinance shall mean Ordinance No. [____], approved on June __, 2010, as amended or supplemented.

Debt Service Account shall mean the account so named created by Section 6.06.

Debt Service Requirements shall mean with respect to all Outstanding Bonds or any specified portion of all Outstanding Bonds and for any specified period, without duplication, the sum of:

- (a) The amount due and payable as interest on such Bonds during such period;
- (b) The amount due and payable as principal, Accreted Amount or Redemption Price of such Bonds during such period, whether at Stated Maturity, upon mandatory redemption, upon the exercise of any option to redeem or required tender of such Bonds if the City has irrevocably committed itself to exercise such option, or by reason of any other circumstance which will, with certainty, occur during such period; and
- (c) The amount of any Credit Facility Obligations required to be paid during such period and not included in (a) or (b).

No payments required for any Option Bonds, other Bonds, or Credit Facility Obligations which may be tendered or otherwise presented for payment at the option or demand of the Holders thereof, or which may otherwise become due by reason of any other circumstance which will not, with certainty, occur during such period, shall be included in any computation of Debt Service Requirements prior to the Stated Maturity or

otherwise certain due dates thereof, and all such payments shall be deemed to be required on such Stated Maturity dates or otherwise certain due dates. Except for any historical period for which the actual rate or rates are determinable and except as otherwise provided herein, Variable Rate Bonds, and Credit Facility Obligations which bear interest at a variable rate, shall be deemed to bear interest at a fixed annual rate equal to the prevailing rate of such Variable Rate Bonds or Credit Facility Obligations on the date of computation; provided that in any computation (i) of the Reserve Requirement; (ii) relating to the issuance of Additional Bonds required by Section 5; or (iii) required by the rate covenant of Section 7.11, Variable Rate Bonds shall be deemed to bear interest at a fixed annual rate equal to (iv) the average of the daily rates of such Variable Rate Bonds during the 365 consecutive days (or any lesser period such Variable Rate Bonds have been Outstanding) next preceding the date of computation; or (v) with respect to any Variable Rate Bonds which are being issued on the date of computation, the initial rate of such Variable Rate Bonds upon issuance. Further, in any computation relating to the issuance of Additional Bonds required by Section 5 and any computation required by the rate covenant in Section 7.11, there shall be excluded from the computation of Debt Service Requirements amounts for payment of which money on hand is irrevocably committed and expected to be available to make such payments during such period, including without limitation any amounts in an Escrow Account and any proceeds of Bonds deposited to the credit of the Construction Account to pay capitalized interest.

Debt Service Reserve Account shall mean the account so named created by Section 6.07.

Director of Aviation shall mean the individual appointed, employed or designated by the City who is in charge of the operation of the Airport.

Escrow Account shall mean any special and separate account established with an Escrow Bank and in which is deposited cash or securities or both, for the express purpose of providing for the payment of principal of, premium, if any, and interest on any Bonds.

Escrow Bank shall mean the Paying Agent or any other a bank qualified by Montana law to act as an escrow agent with respect to an Escrow Account.

Event of Default shall mean an event of default as defined in Section 8.

Financial Services Manager shall mean the Financial Services Manager of the City or any successor office to that office.

Fiscal Year shall mean the period commencing on the first day of July of any year and ending on the last day of June of the next year, or any other twelve-month period authorized by law and specified by City Resolution as the City's fiscal year.

Government Obligations shall mean (a) direct general obligations of, or obligations the prompt payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America, (b) obligations the payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America, and (c) certificates or other evidence of ownership in

principal to be paid or interest to accrue on a pool of obligations of the type described in the foregoing clause (a) or (b), which obligations are held by a custodian, any obligations described in the foregoing clause (a) or (b) may be issued or held in book entry form on the books of the Department of Treasury of the United States of America.)

Gross Revenues shall mean for any specified period the sum of all operating and non-operating revenues of the Airport, including, without limitation, rentals, charges, landing fees, concessions (including amounts derived from such rentals, charges, fees, and concessions and other sources retained in the Revenue Account after satisfying the requirements of the various accounts in the Airport Fund), ground rentals for Special Purpose Facilities, and interest earnings on the Revenue Account, Maintenance and Operating Account, Debt Service Reserve Account, Maintenance and Operating Reserve Account and Capital Account. Gross Revenues does not include (i) any Bond proceeds and other money including interest credited to the Construction Account; (ii) gifts, grants or donations, the use of which is limited by the grantor or donor to purposes not including payment of principal of and interest on Bonds; (iii) Customer Facility Charges and Passenger Facility Charges and interest thereon; (iv) interest earnings on the Construction Account; (v) amounts borrowed by the City, including proceeds of Bonds; (vi) revenues derived from the lease or use of Special Purpose Facilities; (vii) proceeds of insurance claims or condemnation awards, except any such proceeds derived from insurance policies required to be maintained pursuant to Section 7.03 hereof; or (viii) amounts received from the sale or other disposition of assets of the Airport.

Holder shall mean a Bondholder.

Independent shall mean, when used with respect to any specified Person, such a Person who (i) is in fact independent; (ii) does not have any direct financial interest or any material indirect financial interest in the City or the Airport, other than the payment to be received under a contract for services to be performed by such Person; and (iii) is not connected with the City or the Airport as an officer, employee, promoter, trustee, partner, director, underwriter or person performing similar functions. Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished, such Person shall be appointed by the Council and such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

Insurance Consultant shall mean an Independent Person that has knowledge or expertise in the insurance needs and requirements of municipal airports in Montana, retained by the City.

Interest Payment Date shall mean with respect to a Current Interest Bond the date specified in such Current Interest Bond as the fixed date on which an installment of interest on such Current Interest Bond is due and payable and with respect to a Capital Appreciation Bond the date specified in such Capital Appreciation Bond as the fixed date on which interest is compounded.

Maintenance and Operating Account shall mean the account so named created in Section 6.05.

Maintenance and Operating Expenses shall mean for any specified period all current expenses of the City of operating, maintaining, and repairing the Airport, including, without limiting the generality of the foregoing, legal and overhead expenses of the various City departments directly related and allocable as provided through the City's allocation program to the administration of the Airport, insurance premiums, the charges of any paying agents and any other depository bank pertaining to the Airport, contractual services, professional services required by the Resolution, salaries and administrative expenses, labor, and the cost of materials and supplies used for current operation, the cost of defending, settling, or satisfying any litigation or threatened litigation that relates to the Airport, or any aspect thereof, but not including any allowance for depreciation, charges for the accumulation of reserves for capital replacements, or interest expense.

Maintenance and Operating Reserve Account shall mean the account so named created in Section 6.08.

Maintenance and Operating Reserve Requirement shall mean as of any time an amount equal to one-sixth of the total Maintenance and Operating Expenses for the then most recent Audited Fiscal Year.

Maturity, when used with respect to any Bond, shall mean the date on which the principal of such Bond is due and payable as therein or herein provided, whether at its Stated Maturity or by call for redemption or otherwise.

M.C.A. shall mean the Montana Code Annotated.

Net Proceeds, when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award remaining after payment of all expenses (including attorneys' and adjustors' fees and any fees and expenses of the Registrar and the City) incurred in the collection of such gross proceeds.

Net Revenues shall mean for any specified period, the amount of Gross Revenues for such period remaining after provision for payment of Maintenance and Operating Expenses for such period.

Opinion of Counsel shall mean a written opinion of Counsel.

Option Bond shall mean a Bond the Holder of which by its terms may tender such Option Bond for payment or purchase by or on behalf of the City prior to the Stated Maturity thereof, or the Stated Maturity of which may be extended by and at the option of the Holder thereof.

Original Purchaser shall mean, with respect to any series of Bonds, the original purchaser of such series of Bonds.

Original Resolution shall mean this Resolution No. [____], adopted by the Council on [____], 2010.

Outstanding shall mean, when used with reference to Bonds, as of the date of determination, all Bonds theretofore issued except:

(i) Bonds theretofore canceled by the City or delivered to the City canceled or for cancellation;

(ii) Bonds and portions of Bonds which under Section 10 are no longer deemed Outstanding; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to the Resolution;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the City shall be disregarded and deemed not to be Outstanding.

Passenger Facility Charge or PFC shall mean revenues received by the City from passenger facility charges imposed by the City in accordance with Title 14, Code of Federal Regulations, Part 158 as approved by the Federal Aviation Administration pursuant to passenger facility charge applications to the extent which such revenues are pledged to the payment of debt service on and coverage requirements of PFC Bonds, as provided by law.

Paying Agent shall mean the Person designated by or pursuant to this Original Resolution or a Supplemental Resolution to receive and disburse the principal of, premium, if any, and interest on any series of Bonds, on behalf of the City. A Paying Agent may also be the Registrar.

Person shall mean any individual, corporation, partnership, limited liability partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

PFC Bonds shall mean any Additional Bonds that finance or refinance the costs of projects approved by the Federal Aviation Administration and that are secured by a pledge of Passenger Facility Charges, in addition to the pledge of Net Revenues.

Principal Payment Date shall mean the Stated Maturity of any Serial Bond and the Sinking Fund Payment Date for any Term Bond.

Project shall mean an improvement, betterment, reconstruction or extension of the Airport.

Rate Covenant shall mean the covenant of the City to establish and maintain rates and charges for the use of the Airport described in Section 7.11.

Rating Agency shall mean either Moody's Investors Service or Standard & Poor's Ratings Services or their respective successors or any other nationally recognized organization experienced in the rating of municipal obligations such as the Bonds.

Rating Category shall mean one of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such Rating Category by a numerical or other modifier.

Rebate Account shall mean the account so named created by Section 6.13.

Rebate Certificate shall mean a certificate executed by the City on the date of issuance of any series of Bonds and pursuant to which the City represents and covenants to segregate funds, calculate amounts, and report and pay to the United States Department of Treasury any rebatable arbitrage relating to the Bonds of such series in accordance with the requirements of Section 148 of the Code and the regulations promulgated thereunder.

Redemption Date when used with respect to any Bond to be redeemed shall mean the date on which it is to be redeemed pursuant hereto.

Redemption Price when used with respect to any Bond to be redeemed shall mean the price at which it is to be redeemed pursuant hereto, including accrued interest thereon.

Refunded Bonds shall mean the Series 2000 Bonds maturing in 2011 and thereafter and outstanding in the aggregate principal amount of \$7,570,000.

Registrar shall mean the Person designated by or pursuant to the Resolution to hold and maintain the Bond Register in accordance with Sections 2.09 and 3.10. The Registrar may also be a Paying Agent.

Renewal and Replacement Reserve Subaccount shall mean the subaccount so named created by Section 6.10(i).

Renewal and Replacement Reserve Requirement as may be determined from time to time shall mean \$225,000 or such amount as may be determined by the Council upon the recommendation of an Airport Consultant.

Reserve Requirement shall mean, as of the date of calculation, an amount equal to the least of: (1) the maximum debt service requirements on Outstanding Bonds for the then current or any future fiscal year, (2) 125% of average annual debt service on Outstanding Bonds for any fiscal year, or (3) ten percent (10%) of the aggregate original principal amount of all series of Bonds any of which is then Outstanding.

Resolution shall mean this Original Resolution as amended or supplemented by any Supplemental Resolution.

Revenue Account shall mean the account so named created by Section 6.04.

Serial Bonds shall mean Bonds which are not Term Bonds.

Series 1990 Bonds shall mean the Airport Revenue Bonds of the City, dated as of September 1, 1990, which were refunded by the Series 2000 Bonds.

Series 2000 Bonds shall mean the City's Airport Revenue Refunding Bonds, Series 2000, with a final Stated Maturity of July 1, 2020, outstanding on the date of adoption of the Original Resolution in the principal amount of \$[7,570,000].

Series 2010A Bonds shall mean the City's Airport Revenue Refunding Bonds, Series 2010A, authorized to be issued and described in Section 3 of this Original Resolution.

Sinking Fund Payment Date shall mean [one of the dates set forth in Section 3.06 (as to the Series 2010A Bonds) or] each of the dates set forth in any applicable provisions of a Supplemental Resolution (as to any series of Additional Bonds) for the making of mandatory principal or Accreted Amount payments [on Series 2010A Bonds or] on Additional Bonds that are Term Bonds before the Stated Maturity thereof.

Special Purpose Facility shall mean any improvement, structure, equipment, machinery or other tangible asset located at the Airport, financed from the proceeds of Special Purpose Facility Bonds, the capital cost of which is payable, directly or indirectly, by a Person or Persons using such improvement, structure, equipment, machinery or other tangible asset. The quick turnaround facility noted in the Customer Facility Charge Ordinance is not a Special Purpose Facility for purposes of this Resolution.

Special Purpose Facility Bonds shall mean bonds or other obligations of the City, permitted by, but not subject to the terms and conditions of this Resolution, issued or incurred to finance or refinance the cost of any Special Purpose Facility and which are secured by and payable solely from rentals or other charges, derived by the City under a lease, sale or other agreement between the City and the Person using the Special Purpose Facility.

Stated Maturity when used with respect to any Bond shall mean the date specified in such Bond as the fixed date on which the principal of such Bond is due and payable.

Subordinate Obligations shall mean bonds or other obligations of the City payable from the Subordinate Obligations Account and issued in accordance with the provisions of Section 5.06.

Subordinate Obligations Account shall mean the account so named created by Section 6.09.

Supplemental Resolution shall mean any City Resolution amendatory of or supplemental to this Original Resolution adopted pursuant to Section 9.

Term Bond shall mean any Bond as to which payments are required by the Resolution to be made at times and in amounts sufficient to redeem all or a portion of the principal of such Bond prior to its Stated Maturity.

2000 Paying Agent shall mean U.S. Bank National Association, of Seattle, Washington, formerly known as U.S. Bank Trust National Association of MT, of Billings, Montana.

Variable Rate Bond shall mean a Bond the interest rate on which may, in accordance with its terms, vary periodically so that the interest for a part or all of the period remaining to its Stated Maturity or Redemption Date cannot accurately be calculated on the date of issuance thereof.

1.02. Rules of Interpretation.

A. All references in this Original Resolution to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this Original Resolution as originally adopted.

B. The words “herein”, “hereof” and “hereunder” and other words of similar import without reference to any particular Section or subdivision refer to the Resolution as a whole and not to any particular Section or other subdivision unless the context clearly indicates otherwise.

C. The terms defined in this Section shall include the plural as well as the singular.

D. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities.

E. All computations provided herein shall be made in accordance with generally accepted accounting principles applicable to governmental entities consistently applied.

1.03. Authorization. The City is authorized by the Act to own and operate a municipal airport. Pursuant to Resolution No. 90-16319, the City elected to exercise the powers of an airport authority under the Act. Pursuant to Resolution No. 90-16352 (the “Series 1990 Bond Resolution”) and the Act, the City issued the Series 1990 Bonds. Pursuant to Resolution 99-17451 (the “Series 2000 Bond Resolution”) and the Act, the City issued the Series 2000 Bonds to refund all or a portion of the then Outstanding Series 1990 Bonds. Without compromising its other powers associated with the ownership and operation of the Airport, the City hereby determines that it will exercise the powers of a municipal airport authority in accordance with the provisions of Title 67, Chapter 10, Parts 1-4, M.C.A., such power to be supplemental to and in addition to the power currently exercised and retained by the City with respect to the operation of the Airport under Title 67, Chapter 10, Part 1, M.C.A.

1.04. Outstanding Obligations. On the date of issuance of the Series 2010A Bonds pursuant to this Original Resolution, there will be no other obligations outstanding which are payable from or create a lien upon the Net Revenues other than the Series 2010A Bonds.

1.05. Resolution Regarding Negotiated Sale of Series 2010A Bonds, Etc. This Council has determined by resolution adopted May 24, 2010 (the “Parameters Resolution”) that it is in the best interests of the City to sell by negotiated sale to Piper Jaffray, Inc., of Denver, Colorado and Helena, Montana (the “Original Purchaser”), its airport revenue bonds in the aggregate principal amount of up to \$7,800,000, pursuant to Montana Code Annotated, Section 67-11-303, to provide funds to effect the refunding of the Refunded Bonds, [fund as and if necessary or appropriate the Debt Service Reserve Account,] and pay all or a portion of the costs of issuing the Series 2010A Bonds and of the refunding. The City and the Original Purchaser have entered into a Bond Purchase Agreement, dated [_____], 2010 (the “Bond Purchase Agreement”), relating to the sale of the Series 2010A Bonds within the limitations of the Parameters Resolution to bear interest at the rates and mature on the dates and in the amounts and contain the further terms and conditions set forth in Section 3 of this Resolution. The Bond

Purchase Agreement is hereby ratified and confirmed. In the event of a conflict between the provisions of this Original Resolution and the Bond Purchase Agreement, the provisions of this Original Resolution shall prevail.

1.06. Revenues Available. The City is authorized, pursuant to the Act, to enter into contracts, leases or other arrangements and to charge reasonable and uniform rates, fees, charges and rentals for all privileges, facilities and services directly or indirectly furnished by the Airport, and to pledge and appropriate to the Series 2010A Bonds the revenues to be derived from the operation of the Airport. The City hereby determines, based on current operating results, that the Gross Revenues to be produced from the operation of the Airport during the term of the Series 2010A Bonds will be sufficient to pay the reasonable and ordinary Maintenance and Operating Expenses of the Airport, to pay annual Debt Service Requirements, to establish and maintain a reserve for payment of debt service on the Series 2010A Bonds in an amount equal to the Reserve Requirement, to establish and maintain amounts in the Maintenance and Operating Reserve Account at the Maintenance and Operating Reserve Requirement, and to establish and maintain amounts in the Renewal and Replacement Reserve Account at the Renewal and Replacement Reserve Requirement, as herein prescribed.

1.07. Official Statement. The Series 2010A Bonds have been offered for sale by means of a Preliminary Official Statement, dated [_____], 2010, which is to be completed as an Official Statement. This Council hereby authorizes either or both of the Financial Services Manager and the Director of Aviation to approve the Official Statement. Execution of the Official Statement by the Financial Services Manager and the Director of Aviation or either of them, or any appropriate officer of the City, is authorized and shall be conclusive as to the approval thereof by this Council. The City hereby consents to the distribution of the Official Statement and this Council hereby authorizes and directs the Financial Services Manager, the Director of Aviation, the City clerk, and any appropriate officers of the City to execute such certificates relating to the accuracy and completeness of the Official Statement as may be appropriate. The determination of the Financial Services Manager or Director of Aviation that the Preliminary Official Statement was “final” as of its date for purposes of Rule 15C2-12 under the Securities Exchange Act of 1934 is hereby ratified and confirmed.

Section 2. The Bonds.

2.01. General Title. The general title of the Bonds of all series shall be “Airport Revenue Bonds.” Bonds of each series shall be titled so as to distinguish them from Bonds of all other series.

2.02. General Limitations; Issuable in Series. The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under the Resolution is not limited, except as provided in Sections 3 and 5 and except as may be limited by law.

The Series 2010A Bonds shall be issued on the terms and conditions prescribed in this Original Resolution. Additional Bonds may be issued in series as from time to time authorized by Supplemental Resolution. With respect to the Bonds of any particular series, the City may incorporate in or add to the general title of such Bonds any words, letters or fixtures designed to distinguish that series.

2.03. Special, Limited Obligations. The Bonds shall be special, limited obligations of the City. Principal of, premium, if any, and interest on the Bonds shall be payable solely from the Net Revenues (other than to the extent payable out of proceeds of the Bonds and as well from Passenger Facility Charges or Customer Facility Charges or another permissible source of revenue) or, if Credit Enhanced Bonds, from money available under the Credit Facility. The Bonds shall not be or constitute a pledge of the general credit or taxing powers of the City of any kind whatsoever, but the City may elect to issue Additional Bonds payable from any sources permitted under the Act, including, without limitation, from a limited tax levy or deficiency tax levy. Neither the Bonds nor any agreement or obligation of the City contained herein shall be construed to constitute an indebtedness of the State of Montana or the City within the meaning of any constitutional, statutory or Charter provisions whatsoever.

2.04. Payment on Business Day. If any interest, premium or principal of any Bond is payable on a day which is not a Business Day, then such payment may be made without increase on the next succeeding Business Day, with the same force and effect as if made on the date on which such payment was due (whether or not such next succeeding Business Day occurs in a succeeding month).

2.05. Terms of Particular Series. Each series of Bonds (except the Series 2010A Bonds, which are created by Section 3) shall be created by a Supplemental Resolution. The Bonds of each series (other than the Series 2010A Bonds, as to which specific provision is made in this Original Resolution) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest, if any, at such rate or rates, from such date or dates or shall be payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Resolution creating that series, all upon such terms as the City may determine. Bonds of any Series may be issued as Term Bonds, Serial Bonds, Capital Appreciation Bonds, Current Interest Bonds, Option Bonds, Variable Rate Bonds, or any combination thereof. The City may, at the time of the creation of any series of Bonds or at any time thereafter, make, and the Bonds of that series may contain, provision for:

- (a) a sinking, amortization, improvement or other analogous fund;
- (b) limiting the aggregate principal amount of the Bonds of that series and of Additional Bonds including Completion Bonds thereafter to be issued;
- (c) exchanging Bonds of that series, at the option of the Holders thereof, for other Bonds of the same series of the same aggregate principal amount of a different authorized kind or authorized denomination or denominations; or
- (d) registration or transfer of ownership, or delivery thereof.

2.06. Form and Denominations of Particular Series. The form of the Bonds of each series (other than the Series 2010A Bonds, as to which specific provision is made in Section 3) shall be established by the Supplemental Resolution creating such series. The Bonds of each series shall be distinguished from the Bonds of other series in such manner as the Council may determine.

The Bonds of each series shall be in such denominations as shall be provided in the Supplemental Resolution creating such series (other than the Series 2010A Bonds, as to which specific provision is made in this Resolution). In the absence of any such provision with respect to the Bonds of any particular series, the Bonds of such series shall be in the denomination of \$5,000 or any integral multiple thereof of single maturities.

2.07. Execution and Authentication. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor, Financial Services Manager and City Clerk (or other officers of the City authorized by a Supplemental Resolution); provided, that if required by applicable laws, one such signature on each Bond shall be a manual signature. The seal of the City need not be affixed to or imprinted on any Bond. Any Bond bearing the manual or facsimile signature of an individual who was at any time an appropriate officer of the City shall be valid and sufficient for all purposes, whether or not such individual held such office as of the date of sale, issue or delivery of such Bond. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on a Bond shall be conclusive evidence that it has been authenticated and delivered under the Resolution and in accordance with the provisions hereof.

2.08. Temporary Bonds. Pending the preparation of definitive Bonds, the City, if authorized by law, may execute and deliver temporary Bonds which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such Bonds may determine, as evidenced by their execution of such Bonds.

If temporary Bonds are issued, the City will cause definitive Bonds to be prepared without unreasonable delay. After the preparation of definitive Bonds, the temporary Bonds shall be exchangeable for definitive Bonds upon surrender of the temporary Bonds, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Bonds the City shall execute, and the Registrar shall thereupon authenticate and deliver in exchange therefor, a like principal amount of definitive Bonds of authorized denominations. Until so exchanged the temporary Bonds shall in all respects be entitled to the same security and benefits under the Resolution as definitive Bonds.

2.09. System of Registration. The City shall cause a register (the "Bond Register") for registration of Bonds and transfers of Bonds to be kept at the principal corporate trust office of the Registrar. This Section 2.09 shall establish a system of registration for the Bonds, including the Series 2010A Bonds, as defined in the Model Public Obligations Registration Act of Montana, and shall govern in the event other provisions of the Resolution relating to registration, transfer or exchange of Bonds are inconsistent therewith; provided that a Supplemental Resolution may make other provisions for the registration and transfer of ownership of Additional Bonds. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Bond Register. The Registrar shall keep at its principal corporate trust office the Bond Register in which the Registrar shall provide for the registration of ownership of the Bonds and the registration of transfers and exchanges of the Bonds entitled to be registered, transferred or exchanged.

(b) Transfer. Upon surrender for transfer of any Bond duly endorsed by the Holder thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Holder thereof or by an attorney duly authorized by the Holder in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of the same series of a like aggregate principal amount and Stated Maturity of authorized denominations as requested by the transferor. The Registrar is not required (i) to transfer or exchange any Bond during the period of fifteen days immediately preceding any selection of Bonds of that series and Stated Maturity for redemption, or (ii) to transfer any Bond or portion thereof which has been selected for redemption.

(c) Exchange. Whenever any Bond is surrendered by the Holder for exchange, the Registrar shall authenticate and deliver one or more new Bonds of the same series of a like aggregate principal amount, interest rate and maturity of authorized denominations, as requested by the Holder or the Holder's attorney in writing.

(d) Cancellation. All Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the Person in whose name any Bond is at any time registered in the Bond Register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium, if any, and interest on such Bond and for all other purposes, and all such payments so made to such Person shall be valid and effectual to satisfy and discharge the liability of the City upon such Bond to the extent of the sum or sums to be paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Bonds (except upon a partial redemption of a Bond), the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall become mutilated or be lost, stolen or destroyed, the City shall execute and the Registrar shall authenticate and deliver a new Bond of the same series, of like amount, Stated Maturity and tenor, in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a

Bond lost, stolen or destroyed, upon receipt by the Registrar from the Holder of the lost, stolen or destroyed Bond of evidence satisfactory to the Registrar that such Bond was lost, stolen or destroyed, and of the ownership thereof, and upon receipt by the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Bond has already matured or has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

Section 3. Issuance and Sale of the Series 2010A Bonds, Preliminary Official Statement.

3.01. Issuance and Sale of the Series 2010A Bonds; Savings. The City is authorized, and the Council hereby finds, determines and declares it to be in the best interest of the City, and to be necessary and expedient for the City to issue its \$[] Airport Revenue Refunding Bonds, Series 2010A, in accordance with the provisions of this Original Resolution, for the purpose of providing funds to effect the refunding of the Refunded Bonds, [fund as and if appropriate the Debt Service Reserve Account,] and pay all or a portion of the costs of issuing the Series 2010A Bonds. The Original Purchaser has offered to purchase the Series 2010A Bonds upon the terms and conditions set forth in a Bond Purchase Agreement, at a purchase price of \$[], reflecting a net original issue premium of \$[] and underwriter's discount of \$[]. That offer is hereby determined and declared to be reasonable and in the best interests of the City. The gross debt service savings to result from the refunding of the Refunded Bonds is \$[], and the net present value savings resulting therefrom is \$[], using a discount rate of []% (the approximate yield of the Bonds) over the term of the Refunded Bonds, resulting in a net present value benefit of []% of the principal amount of the Refunded Bonds.

3.02. Delivery of the Series 2010A Bonds. The City hereby covenants that it will take all actions as required to effectuate the issuance and delivery of the Series 2010A Bonds as prescribed in the Bond Purchase Agreement and herein.

3.03. General Terms of Bonds. The Series 2010A Bonds shall be issuable only in fully registered form and shall consist of Current Interest Bonds which are also Serial Bonds [and Term Bonds] issued in the aggregate principal amount of \$[] with Stated Maturities in the years 2011 through 20[], 20[] and 20[].

3.04. Terms of the Series 2010A Bonds. The Series 2010A Bonds shall be dated, as originally issued, as of [], 2010, shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities, shall mature on July 1 in the years and amounts set forth below, and shall bear interest from [], 2010 until paid or duly called for redemption at the respective annual rates set forth opposite such years and amounts as follows:

<u>Stated Maturity</u>	<u>Amount</u>	<u>Rate</u>
	\$	%

The interest thereon, and, upon surrender of each Series 2010A Bond, the principal amount thereof shall be payable by check or draft issued by the Paying Agent. Interest on the Series 2010A Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2011, to the Holders thereof as such appear in the Bond Register as of the close of business on the 15th day of the immediately preceding month, whether or not such day is a Business Day. Each Series 2010A Bond shall bear an original issue date of [____], 2010. Upon delivery of the Series 2010A Bonds to the Original Purchaser pursuant to Section 3.12 or upon the delivery of Series 2010A Bonds upon a transfer or exchange pursuant to Section 2.09, the Registrar shall date each Series 2010A Bond so delivered as of the date of its authentication.

3.05. Optional Redemption. Except as described in Section 3.07, Series 2010A Bonds shall not be subject to redemption at the option of the City prior to their Stated Maturities.

3.06. [Mandatory Sinking Fund Redemption]

A. The Series 2010A Bonds having a Stated Maturity in the year [____] shall be subject to redemption and (subject to reduction pursuant to paragraph C) shall be redeemed on July 1 (a “Sinking Fund Payment Date”) in the years and amounts set forth below, in \$5,000 principal amounts selected by the Bond Registrar, by lot or other manner deemed fair, at a Redemption Price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date:

Year	Amount
[____]	\$
[____]	
[____]	

If the Series 2010A Bonds with a stated maturity of [____] are not otherwise prepaid, \$[____] in principal amount would remain to mature in [____].

B. The Series 2010A Bonds having a Stated Maturity in the year [____] shall be subject to redemption and (subject to reduction pursuant to paragraph C) shall be redeemed on July 1 (a “Sinking Fund Payment Date”) in the years and amounts set forth below, in \$5,000 principal amounts selected by the Bond Registrar, by lot or other manner deemed fair, at a Redemption Price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date:

Year	Amount
[____]	\$
[____]	
[____]	

If the Series 2010A Bonds with a stated maturity of [____] are not otherwise prepaid, \$[____] in principal amount would remain to mature in [____].

C. The principal amount of Series 2010A Bonds required to be redeemed on any Sinking Fund Payment Date shall be reduced by the principal amount of any Series 2010A Bond having a Stated Maturity in [_____] or [_____] and theretofore redeemed under Section 3.05 and not previously applied to reduce the principal amount of Series 2010A Bonds required to be redeemed on a Sinking Fund Payment Date. In the event that optional redemptions occur from Stated Maturities subject to mandatory sinking fund redemption, the redemption will be applied to the sinking fund payments in inverse order of payment dates pro-rata in authorized denominations to the sinking fund amounts.]

3.07. Extraordinary Optional Redemption. The Bonds, including the Series 2010A Bonds, are subject to redemption prior to maturity by the City, to the extent of available Net Proceeds of insurance or condemnation, in the event: (1) the Airport or any portion thereof is damaged, destroyed or condemned, (2) the Net Proceeds of insurance or condemnation received in connection therewith exceed the greater of (a) three percent of property, plant and equipment assets of the Airport or (b) \$500,000, and (3) the City elects to have all or any part of such Net Proceeds applied to the prepayment of the Bonds. If called for redemption in any such event, the Bonds shall be subject to redemption in whole at any time, or in part on any interest payment date, and if in part, from series and by maturities designated by the City (and, if less than all of a maturity is being redeemed, by lot or other manner deemed fair by the Registrar within a maturity) at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium.

3.08. [Notice of Redemption]. The City shall give notice of redemption, stating the amount, the serial numbers, the CUSIP numbers, the interest rates and the Stated Maturities of the Series 2010A Bonds or portions thereof called for redemption to the Registrar at least forty-five days prior to the date of redemption. The Registrar shall, at least thirty days prior to the designated redemption date, cause notice of redemption to be mailed by first class mail to the Holder of each Series 2010A Bond to be redeemed at such Person's address shown in the Bond Register; provided that any defect in or failure to give such mailed notice shall not affect the validity of proceedings for the redemption of any Series 2010A Bond not affected thereby. Notice of the redemption of any Series 2010A Bond having been mailed as herein provided, and funds sufficient for its payment with accrued interest having been deposited with the Paying Agent on or before the Redemption Date, interest on such Series 2010A Bond shall cease to accrue on the Redemption Date, and the Holder shall have no further rights with respect thereto or under the Resolution except to receive the Redemption Price so deposited.

In addition to the notice prescribed by the preceding paragraph, the City shall also give notice of the redemption of any Series 2010A Bond or portions thereof at least 35 days before the Redemption Date by first class mail, telecopy or express delivery service to the Original Purchaser and all registered securities depositories then in the business of holding substantial amounts of obligations of the character of the Series 2010A Bonds (such depository now being DTC, as defined in Section 3.11) and the one or more national information services that disseminate information regarding municipal bond redemptions; provided that any defect in or any failure to give any notice of redemption prescribed by this paragraph shall not affect the validity of the proceedings for the redemption of any Series 2010A Bond or portion thereof.

Series 2010A Bonds in a denomination larger than \$5,000 may be redeemed in part in any integral multiple of \$5,000. The owner of any Series 2010A Bonds redeemed in part

shall receive, upon surrender of such Bond to the Registrar, one or more new Series 2010A Bonds in authorized denominations equal in principal amount to the unredeemed portion of the Bond so surrendered.]

3.09. Partial Redemption of a Series 2010A Bond. Series 2010A Bonds in a denomination larger than \$5,000 may be redeemed in part in any integral multiple of \$5,000. The Holder of any Series 2010A Bond redeemed in part shall receive, upon surrender of such Series 2010A Bond to the Registrar, one or more new Series 2010A Bonds in authorized denominations equal in principal amount to the unredeemed portion of the Series 2010A Bond so surrendered.

3.10. Appointment of Registrar and Paying Agent. The City hereby appoints U.S. Bank National Association, of Seattle, Washington, as the Registrar and Paying Agent (in such capacities, the “Registrar”) for the Series 2010A Bonds. The Financial Services Manager and the Director of Aviation, or in their absence, any officer of the City, are hereby authorized to execute and deliver, on behalf of the City, a contract or contracts with the Registrar for the services provided by the Registrar, including, without limitation, as Registrar and Paying Agent, and, if the City so elects, as dissemination agent. Before each Principal Payment Date, Redemption Date or Interest Payment Date, without further order of the Council, the Financial Services Manager is authorized to transfer to the Paying Agent all principal, premium, if any, and interest then due on the Series 2010A Bonds solely from money in the Debt Service Account so that it is received by the Paying Agent no later than the Business Day immediately preceding such dates. The City agrees to pay fees and charges of the Registrar and Paying Agent.

Upon merger or consolidation of the Registrar with another corporation or upon the sale or the transfer by the Registrar to another corporation of all or substantially all of the Registrar’s corporate trust business, if the resulting or transferee corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed, as a charge against the Maintenance and Operating Account. The City reserves the right to remove the Registrar upon thirty (30) days’ notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Bonds in its possession to the successor Registrar and shall deliver the Bond Register to the successor Registrar. The Registrar may also resign upon written notice to the City effective upon appointment by the City of a successor Registrar.

3.11. Securities Depository for the Series 2010A Bonds.

(a) For purposes of this Section 3.11, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2010A Bond, the person in whose name such Series 2010A Bond is recorded as the beneficial owner of such Series 2010A Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2010A Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

“Representation Letter” shall mean the Blanket Issuer Letter of Representations from the City to DTC, attached to this resolution as Appendix C, which is hereby incorporated by reference and made a part hereof.

(b) The Series 2010A Bonds shall be initially issued as separately authenticated fully registered Bonds, and one Bond shall be issued in the principal amount of each stated maturity of the Series 2010A Bonds. Upon initial issuance, the ownership of such Series 2010A Bonds shall be registered in the Bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2010A Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2010A Bonds, selecting the Series 2010A Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Bonds under this Resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Series 2010A Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond register as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2010A Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2010A Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series 2010A Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal of and interest on the Series 2010A Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2010A Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bonds in the form of Bond certificates, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds in the form of certificates. In such event, the Series 2010A Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2010A Bonds at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under

applicable law. In such event the Series 2010A Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by registered owners of the Series 2010A Bonds and Beneficial Owners and payments on the Series 2010A Bonds. The Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Resolution.

(e) In the event that any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2010A Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Resolution. In the event Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2010A Bonds, or another securities depository as owner of all the Series 2010A Bonds, the provisions of this Resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Bonds in the form of Bond certificates and the method of payment of principal of and interest on such Bonds in the form of Bond certificates.

3.12. Execution and Delivery. The Series 2010A Bonds shall be forthwith prepared for execution under the direction of the Financial Services Manager, at the expense of the City, and shall be executed on behalf of the City by the signatures of the Mayor, City Clerk and Financial Services Manager; provided that any or all of such signatures may be printed, engraved or lithographed facsimiles thereof. When the Series 2010A Bonds have been fully executed and authenticated, they shall be delivered by the Registrar to the order of the Original Purchaser thereof upon payment of the purchase price in accordance with the Bond Purchase Agreement authorized in Section 3.01, and the Original Purchaser shall not be obligated to see to the application of the purchase price and is not responsible for the application thereof.

3.13. Form of Series 2010A Bonds. The Series 2010A Bonds shall be prepared in substantially the form set forth as Exhibit A; provided that so long as Series 2010A Bonds are registered in the name of Cede & Co. as provided in Section 3.11, such Series 2010A Bonds may provide for the payment of the Redemption Price upon the partial redemption thereof without presentation and surrender of the Series 2010A Bond.

3.14. Deposit of Series 2010A Bond Proceeds. Immediately upon delivery of the Series 2010A Bonds the City shall credit the proceeds of the Series 2010A Bonds to the following accounts in the Airport Fund created pursuant to Section 6 and apply such proceeds as follows:

[(a) To the Debt Service Account an amount representing interest accrued on the Series 2010A Bonds from [_____], 2010 to the date of delivery thereof;]

(b) To the Escrow Agent under the escrow agreement relating to the redemption of the Series 2000 Bonds the amount of \$[_____];

(c) To the Construction Account the balance of the proceeds of the Series 2010A Bonds to be used to pay costs of issuance of the Series 2010A Bonds; and

[(d) to the Reserve Account an amount equal to the Reserve Requirement.]

Section 4. Defeasance of Refunded Bonds; Escrow Agreement.

4.01. Defeasance of Refunded Bonds. Simultaneously with the delivery of the Series 2010A Bonds, the Series 2000 Bonds with Stated Maturities in 2011 and later years will be irrevocably directed to be called for redemption on [_____, 2010], at a Redemption Price equal to 102% of the principal amount thereof with interest accrued to the date of redemption. The Financial Services Manager is hereby authorized and directed to give notice to the Paying Agent for the Series 2000 Bonds of the redemption of the Refunded Bonds at least 45 days prior to the Redemption Date of the Refunded Bonds so that such Paying Agent may give notice of such redemption in accordance with the provisions of the Series 2000 Bond Resolution, such notice or redemption to be sent on or promptly after the date of issuance of the Series 2010A Bonds to the Holder of each Series 2000 Bond to be redeemed and to [MBIA Insurance Corporation] within 60 days but not less than 30 days before said redemption date, and to D.A. Davidson & Co., of Great Falls, Montana, as the original purchaser of the Series 2000 Bonds, to the DTC, and to one or more national information reporting services at least 35 days before said redemption date. Upon establishment and funding of the escrow account pursuant to Section 4.02 and the escrow agreement, the liability of the City with respect to the Refunded Bonds shall be discharged in its entirety, as provided in Section 11.04 of the 2000 Resolution. Upon the redemption of the Refunded Bonds being redeemed, any excess monies, including investment income, held by the 2000 Paying Agent shall be remitted to the City and credited by the City to the Debt Service Account in the Airport Revenue Fund and applied to paying interest on the Series 2010A Bonds on January 1, 2011.

4.02. Escrow; Redemption of Series 2000 Bonds. Simultaneously with the delivery of the Series 2010A Bonds, the Financial Services Manager shall deposit or direct to be deposited in escrow in trust for the benefit of the City with U.S. Bank National Association, of Seattle, Washington, as Escrow Agent, the sum of \$[_____] from the proceeds of the Series 2010A Bonds, plus from money on hand and available therefor the additional sum required to pay as of the date of delivery of the Series 2010A Bonds the Redemption Price of the Refunded Bonds as of the Redemption Date (i.e., _____, 2010). The Financial Services Manager shall cause the amount so deposited, to the extent not applied to establish a cash balance, to be invested in Government Obligations. The escrow account and all investments thereof shall be held in safekeeping by said Escrow Agent, and said account and all income therefrom are irrevocably appropriated for the purposes stated in Section 4.01 and this Section, and any excess monies remaining in the Escrow Account upon redemption of the Refunded Bonds on [_____, 2010] shall be transferred promptly to the Debt Service Account to pay interest on the Series 2010A Bonds on January 1, 2011. At or before the time of making said deposit and investment the Mayor, Financial Services Manager and the City Clerk shall execute on the part of the City an escrow agreement with said escrow agent, substantially in accordance with the form of such agreement which has been presented to this Council at the meeting at which this resolution was adopted, and is hereby approved.

Section 5. Lien on Net Revenues; Passenger Facility Charges; Customer Facility Charges; Additional Bonds.

5.01. Parity Lien on Net Revenues; Passenger Facility Charges; Customer Facility Charges; Special Purpose Facility Bonds.

(a) All Bonds issued hereunder shall be secured, equally and ratably, by a first lien upon the Net Revenues of the Airport, the Gross Revenues being subject to the prior appropriation thereof to the Maintenance and Operating Account for the payment of Maintenance and Operating Expenses, as provided in Section 6.05.

(b) Bonds issued hereunder may also be secured by the covenant and agreement of the City in Section 6.06 to pledge and appropriate Passenger Facility Charges, if then available, to the subaccount in the Debt Service Account relating to PFC Bonds of such series. Such pledge in favor of Outstanding PFC Bonds shall not limit the ability of the City to expend in any Fiscal Year pledged Passenger Facility Charges in excess of the Debt Service Requirements during such Fiscal Year on all Outstanding PFC Bonds. The City covenants and agrees that from and after the issuance of Additional Bonds that are PFC Bonds and so long as such PFC Bonds are Outstanding, it will not decrease the rate or amount of Passenger Facility Charges, that it will not pledge or grant a security interest in the Passenger Facility Charges other than pursuant to FAA regulations or rules or this Resolution, and that it will pledge Passenger Facility Charges to the payment of and security of Additional Bonds constituting PFC Bonds only if the requirements of Section 5.04 (including paragraph (c) thereof) are satisfied.

(c) Bonds issued hereunder may also be secured by the covenant and agreement of the City in Section 6.06 to pledge and appropriate Customer Facility Charges, if then available, to the subaccount in the Debt Service Account relating to CFC Bonds of such series. Such pledge in favor of Outstanding CFC Bonds shall not limit the ability of the City to expend in any Fiscal Year pledged Customer Facility Charges in excess of the Debt Service Requirements during such Fiscal Year on all Outstanding CFC Bonds. The City covenants and agrees that from and after the issuance of Additional Bonds that are CFC Bonds and so long as such CFC Bonds are Outstanding, it will not pledge or grant a security interest in the Customer Facility Charges other than pursuant to the Customer Facility Charge Ordinance or this Resolution and that it will pledge Customer Facility Charges to the payment of and security of Additional Bonds constituting CFC Bonds only if the requirements of Section 5.04 (including paragraph (d) thereof) are satisfied.

(d) The Series 2010A Bonds are secured equally and ratably with all other Outstanding Bonds by the Net Revenues. In the event of the issuance of Additional Bonds that are either PFC Bonds or CFC Bonds, the failure of the City to transfer Passenger Facility Charges or Customer Facility Charges, as the case may be, to the applicable subaccount in the Debt Service Account because there are not sufficient Passenger Facility Charges or Customer Facility Charges, as the case may be, then available shall not constitute a default hereunder, so long as sufficient Net Revenues are transferred.

(e) Special Purpose Facility Bonds are permitted by and are not subject to the lien of the Resolution. The City reserves the unconditional right to issue Special Purpose Facility Bonds for the acquisition, construction, reconstruction, enlargement, improvement and

equipment of any Special Purpose Facility, or the refinancing thereof, outside the provisions of and not subject to the lien, provisions or limitations of the Resolution.

5.02. General Provisions. In addition to the Series 2010A Bonds, whose issuance and delivery are provided for in Section 3, Additional Bonds may at any time and from time to time be issued, sold and delivered by the City but only upon filing with the City Clerk and the Registrar the following:

(a) A Supplemental Resolution creating the designated series of Additional Bonds and authorizing the issuance and the sale thereof to the Original Purchaser named therein for the purchase price set forth therein or pursuant thereto;

(b) An Opinion of Bond Counsel stating in effect:

(i) that all conditions precedent provided in this Resolution relating to the issuance and delivery of such Additional Bonds have been complied with, including any conditions precedent specified in this Section;

(ii) that the series of Additional Bonds when issued and delivered by the City will be valid and binding special, limited obligations of the City in accordance with their terms and the terms hereof and entitled to the benefits of and secured by this Resolution; and

(iii) that the issuance of such Additional Bonds will not adversely affect the exemption from federal income taxation of the interest on any Bonds then Outstanding the interest on which is excludable from gross income for federal income tax purposes.

(c) A certificate signed by the Mayor, City Clerk and Financial Services Manager stating that the City is not then in default under this Resolution or that any default then existing will be cured upon the issuance of the Additional Bonds and that on the date of issuance of such Additional Bonds and after giving effect to the issuance of such Additional Bonds the balance in the Debt Service Reserve Account is not less than the Reserve Requirement; and

(d) Such other certificates and opinions as may be required to satisfy Sections 5.04 through 5.07.

5.03. Completion Bonds.

(a) Authorization of Completion Bonds. If the proceeds from the sale of a series of Bonds are insufficient to finance the costs of the Project for which the Bonds were issued, the City may issue Completion Bonds in such amount as is necessary to defray any such additional cost, subject to the limitations contained herein or in a Supplemental Resolution. Completion Bonds shall be issued in accordance with Section 5.02, however, compliance with Section 5.04 is not required.

Prior to any delivery of Completion Bonds there shall be filed with the City Clerk a certificate of the Consulting Engineer (i) stating that the Project has not materially changed

from its description in the Supplemental Resolution relating to the initial series of Bonds issued to finance such Project, (ii) estimating the revised aggregate cost of such Project, (iii) stating that the revised aggregate cost of such Project cannot be paid with the moneys available on the date of the certificate in the Construction Account or in the Capital Account or amounts retained in the Revenue Account, and (iv) stating that, in the opinion of the Consulting Engineer, the issuance of the Completion Bonds is necessary to provide funds for the completion of the Project.

(b) Limitation on Completion Bonds. The aggregate principal amount of Completion Bonds that may be issued by the City to complete a Project may not exceed [30]% of the aggregate principal amount of the initial series of Bonds issued to finance such Project.

5.04. Additional Bonds for Projects. One or more series of Additional Bonds (other than Completion Bonds) may be issued to finance the cost of a Project. Unless the Additional Bonds are issued pursuant to Section 5.04(a)(4), prior to the issuance of such series of Additional Bonds, there shall be filed with the City Clerk:

(a) (1) If the Additional Bonds are proposed to be secured by only Net Revenues, a certificate or opinion of an Independent Accountant (i) setting forth (A) the Net Revenues for the most recent Audited Fiscal Year immediately preceding the delivery of such series of Additional Bonds, as determined by the Independent Accountant, and (B) the maximum Debt Service Requirements in the current or any future Fiscal Year in respect of the Bonds to be Outstanding upon issuance of such Additional Bonds that are secured by Net Revenues alone (including such proposed Additional Bonds but excluding any Bonds not to be Outstanding upon issuance of such Additional Bonds); and (ii) demonstrating that the Net Revenues are not less than 125% of the maximum Debt Service Requirements in the current or any future Fiscal Year during the term of such Bonds. In computing the Debt Service Requirements to determine whether the revenue coverage test is satisfied by the application of Net Revenues, the Independent Accountant shall disregard the debt service on any Outstanding CFC Bonds to the extent that Customer Facility Charges satisfy 125% of the maximum Debt Service Requirements for the current or any future Fiscal Year on such CFC Bonds (calculated as provided in Section 5.04(a)(2)) and the debt service on any Outstanding PFC Bonds to the extent that Passenger Facility Charges satisfy 125% of the maximum Debt Service Requirements for the current or any future Fiscal Year on such PFC Bonds (calculated as provided in Section 5.04(a)(3)) and apply the Net Revenues only against the debt service on the Outstanding Bonds and proposed Additional Bonds that are secured only by Net Revenues. To the extent that the debt service on CFC Bonds or PFC Bonds cannot be excluded from Debt Service Requirements by reason of the preceding sentence, the Independent Accountant shall take into account both the CFC Bond debt service and the Customer Facility Charges or the PFC Bond debt service and the Passenger Facility Charges, as applicable, prior to the application of Net Revenues against the debt service on the CFC Bonds or PFC Bonds, as applicable, in determining whether the revenue coverage test is satisfied.

(2) Except as set forth in 5.04(a)(4), if the Additional Bonds are proposed to be issued as CFC Bonds, a certificate or opinion of an Independent Accountant (i) setting forth (A) the Net Revenues and Customer Facility Charges for the most recent

Audited Fiscal Year immediately preceding the delivery of Additional Bonds proposed to be issued as CFC Bonds, as determined by the Independent Accountant, and (B) the maximum Debt Service Requirements in the current or any future Fiscal Year in respect of the Bonds to be Outstanding upon the issuance of the Additional Bonds that are secured by either Net Revenues alone or by Net Revenues and Customer Facility Charges (including such proposed Additional Bonds but excluding any Bonds not to be Outstanding upon issuance of such Additional Bonds) and (ii) demonstrating that the sum of the Customer Facility Charges in respect of Outstanding CFC Bonds or CFC Bonds proposed to be issued plus Net Revenues is not less than 125% of the maximum Debt Service Requirements in the current or any future Fiscal Year during the term of such Bonds. In computing the Debt Service Requirements to determine whether the revenue coverage test is satisfied, the Independent Accountant shall disregard the debt service on any Outstanding PFC Bonds to the extent that Passenger Facility Charges satisfy 125% of the maximum Debt Service Requirements for the current or any future Fiscal Year on such PFC Bonds (calculated as provided in Section 5.04(a)(3)) and apply the Net Revenues and Customer Facility Charges, as applicable, only against the debt service on the Outstanding Bonds and Additional Bonds proposed to be issued that are secured by only Net Revenues or by Net Revenues and Customer Facility Charges. To the extent the debt service on PFC Bonds cannot be excluded from Debt Service Requirements by reason of the preceding sentence, the Independent Accountant shall take into account both the PFC Bond debt service and the Passenger Facility Charges, as applicable, prior to the application of Net Revenues against the debt service on the PFC Bonds in determining whether the revenue coverage test is satisfied.

If the City has increased the rate or charge of its Customer Facility Charges during or since the end of the most recent Audited Fiscal Year and such increased rate or charge of Customer Facility Charges are in effect at the time of issuance of the Additional Bonds proposed to be issued as CFC Bonds or are authorized to go into effect within 60 days thereafter, the Independent Accountant may adjust historical Customer Facility Charges for the most recent Audited Fiscal Year to include Customer Facility Charges which would have been received had such increased rate or charge of Customer Facility Charges been in effect for such entire Audited Fiscal Year.

(3) If the Additional Bonds are proposed to be issued as PFC Bonds, (i) the certificate of the Director of Aviation required by Section 5.04(c) confirming the approval by the FAA of the application for the Passenger Facility Charges to finance costs of a Project with Additional Bonds that are PFC Bonds (the “Additional PFC Bonds Application”); and (ii) a certificate or opinion of an Independent Accountant or Independent Airport Consultant setting forth (A) the Passenger Facility Charges available to pay the debt service on the Additional Bonds proposed to be issued as PFC Bonds and any Outstanding PFC Bonds in the current or any future Fiscal Year during the term of such Bonds from Passenger Facility Charges in effect prior to the Additional PFC Bonds Application and as well pursuant to the Additional PFC Bonds Application and the Net Revenues for the most recent Audited Fiscal Year immediately preceding the delivery of the Additional Bonds to be issued as PFC Bonds, as determined by the Independent Accountant or Independent Airport Consultant, and (B) the maximum Debt Service Requirements in the current or any future Fiscal Year in respect of the Bonds to be Outstanding upon the issuance of the Additional Bonds that are secured by either Net

Revenues alone or by Net Revenues and Passenger Facility Charges (including such proposed Additional Bonds but excluding any Bonds not to be Outstanding upon issuance of such Additional Bonds) and (C) demonstrating that the sum of Passenger Facility Charges in respect of Outstanding PFC Bonds or PFC Bonds proposed to be issued plus Net Revenues is not less than 125% of the maximum Debt Service Requirements in the current or any future Fiscal Year during the term of such Bonds. In computing the Debt Service Requirements to determine whether the revenue coverage test is satisfied, the Independent Accountant or Independent Airport Consultant shall disregard the debt service on any Outstanding CFC Bonds to the extent that Customer Facility Charges satisfy 125% of the maximum Debt Service Requirements for the current or any future Fiscal Year on such CFC Bonds (calculated as provided in Section 5.04(a)(2)) and apply the Net Revenues and Passenger Facility Charges, as applicable, only against the debt service on the Outstanding Bonds and Additional Bonds proposed to be issued that are secured by only Net Revenues or by Net Revenues and Passenger Facility Charges. To the extent the debt service on CFC Bonds cannot be excluded from Debt Service Requirements by reason of the preceding sentence, the Independent Accountant or Independent Airport Consultant shall take into account both the CFC Bond debt service and the Customer Facility Charges, as applicable, prior to the application of Net Revenues against the debt service on the CFC Bonds in determining whether the revenue coverage test is satisfied.

(4) In addition to and notwithstanding Sections 5.04(a)(1), (2) and (3) above or any other provision in this Original Resolution to the contrary, the City is authorized to issue Additional Bonds that are CFC Bonds in one or more series in the aggregate principal amount of up to \$8,250,000, so long as any such Additional Bonds are issued on or before June 30, 2012.

(5) In making the foregoing calculations in Section 5.04(a)(1), (2), or (3), the Independent Accountant or Independent Airport Consultant, as the case may be, may take into consideration the Passenger Facility Charges or the Customer Facility Charges only to the extent of 125% of the maximum Debt Service Requirements in the current or any future Fiscal Year in respect of, as the case may be, Outstanding PFC Bonds or Additional Bonds proposed to be issued as PFC Bonds or Outstanding CFC Bonds or Additional Bonds proposed to be issued as CFC Bonds.

(b) If the certificate or opinion provided for in paragraph (a) is not filed, in lieu thereof, the following:

(1) a certificate or opinion of an Independent Accountant (i) setting forth, for the last Audited Fiscal Year or for any period of twelve consecutive calendar months out of the eighteen calendar months immediately preceding the delivery of such series of Additional Bonds, as determined by the Independent Accountant, (A) the Net Revenues, Customer Facility Charges pledged to the repayment of any Outstanding CFC Bonds, and Passenger Facility Charges pledged to the repayment of any Outstanding PFC Bonds for such period and (B) the Debt Service Requirements for such period; and (ii) demonstrating that for such period the sum of the Net Revenues in respect of Outstanding Bonds, and Passenger Facility Charges in respect of only Outstanding PFC Bonds, and

Customer Facility Charges in respect of only Outstanding CFC Bonds, equaled at least the amount needed for making the deposits to the several accounts in the Airport Fund required under this Resolution; provided that in making the foregoing calculation the Independent Accountant may take into consideration the Passenger Facility Charges only in the event PFC Bonds are Outstanding and only to the extent of 125% of the annual Debt Service Requirements of such Outstanding PFC Bonds and may take into consideration the Customer Facility Charges only in the event CFC Bonds are Outstanding and only to the extent of 125% the annual Debt Service Requirements of such Outstanding CFC Bonds; and

(2) A certificate of the Consulting Engineer setting forth (a) the estimated date of completion for the Project for which such series of Additional Bonds is being issued and (b) in reasonable detail, an estimate of the costs of the Project; and

(3) A certificate or report from an Independent Airport Consultant, addressed to the City and dated as of a date not more than three (3) months before the date on which the Additional Bonds are issued, (i) stating that in the opinion of such Independent Airport Consultant, based upon reasonable assumptions (which are set forth in the certificate), fees and other charges calculated in accordance with Section 7.11(a) projected to be received following the issuance of the Additional Bonds will be sufficient to produce Net Revenues in respect of all Bonds to be Outstanding upon the issuance of the Additional Bonds, Passenger Facility Charges in respect of only PFC Bonds to be Outstanding upon the issuance of the Additional Bonds, and Customer Facility Charges in respect of only CFC Bonds to be Outstanding upon the issuance of the Additional Bonds, in an amount not less than 125% of the maximum Debt Service Requirements for a Fiscal Year in respect of the Bonds to be Outstanding upon the issuance of the Additional Bonds (including the proposed Additional Bonds but excluding any Bonds not to be Outstanding upon issuance of such Additional Bonds) for each of the three complete Fiscal Years immediately following the most recent Audited Fiscal Year in relation to the date of the computation; provided that in making the foregoing calculation the Independent Airport Consultant may take Passenger Facility Charges and Customer Facility Charges into consideration for these purposes only in the event PFC Bonds or CFC Bonds, respectively, are to be Outstanding upon the issuance of the Additional Bonds and as to proposed Additional Bonds that are PFC Bonds or CFC Bonds only upon satisfaction of paragraph 5.04(c) or 5.04(d), respectively, and in any event only to the extent of 125% of the annual Debt Service Requirements of the Outstanding PFC Bonds and the proposed Additional Bonds that are PFC Bonds and the annual Debt Service Requirements of the Outstanding CFC Bonds and the proposed Additional Bonds that are CFC Bonds, as appropriate. In any event, if capitalized interest is to be applied in the last Fiscal Year of the period consisting of the three complete Fiscal Years described in the preceding sentence, such period will be extended through the end of the first complete Fiscal Year during which neither capitalized interest nor investment income thereon is projected to be available.

(c) If the Additional Bonds are proposed to be issued as PFC Bonds, in addition to the documents required by paragraph (a) or paragraph (b) of this Section 5.04, as applicable, a certificate signed by the Director of Aviation stating that the City has submitted an application for Passenger Facility Charges for a Project to be financed by the Additional Bonds that are PFC Bonds, such application has been approved with a copy of the Federal Aviation Administration approval letter or other approval document, and the revenues derived from such passenger facility charges shall constitute Passenger Facility Charges for all purposes of this Resolution and are pledged to the payment of such Additional PFC Bonds to the extent provided herein.

(d) If the Additional Bonds are proposed to be issued as CFC Bonds, in addition to the documents required by paragraph (a) or paragraph (b) of this Section 5.04, as applicable, a certificate signed by the Director of Aviation stating that such CFC Bonds are to be issued in respect of a Car Rental Facility approved pursuant to the Customer Facility Charge Ordinance.

5.05. Additional Bonds Issued as Refunding Bonds. If the Additional Bonds are issued to refund all or any Bonds or Notes then Outstanding, there is to be filed with the City Clerk and the Registrar:

(a) a report of an Independent Accountant to the effect that either (i) the net proceeds (excluding accrued interest but including any premium) of the Additional Bonds plus any money available and to be withdrawn from the Debt Service Account or the Debt Service Reserve Account for such purpose, together with any other funds deposited for such purpose, are sufficient to pay the principal of, premium, if any, and interest on the Bonds to be refunded to the Redemption Dates or Stated Maturities thereof; provided that a report of an Independent Accountant shall not be required if the Redemption Dates or Stated Maturities of the Bonds to be refunded are not more than 90 days after the date of issuance of the Additional Bonds and the aggregate amount deposited upon issuance of the Additional Bonds is sufficient to pay, without reinvestment, the principal of, premium, if any, and interest on the Bonds to be refunded to the Redemption Dates or Stated Maturities thereof, so long as the [Original Purchaser] of the Additional Bonds delivers to the City on or before the date of issuance of the Additional Bonds a certificate satisfactory to the City certifying that the aggregate amount deposited upon issuance of the Additional Bonds is sufficient to pay, without reinvestment, the principal of, premium, if any, and interest on the Bonds to be refunded to the Redemption Dates or Stated Maturities thereof; or (ii) from the proceeds of the Additional Bonds there shall be deposited in an Escrow Account in trust, Government Obligations which do not permit the redemption thereof at the option of the issuer, the principal of and the interest on which when due and payable (or redeemable at the option of the holder thereof) will provide, together with any other money which shall have been deposited irrevocably in the Escrow Account for such purpose, an amount sufficient to pay, without reinvestment, the principal of, premium, if any, and interest on the Outstanding Bonds to be refunded; or

(b) if the Supplemental Resolution authorizing the issuance of the Additional Bonds provides for the creation of an Escrow Account and provides that amounts in such Escrow Account are pledged only to and may be used only for the payment of the

principal of, premium, if any, and interest on the Additional Bonds until the first optional Redemption Date of the Outstanding Bonds to be refunded (at which time such amounts must be transferred to the Debt Service Account and used to pay the principal of, premium, if any, and interest on the Outstanding Bonds to be refunded), a report of an Independent Accountant to the effect that the proceeds of such Additional Bonds to be deposited in such Escrow Account are in an amount sufficient to pay the principal of, premium, if any, and interest on the Additional Bonds payable until the first optional Redemption Date of the Outstanding Bonds to be refunded and to pay the principal of, premium, if any, and interest on all Outstanding Bonds to be refunded on such Redemption Date; or

(c) if (x) the Debt Service Requirements of the Additional Bonds exceed in any Fiscal Year by more than 5% the Debt Service Requirements of the Outstanding Bonds to be refunded or (y) if not all Outstanding Bonds of a series are to be refunded and if the first Stated Maturity of the series of Additional Bonds is earlier than the final Stated Maturity of the Outstanding Bonds of such series not to be refunded, the documents that would be required in respect of such Additional Bonds under Section 5.04(a) or 5.04(b); or

(d) if Additional Bonds are to be issued to refund Outstanding Notes issued under Section 5.07 in anticipation of the issuance thereof, and if the average interest rate on such Additional Bonds exceeds the maximum rate assumed upon the issuance of the Notes under Section 5.07(a), the documents that would be required in respect of such Additional Bonds under Section 5.04(a) or 5.04(b).

5.06. Subordinate Obligations Permitted. Nothing herein prevents the City from issuing subordinate bonds or incurring other obligations having a lien on the Net Revenues subordinate to the lien thereon of Bonds and payable from the Subordinate Obligations Account. Each Subordinate Obligation shall include in its title a word or phrase such as “subordinate” or “junior” or “second lien” and a clear statement that the lien thereof on Net Revenues is subordinate to the lien on all Bonds. No payment of principal of, premium, if any, or interest shall be made on any Subordinate Obligation if the City is then in default in the payment of principal or interest on any Bond, which will not be cured by the issuance of the Subordinate Obligations and no obligations may be issued pursuant to this Section 5.06 if a deficiency exists in the Debt Service Account, the Debt Service Reserve Account, or the Maintenance and Operating Reserve Account which is not to be restored by the issuance of the Subordinate Obligations. Any surplus Net Revenues segregated to pay such Subordinate Obligations are subject to the prior appropriation thereof to the Debt Service Account, the Debt Service Reserve Account, and the Maintenance and Operating Reserve Account if necessary to meet the requirements thereof.

5.07. Notes. The City may from time to time issue Notes in anticipation of the issuance of Additional Bonds subject to the following conditions:

(a) the Additional Bonds in anticipation of which the Notes are issued, assuming a maximum rate of interest on such Additional Bonds, shall be authorized to be issued under Section 5.04,

(b) the payment of interest on the Notes from Net Revenues shall be subordinated to Outstanding Bonds and the principal of the Notes shall be payable solely from the proceeds of the Additional Bonds, unless the City is unable to sell the Additional Bonds, in which case the Notes shall be exchanged for the Additional Bonds on a par-for-par basis bearing interest at the maximum rates assumed under subsection (a) of this Section 5.07, and

(c) the Notes shall have Stated Maturities within two years of their date of issue.

Section 6. Airport Fund and Accounts.

6.01. Continuation of Airport Fund. The City has established a separate fund designated as the Airport Fund, which shall be maintained as a separate bookkeeping account on the official books of the City until all Bonds and interest and redemption premiums due thereon have been fully paid, or the City's obligations with reference to such Bonds has been discharged as provided in Section 10. All proceeds of Bonds and all other funds presently on hand derived from the operation of the Airport and constituting Gross Revenues or Passenger Facility Charges or Customer Facility Charges are irrevocably pledged and appropriated to the Airport Fund. In addition, there is hereby irrevocably pledged and appropriated to the Airport Fund all investment earnings on all funds and accounts within the Fund.

6.02. Accounts. The following accounts have been established and shall be maintained as separate bookkeeping accounts in the Airport Fund:

- a) a Construction Account;
- b) a Revenue Account;
- c) a Maintenance and Operating Account;
- d) a Debt Service Account;
- e) a Debt Service Reserve Account;
- f) a Maintenance and Operating Reserve Account;
- g) a Subordinate Obligations Account;
- h) a Capital Account;
- i) a Passenger Facility Charge Account;
- j) a Customer Facility Charge Account; and
- k) a Rebate Account.

6.03. Construction Account. Within the Construction Account a separate subaccount shall be established for each series of Bonds any part of the proceeds of which are credited to the Construction Account. Upon delivery of the Series 2010A Bonds, the City shall credit to the 2010 Subaccount in the Construction Account, from the proceeds of the Series 2010A Bonds, the sum specified in Section 3.14(c). The Construction Account shall be used only to pay as incurred and allowed Project costs which are capital costs of Projects authorized in accordance with law and herein, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, interest accruing on Bonds during the period of construction of facilities financed thereby as described in this section, if and to the extent that the Debt Service Account is not sufficient for payment of

such interest, Costs of Issuance, reimbursement of any advances made from other City funds, and all other expenses incurred in connection with the construction and financing of such Projects (collectively, "Project Costs"). To the appropriate subaccount of the Construction Account shall be credited as received all proceeds of Bonds to be applied to the payment of Project Costs and any other funds appropriated by the City for an improvement, betterment or extension to the Airport, any funds received by the City as a grant in aid of construction of the Projects being financed from the proceeds of the Bonds and all income received from the investment of the Construction Account. Upon completion of a Project, the balance remaining in the subaccount of the Construction Account for the Bonds issued to finance that Project, net of any amounts required to be transferred to the Rebate Account as provided in Section 6.13, may be used to pay the cost of other capital improvements to the Airport, if the City receives an opinion of Bond Counsel that the financing of such improvement would not affect the tax exempt status of the Bonds, but if and to the extent not so used shall be transferred to the Debt Service Reserve Account to the extent required to establish the Reserve Requirement therein and, to the extent not so required, to the Debt Service Account.

6.04. Revenue Account. All Gross Revenues and all other revenues required to be deposited, other than any Passenger Facility Charge or Customer Facility Charge, shall be credited as received to the Revenue Account. On each Allocation Date, Gross Revenues in the Revenue Account shall be allocated to the Maintenance and Operating Account, Debt Service Account, Debt Service Reserve Account, Maintenance and Operating Reserve Account, Subordinate Obligations Account, and Capital Account in that order as provided in Sections 6.05 through 6.10 in the respective amounts called for by each such account, as described below. Amounts in the Revenue Account in excess of the requirements of the Maintenance and Operating Account, Debt Service Account, Debt Service Reserve Account, Maintenance and Operating Reserve Account, Subordinate Obligations Account, and Capital Account shall be retained in the Revenue Account and may be used by the City for any lawful purpose of the City relating to the Airport, including, but not limited to, the replacement or renewal or major repair of worn out, obsolete or damaged properties and equipment of the Airport or for improvements or additions to the Airport if so directed by the Council, to pay Maintenance and Operating Expenses, to make transfers to the Rebate Account, if necessary, to redeem Bonds which are subject to redemption according to their terms, to pay principal of or interest on Bonds to the extent of a shortfall in amounts required under Section 6.06 not otherwise satisfied as prescribed below, to make transfers to the Debt Service Reserve Account to the extent of a deficiency therein not otherwise satisfied as prescribed below, to fund the Maintenance and Operating Reserve Account, to fund the Renewal and Replacement Reserve Subaccount, and to fund the General Subaccount. In the event construction and installation of additional improvements or additions to the Airport are financed from Subordinate Obligations, surplus Net Revenues from time to time received may be segregated and paid into the Subordinate Obligations Account for the repayment of Subordinate Obligations and interest thereon, in advance of payments required to be made into the Capital Account, subject to the limitations of Section 5.06 above.

6.05. Maintenance and Operating Account. On and as of each Allocation Date, there shall be credited to the Maintenance and Operating Account, from the balance then on hand in the Revenue Account, such amount as may be required with any amount then on hand in the Maintenance and Operating Account to pay the Maintenance and Operating Expenses which are then due and payable or will become due and payable before the next Allocation Date (including any amount to be held as a reserve for transfer to the Rebate Account) plus such amount as is

reasonably necessary to accumulate in the Maintenance and Operating Account a balance for payment when due of items of Maintenance and Operating Expense not due and payable on a monthly basis. Money in the Maintenance and Operating Account shall be used solely for the payment when due of Maintenance and Operating Expenses and to make transfers to the Rebate Account, if necessary.

6.06. Debt Service Account. There is hereby created in the Debt Service Account a separate subaccount for the Series 2010A Bonds to be denominated the “2010 Debt Service Subaccount.” Upon the issuance of any series of Additional Bonds, the City shall establish a subaccount in the Debt Service Account relating thereto. Money on hand in a subaccount in the Debt Service Account shall be used to pay the principal of, premium, if any, and interest on the Bonds of the series to which such subaccount relates, as further provided in this Section 6.06. If no Bonds of a series are Outstanding, any available funds in the subaccount in the Debt Service Account relating to such series of Bonds shall be transferred to the other subaccounts in the Debt Service Account, pro rata, in proportion to the Debt Service Requirements with respect to each series of Bonds then Outstanding in the then current Fiscal Year.

On and as of each Allocation Date the City shall transfer for deposit in the appropriate subaccounts within the Debt Service Account as follows: (i) with respect to any Outstanding PFC Bonds, from amounts on hand in the Passenger Facility Charges Account an amount equal to one-sixth of the interest due and payable on the next Interest Payment Date or Dates from such account and one-twelfth of the principal, if any, due and payable on the next Principal Payment Date or Dates within the next twelve months on all Outstanding PFC Bonds to the subaccount or subaccounts in the Debt Service Account relating to such PFC Bonds (or if the Outstanding PFC Bonds are payable other than semi-annually as to interest and annually as to principal, an amount per month to accumulate to an amount due on the Interest Payment Date and Principal Payment Date); (ii) with respect to any Outstanding CFC Bonds, from amounts on hand in the Customer Facility Charges Account an amount equal to one-sixth of the interest due and payable on the next Interest Payment Date or Dates from such account and one-twelfth of the principal, if any, due and payable on the next Principal Payment Date or Dates within the next twelve months on all Outstanding CFC Bonds to the subaccount or subaccounts in the Debt Service Account relating to such CFC Bonds (or if the Outstanding CFC Bonds are payable other than semi-annually as to interest and annually as to principal, an amount per month to accumulate to an amount due on the Interest Payment Date and Principal Payment Date); and (iii) from the balance then on hand in the Revenue Account, after the required credit to the Maintenance and Operating Account, an amount equal to one-sixth of the interest due and payable on the next Interest Payment Date or Dates on all Bonds then Outstanding payable from such subaccount and one-twelfth of the principal, if any, due and payable on the next Principal Payment Date or Dates within the next twelve months on all Outstanding Bonds payable from such subaccount (or if the Outstanding Bonds are payable other than semi-annually as to interest and annually as to principal, an amount per month to accumulate to an amount due on the Interest Payment Date and Principal Payment Date), less the amount of any transfer to such subaccount with respect to Outstanding PFC Bonds and Outstanding CFC Bonds made on such date pursuant to clauses (i) and (ii) respectively of this sentence; provided, however, that on the Allocation Date immediately preceding each Interest Payment Date and each Principal Payment Date the amount to be credited to a subaccount in the Debt Service Account shall be increased or decreased, as the case may be, in order that the balance therein immediately after such credit will

equal the total amount due and payable from that subaccount on such Interest Payment Date or Principal Payment Date, and provided further that the allocations to the 2010A Debt Service Subaccount, commencing [_____, ____] and ending [_____, ____] shall be in amounts equal to [_____] of the interest due and payable on [_____, ____] and monthly allocations in respect of the payment of principal of the Series 2010A Bonds commence [_____, ____]. If on an Allocation Date, there are not sufficient Gross Revenues remaining after the required credit to the Maintenance and Operating Account to make the deposits required by the immediately preceding sentence to all subaccounts in the Debt Service Account, then the available amount of Gross Revenues shall be credited to the various subaccounts in the Debt Service Account, pro rata, in proportion to the Debt Service Requirements with respect to each series of Bonds then Outstanding in the then current Fiscal Year. Similarly, if on an Allocation Date, there are not sufficient Passenger Facility Charges or Customer Facility Charges to make the deposits required by the first sentence of this paragraph to the subaccounts in the Debt Service Account relating to all Outstanding PFC Bonds and Outstanding CFC Bonds, respectively, then the available amount of Passenger Facility Charges and Customer Facility Charges shall be credited to such subaccounts in the Debt Service Account, pro rata, in proportion to the Debt Service Requirements with respect to each series of PFC Bonds and CFC Bonds, respectively, then Outstanding in the then current Fiscal Year.

Money from time to time held in the Debt Service Account shall be disbursed only to meet payments of principal of, premium, if any, and interest on the Bonds as such payments become due, including payments of principal of, premium, if any, and interest on any Term Bonds on a Sinking Fund Payment Date or the Accreted Amount of Capital Appreciation Bonds (and payments under Credit Facility Obligations); provided that on any date when the balance then on hand in a subaccount in the Debt Service Account, plus the balance then on hand in the Debt Service Reserve Account, if any, is sufficient with other money available for the purpose to pay or discharge all Bonds of that series and the interest accrued thereon in full, and the balance on hand in all other subaccounts in the Debt Service Reserve Account will be at least equal to the Reserve Requirement for all Bonds not to be discharged, it may be used for that purpose.

If any payment of principal, premium or interest becomes due on Bonds when money in the subaccount in the Debt Service Account is insufficient therefor, an amount equal to such deficiency shall be transferred to the subaccount in the Debt Service Account from the Debt Service Reserve Account, or from the Passenger Facility Charge Subaccount or the Customer Facility Charge Subaccount with respect to such payments on PFC Bonds or CFC Bonds, respectively, not less than five Business Days prior to the Interest Payment Date, Principal Payment Date or Redemption Date, as the case may be.

Nothing herein shall preclude the City from remitting grant proceeds or other available funds in lieu of or in addition to Passenger Facility Charges or Customer Facility Charges.

6.07. Debt Service Reserve Account. Within the Debt Service Reserve Account there shall be established a separate subaccount for each series of Bonds; the subaccount for the Series 2010A Bonds is denominated the “2010A Debt Service Reserve Subaccount.” Upon delivery of the Series 2010A Bonds, the City shall credit to the 2010A Debt Service Reserve Subaccount from the proceeds of the Series 2010A Bonds, the sum specified in Section 3.14(d).

If on any Allocation Date, the balance in a subaccount created in the Debt Service Reserve Account created for any series of PFC Bonds or any series of CFC Bonds is less than the Reserve Requirement related thereto there shall be credited to such subaccount from the balance on hand in the Passenger Facility Charge Account or the Customer Facility Charge Account, as appropriate, after the required credit to the Debt Service Account for Outstanding PFC Bonds under Section 6.11 and for Outstanding CFC Bonds under Section 6.12, an amount sufficient to restore the balance in such subaccount to the Reserve Requirement for such Outstanding PFC Bonds or CFC Bonds, as appropriate; provided, however, that if such balance is insufficient to satisfy all such credits, then such balance shall be apportioned ratably to each such subaccount in proportion to the Reserve Requirement for each series of Outstanding PFC Bonds or CFC Bonds, as appropriate. If on any Allocation Date, after the foregoing allocations are made, the balance in the Debt Service Reserve Account is less than the Reserve Requirement, from the balance on hand in the Revenue Account after the required credits to the Maintenance and Operating Account and the Debt Service Account, there shall be credited to the Debt Service Reserve Account for deposit in the appropriate subaccounts therein an amount sufficient to restore the balance on hand in each of the subaccounts in the Debt Service Reserve Account to the Reserve Requirement for Bonds of the series secured thereby; provided, however, that if such balance is insufficient to satisfy all such credits, then such balance shall be apportioned ratably to each such subaccount in which a deficiency then exists in proportion to the Reserve Requirements for each series of Outstanding Bonds.

If on any Interest Payment Date, Principal Payment Date or Redemption Date the balance on hand in a subaccount in the Debt Service Account relating to a series of Bonds is less than the sum required to pay all principal, Accreted Amount, premium, and interest then due and payable on the Bonds of the series payable therefrom, the City forthwith shall transfer to such subaccount from the Debt Service Reserve Account an amount equal to such deficiency. If such transfer is made, the City shall transfer to the Debt Service Reserve Account an amount equal to the deficiency from funds on hand in the Airport Fund.

[If the City issues any Additional Bonds, the City shall from the proceeds of such Additional Bonds or other available funds increase the balance in the Debt Service Reserve Account to the Reserve Requirement, calculated after giving effect to the issuance of such Additional Bonds, simultaneously with the issuance of the Additional Bonds.]

Money in the Debt Service Reserve Account shall be used only to pay when due principal of, premium, if any, and interest on Bonds when the balance on hand in the Debt Service Account is insufficient therefor or to pay or defease Bonds as provided in Section 6.06 or Section 10. If at any time (including, but not limited to, any Interest Payment Date, any Principal Payment Date and any Redemption Date), the balance in the Debt Service Reserve Account exceeds the Reserve Requirement, the City shall transfer such excess to the Debt Service Account.

If it is determined upon any valuation of Qualified Investments in the Debt Service Reserve Account as required in Section 6.15, that the value of the Qualified Investments, together with any cash in the Debt Service Reserve Account is less than the Reserve Requirement, the City shall promptly remit from any available funds in the Airport Fund an amount necessary to cause the balance on hand in the Debt Service Reserve Account to equal the Reserve Requirement. If it is determined upon any valuation of Qualified Investments in the

Debt Service Reserve Account that the value of the Qualified Investments, together with any cash in the Debt Service Reserve Account is greater than one hundred percent (100%) of the Reserve Requirement, the amount so determined to be in excess of the Reserve Requirement shall be transferred to the Debt Service Account, except that prior to the Completion Date of a Project any such excess attributable to the series of Bonds that financed such Project shall be transferred to the Construction Account.

6.08. Maintenance and Operating Reserve Account. On and as of each Allocation Date there shall be credited to the Maintenance and Operating Reserve Account, from the balance then on hand in the Revenue Account, after the required credits to the Maintenance and Operating Account, the Debt Service Account, and the Debt Service Reserve Account such amount as is necessary to maintain a balance equal to the Maintenance and Operating Reserve Requirement. Money in the Maintenance and Operating Reserve Account shall be transferred to the Maintenance and Operating Account whenever the balance on hand in the Maintenance and Operating Account is not sufficient to pay all Maintenance and Operating Expenses then due and payable and to make transfers to the Rebate Account if necessary. Further, if the balance on hand in the Debt Service Account is insufficient to pay all Debt Service Requirements then due and payable therefrom after transferring thereto any available amount on hand in the Debt Service Reserve Account and any unencumbered funds retained in the Revenue Account under Section 6.04 above, an amount equal to all or a part of such deficiency may be transferred to the Debt Service Account from the Maintenance and Operating Reserve Account in the same manner as provided in the fourth paragraph of Section 6.06.

6.09. Subordinate Obligations Account. On and as of each Allocation Date there shall be credited to the Subordinate Obligations Account, from the balance then on hand in the Revenue Account, after the required credits to the Maintenance and Operating Account, the Debt Service Account, the Debt Service Reserve Account, and the Maintenance and Operating Reserve Account such amount as may be required to pay Subordinate Obligations, including reasonable reserves therefor, as provided by any Supplemental Resolution or other instrument. Money on hand in the Subordinate Obligations Account shall be transferred to the Maintenance and Operating Account, the Debt Service Account, the Debt Service Reserve Account, or the Maintenance and Operating Reserve Account if at any time the balance on hand in any such accounts, after any transfer elsewhere authorized is not sufficient to pay all costs payable therefrom.

6.10. Capital Account. The Capital Account shall be divided into four subaccounts: a Renewal and Replacement Reserve Subaccount, a General Subaccount, a Passenger Facility Charge Subaccount, and a Customer Facility Charge Subaccount.

(i) Renewal and Replacement Reserve Subaccount. On each Allocation Date, there shall be credited to the Renewal and Replacement Reserve Subaccount in the Capital Account, after the credits or transfers described in Section 6.08, from [available Net Revenues] [from the balance then on hand in the Revenue Account] such amount as is necessary to establish over a period of six months, or, if previously established, restore over a period of six months commencing on the first Allocation Date after the date of the deficiency arises, assuming approximately equal monthly credits, and thereafter maintain a balance in the Renewal and Replacement Reserve Subaccount equal to the Renewal and Replacement Reserve Requirement. Money in the Renewal and Replacement Reserve Subaccount shall be used only to pay the cost

of necessary and unanticipated or emergency repairs and replacements of Airport property as determined by the Director of Aviation and to make transfers to the Rebate Account, if necessary. If the balance in the Renewal and Replacement Reserve Subaccount exceeds the Renewal and Replacement Reserve Requirement, the City shall transfer such excess or any portion thereof to the General Subaccount in the Capital Account if required therein, and if not required, to the balance retained in the Revenue Account under Section 6.04.

(ii) General Subaccount. On each Allocation Date there shall be credited to the General Subaccount in the Capital Account from amounts remaining in the Revenue Account after the required credits to the Maintenance and Operating Account, Debt Service Account, and the Debt Service Reserve Account, the Maintenance and Operating Reserve Account, the Renewal and Replacement Reserve Subaccount and any credits to the Subordinate Obligations Account an amount necessary or appropriate to fund budgeted capital improvements for the Airport for the then-current Fiscal Year.

(iii) Passenger Facility Charge Subaccount. On each Allocation Date there shall be credited to the Passenger Facility Charge Subaccount in the Capital Account the balance on hand in the Passenger Facility Charge Account, after the required credits to the Debt Service Account and Debt Service Reserve Account. Moneys on hand in the Passenger Facility Charge Subaccount shall be used to redeem PFC Bonds, which are subject to redemption according to their terms, and to pay principal of and interest on Outstanding PFC Bonds when due thereon to the extent of a deficiency in the Debt Service Account and as required in Section 6.06 or to reimburse the City for or pay any eligible expenditures or to pay the cost of improvements or additions to the Airport or any other costs or expenses if authorized or not prohibited by the Federal Aviation Administration.

(iv) Customer Facility Charge Subaccount. On each Allocation Date there shall be credited to the Customer Facility Charge Subaccount in the Capital Account the balance on hand in the Customer Facility Charge Account, after the required credits to the Debt Service Account and Debt Service Reserve Account. Moneys on hand in the Customer Facility Charge Subaccount shall be used to redeem CFC Bonds, which are subject to redemption according to their terms, and to pay principal of and interest on Outstanding CFC Bonds when due thereon to the extent of a deficiency in the Debt Service Account and as required in Section 6.06 or to reimburse the City for or pay eligible expenditures or to pay the cost of improvements or additions to the Airport or any other costs or expenses as described in or permitted under the Customer Facility Charge Ordinance.

6.11. Passenger Facility Charge Account. Subject to the last sentence of this Section, all Passenger Facility Charges pledged to the repayment of PFC Bonds shall be credited as received into the Passenger Facility Charge Account. Amounts on hand in the Passenger Facility Charge Account are hereby pledged to the payment of any Outstanding Bonds that are issued as PFC Bonds. On each Allocation Date, so long as any PFC Bonds are Outstanding, the balance on hand in the Passenger Facility Charge Account shall be allocated to the Debt Service Account, the Debt Service Reserve Account, and the Passenger Facility Charge Subaccount in the Capital Account as provided in Sections 6.06, 6.07, and 6.10. If PFC Bonds are not Outstanding or to the extent Passenger Facility Charges are not pledged to the repayment of PFC Bonds, Passenger Facility Charges shall be credited as received directly to the Passenger Facility Charge Subaccount.

6.12. Customer Facility Charge Account. Subject to the last sentence of this Section, all Customer Facility Charges pledged to the repayment of CFC Bonds shall be credited as received into the Customer Facility Charge Account. Amounts on hand in the Customer Facility Charge Account are hereby pledged to the payment of any Outstanding Bonds that are issued as CFC Bonds. On each Allocation Date, so long as any CFC Bonds are Outstanding, the balance on hand in the Customer Facility Charge Account shall be allocated to the Debt Service Account, the Debt Service Reserve Account, and the Customer Facility Charge Subaccount in the Capital Account as provided in Sections 6.06, 6.07, and 6.10. If CFC Bonds are not Outstanding or to the extent Customer Facility Charges are not pledged to the repayment of CFC Bonds, Customer Facility Charges shall be credited as received directly to the Customer Facility Charge Subaccount.

6.13. Rebate Account. A Rebate Account shall be established and maintained as a separate account in the Airport Fund. The City shall make deposits to and disbursements from the Rebate Account or subaccounts therein in accordance with the Rebate Certificate, and shall invest money on hand in the Rebate Account pursuant to the requirements of the Rebate Certificate, and shall deposit income from such investments immediately upon receipt thereof in the Rebate Account.

6.14. Deposit and Investment of Funds. The Financial Services Manager shall cause all money pertaining to the Airport Fund and the Accounts therein to be deposited as received with one or more depository banks duly qualified in accordance with the provisions of M.C.A., Section 7-6-201, as amended, or applied to other lawful investments allowed under M.C.A., Title 7, Chapter 6, Part 2, as amended, or other applicable State law. The balance in such accounts, except such portion thereof as shall be guaranteed by federal deposit insurance, shall at all times be secured to its full amount by bonds or securities of the types set forth in said Sections 7-6-201 or 7-6-202 or other applicable law. Any such money not necessary for immediate use may be deposited with such depository banks in savings or time deposits; provided, however, that money in any particular account shall not be invested for a period of time beyond when it is required to be available for Airport purposes. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Airport Fund authorized in the Resolution; except that money from time to time on hand in the Airport Fund may at any time be deposited or invested in accounts or securities which are permitted by applicable laws of the State. Income from the deposit or investment of money in any account of the Airport Fund generally constitutes Gross Revenue as provided in the definition thereof. Amounts on hand in the Debt Service Reserve Account shall be invested in a qualified investment that matures no later than five years from the date the investment is made. Passenger Facility Charges shall be invested as permitted by applicable laws.

6.15. Valuation of Investments. All Accounts invested in Qualified Investments shall be valued semiannually five (5) business days prior to each Interest Payment Date.

For purposes of this Section, the value of any investments shall be calculated as follows:

- (a) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*):

the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(b) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers selected by the Registrar in its absolute discretion at the time making a market in such investments or the bid price published by a nationally recognized pricing service; and

(c) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest.

Section 7. Covenants.

7.01. General. The City covenants and agrees with the Holders from time to time of all Bonds that the recitals contained in Sections 1.03 and 1.04 are correct; and that until all Bonds are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the Airport as a public convenience, and will hold the Airport Fund free from all liens thereon or on the income therefrom other than the liens herein granted or provided for, and will maintain, expend and account for its Airport Fund and the several accounts therein as provided in Section 6, and will not incur a further lien or charge on the Gross Revenues of the Airport except upon the conditions and in the manner prescribed in Section 5, and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Section 7. The City further covenants that it will operate the Airport in an efficient manner with due regard for the interest of the public and at all times will maintain it in good condition, repair and working order. The City may, in accordance with the Act, at any time create a board upon which the Council may, by City Resolution, confer responsibility, subject to this Resolution, for operation, management, maintenance and improvement of the Airport.

7.02. Competing Service. The City will not establish any other aviation or Airport parking facilities in direct competition with the Airport that would result in a reduction of Net Revenues below the minimum to be maintained as provided in Section 7.11.

7.03. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the Airport to be insured with a reputable insurance carrier or carriers, qualified under the laws of Montana, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain such insurance, it will obtain insurance in such amounts and against such risks as is reasonably obtainable. The proceeds of all such insurance remaining after the payment of the costs and expenses of obtaining such proceeds shall be credited upon receipt to the Construction Account and used in payment of the cost of repairing, restoring or replacing the damaged or destroyed property; provided that, the proceeds of such insurance may, at the discretion of the Council, be applied to effect an extraordinary optional redemption of the Bonds as provided in Section 3.07. If for any reason insurance proceeds are insufficient for the repair, replacement and reconstruction of the insured property and the City has not applied them

to an extraordinary optional redemption, the City shall supply the deficiency from other Airport funds available for that purpose. All insurance proceeds received in excess of the amount required for repair, restoration or replacement of the loss or damage or in excess of the amount applied to an extraordinary optional redemption may be transferred to the Capital Account to the extent needed therein and, if not, may be added to the balance retained in the Revenue Account.

7.04. Liability Insurance and Surety Bonds. The City will carry insurance against liability of the City and its employees for damage to persons and property resulting from the operation of the Airport in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain such insurance, it will obtain insurance in such amounts and against such risks as is reasonably obtainable. It will also cause all persons handling money and other assets of the Airport Fund to be adequately bonded for the faithful performance of their duties and to account for and pay over such money to the City. All amounts received under such insurance and bonds shall be applied to the payment of the loss or damage covered thereby or may at the discretion of the City be applied to effect an extraordinary optional redemption of the Bonds as provided in Section 3.07. The premiums for all insurance and bonds required by this Section and Section 7.03 constitute Maintenance and Operating Expenses, but no liabilities of the City in excess of amounts received under such insurance and bonds shall constitute a lien or charge on revenues or any other assets herein or otherwise pledged to the Airport Fund.

7.05. Business Interruption Insurance. The City will at all times carry with a responsible insurance company, to the extent not provided for in leases and agreements between the City and others relating to the Airport, insurance covering the loss of revenues from the Airport by reason of necessary interruption, total or partial, in the use thereof, resulting from damage thereto, or destruction thereof, however caused, in such amount as shall be estimated by the City in consultation with the Insurance Consultant to be sufficient to provide a full normal income during the period of suspension subject to certain conditions.

7.06. Disposition of Property. Subject to the Resolution, the City will not mortgage, sell or otherwise dispose of any real or personal properties of the Airport, unless:

(a) Prior to or simultaneous with such mortgage, sale or other disposition, all of the Bonds then Outstanding shall be discharged as provided in Section 9; or

(b) (i) if the value of property to be disposed of in any Fiscal Year exceeds \$300,000 on an aggregate basis or \$200,000 for any one item of property, the Director of Aviation files in the office of the City Clerk a Certificate of a Consulting Engineer or Qualified Real Estate Appraiser if the property to be disposed of is real property, that the properties to be mortgaged, sold or otherwise disposed of are unserviceable, inadequate, obsolete or are not required for use in connection with the Airport; and that the mortgage, sale or other disposition will not prevent the City from complying with the provisions of the Resolution; or

(ii) if the interest to be conveyed is an easement, and the Director of Aviation files in the office of the City Clerk a certificate of the Director of

Aviation that the easement will not affect the operation of the Airport or prevent the City from complying with the provisions of the Resolution; or

(iii) if the property is conveyed in compliance with regulations by the Federal Aviation Administration, and the Director of Aviation files in the office of the City Clerk a certificate of the Director of Aviation that the transfer will not affect the operation of the Airport or prevent the City from complying with the provisions of the Resolution; or

(iv) the mortgage, sale or other disposition will not prevent the City from complying with the provisions of the Resolution apart from this Section; and

(v) all proceeds of the mortgage, sale or other disposition of such properties are credited to the Airport Fund.

The City may, however, transfer all or a substantial part of the Airport to another body politic and corporate (including without limitation any successor of the City) if such body politic and corporate succeeds to the duties, privileges, powers, liabilities, disabilities, immunities and rights of the City with respect to the Airport, or substantially all thereof, including all obligations of the City under the Resolution, if in the Opinion of Bond Counsel such transfer shall not adversely and materially affect the privileges and rights of any Holder of any Outstanding Bond.

7.07. Annual Budgets. By the end of each June, the Director of Aviation will cause to be prepared a proposed Annual Budget stating the monthly expenditures required for operation and maintenance during that year and the payments required to be made into the Debt Service Account, the Debt Service Reserve Account, the Maintenance and Operating Reserve Account and the Renewal and Replacement Subaccount, and the rates, fees, charges and rentals to be paid and the taxes to be levied, if any, and collected during the year. Copies of the Annual Budget adopted and approved by the City Council and the established rates, fees, charges, rentals and taxes, if any, will be filed with the City Clerk.

7.08. Books and Records. The City will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the Airport, the Gross Revenues derived from its operation, and the segregation and application of the Gross Revenues, the Passenger Facility Charges and the Customer Facility Charges in accordance with this Resolution, in such reasonable detail as may be determined by the City in accordance with generally accepted accounting principles. It will cause such books to be maintained on the basis of a Fiscal Year. The City shall, within 270 days after the close of each Fiscal Year, cause to be prepared a financial report with respect to the Airport for such Fiscal Year. The report shall be prepared at the direction of the Financial Services Manager in accordance with applicable generally accepted accounting principles applicable to governmental entities and, in addition to whatever matters may be thought proper by the Financial Services Manager to be included therein, shall include the following:

(a) A statement in detail of the income and expenditures of the Airport for the Fiscal Year, identifying capital expenditures and separating them from Maintenance and Operating Expenses;

- (b) A balance sheet as of the end of the Fiscal Year;
- (c) The balance on hand in each account of the Airport Fund at the end of the Fiscal Year;
- (d) A list of the insurance policies and fidelity bonds in force at the end of the Fiscal Year, setting out as to each the amount thereof, the risks covered thereby, the name of the insurer or surety and the expiration date of the policy or bond; and
- (e) A determination that the report shows full compliance by the City with the provisions of the Resolution during the Fiscal Year covered thereby, including proper segregation of the capital expenditures from Maintenance and Operating Expenses, maintenance of the Reserve Requirement in the Debt Service Reserve Account, and receipt of Net Revenues during such Fiscal Year as herein required, or, if the report reveals that the Net Revenues have been insufficient for compliance with this Resolution, or that the methods used in accounting for such revenues were contrary to any provision of this Resolution, the report shall include a full explanation thereof, together with recommendations for such change in rates or accounting practices or in the operation of the Airport as may be required.

The City shall also have prepared, within 270 days after the close of each Fiscal Year, an audit report prepared by an Independent Accountant in accordance with generally accepted accounting principles and practice with respect to the financial statements and records of the Airport. The audit report shall include an analysis of the City's compliance with the provisions of this Resolution.

7.09. Cost of Insurance and Accounting. The insurance and fidelity bond premiums and the cost of the bookkeeping and audits herein provided for and of the billings and collection of the Gross Revenues shall be payable from the Maintenance and Operating Account.

7.10. Handling of Funds. The employees of the City, under the direction and control of the Director of Aviation, shall keep books of account and collect the rates, fees, charges and rentals for the services and facilities provided by the Airport and for other money currently receivable on account thereof. All money collected with respect to the Airport shall be deposited as directed by the Financial Services Manager in accordance with the provisions of the Resolution. The Financial Services Manager and Director of Aviation shall be bonded at all times with a surety company authorized to do business in Montana, in an amount determined by the City Council, to assure the faithful carrying out of their duties. The cost of such fidelity bond or a reasonably allocated share of the costs of any blanket fidelity bond relating to moneys relating to the Airport shall be considered a Maintenance and Operating Expense.

7.11. Rate Covenant.

- (a) The City covenants and agrees that it will at all times fix, impose, charge and collect such rates, fees, charges and rentals for the services, privileges, and facilities provided and made available by the Airport and shall revise the same whenever and as often as may be necessary, so as to produce in each Fiscal Year (i) in respect of Outstanding Bonds, Net Revenues, (ii) in addition in respect of only Outstanding PFC

Bonds, Passenger Facility Charges, and (iii) in addition in respect of only Outstanding CFC Bonds, Customer Facility Charges, equal in the aggregate to at least 125% of the Debt Service Requirements of such Bonds for such Fiscal Year (the "Rate Covenant"). For purposes of satisfying the Rate Covenant, the City may take Passenger Facility Charges and Customer Facility Charges into consideration only in the event there are then Outstanding PFC Bonds or Outstanding CFC Bonds, respectively, and the amount of the Passenger Facility Charges or Customer Facility Charges to be taken into consideration is limited to 125% of the Debt Service Requirements for such Fiscal Year of the PFC Bonds or CFC Bonds, respectively.

(b) If the City enters into use agreements with airlines or other private entities, the City covenants it will at all times enforce the provisions thereof and shall at all times enforce its rates and charges and promptly collect the amount payable thereunder and, in the event payment is not made, will take all reasonable and proper steps to enforce collection thereof, including the filing of liens.

(c) If the audited financial statements for any Fiscal Year indicate that the City has not complied with the Rate Covenant, then the City shall either (i) promptly undertake, on its own behalf, a review of the reasons for the failure to comply with the Rate Covenant and make such revisions to its rates, fees, charges and rentals for the services, privileges, and facilities provided and made available by the Airport or methods of operations as it deems necessary to comply with the Rate Covenant and, within sixty (60) days after receipt of the audited financial statements, file with the City Council a certificate of the Director of Aviation and the Financial Services Manager stating that the revised schedule of rates, rentals and other charges, or changes in methods of operation then in effect are projected to comply with the Rate Covenant; or (ii) within thirty (30) days after the receipt of the audited financial statements for such Fiscal Year, employ an Airport Consultant to review and analyze the financial status, administration and operations of the Airport and to submit to the City, within sixty (60) days thereafter, a written report on the same, including the action which the Airport Consultant recommends should be taken by the City with respect to the revision of its rates, fees, charges and rental and the alteration of its methods of operation or the taking of other action that is projected to produce the Net Revenues required by the Rate Covenant in the immediately following twelve (12) month period. Promptly upon its receipt of the recommendations, the City shall, after giving due consideration to the recommendations, revise its rates, fees, charges and rentals and alter its methods of operation of the Airport, which revisions or alterations need not comply with the Airport Consultant's recommendations, but which are projected to comply with the Rate Covenant.

7.12. Contractual Obligations. The City shall perform all contractual obligations undertaken by it under leases or other agreements with the federal government, under the contract to purchase each series of Bonds with the Original Purchaser thereof, and any other agreements with all other persons relating to the Bonds, the Gross Revenues, the Passenger Facility Charges, the Customer Facility Charges, or the Airport.

7.13. Compliance with PFC Regulations. The City shall comply with all regulations, policies and requirements imposed by the Federal Aviation Administration pertaining to Passenger Facility Charges.

Section 8. Default and Remedies. In the event of default on the part of the City in the prompt and full payment of principal of or interest on any Bond, or in the keeping of any covenant herein contained, and if such default shall continue for a period of sixty (60) days, or if the default is other than the failure to make prompt and full payment of principal of or interest on any Bond and cannot reasonably be cured within sixty (60) days, if the City has failed as soon as reasonably practicable to commence curing such default and prosecuting the cure continuously and diligently to completion, the City will appoint a special superintendent for the Airport, with the power and responsibility to operate the Airport for the City, and to recommend to the Council such revisions of the rates and charges and operating policies as may be necessary to comply with the Resolution, and to assure that the Gross Revenues and Passenger Facility Charges or Customer Facility Charges, if applicable, will be sufficient to pay all principal of and interest on Bonds, and he shall in all things so operate the Airport as to comply fully with all the requirements and provisions of the Resolution. The right of the Holders of the Bonds to require employment of such a superintendent shall not be exclusive, and in the event of default as herein outlined, such Holders, subject to the limitations of the following paragraph, shall have the right to proceed at law or in equity, in any form of action which shall to them seem appropriate.

No Holder of any Bond shall have the right to institute any proceeding, judicial or otherwise, for the enforcement of the covenants herein contained, except as provided in this Section. The Holders of not less than 25% in principal amount of the Outstanding Bonds shall have the right, either at law or in equity, through suit, action or other proceedings, to protect and enforce the rights of all Holders of such Bonds and to compel the performance of any and all of the covenants required herein to be performed by the City, and its officers and employees, including but not limited to the fixing and maintaining of rates, fees and charges and the collection and proper segregation of Gross Revenues, the Passenger Facility Charges, and the Customer Facility Charges and the application and use thereof. The Holders of 51% or more in principal amount of Outstanding Bonds shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Bondholders or the exercise of any power conferred on them and the right to waive a default in the performance of any such covenant, and its consequences, except a default in the payment of the principal of or interest on any Bond when due. Nothing herein, however, shall impair the absolute and unconditional right of the Holder of each Bond to receive payment of the principal of, premium, if any, and interest on such Bond as such principal, premium and interest respectively become due, and to institute suit for any such payment. Any court having jurisdiction of the action may appoint a receiver to administer the Airport on behalf of the City with power to charge and collect rates, fees and charges sufficient to provide for the payment of any Bonds, and to apply the Gross Revenues in conformity with the Resolution and the laws of the State.

Section 9. Supplemental Resolutions.

9.01. Without Bondholder Consent. Notwithstanding Section 9.02 hereof, the City reserves the right to adopt Supplemental Resolutions from time to time and at any time, for the purpose of curing any ambiguity or eliminate any inconsistency herein or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as the City may deem necessary or desirable and not inconsistent with the Resolution, and which shall not adversely affect the interests of the Holders of Outstanding Bonds, or for the purpose of adding to the covenants and agreements herein contained, other covenants and agreements thereafter to be observed and

additional revenues or income thereafter appropriated to the Airport Fund, or for the purpose of surrendering any right or power herein reserved to or conferred upon the City, or for the purpose of preserving the tax-exempt status of any Bonds, or for the purpose of authorizing the creation and issuance of a series of Additional Bonds or authorizing Subordinate Obligations, as provided in and subject to the conditions and requirements of Section 5 hereof. Any such Supplemental Resolution may be adopted, without notice to or the consent of the Holder of any of the Bonds issued hereunder. Without limitation of the meaning or scope of the foregoing sentence, the City reserves the right to issue Additional Bonds payable from or secured in whole or in part by a limited tax levy pursuant to Sections 67-10-402 and 67-11-302, M.C.A., or any successor or amendatory statutes, or a deficiency tax levy pursuant to Section 67-11-303, M.C.A., or any successor or amendatory statutes, without the consent of the Holder of any Bonds issued hereunder.

9.02. With Consent of Bondholders. With the consent of the Holders of a majority in aggregate principal amount of the Outstanding Bonds as provided in Section 9.04, the City may from time to time and at any time adopt a Supplemental Resolution for the purpose of amending the Resolution by adding any provisions hereto or changing in any manner or eliminating any of the provisions of this Original Resolution or of any Supplemental Resolution, except that no Supplemental Resolution shall be adopted at any time without the consent of the Holders of all Bonds then Outstanding, if it would extend the time of payment of interest thereon, would reduce the amount of the principal or Accreted Amount thereof, would give to any Bond or Bonds any privileges over any other Bond or Bonds, would reduce the sources of revenues or income appropriated to the Airport Fund, or would reduce the percentage in principal amount of such Bonds required to authorize or consent to any such Supplemental Resolution.

9.03. Notice. Notice of a Supplemental Resolution to be adopted pursuant to Section 9.02 shall be mailed by the City, by first-class mail, postage prepaid, to the Registrar, to the Holders of all Bonds at their addresses appearing in the Bond Register, and shall become effective only upon the filing with the City Clerk of written consents, signed by the Holders of not less than fifty-one percent in principal amount of the Bonds then Outstanding. Any written consent to the Supplemental Resolution may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by Holders in person or by agents duly appointed in writing, and shall become effective when delivered to the City Clerk. Any consent by the Holder of any Bond shall bind that Holder and every future Holder of the same Bond with respect to any Supplemental Resolution adopted by the City pursuant to such consent, provided that any Holder may revoke his consent with reference to any Bond by written notice received by the City Clerk before the Supplemental Resolution has become effective. In the event that unrevoked consents of the Holders of the required amount of Bonds have not been received by the City Clerk within one year after the mailing of notice of the Supplemental Resolution, the Supplemental Resolution and all consents theretofore received shall be of no further force and effect.

9.04. Manner of Consent. Proof of the execution of any consent, or of a writing appointing any agent to execute the same, or of the ownership by any Person of Bonds, shall be sufficient for any purpose of this Resolution and shall be conclusive in favor of the City if made in the manner provided in this Section. The fact and date of the execution by any Person of any such consent or appointment may be proved by the affidavit of a witness of such execution or by

the certification of any notary public or other officer authorized by law to take acknowledgment of deeds, certifying that the Person signing it acknowledged to him the execution thereof. The fact and date of execution of any such consent may also be proved in any other manner which the City may deem sufficient; but the City may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. The ownership of Bonds shall be proved by the Bond Register.

Section 10. Defeasance.

10.01. General. When the liability of the City on any Bond and all interest thereon has been discharged as provided in this Section, such Bond shall no longer be deemed Outstanding and all pledges, covenants and other rights granted by this Resolution to the Holders of such Bond shall cease (except as to rights hereunder of Holders to receive payments of principal of and interest on the Bonds, as beneficiaries hereof with respect to the amounts, if any, deposited with the Paying Agent). Amounts deposited pursuant to Sections 10.02, 10.03 and 10.04 shall be accompanied by a certificate or opinion of an Independent Accountant as to the sufficiency thereof.

10.02. At Maturity. The City may discharge its liability with reference to any Bond and interest thereon by depositing with the Paying Agent for such Bonds on or before the Stated Maturity of such Bond a sum sufficient for the payment in full of the principal thereof and all interest due and payable thereon on and prior to its Stated Maturity; or if any Bond or interest thereon shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Paying Agent a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

10.03. Upon Redemption. The City may also discharge its liability with reference to any Bonds which are called for redemption on any date in accordance with their terms, by depositing with the Paying Agent on or before that date an amount equal to the principal, interest, Accreted Amount and redemption premium, if any, which are then due thereon, provided that notice of such redemption has been duly given as provided in this Resolution.

10.04. Escrow. The City may also at any time discharge its liability in its entirety with reference to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in an Escrow Account, cash or Government Obligations authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal, Accreted Amount, interest and redemption premiums, if any, to become due on such Bonds at their Stated Maturities or, if such Bonds are subject to redemption and notice of redemption thereof has been given or irrevocably provided for, to such earlier Redemption Date.

Section 11. Tax Matters.

11.01. General Covenant. The City covenants and agrees with the Holders from time to time of the Series 2010A Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2010A

Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the interest on the Series 2010A Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

The City provides as follows:

- (a) the Series 2010A Bonds are being issued as “exempt facility bonds” pursuant to Section 142(a)(1) of the Code, the facilities being refinanced by the Series 2010A Bonds, including any leased facilities, are owned by the City within the meaning of Section 142(b) of the Code, and 95% or more of the net proceeds of the Series 2010A Bonds will be used to provide or refinance airport facilities owned by the City;
- (b) the City was not required to obtain a volume allocation for the Series 2010A Bonds pursuant to Section 146(g) of the Code;
- (c) the remaining estimated useful life of the airport facilities refinanced by the Series 2010A Bonds is not less than 20 years;
- (d) no portion of the proceeds of the Series 2010A Bonds will be used to provide any of the facilities described in Section 147(e) of the Code;
- (e) the public approval requirements of Section 147(f) of the Code, relating to the refunding effected by the Series 2010A Bonds, have been satisfied with respect to the Series 2010A Bonds; and
- (f) as required by Section 147(g) of the Code, no more than 2% of the proceeds of the Series 2010A Bonds will be used to finance issuance costs of the Series 2010A Bonds.

11.02. Arbitrage Certification. The Mayor, the City Clerk and the Financial Services Manager, being the officers of the City charged with the responsibility for issuing the Series 2010A Bonds pursuant to this Original Resolution, are authorized and directed to execute and deliver to the Original Purchaser thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2010A Bonds, it is reasonably expected that the proceeds of the Series 2010A Bonds will be used in a manner that would not cause the Series 2010A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

11.03. Arbitrage Rebate. The City acknowledges that the Series 2010A Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2010A Bonds from gross income for federal income tax purposes. In furtherance of the foregoing, the Financial Services Manager is hereby authorized and directed to execute a Rebate Certificate, substantially in the form of the Rebate Certificate currently on file in the office of the City Clerk, and the City hereby covenants

and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

11.04. Information Reporting. The City shall file with the Secretary of the Treasury, not later than [_____], 2010, a statement concerning the Series 2010A Bonds containing the information required by Section 149(e) of the Code.

Section 12. Continuing Disclosure.

(a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Series 2010A Bonds and the security therefor and to permit the Original Purchaser and other participating underwriters in the primary offering of the Series 2010A Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the “Rule”), which will enhance the marketability of the Series 2010A Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the Outstanding Series 2010A Bonds. The City through the Airport Fund is the only “obligated person” in respect of the Series 2010A Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

If the City fails to comply with any provisions of this Section, the Owners of any Outstanding Bonds may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Section, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section constitute a default under the Series 2010A Bonds or under any other provision of this Resolution.

As used in this Section, “Owner” or “Bondowner” means, in respect of a Series 2010A Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any “Beneficial Owner” (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, “Beneficial Owner” means, in respect of a Bond, any person or entity which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bond (including persons or entities holding Series 2010A Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of the Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(1) to the Municipal Securities Rulemaking Board (the “MSRB”) in an electronic format as prescribed by the MSRB, on or before 270 days after the end of each fiscal year of the City,

commencing with the fiscal year ending June 30, 2011, the following financial information and operating data in respect of the City (the “Disclosure Information”):

(A) the audited financial statements of the City (or the Airport if separate audited financial statements are prepared) for such fiscal year, accompanied by the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Montana, containing balance sheets as of the end of such fiscal year and a statement of operations, changes in fund balances and cash flows for the fiscal year then ended, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the Financial Services Manager of the City; and

(B) Information of the type set forth below, which information may be unaudited, but is to be certified as to accuracy and completeness in all material respects by the City’s Financial Services Manager to the best of his or her knowledge, which certification may be based on the reliability of information obtained from governmental or other third party sources:

1. Information, for such fiscal year, of the type contained in the table under the caption “Historical & Historical Pro Forma Debt Service Coverage” in the Official Statement;

2. Information, for such fiscal year, of the type contained in the tables under the captions “The Airport—Operations at the Airport—Historical Airline Market Shares,” and “The Airport—Destinations—Historical Passenger Airline Traffic” in the Official Statement; and

3. Information, for such fiscal year, relating to the Airport and updating the operating results of the Airport of the type contained in the tables in Appendix A to the Official Statement.

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the

Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements.

Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been submitted to the MSRB as described under subsection (c). If the document incorporated by reference is a final official statement, it must be available from the MSRB. The City shall clearly identify in the Disclosure Information each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the Airport have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (2) hereof), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations.

If the Disclosure Information is changed or this Section is amended as permitted by this paragraph (b)(1) or subsection (d), then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

(2) In a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Series 2010A Bonds:

- (A) Principal and interest payment delinquencies;
- (B) Non-payment related defaults, if a Material Fact;
- (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) Substitution of credit or liquidity providers, or their failure to perform;
- (F) Adverse tax opinions, the issuance by the Internal Revenue System of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2010A Bonds, or other event affecting the tax-exempt status of the security that is a Material Fact;
- (G) Modifications to rights of security holders, if a Material Fact;
- (H) Bond calls, if a Material Fact, and tender offers;
- (I) Defeasances;
- (J) Release, substitution, or sale of property securing repayment of the securities, if a Material Fact; and
- (K) Rating changes;

(L) Bankruptcy, insolvency, receivership or similar event of the obligated person; provided that such event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person;

(M) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(N) Appointment of a successor or additional trustee or the change of name of a trustee, if a Material Fact.

As used herein, a “Material Fact” is a fact as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Series 2010A Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the foregoing sentence, a “Material Fact” is also an event that would be deemed “material” for purposes of the Rule.

(3) In a timely manner, notice of the occurrence of any of the following events or conditions:

(A) the failure of the City to provide the Disclosure Information required under paragraph (b)(1) at the time specified thereunder;

(B) the amendment or supplementing of this Section pursuant to subsection (d), together with a copy of such amendment or supplement and any explanation provided by the City under subsection (d)(2);

(C) the termination of the obligations of the City under this Section pursuant to subsection (d);

(D) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information or the audited financial statements, if any, furnished pursuant to subsection (b)(1) are prepared; and

(E) any change in the fiscal year of the City.

(c) Manner of Disclosure. The City agrees to make available the information described in subsection (b) to the following entities by telecopy, overnight delivery, mail or other means, as appropriate:

(1) the information described in paragraph (1)(B), (2) and (3) of subsection (b), to the MSRB via the Electronic Municipal Market Access System (“EMMA”) operated by the MSRB or in a manner as may be otherwise proscribed by the MSRB consistent with the Rule; and

(3) the information described in subsection (b), to any rating agency then maintaining a rating of the Series 2010A Bonds and, at the expense of such Bondowner, to any Bondowner who requests in writing such information, at the time of transmission under paragraph (1) of this subsection (c), or, if such information is transmitted with a subsequent time of release, at the time such information is to be released.

(4) All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(d) Term; Amendments; Interpretation.

(1) The covenants of the City in this Section shall remain in effect so long as any Series 2010A Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this Section shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this Section will not cause participating underwriters in the primary offering of the Series 2010A Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.

(2) This Section (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(3) hereof) or the consent of the Owners of any Series 2010A Bonds, by a resolution of this Council filed in the office of the City Clerk of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the Airport or the type of operations conducted by the Airport, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this Section as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Series 2010A Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

(3) This Section is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

(e) Further Limitation of Liability of City. In and to the extent the limitations of liability contained in subsection (a) are not effective, anything contained in this Section to the contrary notwithstanding, in making the agreements, provisions and covenants set forth in this Section, the City has not obligated itself except with respect to the Net Revenues. None of the agreements or obligations of the City contained herein shall be construed to constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions whatsoever or constitute a pledge of the general credit or taxing powers of the City.

Section 13. Transcript Certification. The officers of the City are directed to furnish to Bond Counsel and the Original Purchaser of the Series 2010A Bonds certified copies of all proceedings and information in their official records relevant to the authorization, sale, execution and issuance of the Series 2010A Bonds, and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and security of the Series 2010A Bonds, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

Section 14. Miscellaneous.

14.01. Effective Date. This Resolution shall become effective upon its passage and all provisions of ordinances, resolutions and other actions and proceedings of the City which are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

14.02. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be observed or performed by the City shall be contrary to law, then such agreement or agreements, such covenant or covenants, or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements or the covenants or portions thereof and shall in no way affect the validity hereof or of the Bonds; and the Bondholders shall retain all rights and benefits accorded them under any applicable provisions of law.

14.03. Benefits of the Bond Resolution Limited to Parties. Nothing contained herein, express or implied, is intended to give any Person other than the City and the Bondholders any right, remedy, or claim under or by reason hereof. Any agreement, promise or covenant contained or required herein to be made or performed by or on behalf of the City or any officer or employee thereof shall be for the sole and exclusive benefit of the City and the Bondholders.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this ____ day of _____, 2010.

Mayor

Attest: _____
City Clerk

EXHIBIT A

[Face of the Series 2010A Bonds]

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF YELLOWSTONE
CITY OF BILLINGS

AIRPORT REVENUE REFUNDING BOND
SERIES 2010A

No. _____ \$ _____

<u>Interest Rate</u>	<u>Principal Payment Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
		[____], 2010	

REGISTERED HOLDER:

PRINCIPAL AMOUNT:

The City of Billings (the “City”), a duly organized political subdivision and city of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the registered holder identified above or registered assigns, solely from the Net Revenues of the Airport in the Debt Service Account of its Airport Fund, the principal amount specified above on the Principal Payment Date specified above, or, if this Bond is redeemable as stated below, on an earlier date on which it shall have been duly called for redemption, upon presentation and surrender hereof at the principal office of U.S. Bank National Association, of Seattle, Washington, at its operations center in St. Paul, Minnesota, as Bond Registrar and Paying Agent (the “Registrar”), or duly appointed successor, and promises to pay interest thereon, but only from the same source, from [____], 2010, or from such later date to which interest has been paid or duly provided for, until the principal amount hereof is paid or until this Bond, if redeemable, has been duly called for redemption, at the annual interest rate specified above. Interest is payable semiannually on January 1 and July 1 in each year, commencing January 1, 2011, to the registered holder of this Bond as such appears of record in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month (the “Record Date”). Interest so payable and punctually paid or provided for on any Interest Payment Date will be paid to the Person in whose name this Bond is registered at the close of business on the Record Date for such interest. Interest is calculated on the basis of a 360-day year consisting of twelve 30-day months. The principal of and interest on this Bond are payable in lawful money of the United States of America.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this

Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

This Bond is one of a duly authorized issue of Bonds of the City designated as “Airport Revenue Bonds” (collectively, the Bonds), issued and to be issued in one or more series under, and all equally and ratably secured by, a resolution adopted by the City Council on [____], 2010 (the “Resolution”), to which Resolution, copies of which are on file with the City and Bond Registrar, reference is hereby made for a description of the nature and extent of the security, the conditions under which Additional Bonds may be issued on a parity with the Series 2010A Bonds, the conditions under which the Resolution may be amended and the rights of the Holders of the Bonds. Terms used with initial capital letters but not defined in this Bond shall have the meanings given them in the Resolution. As provided in the Resolution, the Bonds are issuable in series which may vary as in the Resolution provided or permitted. Additional Bonds may be issued on a parity as to Net Revenues with the Series 2010A Bonds, and such Additional Bonds may as well be CFC Bonds or PFC Bonds. This Bond is one of the series specified in its title (the “Series 2010A Bonds”), issued in the aggregate principal amount of \$[____], all of like date of original issue and tenor except as to serial number, denomination, interest rate, date, and maturity date. The Series 2010A Bonds are issued by the City for the purpose of refunding the Airport Revenue Bonds, Series 2000, of the City maturity in 2011 and thereafter, and paying costs of issuing the Series 2010A Bonds and of the refunding.

The Series 2010A Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly Montana Code Annotated, Title 67, Chapter 11, Parts 3 and 4, as amended (the “Act”), and the home rule charter of the City, and pursuant to the Resolution. The Bonds are payable solely, equally and ratably from the Net Revenues of the Airport, as defined in the Resolution and which by the Resolution are pledged to the Debt Service Account of the Airport Fund. The Series 2010A Bonds are not general obligations of the City and the City’s general credit and taxing powers are not pledged to the payment of the Series 2010A Bonds or the premium, if any, or interest thereon. The Series 2010A Bonds do not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provisions.

[Mandatory Redemption Provisions, if any.]

The Series 2010A Bonds are not subject to redemption at the option of the City prior to their Stated Maturities, except as provided below in this paragraph. The Bonds, including the Series 2010A Bonds, are subject to redemption prior to maturity by the City, to the extent of available Net Proceeds of insurance or condemnation, in the event: (1) the Airport or any portion thereof is damaged, destroyed or condemned, (2) the Net Proceeds of insurance or condemnation received in connection therewith exceed the greater of (a) three percent of property, plant and equipment assets of the Airport or (b) \$500,000, and (3) the City elects to have all or any part of such Net Proceeds applied to the prepayment of the Bonds. If called for redemption in any such event, the Bonds shall be subject to redemption in whole at any time, or in part on any interest payment date, and if in part, from series and by maturities designated by the City (and, if less than all of a maturity is being redeemed, by lot or other manner deemed fair by the Registrar within a maturity) at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium.

[The City shall give notice of redemption, stating the amount, the serial numbers, the CUSIP numbers, the interest rates and the Stated Maturities of the Series 2010A Bonds or portions thereof called for redemption to the Registrar at least forty-five days prior to the date of redemption. The Registrar shall, at least thirty days prior to the designated redemption date, cause notice of redemption to be mailed by first class mail to the Holder of each Series 2010A Bond to be redeemed; provided, that any defect in or failure to give such mailed notice shall not affect the validity of proceedings for the redemption of any Series 2010A Bond not affected thereby. Series 2010A Bonds in a denomination greater than \$5,000 principal amount may be redeemed in part, in integral multiples of \$5,000 principal amounts. Upon partial redemption of any Series 2010A Bond, and upon presentation of that Series 2010A Bond at the operations center of the Bond Registrar, a new Series 2010A Bond or Bonds will be delivered to the registered holder without charge, representing the unredeemed principal amount outstanding.]

This Bond is a negotiable investment security as provided in the Montana Uniform Commercial Code. As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the operations center of the Bond Registrar, by the registered holder hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered holder or his attorney; and may also be surrendered in exchange for Series 2010A Bonds of other authorized denominations. Upon such transfer or exchange, the City will cause a new Series 2010A Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, as applicable, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax or governmental charge required to be paid with respect to such transfer or exchange.

The City, the Bond Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City, the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City will prescribe and collect rates, fees and charges for all privileges and facilities afforded by the Airport, including all additions thereto and replacements and improvements thereof, and has created a special Airport Fund into which the Gross Revenues (which have the particular meaning prescribed by the Resolution) of the Airport will be paid, and a separate and special Debt Service Account in the Airport Fund, into which will be paid monthly, from and as a first and prior lien on the Net Revenues (which have the particular meaning prescribed in the Resolution) then on hand an amount not less than one-sixth of the interest due and payable on all Outstanding Bonds within the next six months and one-twelfth of the principal on all Outstanding Bonds due and payable within the next twelve months; that [from money on hand] the City will credit to the Debt Service Reserve Account of the Airport Fund the sum of \$[] in satisfaction of the Reserve Requirement in respect to the Series 2010A Bonds; that the City has agreed thereafter to credit to the Debt Service Reserve Account from the Net Revenues or other available funds, after credits to the Debt Service Account, amounts necessary to maintain the amount in the Debt Service Reserve Account at the Reserve Requirement; that the Debt Service Account and Debt Service Reserve Account will be used only to pay the principal and interest on the Series 2010A Bonds and any Additional Bonds; that the rates, fees, rentals and charges for the Airport will from time to time be made and kept

sufficient to produce in each Fiscal Year (i) in respect of Outstanding Bonds, Net Revenues (ii) in addition in respect of only Outstanding PFC Bonds, Passenger Facility Charges, and (iii) in addition in respect of only Outstanding CFC Bonds, Customer Facility Charges, equal in the aggregate to at least 125% of the Debt Service Requirements of such Bonds for such Fiscal Year; that the City may issue Subordinate Obligations to the extent described in the Resolution; that the City has also agreed to pay promptly the reasonable and current expenses of operating and maintaining the Airport and to provide reserves for such operation and maintenance and for the repair and replacement of the Airport; that Additional Bonds may be issued and made payable from the Airport Fund on a parity as to Net Revenues with the Series 2010A Bonds only upon satisfaction of certain conditions set forth in the Resolution; that the City may issue Additional Bonds that are PFC Bonds or CFC Bonds that are payable from Passenger Facility Charges and Customer Facility Charges, respectively, in addition to Net Revenues; that all provisions for the security of the owner of this Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the home rule charter and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Bond a valid and binding special obligation of the City according to its terms have been done, do exist, have happened and have been performed as so required; and that the principal and interest due on this Bond are payable solely from the Net Revenues of the Airport pledged and appropriated thereto and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2010A Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Series 2010A Bond shall not be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution unless the Certificate of Authentication hereon shall have been executed by the Bond Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Billings, Montana, by its City Council, has caused this Bond and the certificate on the reverse hereof to be executed by the facsimile signatures of its Mayor, City Clerk and Financial Services Manager.

(Facsimile Signature)
Mayor

(Facsimile Signature)
City Clerk

(Facsimile Signature)
Financial Services Manager

Dated:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Airport Revenue Refunding Bonds, Series 2010, delivered pursuant to the Resolution mentioned within.

[_____]
as Bond Registrar and Paying Agent

By _____
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants
in common

UTMA Custodian
(Cust) (Minor)

TEN ENT -- as tenants
by the entireties

JT TEN -- as joint tenants with
right of survivorship
and not as tenants in
common

under Uniform Transfers to
Minors Act
(State)

Additional abbreviations may also be used.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

_____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date:

PLEASE INSERT SOCIAL SECURITY
OR OTHER IDENTIFYING NUMBER
OF ASSIGNEE:

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular without alteration, enlargement or any change whatsoever.

SIGNATURE GUARANTEE

Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Bond Registrar, which requirements include membership or participation in STAMP or such other “signature guaranty program” as may be determined by the Bond Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Regular City Council Meeting

Date: 07/12/2010

TITLE: Resolution Declaring an Emergency

PRESENTED BY: Bruce McCandless, Asst. City Administrator

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The June 20, 2010, thunderstorm runoff damaged Senator's Blvd where Alkali Creek crosses the street and Nutter Blvd. where the Castlerock Park drainage exits the park. The extent of the damage is unknown and staff believes that it is essential to quickly hire construction firms to excavate and repair the damage in order to ensure public safety. Montana Code Annotated 7-5-4303 allows cities to avoid the competitive bidding process for work that exceeds \$50,000 if the governing body declares an emergency. This action is separate from the disaster declarations which the Mayor, County Commissioners and the Governor issued. Staff requests that the Council adopt a resolution that declares the June 20 storm damage as an emergency and authorize staff to proceed with repairs on Senators and Nutter, plus other undiscovered storm damage.

ALTERNATIVES ANALYZED

The City Council may choose to adopt the resolution or to not adopt the resolution. If the Council does not approve the resolution, staff will have to use the competitive bidding process to secure a contractor to repair the storm damage. Competitive bidding is a several week process and the damage may get worse with subsequent storms or the sidewalks or streets may collapse before they can be repaired.

FINANCIAL IMPACT

The financial impacts are unknown at this time. Public Works intends to quickly hire contractors to excavate the damaged areas, determine the extent of damage and to repair them. Costs will be controlled by careful monitoring and inspections.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution that declares the June 20, 2010, storm to be an emergency that requires immediate action to preserve public safety and allows the staff to avoid competitive bidding for the repair work.

APPROVED BY CITY ADMINISTRATOR

Attachments

Emergency resolution

ATTACHMENT A

A RESOLUTION DECLARING AN EMERGENCY AND WAIVING THE REQUIREMENT FOR COMPETITIVE BIDS AS CONTAINED IN 7-5-4302 AND 7-5-4303 MCA

WHEREAS, a thunderstorm and tornado that occurred on June 20, 2010 damaged portions of Senators Blvd. and Nutter Blvd. and may have damaged other public streets or improvements, and

WHEREAS, the streets and other improvements must be repaired in order to protect public health and safety, and

WHEREAS, 7-5-4302 MCA requires cities to advertise for competitive bids and to award the bid to the lowest responsive bidder for construction, maintenance or repairs over \$50,000 in value, and

WHEREAS, competitive bidding requires an advertising and award process that would delay repairs to the public streets and other public improvements until at least August , 2010, and

WHEREAS, 7-5-4303 MCA allows cities to waive the competitive bidding requirements if three-fourths (3/4) of the members present at the meeting of the City Council declare an emergency.

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

1. EMERGENCY DELCARED. The storm of June 20, 2010 that damaged Senators Blvd. and Nutter Blvd. and may have damaged other public improvements, but such damage has not yet been discovered, is declared an emergency due to the unanticipated event, the damage incurred and the requirement for safe streets and pedestrian facilities to serve the residents of Billings and Yellowstone County.
2. COMPETITIVE BIDDING WAIVED. Due to the declared emergency, the City Council waives the competitive bidding requirement for repairing the named public streets and other public improvements as permitted by 7-5-4303 MCA.

APPROVED by at least three-fourths (3/4) of the members present at the meeting of the City Council of the City of Billings, Montana, on the 12th day of July, 2010.

CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

Cari Martin, CITY CLERK

Regular City Council Meeting

Date: 07/12/2010

TITLE: Zone Change #864 - 2nd reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community 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 Lot 1, Block 1, North Pointe Square Subdivision, First Filing, located at 2408 Main Street in the Billings Heights. The property has a retail strip center located on it that is attached to the All American Pharmaceuticals building on the property directly to the south. The subject property has access to Main Street and Pemberton Lane across adjacent properties. The applicant is Cody Family, LLC. The agent is Ernie Dutton. A pre-application neighborhood meeting was held on April 15, 2010, at the Bull Mountain Grill at 2376 Main Street. The Zoning Commission conducted a public hearing on June 1, 2010, and forwarded a recommendation of approval on a 4-0 vote. The City Council conducted a public hearing on June 28, 2010 and approved the zone change on 1st reading.

ALTERNATIVES ANALYZED

State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with twelve (12) criteria. Using the twelve (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 the property is re-developed under the new Highway Commercial zone.

RECOMMENDATION

The Zoning Commission conducted a public hearing on June 1, 2010, and is forwarding a recommendation of approval and adoption of the 12 criteria for this zone change on a 4-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance

ORDINANCE NO. 10-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Lot 1, Block 1 of North Pointe Square Subdivision
containing 1.16 acres of land.

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 1, Block 1 of North Pointe Square Subdivision containing 1.16 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 June 28, 2010.

PASSED, ADOPTED AND APPROVED on second reading July 12, 2010.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #864 – 2408 Main Street

Regular City Council Meeting

Date: 07/12/2010

TITLE: Zone Change #865 - Text Amendment Regulating Board of Adjustment
Procedures for Zoning Variance Request Denials - 2nd Reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change that will amend Section 27-1505(f) of the Billings, Montana City Code (BMCC) regulating the procedures of the Board of Adjustment when requests for zoning variances have been denied. The current code allows an applicant to petition for a reconsideration of a denied variance if there has been "a change of circumstance". The code does not describe what a change of circumstance might encompass and it has been a source of confusion to both staff and applicants. In 2009, the City Council amended BMCC Section 2-507 (8) b. 11 so that all Boards and Commissions are required to use a widely recognized parliamentary procedure to reconsider previous decisions. The parliamentary procedure is clear, concise and is limited in its application. The proposed code amendment would strike the "change of circumstances" provision of the zoning code and allow the Boards and Commissioners "reconsideration" provision to control. The Board of Adjustment has requested this amendment to the zoning code to provide applicants and staff with consistent procedure for reconsidering denied applications. The Zoning Commission conducted a public hearing on June 1, 2010, and forwarded a recommendation of approval on a 4-0 vote. The City Council conducted a public hearing on June 28, 2010 and approved the zone change on 1st reading.

ALTERNATIVES ANALYZED

The City Zoning Commission 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.

RECOMMENDATION

The Zoning Commission conducted a public hearing on June 1, 2010 and is forwarding a recommendation of approval on a 4-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

ZC #865 Ordinance

Attachment A –Ordinance
ORDINANCE NO. 10-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-1505(f) – CITY BOARD OF ADJUSTMENT – TO DELETE LANGUAGE UNDER POWERS AND DUTIES 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 27-1505(f) as follows:*

Sec. 27-1505(f). Decisions, appeals and rehearing.

(f) *Decisions, appeals, rehearing.* In exercising the above mentioned powers, the city board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/ordinance, or to effect any variation in the application of this chapter.

Any person aggrieved by any decision of the city board of adjustment, or any affected taxpayer, or any officer, department, board, or bureau of the city may appeal the decision by presenting a petition to a court of record. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) calendar days after the filing of the decision of the board.

If the city board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant

may deem the matter be denied and may immediately proceed by appeal as provided in this subsection (f).

If an application for an administrative review or variance is denied by the city board of adjustment, another application shall not be filed within a period one (1) year from the date of denial, ~~except upon the initiation of the city board of adjustment after a showing of a change of circumstances which would warrant a rehearing.~~

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 June 28, 2010.

PASSED, ADOPTED AND APPROVED on second reading July 12, 2010.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

ZC #865 – Text Amendment Section 27-1505(f) – Board of Adjustment

Regular City Council Meeting

Date: 07/12/2010

TITLE: Zone Change #866 - 2320 Rosebud Drive - 2nd reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request from Residential 7,000 (R-70) to Residential Professional (RP) on the east 90 feet of Lot 10, Block 2, Justiss Subdivision located at 2320 Rosebud Drive. The property is owned by John & Paula Lambrecht. The owner conducted a pre-application neighborhood meeting on April 26, 2010, at La Quinta Inn at 3040 King Ave West. The pre-application meeting notes and attendance list are included as Attachment D. The Zoning Commission conducted a public hearing on June 1, 2010, and forwarded a recommendation of approval on a 3-0-1 vote. Commission member Barbara Hawkins abstained from voting since she owns property within 300 feet of the subject property. The City Council conducted a public hearing on June 28, 2010, and approved the zone change on 1st reading.

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 may be an increase in the city's tax base if the property is re-developed under the new Residential Professional zoning.

RECOMMENDATION

The Zoning Commission conducted a public hearing on June 1, 2010, and is forwarding a recommendation of approval on a 3-0-1 vote to the City Council.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zone Change #866 Ordinance

ORDINANCE NO. 10-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR the EAST 90 feet of Lot 10, Block 2 Justiss Subdivision
containing 11,333 square feet of land.

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 EAST 90 feet of Lot 10, Block 2 Justiss Subdivision containing 11,333 square feet of land and is presently zoned **Residential 7,000 (R-70)** 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 7,000 (R-70)** to **Residential Professional (RP)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential Professional (RP)** 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 June 28, 2010.

PASSED, ADOPTED AND APPROVED on second reading July 12, 2010.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #866 – 2320 Rosebud Drive

Regular City Council Meeting

Date: 07/12/2010

TITLE: Second & Final Reading Ordinance Adopting International Fire Code (IFC), 2009 Edition, as the Billings Fire Code

PRESENTED BY: Paul Dextras

Department: Fire

Information

PROBLEM/ISSUE STATEMENT

A public hearing and first reading were held at the City Council meeting of May 10, 2010. A second and final reading was scheduled for May 24, 2010. During this meeting, City Council voted to postpone action on this issue pending further discussion during a work session. On June 21, 2010, the adoption of the fire code was discussed during the work session. Staff presented information and questions were answered concerning this issue.

The City of Billings uses the 2006 edition of the International Fire Code (IFC). The International Code Council (ICC) publishes the IFC in three year cycles. During the code cycle, the code is brought up-to-date through the review of proposed changes submitted by code officials, industry representatives, design professionals, and other interested parties. Proposed changes are carefully considered through an open code development process in which all interested and affected parties may participate. The 2009 IFC accounts for changes in technology, construction methods, current fire and life safety practices, as well as other adopted codes published by the ICC.

ALTERNATIVES ANALYZED

There are two model fire codes in the United States from which to choose; the National Fire Protection Association/Uniform Fire Code (NFPA1/UFC) and the International Fire Code (IFC). Pros and cons to the adoption of either code have been analyzed and are presented as follows:

Alternative 1, Adoption of IFC

Pros:

- The IFC is a 'companion code' and, therefore, directly and seamlessly correlates to the other currently adopted International Codes.
- Of the nine (9) Codes which govern construction statewide, seven (7) are International Codes. Adoption of the 2009 edition of the IFC will provide seamless correlation between a family of codes.
- Private industry, including architects and engineers, support the adoption of the IFC.
- The Fire Prevention Bureau staff has already attended training on the 2009 edition of the IFC and is prepared to implement it immediately.
- The State Fire Marshal's Office has already adopted the 2009 edition of the IFC. Other jurisdictions are in the process of doing so at this time.

Cons:

- Adoption of 2009 edition of the IFC will create non-conformity between Billings and other fire jurisdictions within the state which still use the NFPA1/UFC. However, the State Fire Marshal's Office has already adopted the IFC and other jurisdictions are currently in the process of doing the same. This should be a non-issue within a year.

Alternative 2, Adoption of NFPA1/UFC

Pros:

- At this time, some fire jurisdictions are still utilizing the NFPA1/UFC. For a short time, there will be some inconsistency concerning the adopted fire code throughout the state. However, most jurisdictions have already adopted or are planning to adopt the 2009 edition of the IFC.

Cons:

- NFPA1/UFC is not a 'companion code' to the International Codes which control most of the construction in this state. This has proved to cause difficulties and increased workload for City agencies and private industry.

FINANCIAL IMPACT

The financial impact of adopting the 2009 edition of the IFC will be primarily in the cost of developing and printing new inspection forms and purchasing code materials. The cost is estimated at \$3,500.00.

BACKGROUND

Over the years, the City of Billings has adopted many fire codes. Typically, the adopted fire code is a companion code to the building code. In 2005, the City adopted NFPA1/UFC. This fire code was not a companion code with the building code. The building code typically controls new construction in Montana. NFPA1/UFC did not mesh well with the building code and caused Fire Prevention Bureau staff as well as private industry much grief while working in both documents. Inconsistencies between the two codes included different terminology, different and missing occupancy classifications, references to specific sections that did not exist, as well as many other problems.

In 2007, the City adopted the 2006 edition of the IFC. This code is a companion code to the building code, residential code, mechanical code, as well as other International Codes that are adopted at the state and local levels for new construction. Adopting the IFC proved to be beneficial to everyone involved in new construction, as well as code enforcement in existing buildings. Fire Prevention Bureau staff saw an immediate increase in productivity due to the seamless compatibility with the building code. Adopting the 2009 edition of the IFC will continue the successful progression of fire code enforcement within the City of Billings. The State Fire Marshal's Office has already adopted this code and many other local jurisdictions have or are in the process of adopting the 2009 edition of the IFC.

STAKEHOLDERS

The stakeholders associated with the adoption of the 2009 edition of the IFC include: the Billings Fire Department, Building Department, property and business owners, design professionals including contractors and fire protection system installers. Government and private industry will both benefit from the adoption of the IFC. In the near future, the entire state will have adopted the 2009 edition of the IFC and everyone will benefit by working with a fire code that is compatible with other currently adopted construction codes.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The State Department of Labor and Industry, Building Codes Division is in the process of adopting the 2009 edition of the International Building Code (IBC). When the State adopts this code, local building departments will be required to adopt it as well. The 2009 edition of the IBC is slated for adoption in July of 2010. Adoption of the 2009 edition of the IFC will insure consistency with adopted policies and plans.

RECOMMENDATION

Staff recommends that the Billings City Council adopts the 2009 edition of the International Fire Code. In accordance with MCA 7-1-105, the 2009 edition of the IFC will be effective August 12, 2010, 30 days after second reading and final adoption. From July 12 to August 12, 2010 the building industry may choose to have plans and premises reviewed under either the 2006 edition of the IFC or under the 2009 edition of the IFC.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 07/12/2010

TITLE: Skyview Ridge Subdivision, 1st Filing: Preliminary Plat Approval Extension Request

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

Skyview Ridge Subdivision, 1st Filing, is a proposed subdivision that would create 15 lots on 63.4 acres of land. It is located south of Wicks Lane, west of Governor's Boulevard, and north of Constitution and Kootenai Avenues, in the Heights. City Council granted conditional approval to the preliminary plat of Skyview Ridge Subdivision, 1st Filing, on August 13, 2007. Section 23-302(13) of the City Subdivision Regulations stipulates that the conditional approval of preliminary plats shall be in force not more than three years, unless a request for a one-year extension is received and approved by the City Council. Because the final plat is not yet ready for approval, and the preliminary plat approval will expire on August 13, 2010, the subdivider has requested an extension (see Attachment). Approval of this request would extend the preliminary plat approval to August 13, 2011.

ALTERNATIVES ANALYZED

The City Council may approve or deny the request to extend the preliminary plat approval for one additional year.

FINANCIAL IMPACT

The platting of 15 new lots would increase the tax revenues on the property for the City. Allowing the subdivider one additional year to prepare the final plat and documents will not have any direct financial impact to the City.

RECOMMENDATION

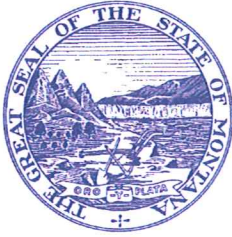
Planning staff recommends that the City Council approve the request for a one-year extension of the preliminary plat approval date for Skyview Ridge Subdivision, 1st Filing, and set the new expiration date for August 13, 2011.

APPROVED BY CITY ADMINISTRATOR

Attachments

Preliminary Plat approval extension request

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



BRIAN SCHWEITZER, GOVERNOR

SOUTHERN LAND OFFICE

— STATE OF MONTANA —

PHONE: (406) 247-4400
FAX: (406) 247-4410

AIRPORT BUSINESS PARK
1371 RIMTOP DRIVE
BILLINGS, MT 59105-1978

14 June 2010

Juliet Spalding, AICP, Planner II
Planning & Community Services Department
510 North Broadway, 4th Floor
Billings, MT 59101

Dear Ms. Spalding:

This letter is written to request a one-year extension for the preliminary plat approval that was previously granted by the Billings City Council for Skyview Ridge Subdivision, 1st Filing. The Council gave preliminary plat approval on 13 August 2007. Since that time, the DNRC completed a Park Master Plan for the subdivision that was approved by the Council last year, fulfilling one of the conditions of preliminary plat approval.

At this time, the State does not have an anticipated date for final plat submittal, but will be waiting for market conditions to improve.

If you have any questions, please feel free to contact me at jbollman@mt.gov or 247-4404.

Cordially,

A handwritten signature in blue ink, appearing to read "JBollman".

Jeff Bollman, AICP
Area Planner

Cc: Dennis Randall, Sanderson Stewart

Regular City Council Meeting

Date: 07/12/2010

TITLE: Final Plat of Hogan Homestead Subdivision, Amended Lot 4A, Block 5

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The final plat for Hogan Homestead Subdivision, Amended Lot 4-A, Block 5, is being presented to Council for approval. On March 22, 2010, the City Council conditionally approved 2 lots on approximately 9.0 acres of land for commercial development. The subdivision is zoned Highway Commercial (HC) and is located on the southeast corner of the intersection of King Avenue West and South 24th Street West. The plat amendment creates a new .77 acre lot in the northwest corner of the property that contains Shopko. The owner is Spirit Spe Portfolio 2006-1, LLC, and the subdivider is Depierro Realty Advisors. The representing agent is Sanderson Stewart.

The Planning Division and other applicable City Departments have reviewed this final plat and find that the plat and supporting documents conform to the conditions of preliminary plat approval and comply with MCA 76-3-611 and BMCC Section 23-307. Upon City Council approval, the plat and supporting documents are appropriate as to form for filing with the Clerk and Recorder.

ALTERNATIVES ANALYZED

The City Council may approve or deny the final plat of Hogan Homestead Subdivision, Amended Lot 4-A, Block 5. If the City Council chooses to deny the final plat, it must base the denial on the criteria outlined in MCA 76-3-611 and BMCC Section 23-307.

FINANCIAL IMPACT

Should the City Council approve the final plat, an additional restaurant business is expected to be built on the property and may result in increased tax revenues for the City.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Hogan Homestead Subdivision, Amended Lot 4-A, Block 5.

APPROVED BY CITY ADMINISTRATOR

Attachments

Final Plat

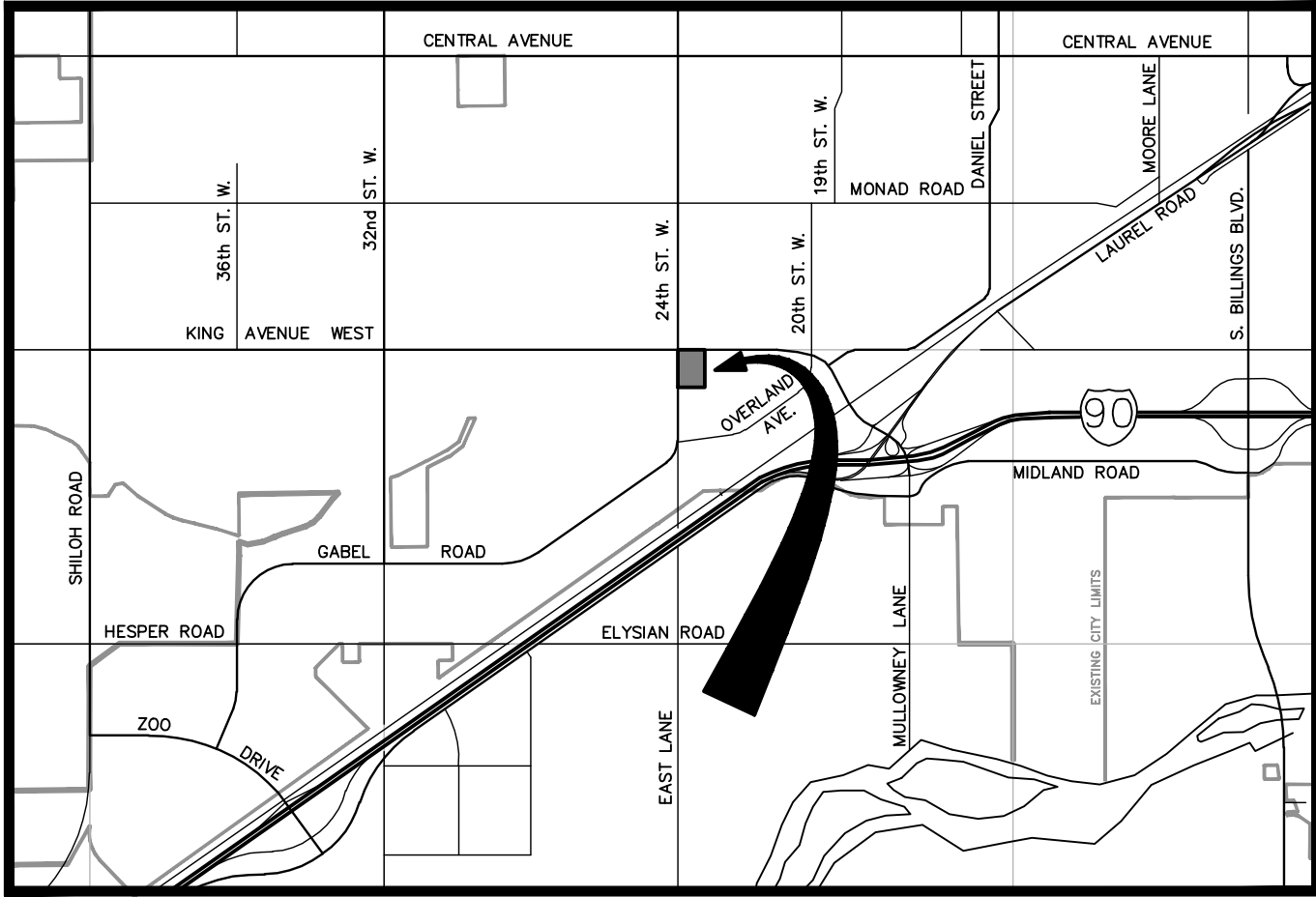
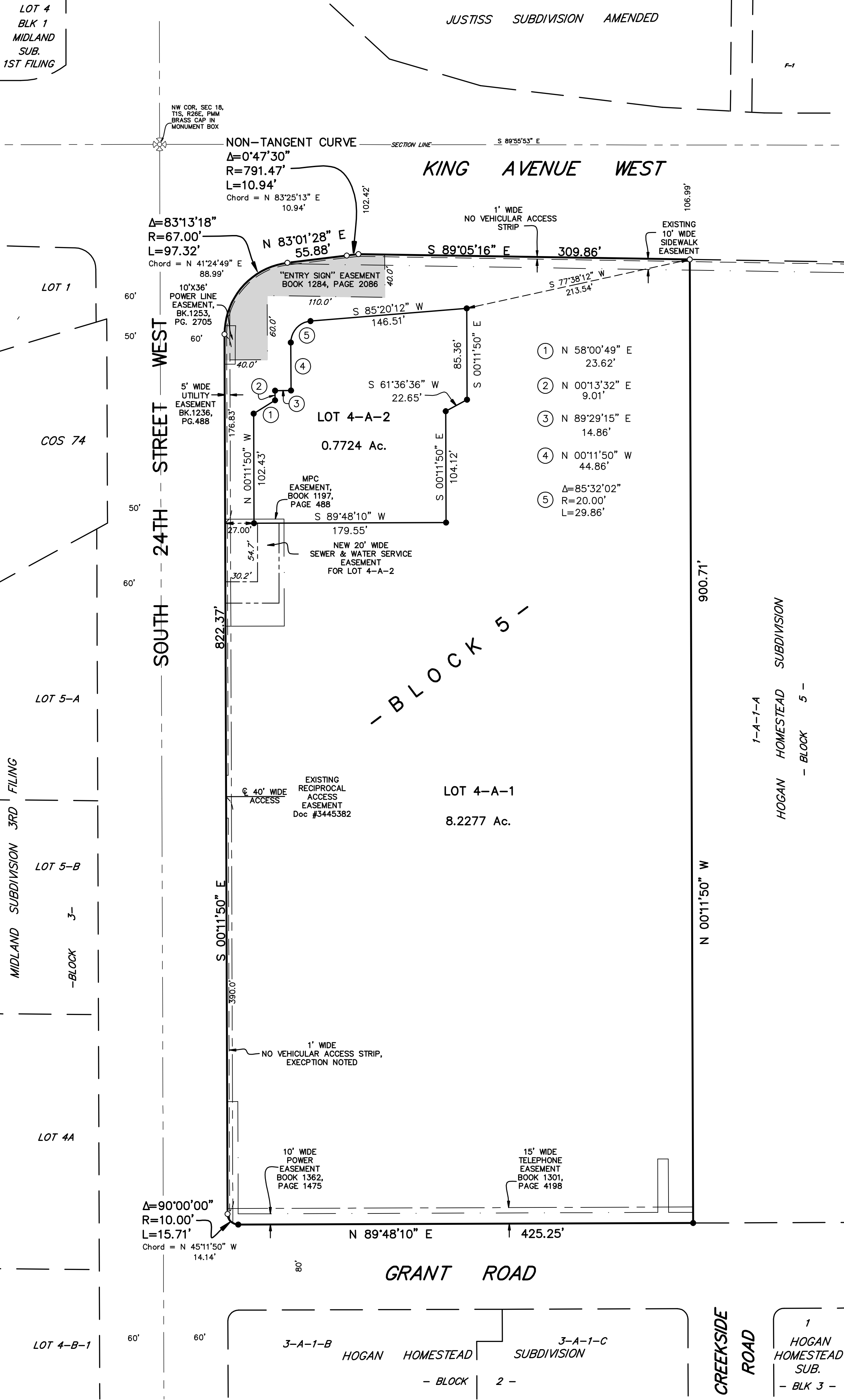
AMENDED PLAT OF LOT 4A, BLOCK 5,
HOGAN HOMESTEAD SUBDIVISION
SITUATED IN THE NW1/4 OF SECTION 18, T. 1 S., R. 26 E., P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : DEPIERRO REALTY ADVISORS

MARCH 2010

PREPARED BY : **SANDERSON STEWART**

BILLINGS, MONTANA



VICINITY MAP
NOT TO SCALE

BASIS OF BEARING: PLAT OF HOGAN HOMESTEAD SUBDIVISION.

- FOUND SURVEY MONUMENT, REBAR WITH "S/S/G ENG" CAP . OR AS NOTED.
- SET 5/8" X 18" REBAR AND CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART".

60 30 0 60 120
SCALE: 1"=60'

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and foregoing plat conforms with Section 76-4-125(2)(d), M.C.A., for the removal of sanitary restrictions since the plat is inside a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this ____ day of _____, 20__.

City Engineer's Office

ERRORS AND OMISSIONS REVIEW

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

Examining Land Surveyor

Date

CERTIFICATE OF CITY ATTORNEY

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

Date:

Reviewed by:

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b)/ 76-3-207(3), M.C.A.

Date:

Yellowstone County Treasurer

By:

Deputy

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 LOT 4A, BLOCK 5, HOGAN HOMESTEAD SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of The Yellowstone County Board of Planning. It is therefore approved.

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

CITY OF BILLINGS, MONTANA

By:

Mayor

Attest:

City Clerk

CERTIFICATE OF DEDICATION

STATE OF MONTANA)
County of Yellowstone) ss

KNOW ALL MEN BY THESE PRESENTS: That the undersigned owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots and blocks as shown on the annexed plat, said tract being situated in the NW1/4 of Section 18, T. 1 S., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Lot 4A in Block 5 of the Amended Plat of Lots 1 and 4 of Block 5 of Hogan Homestead Subdivision, according to the official plat thereof on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No 1363903.

Pursuant to Section 76-3-621(3)(b), M.C.A. there is no park requirement for this non-residential subdivision.

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said tract to be known and designated as AMENDED PLAT OF LOT 4A, BLOCK 5, HOGAN HOMESTEAD SUBDIVISION, there is no public land dedication with this plat.

SPIRIT SPE PORTFOLIO 2006-1, LLC

By:

Title:

STATE OF _____)
County of _____) ss

This instrument was acknowledged before me on _____, 20____, by _____ as _____ of Spirit SPE Portfolio 2006-1. LLC.

Notary Public in and for the State of _____
Printed Name _____
Residing at (city) _____
My commission expires _____

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
County of Yellowstone) ss

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of March 2010, a survey was performed under his supervision of a tract of land to be known as AMENDED PLAT OF LOT 4A, BLOCK 5, HOGAN HOMESTEAD SUBDIVISION, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown hereon and that the gross area is 9.0001 acres and the net area is 9.0001 acres.

SANDERSON STEWART

By:

Montana Registration No. _____

Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this ____ day of _____, 20__.

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

NOTICE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss

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

Date _____ President _____

Executive Secretary _____

CONSENT TO PLATTING

Document No. _____

SUBDIVISION IMPROVEMENT AGREEMENT

Document No. _____

RESERVED FOR CLERK AND RECORDER

Regular City Council Meeting

Date: 07/12/2010

TITLE: Final Plat of Srite Acres, Amended Lot 3

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The final plat for Srite Acres, Amended Lot 3, is being presented to Council for approval. On April 1, 2010, City staff held a pre-application meeting with the applicant to discuss the creation of a two-lot subdivision of 14,000 square feet of land. It was determined at that time that the subdivision qualifies for the expedited plat review process, which allows, under certain conditions, subdivisions creating just two lots to proceed straight to final plat review.

The subject property is located at 2409 Rosewyn Lane, just south of the Poly Food Basket. The property is zoned Residential-9600 (R-96) and was granted a zoning variance on March 5, 2010, from the City Board of Adjustment to allow one single-family home per 7,000 square feet. Currently there is a single-family residence on the north half of the subject property and a second single family home is proposed for the south lot after final plat approval and recording. The property owner is Joy Culver, and the subdivider is Kincaid Land, LLC. The agent is Sanderson Stewart. 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 or deny the final plat of Srite Acres, Amended Lot 3. If the City Council chooses to deny the final plat, it must base the denial on the criteria outlined in MCA 76-3-611 and BMCC Section 23-305(F).

FINANCIAL IMPACT

Should the City Council approve the final plat, another home will be built on the property and will result in increased tax revenues for the City.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Srite Acres, Amended Lot 3.

APPROVED BY CITY ADMINISTRATOR

Attachments

Final plat

Regular City Council Meeting

Date: 07/12/2010

TITLE: Payment of Claims June 11, 2010.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$675,753.09 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 11, 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

Attachments

List of claims greater than \$2500.

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT	#	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
06/11/2010	733013	A & I DISTRIBUTORS	16				8,764.27
211-3139-454.22-90		05/11/2010	MISC SERVICES	1915988	273455	11/2010	75.00
541-3123-435.23-10		05/13/2010	CITGO LF	1916541	273455	11/2010	2,392.65
601-0000-141.00-00		05/25/2010	MP	1919251		11/2010	3,024.12
10-5112-452.23-20		05/25/2010	MP	1919251	273455	11/2010	354.20
150-2112-421.23-20		05/25/2010	MP	1919251	273455	11/2010	21.65
211-3132-433.23-20		05/25/2010	MP	1919251	273455	11/2010	21.65
541-3122-435.23-20		05/25/2010	MP	1919251	273455	11/2010	21.65
601-1553-481.26-50		05/25/2010	MP	1919251	273455	11/2010	.52-
601-0000-141.00-00		05/28/2010	MP	1916689		11/2010	2,783.65
601-0000-141.00-00		05/28/2010	MP	1916689		11/2010	20.64
601-1553-481.26-50		05/28/2010	MP	1916689	273455	11/2010	.42-
571-7144-713.23-20		06/07/2010	MP	139122	273455	12/2010	50.00
06/11/2010	733018	ALBERTA BAIR THEATER	73				5,550.00
786-1514-415.72-78		06/10/2010	MISC SERVICES	1444	275403	12/2010	5,550.00
06/11/2010	733021	AMERICAN TITLE & ESCROW	159				2,680.00
295-6555-463.72-75		06/08/2010	MISC SERVICES	24900/27565-66	275318	12/2010	543.00
295-6555-463.72-75		06/08/2010	MISC SERVICES	27568 TO 27572	275319	12/2010	971.00
295-6555-463.72-75		06/08/2010	MISC SERVICES	27573 TO 57578	275320	12/2010	1,166.00
06/11/2010	733022	AMERICAN TITLE & ESCROW	159				5,200.00
275-6721-463.72-75		06/09/2010	MISC SERVICES	WYMAN/MCLAUGHLI	275377	12/2010	5,200.00
06/11/2010	733024	APPRAISAL GROUP THE	16403				3,450.00
503-7591-609.93-40		06/09/2010	ZONE 3 RSRVR WEST-END	LAND APPRAISAL	275287	12/2010	3,450.00
06/11/2010	733027	AUTOMATED OFFICE INC	241				5,850.72
660-3110-431.94-70		04/21/2010	CANON COPIER 3235I	CANON COPIER	274164	10/2010	4,610.00
571-7141-713.36-30		05/11/2010	MISC SERVICES	5586	273458	11/2010	85.00
502-7400-603.21-90		05/20/2010	NONSTOCKING ITEMS-P.U.D.	5704	273458	11/2010	6.94
571-7141-713.36-30		05/20/2010	MISC SERVICES	5707	273458	11/2010	36.76
541-3121-435.32-40		05/21/2010	FAX TONER SW	5072	273458	11/2010	76.50
670-3141-489.36-60		05/21/2010	MONTHLY CONTRACT	5711	273458	11/2010	53.62
211-3131-433.36-30		05/25/2010	MISC SERVICES	5710	273458	11/2010	34.34
10-1220-412.32-40		06/03/2010	MONTHLY COPY CHARGE	2010-11	275216	12/2010	50.44
605-1516-483.36-90		05/18/2010	MISC SERVICES	V5703	273458	12/2010	87.85
605-1516-483.36-90		05/18/2010	MISC SERVICES	5703	273458	12/2010	87.85
605-1516-483.36-90		05/18/2010	MISC SERVICES	5703CR	273458	12/2010	87.85-
605-1516-483.36-90		05/18/2010	MISC SERVICES	5705	273458	12/2010	39.42
605-1516-483.36-90		05/18/2010	MISC SERVICES	5706	273458	12/2010	19.97
605-1516-483.36-90		05/18/2010	MISC SERVICES	5708	273458	12/2010	63.07
605-1516-483.36-90		05/18/2010	MISC SERVICES	5709	273458	12/2010	189.25
605-1516-483.36-90		05/24/2010	MISC SERVICES	5831	273458	12/2010	39.73
605-1516-483.36-90		05/24/2010	MISC SERVICES	5832	273458	12/2010	4.83
605-1516-483.36-90		05/25/2010	MISC SERVICES	5874	273458	12/2010	325.00
150-2150-421.21-90		06/09/2010	INV5194 4-NPG11 TONER CAR	INV5194	F11077	12/2010	128.00
06/11/2010	733028	BALCO UNIFORM CO INC	6003				3,185.00
150-2112-421.22-60		06/08/2010	MISC SERVICES	ORDER	274235	12/2010	3,185.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
06/11/2010	733037	BIG SKY LINEN SUPPLY	387			2,770.40	
561-7112-711.22-60	06/07/2010	INVOICE #50158	060710	F11038	12/2010	93.00	
561-7112-711.22-60	06/07/2010	INVOICE #S17700	060710	F11038	12/2010	11.00	
561-7112-711.22-60	06/07/2010	INVOICE #51008	060710	F11038	12/2010	93.00	
561-7112-711.22-60	06/07/2010	INVOICE #51855	060710	F11038	12/2010	93.00	
561-7112-711.22-60	06/07/2010	INVOICE #52686	060710	F11038	12/2010	93.00	
561-7112-711.22-40	06/07/2010	INVOICE #10396	060710	F11038	12/2010	20.00	
561-7113-711.22-60	06/07/2010	INVOICE #50156	060710	F11038	12/2010	35.39	
561-7113-711.22-60	06/07/2010	INVOICE #51007	060710	F11038	12/2010	35.39	
561-7113-711.22-60	06/07/2010	INVOICE #51853	060710	F11038	12/2010	35.39	
561-7113-711.22-60	06/07/2010	INVOICE #52685	060710	F11038	12/2010	79.39	
561-7112-711.22-40	06/07/2010	INVOICE #50159	060710	F11038	12/2010	27.10	
561-7112-711.22-40	06/07/2010	INVOICE #51009	060710	F11038	12/2010	14.48	
561-7112-711.22-40	06/07/2010	INVOICE #51856	060710	F11038	12/2010	19.26	
561-7112-711.22-40	06/07/2010	INVOICE #52687	060710	F11038	12/2010	14.80	
502-7312-602.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	299.51	
502-7314-602.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	30.75	
502-7400-603.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	539.61	
502-7500-609.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	334.46	
512-8314-622.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	30.75	
512-8400-623.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	536.66	
512-8500-625.22-60	06/09/2010	UNIFORMS	MAY 2010	275359	12/2010	334.46	
06/11/2010	733042	BILLINGS GAZETTE	420			13,850.80	
10-1411-414.31-10	06/09/2010	ONLINE BANNER	MAY 2010		12/2010	565.71	
260-5511-455.33-60	06/09/2010	LIBRARY (MAGIC MAGAZINE)	MAY 2010		12/2010	400.00	
10-5121-451.32-10	06/09/2010	PARKS/REC	MAY 2010		12/2010	2,425.92	
10-5140-436.33-10	06/09/2010	CEMETERY	MAY 2010		12/2010	250.99	
541-3122-435.33-70	06/09/2010	SOLID WASTE	MAY 2010		12/2010	5,339.95	
521-1521-493.33-70	06/09/2010	PARKING	MAY 2010		12/2010	1,560.00	
571-7141-713.33-10	06/09/2010	HR	MAY 2010		12/2010	2,617.78	
295-6501-463.33-10	06/09/2010	COMM DEVELOPEMENT	MAY 2010		12/2010	19.95	
260-5511-455.33-60	06/09/2010	LIBRARY	MAY 2010		12/2010	670.50	
06/11/2010	733053	BROWN AND CALDWELL	18626			29,083.92	
503-7591-609.93-40	06/09/2010	WO0825 ZONE 3 RESERVOIR	12 &13	264675	12/2010	29,083.92	
06/11/2010	733059	CACHE VALLEY ELECTRIC	21126			4,668.38	
620-1911-482.34-52	06/09/2010	MISC SERVICES	51-96675	274163	12/2010	4,668.38	
06/11/2010	733062	CDW GOVERNMENT INC	9234			6,015.00	
620-1911-482.29-25	06/09/2010	MISC SERVICES	SVB1878 STH7320	274920	12/2010	3,390.00	
620-1911-482.53-70	06/09/2010	MISC SERVICES	SVM9303	275202	12/2010	2,625.00	
06/11/2010	733068	COMMUNITY CRISIS CENTER	19183			4,060.00	
245-1257-412.35-75	06/04/2010	CASE MANAGER - JAN-MAR 10	2010-11	275221	12/2010	4,060.00	
06/11/2010	733073	CSG SYSTEMS INC	20870			15,456.77	
502-7311-602.31-10	06/02/2010	MISC SERVICES	65382	275166	12/2010	5,304.77	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
502-7311-602.31-11	06/02/2010	MISC SERVICES	65382	275166	12/2010	2,423.62	
512-8311-622.31-10	06/02/2010	MISC SERVICES	65382	275166	12/2010	5,304.76	
512-8311-622.31-11	06/02/2010	MISC SERVICES	65382	275166	12/2010	2,423.62	
06/11/2010 733076	CURB BOX SPECIALISTS	5716				7,717.05	
505-7515-609.36-71	06/09/2010	REPAIR LIST	2819	262569	12/2010	7,717.05	
06/11/2010 733081	DELL COMPUTER L P	13426				2,956.98	
620-1911-482.29-25	06/09/2010	MISC SERVICES	XDW3R4275	275001	12/2010	2,956.98	
06/11/2010 733087	DUNCAN PARKING TECHNOLOGIES IN	20316				3,328.62	
521-1523-493.24-60	06/07/2010	METER MECHANISMS	002083	275283	12/2010	3,328.62	
06/11/2010 733091	EBMS	20398				62,228.72	
627-1752-417.35-12	06/04/2010	ADMIN FEES			12/2010	16,594.50	
627-1752-417.35-15	06/04/2010	SPECIFIC PREM			12/2010	31,713.07	
627-1752-417.51-61	06/04/2010	CARE LINK FEE			12/2010	7,021.90	
627-1752-417.35-11	06/04/2010	FLEX ADMIN FEE			12/2010	2,090.00	
627-1752-417.35-15	06/04/2010	PRO FEE			12/2010	3,440.50	
627-1752-417.35-13	06/04/2010	SCRIPTS			12/2010	1,368.75	
06/11/2010 733108	GALLES FILTER SERVICE	1397				3,587.45	
601-0000-141.00-00	05/06/2010	MP	204274		11/2010	473.81	
150-2226-422.23-20	05/07/2010	MP	273463	273463	11/2010	2.02	
502-0000-141.00-00	05/11/2010	WATER PARTS AND SUPPLIES	204377		11/2010	194.67	
601-0000-141.00-00	05/11/2010	MP	204426		11/2010	273.25	
601-0000-141.00-00	05/11/2010	MP	204653		11/2010	619.41	
502-0000-141.00-00	05/11/2010	WATER PARTS AND SUPPLIES	204656		11/2010	129.90	
601-0000-141.71-41	05/21/2010	MP	204415		11/2010	42.24	
601-0000-141.00-00	05/21/2010	MP	204811		11/2010	200.01	
601-0000-141.71-41	05/21/2010	MP	204814		11/2010	215.27	
601-0000-141.00-00	05/21/2010	MP	205004		11/2010	255.82	
601-0000-141.71-41	05/21/2010	MP	205162		11/2010	46.44	
10-5112-452.23-20	05/21/2010	MP	205004	273463	11/2010	54.38	
150-2226-422.23-20	05/21/2010	MP	205266	273463	11/2010	18.72	
541-3123-435.23-20	05/28/2010	MP	205207	273463	11/2010	4.92	
541-3123-435.23-20	05/28/2010	MP	205404	273463	11/2010	7.04	
601-0000-141.00-00	06/01/2010	MP	205170		12/2010	121.49	
601-0000-141.00-00	06/01/2010	MP	205455		12/2010	322.81	
601-0000-141.00-00	06/01/2010	MP	205479		12/2010	12.62	
601-0000-141.00-00	06/01/2010	MP	205623		12/2010	417.15	
150-2226-422.23-20	06/01/2010	MP	204963	273463	12/2010	9.36	
601-0000-141.71-41	06/09/2010	MP	205625		12/2010	94.38	
150-2226-422.23-20	06/09/2010	MP	204364	273463	12/2010	7.27	
150-2226-422.23-20	06/09/2010	MP	204400	273463	12/2010	9.15	
150-2226-422.23-20	06/09/2010	MP	204440	273463	12/2010	12.20	
211-3136-433.23-20	06/09/2010	MP	205601	273463	12/2010	17.38	
601-1553-481.26-50	06/09/2010	MP	205601	273463	12/2010	3.21	
571-7144-713.23-20	06/09/2010	MP	205625	273463	12/2010	10.56	
601-0000-141.00-00	06/10/2010	MP	205240-C		12/2010	7.05	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
541-3123-435.23-20	06/10/2010	MP	205240-C	273463	12/2010	4.92	
06/11/2010 733123	GUARDIAN SECURITY INC	12486				5,661.50	
260-5512-455.35-74	06/09/2010	SECURITY SERVICE MAY 2010	995241	F11066	12/2010	5,661.50	
06/11/2010 733136	INGRAM BOOK COMPANY	1820				7,465.38	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312781	273700	12/2010	235.28	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312782	273700	12/2010	23.10	
260-5519-455.32-42	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312783	273700	12/2010	91.16	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312784	273700	12/2010	54.93	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312785	273700	12/2010	8.99	
260-5519-455.33-82	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312786	273700	12/2010	32.04	
260-5519-455.32-41	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312787	273700	12/2010	33.07	
260-5519-455.33-33	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312788	273700	12/2010	5.97	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312789	273700	12/2010	155.60	
260-5519-455.32-55	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312790	273700	12/2010	26.60	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312791	273700	12/2010	15.92	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51312792	273700	12/2010	17.08	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51351176	273700	12/2010	48.46	
260-5519-455.32-55	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51351177	273700	12/2010	10.95	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364237	273700	12/2010	41.41	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364238	273700	12/2010	41.28	
260-5519-455.33-82	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364239	273700	12/2010	15.59	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364240	273700	12/2010	214.96	
260-5519-455.32-55	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364241	273700	12/2010	5.97	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364242	273700	12/2010	14.74	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364243	273700	12/2010	672.96	
260-5519-455.32-41	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364244	273700	12/2010	28.52	
260-5519-455.32-42	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364245	273700	12/2010	36.98	
260-5519-455.33-82	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364246	273700	12/2010	30.58	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51364247	273700	12/2010	56.18	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51382648	273700	12/2010	15.33	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51382649	273700	12/2010	65.27	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51382650	273700	12/2010	20.65	
260-5519-455.33-82	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51382651	273700	12/2010	19.31	
260-5519-455.32-23	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51382652	273700	12/2010	15.92	
260-5519-455.32-41	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499355	273700	12/2010	9.60	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499356	273700	12/2010	631.87	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499357	273700	12/2010	347.19	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499358	273700	12/2010	593.50	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499359	273700	12/2010	21.97	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499360	273700	12/2010	14.75	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499361	273700	12/2010	43.20	
260-5519-455.32-42	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499362	273700	12/2010	46.72	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499363	273700	12/2010	47.76	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499364	273700	12/2010	8.97	
260-5519-455.33-82	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499365	273700	12/2010	15.59	
260-5519-455.33-33	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499366	273700	12/2010	20.04	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499367	273700	12/2010	196.48	
260-5519-455.32-55	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499368	273700	12/2010	50.86	

PREPARED 06/11/2010, 14:59:13
 PROGRAM: GM350L
 CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
 MINIMUM AMOUNT: 2,500.00
 FROM 06/11/2010 TO 06/11/2010

PAGE 5

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
260-5519-455.32-23	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51499369	273700	12/2010	24.75	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514495	273700	12/2010	182.42	
260-5519-455.32-23	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514496	273700	12/2010	16.49	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514496	273700	12/2010	23.74	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514497	273700	12/2010	233.18	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514498	273700	12/2010	104.01	
260-5519-455.32-42	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514499	273700	12/2010	16.49	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51514500	273700	12/2010	19.58	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600012	273700	12/2010	33.74	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600013	273700	12/2010	18.35	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600014	273700	12/2010	33.90	
260-5519-455.32-23	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600015	273700	12/2010	16.50	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600015	273700	12/2010	1,199.82	
260-5519-455.33-33	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600016	273700	12/2010	584.55	
260-5519-455.33-34	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600016	273700	12/2010	16.49	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600017	273700	12/2010	9.00	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600018	273700	12/2010	71.30	
260-5519-455.32-42	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600019	273700	12/2010	79.44	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600020	273700	12/2010	72.53	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600021	273700	12/2010	11.97	
260-5519-455.33-82	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600022	273700	12/2010	26.99	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600023	273700	12/2010	84.41	
260-5519-455.32-55	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600024	273700	12/2010	26.03	
260-5519-455.32-23	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600025	273700	12/2010	22.00	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51600026	273700	12/2010	70.69	
260-5519-455.32-20	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51627879	273700	12/2010	315.65	
260-5519-455.32-26	06/07/2010	PUBLICATIONS/AUDIOVISUAL	51636236	273700	12/2010	48.06	
06/11/2010	733139	J & J CONCRETE	15244			37,490.24	
205-3131-433.93-10	06/09/2010	WO0904 2009 ACCESS RAMPS	10	265227	12/2010	6,906.26	
205-3131-433.93-10	06/09/2010	WO1004 2010 ACCESS RAMP	3	273327	12/2010	30,583.98	
06/11/2010	733145	JTL GROUP INC DBA KNIFE RIVER	2417			6,038.12	
211-3132-433.45-20	06/04/2010	ROAD/HIGHWAY MATERIAL	207052	275249	12/2010	33.37	
211-3132-433.47-10	06/04/2010	ROAD AND HIGHWAY MATERIAL	207067	275249	12/2010	1,498.00	
211-3132-433.47-10	06/04/2010	ROAD AND HIGHWAY MATERIAL	207111	275249	12/2010	1,471.08	
211-3132-433.45-20	06/04/2010	ROAD/HIGHWAY MATERIAL	207556	275249	12/2010	68.95	
211-3132-433.47-10	06/04/2010	ROAD AND HIGHWAY MATERIAL	207566	275249	12/2010	138.00	
211-3132-433.45-20	06/04/2010	ROAD/HIGHWAY MATERIAL	207964	275249	12/2010	30.54	
211-3132-433.45-20	06/04/2010	ROAD/HIGHWAY MATERIAL	207980	275249	12/2010	30.66	
211-3132-433.47-10	06/04/2010	ROAD AND HIGHWAY MATERIAL	207986	275249	12/2010	949.76	
211-3132-433.45-20	06/04/2010	ROAD/HIGHWAY MATERIAL	208531	275249	12/2010	239.47	
211-3132-433.47-10	06/04/2010	ROAD AND HIGHWAY MATERIAL	208562	275249	12/2010	982.94	
211-3132-433.47-10	06/04/2010	ROAD AND HIGHWAY MATERIAL	208563	275249	12/2010	595.35	
06/11/2010	733146	KADRMAS LEE & JACKSON	14850			4,619.93	
503-7591-609.93-40	06/09/2010	WO0911 RIMROCK RD/17TH TO	10	268015	12/2010	714.60	
840-3184-431.93-10	06/09/2010	WO0911 RIMROCK RD/17TH TO	10	268015	12/2010	1,118.70	
845-3186-431.93-10	06/09/2010	WO0911 RIMROCK RD/17TH TO	10	268015	12/2010	2,786.63	
06/11/2010	733158	LAW ENFORCEMENT ASSOCIATES	10303			3,015.00	
255-2145-421.22-90	06/10/2010	MISC SERVICES	FREIGHT	273670	12/2010	20.00	

PREPARED 06/11/2010, 14:59:13
 PROGRAM: GM350L
 CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
 MINIMUM AMOUNT: 2,500.00
 FROM 06/11/2010 TO 06/11/2010

PAGE 6

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #		TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
255-2145-421.22-90		06/10/2010	MISC SERVICES	SCALE	273670	12/2010	2,995.00
06/11/2010	733180	MONTANA MUNICIPAL INTERLOCAL	20725				19,937.49
630-1753-485.73-11		06/08/2010	MISC SERVICES	510005	275328	12/2010	19,937.49
06/11/2010	733183	MONTANA STATE LIBRARY	2548				17,852.09
260-5518-455.36-90		06/09/2010	MEMBERSHIP FOR MSC	MSC FY 2011	F11069	12/2010	17,852.09
06/11/2010	733188	MORRISON MAIERLE INC	2572				140,726.72
205-3131-433.93-10		06/09/2010	WO0210 BENCH CONNECTION	9	265562	12/2010	140,726.72
06/11/2010	733195	NORMONT EQUIPMENT COMPANY	2738				3,599.66
502-7500-609.21-20		06/02/2010	MISC SERVICES	200500226	275185	12/2010	650.00
211-3134-433.23-20		06/04/2010	MISC SERVICES	200500199	275226	12/2010	1,450.24
211-3134-433.23-20		06/04/2010	MISC SERVICES	200500224	275226	12/2010	468.20
211-3136-433.22-90		06/04/2010	PAINT, COATINGS, WALLPAPER	200500224	275226	12/2010	342.72
211-3136-433.24-20		06/04/2010	MISC SERVICES	200500224	275226	12/2010	688.50
06/11/2010	733198	NORTHWESTERN ENERGY	15771				34,205.40
502-7400-603.34-10		06/02/2010	MISC SERVICES	01004787 MAY10	275168	12/2010	499.59
502-7400-603.34-10		06/02/2010	MISC SERVICES	01005404 MAY10	275168	12/2010	2,801.02
502-7400-603.34-10		06/02/2010	MISC SERVICES	01005404 MAY10	275168	12/2010	2,801.03
512-8500-625.34-10		06/09/2010	MISC SERVICES	17568932 MAY10	275339	12/2010	92.20
407-7128-711.94-97		06/08/2010	INVOICE #90147261	90147261	F11049	12/2010	9,570.00
571-7143-713.34-10		06/09/2010	ACCOUNT NO: 0100473-8	060910	F11062	12/2010	2,198.17
260-5512-455.34-10		06/09/2010	ELECTRIC CHARGE	0100467-0 JUNE	F11067	12/2010	6,989.76
150-2221-422.34-10		06/10/2010	NW FIRE	07125321		12/2010	17.66
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07125339		12/2010	94.60
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07125347		12/2010	13.82
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07125354		12/2010	201.97
10-5141-436.34-10		06/10/2010	NW PARK/REC/PL	07125388		12/2010	590.44
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07127913		12/2010	20.26
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07127954		12/2010	20.81
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07127970		12/2010	16.24
561-7117-711.34-10		06/10/2010	NW AVIATION/TRAN	07128051		12/2010	9.74
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07128135		12/2010	7.25
571-7143-713.34-10		06/10/2010	NW AVIATION/TRAN	07192255		12/2010	330.79
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07195431		12/2010	1,954.45
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07197593		12/2010	20.35
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07197601		12/2010	21.85
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07197619		12/2010	25.88
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07197627		12/2010	19.10
561-7113-711.34-10		06/10/2010	NW AVIATION/TRAN	07202963		12/2010	21.37
150-2221-422.34-10		06/10/2010	NW FIRE	07208176		12/2010	183.20
502-7400-603.34-10		06/10/2010	NW PUD-WATER TREAT	07222490		12/2010	10.10
502-7400-603.34-10		06/10/2010	NW PUD-WATER TREAT	07222706		12/2010	2,327.69
512-8500-625.34-10		06/10/2010	NW Parks	07233836		12/2010	105.61
512-8500-625.34-10		06/10/2010	NW PUD-WASTE WATER	07234040		12/2010	732.19
512-8500-625.34-10		06/10/2010	NW PUD-WASTE WATER	07238785		12/2010	215.57
10-5112-452.34-10		06/10/2010	NW PARK/REC/PL	08134892		12/2010	64.11

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
872-5198-452.34-10	06/10/2010	NW PARK/REC/PL	08814550		12/2010	8.20	
10-5112-452.34-10	06/10/2010	PARKS	09789173		12/2010	8.59	
10-5129-451.34-10	06/10/2010	NW FIRE	09998071		12/2010	113.12	
872-5198-452.34-10	06/10/2010	NW PARK/REC/PL	10458206		12/2010	.58	
502-7400-603.34-10	06/10/2010	NW Parks	11422532		12/2010	154.99	
502-7400-603.34-10	06/10/2010	NW Pud	11608072		12/2010	20.34	
872-5198-452.34-10	06/10/2010	NW parks	11759727		12/2010	130.72	
150-2171-441.34-10	06/10/2010	NW	11834835		12/2010	1,100.27	
10-5112-452.34-10	06/10/2010	NW	11914041		12/2010	285.69	
10-5112-452.34-10	06/10/2010	NW	12422226		12/2010	7.61	
10-5112-452.34-10	06/10/2010	NW	12488631		12/2010	59.49	
502-7400-603.34-10	06/10/2010	NW	13466735		12/2010	13.98	
872-5198-452.34-10	06/10/2010	NW	15138001		12/2010	64.35	
872-5198-452.34-10	06/10/2010	NW	15138027		12/2010	29.35	
872-5198-452.34-10	06/10/2010	NW	15138043		12/2010	14.22	
872-5198-452.34-10	06/10/2010	NW	15143886		12/2010	8.11	
521-1524-493.34-10	06/10/2010	PARKING-LINC CEN LOT POLE	15696313		12/2010	34.83	
10-5112-452.34-10	06/10/2010	SOUTH PARK CONCESSION	15882624		12/2010	8.48	
211-3133-433.34-10	06/10/2010	STREETS/TRAFFIC	17403577		12/2010	.08	
211-3133-433.34-10	06/10/2010	STREETS/TRAFFIC	17488966		12/2010	.41	
10-5112-452.34-10	06/10/2010	PARKS	18366666		12/2010	31.49	
10-5112-452.34-10	06/10/2010	PARKS & REC	18494088		12/2010	57.04	
872-5198-452.34-10	06/10/2010	NW	15137961		12/2010	76.64	
06/11/2010	733200	ONE EIGHTY COMMUNICATIONS	15590			4,899.04	
561-7110-711.34-50	06/09/2010	ONE EIGHTY JUNE 2010	AIRPORT 2948370		12/2010	40.60	
606-1931-484.34-50	06/09/2010	ONE EIGHTY JUNE 2010	ACCT 00018768		12/2010	542.87	
606-1931-484.34-50	06/09/2010	ONE EIGHTY JUNE 2010	ACCT 00001906		12/2010	3,104.20	
10-5112-452.34-50	06/09/2010	ONE EIGHTY JUNE 2010	867-7275		12/2010	46.00	
670-3141-489.34-50	06/09/2010	ONE EIGHTY JUNE 2010	DEPOT ONE HALF		12/2010	408.21	
660-3110-431.34-50	06/09/2010	ONE EIGHTY JUNE 2010	DEPOT ONE HALF		12/2010	408.21	
260-5518-455.35-90	06/09/2010	ONE EIGHTY JUNE 2010	INTERNET LIB		12/2010	259.00	
620-1911-482.34-52	06/09/2010	ONE EIGHTY JUNE 2010	IT INTERNET		12/2010	79.95	
150-2225-422.34-50	06/09/2010	ONE EIGHTY JUNE 2010	LONG DISTANCE		12/2010	10.00	
06/11/2010	733204	PHILIP SERVICES CORPORATION	14411			2,997.00	
541-3123-435.35-90	06/02/2010	HAZARDOUS WASTE REMOVAL	22000218940	265436	12/2010	2,997.00	
06/11/2010	733222	SHERWIN WILLIAMS	3417			25,487.00	
211-3136-433.23-40	05/26/2010	MISC SERVICES	5033-3	274275	11/2010	16,720.00	
211-3136-433.23-40	06/04/2010	PAINT, COATINGS, WALLPAPER	1531-8	274768	12/2010	1,524.80	
211-3136-433.23-40	06/04/2010	PAINT, COATINGS, WALLPAPER	1579-7	274768	12/2010	8,767.00	
211-3136-433.23-40	06/04/2010	PAINT, COATINGS, WALLPAPER	1531-8	275274	12/2010	1,524.80-	
06/11/2010	733224	SNOWY RANGE RESEARCH	18855			4,615.00	
248-1263-412.35-60	06/03/2010	BAMDUI CONSULTING - MAY10	2010-11	275210	12/2010	1,000.00	
246-1250-412.35-90	06/03/2010	BAMDC CONSULTING - MAY 10	2010-11	275211	12/2010	1,165.00	
738-1264-412.35-10	06/03/2010	SAMHSA CONSULTING-MAY 10	2010-11	275212	12/2010	1,650.00	
245-1257-412.35-60	06/03/2010	BAMHC CONSULTING - MAY 10	2010-11	275213	12/2010	800.00	
06/11/2010	733228	ST VINCENT OCCUPATIONAL HEALTH	3535			5,455.01	
10-1750-417.35-72	06/09/2010	MISC SERVICES	20688	275381	12/2010	2,725.00	

PROGRAM: GM350L

MINIMUM AMOUNT: 2,500.00

CITY OF BILLINGS

FROM 06/11/2010 TO 06/11/2010

BANK CODE

00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
150-2111-421.35-10	06/09/2010	MISC SERVICES	20688	275381	12/2010	40.00	
150-2171-441.35-10	06/09/2010	MISC SERVICES	20688	275381	12/2010	484.26	
211-3131-433.22-60	06/09/2010	MISC SERVICES	20688	275381	12/2010	357.50	
541-3121-435.35-10	06/09/2010	MISC SERVICES	20688	275381	12/2010	601.25	
571-7142-713.35-10	06/09/2010	MISC SERVICES	20688	275381	12/2010	150.00	
601-1553-481.35-10	06/09/2010	MISC SERVICES	20688	275381	12/2010	160.00	
627-1752-417.51-60	06/09/2010	MISC SERVICES	20688	275381	12/2010	937.00	
06/11/2010 733233	SYLVAN NURSERY	3669				3,427.00	
630-1753-485.73-10	06/08/2010	MISC SERVICES	05142010	275327	12/2010	3,427.00	
06/11/2010 733239	TIRE-RAMA	1864				7,291.75	
541-3122-435.23-90	05/07/2010	TIRES AND REPAIRS	1050159173	273470	11/2010	4,093.50	
541-3122-435.23-90	05/07/2010	TIRES AND REPAIRS	1050159175	273470	11/2010	1,436.85	
211-3132-433.23-20	05/11/2010	MP	1050-159457	273470	11/2010	100.00	
541-3123-435.23-90	05/12/2010	TIRES UNIT #24 CLARENCE	1050159541	273470	11/2010	316.04	
211-3132-433.23-90	05/19/2010	MP	1050-159123	273470	11/2010	30.00	
211-3132-433.23-90	05/19/2010	MP	1050-159168	273470	11/2010	45.00	
211-3136-433.23-90	05/20/2010	MP	1050-159441	273470	11/2010	15.00	
541-3123-435.23-90	06/07/2010	TIRES AND REPAIRS	1050160240	273470	12/2010	1,155.36	
571-7144-713.23-90	06/09/2010	AUTO &TRUCK MAINT.ITEMS	1050159122	273470	12/2010	90.00	
571-7144-713.23-90	06/09/2010	AUTO &TRUCK MAINT.ITEMS	1050160142	273470	12/2010	10.00	
06/11/2010 733244	TOWN & COUNTRY SUPPLY ASSOCIAT	18295				37,008.26	
601-0000-141.00-00	06/07/2010	MP	88010		12/2010	4,339.20	
601-0000-141.00-00	06/07/2010	MP	88011		12/2010	11,325.06	
601-0000-141.00-00	06/07/2010	MP	88012		12/2010	10,848.00	
561-7118-711.23-13	06/07/2010	INVOICE #88009	88009	F11039	12/2010	10,496.00	
06/11/2010 733256	VERMONT SYSTEMS INC	14430				2,940.00	
10-5121-451.36-65	06/10/2010	WEBTRAC	30036	275333	12/2010	2,940.00	
06/11/2010 733267	WRITER'S VOICE OF BILLINGS	8602				6,850.00	
795-1514-415.72-80	06/10/2010	MISC SERVICES	1491	275404	12/2010	6,850.00	
DATE RANGE TOTAL *						571,985.67 *	

Regular City Council Meeting

Date: 07/12/2010

TITLE: Payment of Claims June 18, 2010.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,601,442.05 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 18, 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

Attachments

List of claims greater than \$2500

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
06/18/2010	733289	ARCHIE COCHRANE	800			2,882.92	
150-2231-422.23-20	06/11/2010	MP	5024675	275422	12/2010	9.99	
150-2112-421.23-20	06/11/2010	MP	5024873	275422	12/2010	49.82	
150-2112-421.23-20	06/11/2010	MP	5024945	275422	12/2010	61.47	
150-2112-421.23-20	06/11/2010	MP	5025062	275422	12/2010	483.62	
150-2112-421.23-20	06/11/2010	MP	5025142	275422	12/2010	198.75	
571-7147-713.23-20	06/16/2010	MP	5025195	275549	12/2010	279.10	
150-2112-421.23-20	06/16/2010	MP	5025341	275549	12/2010	296.95	
150-2112-421.23-20	06/16/2010	MP	5025392	275549	12/2010	272.16	
150-2112-421.23-20	06/16/2010	MP	5025393	275549	12/2010	280.83	
150-2112-421.23-20	06/16/2010	MP	5025395	275549	12/2010	113.69	
150-2112-421.23-20	06/16/2010	MP	5025398	275549	12/2010	336.12	
150-2112-421.23-20	06/16/2010	MP	5025554	275549	12/2010	7.32	
150-2112-421.23-20	06/16/2010	MP	5025678	275549	12/2010	218.79	
541-3123-435.23-20	06/16/2010	MP	5025689	275549	12/2010	29.24	
150-2112-421.23-20	06/16/2010	MP	5025731	275549	12/2010	156.35	
150-2112-421.23-20	06/16/2010	MP	5025796	275549	12/2010	42.60	
150-2112-421.23-20	06/16/2010	MP	5025825	275549	12/2010	29.87	
150-2112-421.23-20	06/16/2010	MP	5025825	275549	12/2010	16.25	
06/18/2010	733310	BORDER STATES ELECTRIC	509			11,654.64	
502-7400-603.23-60	05/05/2010	NONSTOCKING ITEMS-P.U.D.	900778231	273460	11/2010	161.65	
512-8400-623.23-60	05/06/2010	NONSTOCKING ITEMS-P.U.D.	900778131	273460	11/2010	40.11	
502-7400-603.23-60	05/06/2010	NONSTOCKING ITEMS-P.U.D.	900788573	273460	11/2010	755.00	
502-7400-603.23-60	05/06/2010	NONSTOCKING ITEMS-P.U.D.	900789729	273460	11/2010	243.12	
502-7400-603.23-60	05/10/2010	NONSTOCKING ITEMS-P.U.D.	900794803	273460	11/2010	89.14	
502-7400-603.23-60	05/10/2010	NONSTOCKING ITEMS-P.U.D.	900801004	273460	11/2010	225.23	
211-0000-141.31-83	05/11/2010	STREET LIGHTS	900795392		11/2010	104.72	
211-3136-433.24-30	05/11/2010	MISC SERVICES	900778546	273460	11/2010	17.40	
211-3138-433.23-60	05/11/2010	MISC SERVICES	900788311	273460	11/2010	11.60	
211-3136-433.24-30	05/11/2010	MISC SERVICES	900799698	273460	11/2010	11.64	
502-7314-602.24-50	05/12/2010	NONSTOCKING ITEMS-P.U.D.	900818344	273460	11/2010	34.54	
512-8314-622.24-50	05/12/2010	NONSTOCKING ITEMS-P.U.D.	900818344	273460	11/2010	34.54	
512-8400-623.23-60	05/17/2010	NONSTOCKING ITEMS-P.U.D.	900800374	273460	11/2010	94.14	
512-8400-623.23-60	05/17/2010	NONSTOCKING ITEMS-P.U.D.	900812244	273460	11/2010	31.30	
502-7400-603.23-60	05/17/2010	NONSTOCKING ITEMS-P.U.D.	900812258	273460	11/2010	165.43	
512-8400-623.23-60	05/17/2010	NONSTOCKING ITEMS-P.U.D.	900817249	273460	11/2010	47.63	
502-7400-603.35-53	05/17/2010	SOFTWARE LICENSING	900799791	274728	11/2010	6,100.00	
512-8400-623.23-60	05/18/2010	NONSTOCKING ITEMS-P.U.D.	900824713	273460	11/2010	93.45	
502-7400-603.23-60	05/20/2010	NONSTOCKING ITEMS-P.U.D.	900835259	273460	11/2010	95.62	
512-8400-623.23-60	05/21/2010	NONSTOCKING ITEMS-P.U.D.	900853185	273460	11/2010	12.60	
211-0000-141.31-83	05/25/2010	STREET LIGHTS	900853929		11/2010	92.10	
502-0000-141.00-00	05/25/2010	WATER PARTS AND SUPPLIES	900866028		11/2010	680.26	
211-3136-433.24-30	05/25/2010	MISC SERVICES	900823946	273460	11/2010	104.75	
512-8400-623.23-60	05/27/2010	NONSTOCKING ITEMS-P.U.D.	900871096	273460	11/2010	68.68	
512-8500-625.23-60	05/27/2010	NONSTOCKING ITEMS-P.U.D.	900871098	273460	11/2010	414.00	
512-8400-623.23-60	05/27/2010	NONSTOCKING ITEMS-P.U.D.	900871255	273460	11/2010	78.78	
502-7400-603.23-60	06/01/2010	NONSTOCKING ITEMS-P.U.D.	900891153	273460	12/2010	1,082.98	
211-0000-141.31-83	06/03/2010	STREET LIGHTS	900878566		12/2010	618.12	

PREPARED 06/18/2010, 13:56:11
 PROGRAM: GM350L
 CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
 MINIMUM AMOUNT: 2,500.00
 FROM 06/18/2010 TO 06/18/2010

PAGE 2

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
211-3138-433.23-60	06/03/2010	MISC SERVICES	900835829	273460	12/2010	22.29	
211-3138-433.23-60	06/03/2010	MISC SERVICES	900878477	273460	12/2010	6.37	
211-3136-433.24-30	06/03/2010	MISC SERVICES	900885012	273460	12/2010	104.45	
502-7400-603.23-60	06/11/2010	NONSTOCKING ITEMS-P.U.D.	900790666	273460	12/2010	13.00	
06/18/2010	733314	BUSINESS TAX SECTION	2449			14,847.13	
502-7500-609.36-80	06/09/2010	WATER LINE REPAIRS	3622	275361	12/2010	488.10	
421-0000-201.10-00	06/15/2010	WO0509 WWTP GENDERATOR	RET RELEASE	261378	12/2010	168.80	
416-7493-603.92-20	06/15/2010	WO0426 ZONE 4 RESERV	8	267994	12/2010	1,035.97	
845-3186-431.93-10	06/15/2010	WO0917 24TH ST W CONCRETE	5	269602	12/2010	103.33	
416-7493-603.93-40	06/15/2010	WO0913 STAPLES REDUNDANT	2	274053	12/2010	4,643.34	
513-8591-625.93-40	06/15/2010	WO1001 WTR&SWR SCH1	1	274056	12/2010	2,061.60	
503-7591-609.93-40	06/15/2010	WO1001 WTR&SWR REPC SCH2	1	274058	12/2010	1,515.19	
435-3165-431.93-11	06/15/2010	WO0412 ALKALI CR RD	1	274581	12/2010	8.31	
845-3186-431.93-10	06/15/2010	WO0412 ALKALI CR RD	1	274581	12/2010	659.21	
562-7120-711.93-10	06/16/2010	MISC SERVICES	273594-1	273594	12/2010	257.95	
562-7120-711.92-90	06/16/2010	MISC SERVICES	2537	274077	12/2010	72.11	
407-7128-711.93-97	06/16/2010	MISC SERVICES	274391-2	274391	12/2010	2,846.07	
205-3131-433.93-90	06/17/2010	WO1003 2010 ST MAINT PRG	1	272599	12/2010	987.15	
06/18/2010	733316	CARMIKE CINEMA	11176			3,670.00	
10-1750-417.33-65	06/11/2010	MISC SERVICES	062010	275423	12/2010	3,670.00	
06/18/2010	733322	CMG CONSTRUCTION, INC.	17342			66,084.70	
435-3165-431.93-11	06/15/2010	WO0412 ALKALI CR TRAIL	1	274580	12/2010	822.94	
845-3186-431.93-10	06/15/2010	WO0412 ALKALI CR TRAIL	1	274580	12/2010	65,261.76	
06/18/2010	733323	COLSTRIP ELECTRIC INC	11663			16,711.40	
421-0000-201.10-00	06/15/2010	WO0509 WWTP GENERATOR	RET RELEASE	261377	12/2010	16,711.40	
06/18/2010	733326	COP CONSTRUCTION CO	865			150,003.79	
503-7591-609.93-40	06/15/2010	WO1001 WTR&SWR REPL SCH2	1	274057	12/2010	150,003.79	
06/18/2010	733335	E-ONE, INC	17582			9,913.37	
561-7115-711.23-20	06/16/2010	MISC SERVICES	SLS/10240981	275480	12/2010	9,913.37	
06/18/2010	733338	EMERGENCY MEDICAL PRODUCTS	13149			4,355.32	
150-2229-422.26-90	06/16/2010	QRV/EMS SUPPLIES/FIRE	1280794 QRV/EMS	274846	12/2010	50.90	
150-2229-422.26-90	06/16/2010	QRV/EMS SUPPLIES/FIRE	1280794 QRV/EMS	274846	12/2010	370.90	
150-2229-422.26-90	06/16/2010	QRV/EMS SUPPLIES/FIRE	1280794 QRV/EMS	274846	12/2010	3,933.52	
06/18/2010	733352	GENERAL ELECTRIC CAPITAL CORP	19598			9,370.42	
150-2150-421.61-00	06/15/2010	MISC SERVICES	TOUGHBOOK	275520	12/2010	4,347.03	
150-2150-421.61-00	06/15/2010	MISC SERVICES	TOUGHBOOK	275520	12/2010	4,347.03	
150-2150-421.62-00	06/15/2010	MISC SERVICES	TOUGHBOOK	275520	12/2010	338.18	
150-2150-421.62-00	06/15/2010	MISC SERVICES	TOUGHBOOK	275520	12/2010	338.18	
06/18/2010	733362	HDR INC	1544			9,774.41	
513-8491-623.93-90	06/17/2010	WO0908 WWTP WATER LINE	11	266958	12/2010	1,382.83	
845-3186-431.93-10	06/17/2010	WO0915 GRAND/ZIM/SHILOH	6	270652	12/2010	8,391.58	

PROGRAM: GM350L

MINIMUM AMOUNT: 2,500.00

CITY OF BILLINGS

FROM 06/18/2010 TO 06/18/2010

BANK CODE

00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
06/18/2010	733367	IAFF	20196			4,149.90	
900-0000-209.99-20	06/18/2010	PAYROLL SUMMARY	20100618		12/2010	4,149.90	
06/18/2010	733373	JACOBS CONSULTANCY INC	19805			40,914.23	
406-7119-711.92-90	06/16/2010	MISC SERVICES	37BIL300051002	273606	12/2010	40,914.23	
06/18/2010	733375	JB INDUSTRIAL INC	18112			3,627.90	
502-7400-603.24-50	06/14/2010	MISC SERVICES	2953	275431	12/2010	1,800.00	
502-7400-603.24-50	06/14/2010	MISC SERVICES	2960	275431	12/2010	127.90	
502-7400-603.24-50	06/14/2010	MISC SERVICES	2967	275431	12/2010	1,700.00	
06/18/2010	733379	JTL GROUP INC DBA KNIFE RIVER	2417			98,831.71	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208595	275486	12/2010	32.16	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208872	275486	12/2010	119.36	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208873	275486	12/2010	148.27	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208903	275486	12/2010	57.67	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208916	275486	12/2010	66.87	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208959	275486	12/2010	62.98	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	208975	275486	12/2010	31.25	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	209262	275486	12/2010	145.56	
211-3132-433.47-10	06/15/2010	ROAD AND HIGHWAY MATERIAL	209284	275486	12/2010	105.35	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	209321	275486	12/2010	168.47	
211-3132-433.45-20	06/15/2010	ROAD/HIGHWAY MATERIAL	209469	275486	12/2010	166.37	
205-3131-433.93-90	06/17/2010	WO1003 2010 ST MAINT PRG	1	272598	12/2010	97,727.40	
06/18/2010	733385	L N CURTIS & SONS	10392			2,940.32	
150-2226-422.23-20	06/15/2010	MP	3099327-00	275545	12/2010	920.00	
150-2226-422.23-20	06/15/2010	MP	3099327-00	275545	12/2010	40.60	
150-2226-422.23-20	06/15/2010	MP	3099327-01	275545	12/2010	240.00	
150-2226-422.23-20	06/15/2010	MP	3099327-01	275545	12/2010	8.37	
150-2226-422.23-20	06/15/2010	MP	3099663-00	275545	12/2010	331.20	
150-2226-422.23-20	06/15/2010	MP	3099663-00	275545	12/2010	14.08	
150-2226-422.23-20	06/15/2010	MP	3099669.01	275545	12/2010	10.00	
150-2226-422.23-20	06/15/2010	MP	3099669.01	275545	12/2010	8.37	
150-2226-422.23-20	06/15/2010	MP	3099669-00	275545	12/2010	189.97	
150-2226-422.23-20	06/15/2010	MP	3099752-00	275545	12/2010	449.40	
150-2226-422.23-20	06/15/2010	MP	3099752-00	275545	12/2010	117.70	
150-2226-422.23-20	06/15/2010	MP	3099814-00	275545	12/2010	240.00	
150-2226-422.23-20	06/15/2010	MP	3099814-00	275545	12/2010	25.63	
150-2229-422.26-40	06/16/2010	BOOTS:LEATHER/MARTIN,MIKE	3100249-00 MRTN	274335	12/2010	345.00	
06/18/2010	733386	LAND DESIGN INC	15918			15,000.00	
840-3184-431.35-90	06/15/2010	SHARPTAIL CONSERV PARK	PY 4/2009-163	273123	12/2010	15,000.00	
06/18/2010	733395	MATTRESS KING	8398			3,870.00	
150-2226-422.21-20	06/17/2010	TWIN/MATTRESSES(15)/FIRE	1716312 FIRE1	275157	12/2010	3,870.00	
06/18/2010	733405	MONTANA DEPT OF TRANSPORTATION	2496			5,196.08	
205-3131-433.93-10	06/15/2010	WO0325 RIMROCK RD	AR#28030	275457	12/2010	5,196.08	

PREPARED 06/18/2010, 13:56:11
 PROGRAM: GM350L
 CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
 MINIMUM AMOUNT: 2,500.00
 FROM 06/18/2010 TO 06/18/2010

PAGE 4

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
06/18/2010	733407	MONTANA PETERBILT	20331			6,104.80	
541-3122-435.23-20	06/11/2010	MP	H201470014	275414	12/2010	36.14	
541-3122-435.23-20	06/11/2010	MP	H201470014	275414	12/2010	47.00	
630-1753-485.73-10	06/11/2010	MISC SERVICES	H201450055	275419	12/2010	6,021.66	
06/18/2010	733408	MONTANA STATE FIREMAN'S ASSOC	20195			2,607.50	
900-0000-209.99-24	06/18/2010	PAYROLL SUMMARY	20100618		12/2010	2,607.50	
06/18/2010	733409	MORRISON MAIERLE INC	2572			30,257.50	
407-7128-711.93-97	06/16/2010	MISC SERVICES	100941	274011	12/2010	26,663.84	
407-7128-711.93-97	06/16/2010	MISC SERVICES	100942	274012	12/2010	2,874.93	
407-7128-711.93-97	06/16/2010	MISC SERVICES	100942	274012	12/2010	718.73	
06/18/2010	733421	NORTH WEST FLOORS	16186			7,138.89	
562-7120-711.92-90	06/16/2010	MISC SERVICES	2537	274075	12/2010	7,138.89	
06/18/2010	733424	NORTHWEST PIPE FITTINGS	2758			31,126.09	
502-0000-141.00-00	05/06/2010	SYSTEMS	1524677		11/2010	383.55	
502-0000-141.00-00	05/06/2010	WATER PARTS AND SUPPLIES	1541627		11/2010	706.70	
502-0000-141.00-00	05/06/2010	SYSTEMS	1541627		11/2010	4,124.08	
502-0000-141.00-00	05/06/2010	SYSTEMS	1541755		11/2010	1,170.80	
502-7400-603.24-50	05/06/2010	NONSTOCKING ITEMS-P.U.D.	1541792	273468	11/2010	12.40	
502-7400-603.24-50	05/06/2010	NONSTOCKING ITEMS-P.U.D.	1542082	273468	11/2010	69.26	
502-7312-602.24-10	05/10/2010	NONSTOCKING ITEMS-P.U.D.	1521326	273468	11/2010	184.44	
502-7312-602.24-10	05/10/2010	NONSTOCKING ITEMS-P.U.D.	1538435	273468	11/2010	105.00	
502-7400-603.24-50	05/10/2010	NONSTOCKING ITEMS-P.U.D.	1543130	273468	11/2010	30.36	
503-7591-609.93-40	05/10/2010	NONSTOCKING ITEMS-P.U.D.	1544175	273468	11/2010	894.00	
502-0000-141.00-00	05/11/2010	SYSTEMS	15306301		11/2010	351.50	
211-3136-433.22-90	05/11/2010	MISC SERVICES	1543347	273468	11/2010	13.56	
211-3136-433.22-90	05/11/2010	MISC SERVICES	1543540	273468	11/2010	15.96	
502-7400-603.24-50	05/11/2010	NONSTOCKING ITEMS-P.U.D.	1544591	273468	11/2010	21.16	
503-7591-609.93-40	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1512385	273468	11/2010	3,776.96	
502-7312-602.24-10	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1545901	273468	11/2010	76.00	
502-7400-603.24-50	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1546918	273468	11/2010	13.60	
502-7400-603.24-50	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1546928	273468	11/2010	50.00	
502-7400-603.24-50	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1547036	273468	11/2010	3.18	
503-7591-609.93-40	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1547050	273468	11/2010	1,135.78	
502-7400-603.24-50	05/17/2010	NONSTOCKING ITEMS-P.U.D.	1547127	273468	11/2010	5.41	
512-8400-623.22-40	05/19/2010	NONSTOCKING ITEMS-P.U.D.	1547081	273468	11/2010	42.13	
502-0000-141.00-00	05/20/2010	WATER PARTS AND SUPPLIES	15304862		11/2010	224.16	
512-8400-623.24-50	05/21/2010	NONSTOCKING ITEMS-P.U.D.	1549167	273468	11/2010	153.51	
502-0000-141.00-00	05/24/2010	WATER PARTS AND SUPPLIES	1550997		11/2010	1,189.95	
502-0000-141.00-00	05/24/2010	SYSTEMS	1550997		11/2010	42.90	
502-0000-141.00-00	05/24/2010	SYSTEMS	1551009		11/2010	720.80	
502-0000-141.00-00	05/24/2010	WATER PARTS AND SUPPLIES	1551001		11/2010	14,143.32	
512-8400-623.24-50	05/24/2010	NONSTOCKING ITEMS-P.U.D.	1549815	273468	11/2010	94.33	
512-8400-623.24-50	05/24/2010	NONSTOCKING ITEMS-P.U.D.	1550793	273468	11/2010	114.44	
502-0000-141.00-00	05/26/2010	WATER PARTS AND SUPPLIES	1530657		11/2010	466.11	
502-0000-141.00-00	06/01/2010	WATER PARTS AND SUPPLIES	1553825		12/2010	239.20	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
512-8400-623.24-50	06/01/2010	NONSTOCKING ITEMS-P.U.D.	1554092	273468	12/2010	267.54	
502-7500-609.44-10	06/02/2010	NONSTOCKING ITEMS-P.U.D.	1553922	273468	12/2010	83.20	
503-7591-609.93-40	06/17/2010	NONSTOCKING ITEMS-P.U.D.	1539104	273468	12/2010	200.80	
06/18/2010	733426	NORTHWESTERN ENERGY	15771			23,340.08	
150-2221-422.34-10	06/01/2010	FIRE6:ELEC/2760 KWH USED	0100477-9 10MAY	267864	12/2010	319.39	
561-7117-711.34-10	06/14/2010	1341295-2	061410	F11092	12/2010	194.99	
561-7117-711.34-10	06/14/2010	1341291-1	061410	F11092	12/2010	107.31	
561-7117-711.34-10	06/14/2010	1341289-5	061410	F11092	12/2010	17.55	
561-7117-711.34-10	06/14/2010	1341288-7	061410	F11092	12/2010	267.09	
561-7117-711.34-10	06/14/2010	1264299-7	061410	F11092	12/2010	507.98	
561-7113-711.34-10	06/14/2010	0100483-7	061410	F11092	12/2010	1,934.25	
561-7113-711.34-10	06/14/2010	0100484-5	061410	F11092	12/2010	1,743.54	
561-7113-711.34-10	06/14/2010	1647695-4	061410	F11092	12/2010	16.85	
561-7117-711.34-10	06/14/2010	1669567-8	061410	F11092	12/2010	569.15	
10-5127-451.34-10	06/18/2010	NW PARK/REC/PL	07123870		12/2010	37.78	
10-5122-451.34-10	06/18/2010	NW PARK/REC/PL	07125362		12/2010	156.96	
10-5122-451.34-10	06/18/2010	NW PARK/REC/PL	07208184		12/2010	21.76	
10-5126-451.34-10	06/18/2010	NW PARK/REC/PL	07208218		12/2010	287.07	
502-7400-603.34-10	06/18/2010	NW PUD-WATER TREAT	07222649		12/2010	3,939.56	
10-5112-452.34-10	06/18/2010	NW PARK/REC/PL	07222870		12/2010	749.76	
502-7400-603.34-10	06/18/2010	NW PUD-WATER TREAT	07230402		12/2010	3,909.64	
10-5112-452.34-10	06/18/2010	NW PARK/REC/PL	07230451		12/2010	518.01	
502-7400-603.34-10	06/18/2010	NW PUD-WATER TREAT	07230592		12/2010	9.63	
211-3133-433.34-10	06/18/2010	NW PUBLIC WORKS	08554040		12/2010	8.45	
150-2221-422.34-10	06/18/2010	NW FIRE	08715468		12/2010	506.33	
10-5112-452.34-10	06/18/2010	NW PARK/REC/PL	09254962		12/2010	361.72	
650-1566-487.34-10	06/18/2010		09758087		12/2010	329.02	
872-5198-452.34-10	06/18/2010	NW PARK/REC/PL	10458131		12/2010	67.69	
502-7400-603.34-10	06/18/2010	NW PUD	11164522		12/2010	506.36	
561-7117-711.34-10	06/18/2010	NW PUD	11389269		12/2010	52.76	
650-1566-487.34-10	06/18/2010	ACCOUNTS PAYABLE	11608023		12/2010	793.08	
650-1566-487.34-10	06/18/2010	ACCOUNTS PAYABLE	11608049		12/2010	2,379.93	
650-1566-487.34-10	06/18/2010	NW	12693917		12/2010	3,026.47	
06/18/2010	733436	PORTABLE COMPUTER SYSTEMS, INC	19264			11,891.00	
620-1911-482.53-15	06/17/2010	MISC SERVICES	33065	274912	12/2010	871.00	
150-2150-421.35-53	06/17/2010	MISC SERVICES	33064	274919	12/2010	8,108.52	
150-2221-422.34-50	06/17/2010	MISC SERVICES	33064	274919	12/2010	1,520.76	
620-1911-482.53-15	06/17/2010	MISC SERVICES	33064	274919	12/2010	1,390.72	
06/18/2010	733465	STAR SERVICE INC	3553			102,561.53	
416-7493-603.92-20	06/15/2010	WO0426 ZONE 4 RESERVOIR	8	267993	12/2010	102,561.53	
06/18/2010	733471	TETRA TECH, INC.	19346			3,389.32	
541-3123-435.35-90	06/15/2010	LANDFILL MONITORING	50360741	275102	12/2010	3,389.32	
06/18/2010	733472	TITAN MACHINERY INC	20569			10,544.94	
211-3134-433.23-20	06/11/2010	MP	IC04578	275413	12/2010	209.28	
211-3134-433.23-20	06/11/2010	MP	IC04578	275413	12/2010	41.05	

PREPARED 06/18/2010, 13:56:11
 PROGRAM: GM350L
 CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
 MINIMUM AMOUNT: 2,500.00
 FROM 06/18/2010 TO 06/18/2010

PAGE 6

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT	#	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
211-3134-433.23-20		06/11/2010	MP	1C04123	275413	12/2010	545.16
211-3134-433.23-20		06/11/2010	MP	1C04123	275413	12/2010	113.05
211-3133-433.23-20		06/11/2010	MP	1C04229	275413	12/2010	180.93
211-3133-433.23-20		06/11/2010	MP	1C04229	275413	12/2010	13.66
211-3132-433.23-20		06/11/2010	MP	IC04125	275424	12/2010	1,416.72
211-3133-433.23-20		06/11/2010	MP	IC04125	275424	12/2010	3,647.45
211-3134-433.23-20		06/11/2010	MP	IC04372	275424	12/2010	63.51
211-3134-433.23-20		06/11/2010	MP	1C04267	275424	12/2010	2,602.27
211-3133-433.23-20		06/11/2010	MP	1C04331	275424	12/2010	362.44
211-3134-433.23-20		06/11/2010	MP	1C04331	275424	12/2010	181.22
211-3134-433.23-20		06/11/2010	MP	1C04366	275424	12/2010	812.49
211-3134-433.23-20		06/11/2010	MP	1C04366	275424	12/2010	19.50
211-3133-433.23-20		06/15/2010	MP	1C04694	275506	12/2010	272.96
211-3133-433.23-20		06/15/2010	MP	1C04694	275506	12/2010	63.25
06/18/2010	733475	TOTAL ASPHALT REPAIR INC	13249				55,885.15
502-7500-609.36-80		06/09/2010	WATER LINE REPAIRS	3622	275360	12/2010	48,321.90
503-7591-609.93-40		06/14/2010	MISC SERVICES	3637	275435	12/2010	4,981.00
503-7591-609.93-40		06/14/2010	MISC SERVICES	3651	275435	12/2010	2,582.25
06/18/2010	733478	TOWN & COUNTRY SUPPLY ASSOCIAT	18295				65,014.18
601-0000-141.71-41		06/13/2010	MP	87591		12/2010	14,876.40
601-0000-141.71-41		06/13/2010	MP	88040		12/2010	5,000.40
601-0000-141.00-00		06/13/2010	MP	88047		12/2010	17,354.55
601-0000-141.00-00		06/15/2010	MP	88402		12/2010	7,455.20
10-5142-436.23-10		06/15/2010	300 GAL DYED DIESEL	88399	275516	12/2010	637.56
561-7118-711.23-13		06/14/2010	INVOICE #88041	88041	F11085	12/2010	13,054.00
150-2226-422.23-10		06/16/2010	FIRE1:UNLEADED 350 GAL	87663 FIRE1	267496	12/2010	863.85
150-2226-422.23-10		06/16/2010	FIRE2:DIESEL/603 GALLONS	87715 FIRE2	267496	12/2010	1,293.08
150-2226-422.23-10		06/16/2010	FIRE1/DIESEL/667 GALLONS	87717 FIRE1	267496	12/2010	1,430.32
150-2226-422.23-10		06/16/2010	FIRE1/UNLEADED/160 GALLNS	878716 FIRE1	267496	12/2010	392.89
150-2226-422.23-10		06/16/2010	FIRE5:DIESEL 482 GAL	88136 FIRE5	267496	12/2010	1,036.41
150-2226-422.23-10		06/17/2010	FIRE6:DIESEL/223 GALLONS	87714 FIRE6	267496	12/2010	478.70
150-2226-422.23-10		06/17/2010	FIRE3:DIESEL 360 GALLONS	87718 FIRE3	267496	12/2010	771.98
150-2226-422.23-10		06/17/2010	FIRE5:DIESEL/172 GALLONS	87719 FIRE5	267496	12/2010	368.84
06/18/2010	733479	TRACTOR & EQUIPMENT	3775				6,632.69
541-3123-435.23-20		06/11/2010	MP	BLW00116877	275428	12/2010	1,424.24
541-3122-435.23-20		06/11/2010	MP	BLW00116904	275428	12/2010	2,458.79
601-0000-141.00-00		06/14/2010	MP	BLCSO460399		12/2010	1,320.00
541-3122-435.23-20		06/14/2010	MP	BLW00116654	275468	12/2010	704.75
541-3122-435.23-20		06/14/2010	MP	BLW00116548	275469	12/2010	235.15
541-3122-435.23-20		06/14/2010	MP	BLW00116598	275469	12/2010	166.00
541-3123-435.23-20		06/16/2010	MP	BLCSO461739	275562	12/2010	323.76
06/18/2010	733490	WESTERN MUNICIPAL CONSTRUCTION	11742				663,788.84
416-7493-603.93-40		06/15/2010	WO0913 STAPLES REDUNDANT	2	274052	12/2010	459,690.55
513-8591-625.93-40		06/15/2010	WO1001 WTR&SWR REPLC SCH1	1	274055	12/2010	204,098.29
06/18/2010	733496	WINKLER EXCAVATING INC	20641				10,230.13
845-3186-431.93-10		06/15/2010	WO0917 24TH ST W CONCRETE	5	269600	12/2010	10,230.13

PREPARED 06/18/2010, 13:56:11

PROGRAM: GM350L
CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR
MINIMUM AMOUNT: 2,500.00
FROM 06/18/2010 TO 06/18/2010

PAGE 7

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #		TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
06/18/2010	733498	YELLOWSTONE COUNTY FINANCE DPT	16736				4,037.56
150-2111-421.35-90		06/15/2010	MISC SERVICES	APRIL	275518	12/2010	17.56
150-2111-421.35-90		06/15/2010	MISC SERVICES	PRISONER	275518	12/2010	4,020.00
06/18/2010	733499	YELLOWSTONE KELLYS CATERING	7639				3,000.00
10-1750-417.33-65		06/16/2010	MISC SERVICES	1596	275547	12/2010	3,000.00
DATE RANGE TOTAL *							1,511,348.44 *

Regular City Council Meeting

Date: 07/12/2010

TITLE: Public Hearing and Resolution Granting Approval for COR Enterprise
Economic Development Revenue Bonds

PRESENTED BY: Patrick M Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Community Option Resource Enterprises Inc (COR Enterprises), which is a nonprofit social services agency that provides vocational and supported living services to adults with disabilities, has proposed that the City issue economic development revenue bonds to finance a portion of the costs of designing and constructing a new facility. A public hearing will be held on July 12, 2010 on this project. After hearing public comments on the project, the council will consider the resolution approving the bond sale.

ALTERNATIVES ANALYZED

The Council may:

- Approve the resolution; or
- Not approve resolution.

FINANCIAL IMPACT

The bonds are special, limited obligations of the City and shall not constitute any financial liability of the City or a charge against its general credit or taxing powers. COR Enterprises will pay for any costs incurred by the City in connection with the sale.

RECOMMENDATION

Staff recommends that the City Council approve the attached resolution authorizing the sale of economic development revenue bonds for COR Enterprises in an amount not to exceed \$1,790,000.

APPROVED BY CITY ADMINISTRATOR

Attachments

COR resolution

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. _____, entitled "RESOLUTION RELATING TO ECONOMIC DEVELOPMENT REVENUE BONDS (COR ENTERPRISES PROJECT) OF THE CITY IN AN APPROXIMATE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,790,000; APPROVING THE PROJECT AND AUTHORIZING THE ISSUANCE OF BONDS THEREFOR" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on July 12, 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 Council Members voted in favor thereof: _____
_____; voted against the same: _____
_____; abstained from voting thereon: _____
_____; or were absent: _____.

WITNESS my hand officially this _____ day of July, 2010.

City Clerk

(SEAL)

RESOLUTION NO. _____

RESOLUTION RELATING TO ECONOMIC DEVELOPMENT
REVENUE BONDS (COR ENTERPRISES PROJECT) OF THE
CITY IN AN APPROXIMATE AGGREGATE PRINCIPAL
AMOUNT NOT TO EXCEED \$1,790,000; APPROVING THE
PROJECT AND AUTHORIZING THE ISSUANCE OF BONDS
THEREFOR

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

1. This Council by Resolution No. 10-18943 duly adopted on June 14, 2010, called a public hearing on a proposed project and the issuance of special limited obligation bonds therefor under Title 90, Chapter 5, Part 1, Montana Code Annotated (the “Act”) in the maximum aggregate face amount of \$1,790,000 (the “Bonds”), to finance a portion of the costs of designing and constructing a new facility, which includes office space, production areas and treatment areas, as well as related improvements (the “Project”), to be owned by Community Option Resource Enterprises, Inc. (COR Enterprises), a Montana nonprofit corporation (the “Borrower”), which is a nonprofit, social services agency that provides vocational and supported living services to adults with disabilities, and to pay certain costs associated with the sale of the bonds.

2. At the public hearing duly called, noticed and held as required by the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended, all persons who appeared were afforded an opportunity to express their views with respect to the proposal to undertake and finance the Project. Based on the public hearing, any written comments filed with the City Clerk and such other facts and circumstances as this Council deems relevant, this Council hereby finds, determines and declares, as follows:

(a) The Project, as proposed, is a family service provider facility and is eligible for financing under the Act, and the City is authorized to issue revenue bonds to defray the costs of making a loan to the Borrower, the proceeds of which will be used to finance a portion or all of the costs of acquiring, constructing, equipping and improving the Project and paying the costs and expenses incident to the issuance and sale of the Bonds, including reasonable security for the Bonds, and to enter into a loan agreement with the Borrower (the “Loan Agreement”) requiring loan repayments from the Borrower in amounts sufficient to repay the loan when due and requiring the Borrower to pay all costs of maintaining and insuring the Project, including taxes thereon.

(b) First Interstate Bank, of Billings, Montana (the “Purchaser”) has agreed to purchase the Bonds.

(c) The loan repayments to be made by the Borrower under the Loan Agreement, shall be established at a level and payable in installments at times sufficient to pay all principal of, premium, if any, and interest on the Bonds when due.

(d) The loan shall be secured by a mortgage or trust indenture on the Project and such other security as the Purchaser and the Borrower shall agree.

(e) The Project and the issuance of the Bonds will promote the general welfare of the City by providing vocational and supported living services to adults with disabilities, and provide employment and educational opportunities for its residents, aid in economic development through the construction of a new facility, and further the purposes and policies of the Act.

(f) The undertaking of the Project and the issuance of the Bonds to finance all or a portion of the costs thereof is in the public interest.

3. The Council hereby approves the Project and the issuance of the Bonds in the maximum approximate aggregate principal amount of \$1,790,000 to finance a portion of the costs thereof and to pay costs of issuing the Bonds. The Bonds shall mature over a term not to exceed 40 years and shall bear interest at a rate or rates allowable by law and contain such other terms and provisions as shall be agreed upon by the Council, the Borrower and the Purchaser. The Borrower shall, pursuant to the loan Agreement, agree to construct the Project; to operate and maintain the Project and keep it properly insured; to pay all assessments, if any, on or against the Project; and to make loan payments sufficient to pay the principal of, premium, if any, and interest on the Bonds, all costs and expenses of the City and any trustee in connection with the Project. There shall be a pledge and assignment of certain of the City's interests in the Loan Agreement under an assignment.

4. Dorsey & Whitney LLP, as bond counsel, is authorized in cooperation with the City Attorney, the Borrower and the Purchaser to prepare forms of the Loan Agreement, disbursing agreement, the Bonds and any other documents necessary to provide for financing of the Project for review and approval of the final terms and conditions thereof by this Council.

5. The Borrower will pay, or upon demand reimburse the City for payment of, any and all costs incurred by the City in connection with the Project and the issuance of the Bonds including cost of Bond Counsel, whether or not the Project is carried to completion and whether or not the Bonds are issued.

6. The adoption of this Resolution does not constitute a guarantee or a firm commitment that the City will issue the Bonds as requested by the Borrower. The City retains the right, in its sole discretion, to withdraw from participation and accordingly not issue the Bonds if the Council, at any time prior to the issuance thereof, determines that it is in the best interests of the City not to issue the Bonds or if the City and other parties to the transaction are unable to reach agreement as to the terms and conditions of any of the documents for the transaction.

PASSED AND APPROVED by the City Council of the City of Billings, this 12th day of July, 2010.

CITY OF BILLINGS, MONTANA

Mayor

Attest: _____
City Clerk

Regular City Council Meeting

Date: 07/12/2010

TITLE: Resolution Authorizing Refunding of Series 2000 General Obligation Bonds

PRESENTED BY: Patrick M Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

In 2000, the City issued \$1,700,000 in bonds for the purpose of refurbishing and rehabilitating playgrounds, basketball courts, and tennis courts in existing parks and for building bike/pedestrian trails. The terms of the bonds were 20 years at a net interest cost of 5.53%.

Based on preliminary analysis, the City's Financial Services Manager and Springsted Inc., the City's financial advisor, believe that the City could achieve debt savings by refunding the Series 2000 General Obligation Bonds. The proposed resolution authorizes the Financial Services Manager to proceed with the refunding if the predicted savings can be realized.

ALTERNATIVES ANALYZED

The Council may:

- Approve the resolution; or
- Not approve the resolution

FINANCIAL IMPACT

The Refunding Bonds are being issued to reduce future interest costs. The estimated net present value savings is \$139,000, which represents a 10.73% net present value benefit for tax payers.

RECOMMENDATION

Staff recommends that the City Council approve the resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

2000 GO bond refunding resolution

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 the resolution, entitled: "RESOLUTION RELATING TO GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010; AUTHORIZING THE ISSUANCE AND CALLING FOR THE SALE THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on July 12, 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 Council Members voted in favor thereof: _____
_____; voted against the same: _____
_____; abstained from voting thereon: _____
_____; or were absent: _____.

WITNESS my hand officially this ____ day of July, 2010.

(SEAL)

City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO GENERAL OBLIGATION
REFUNDING BONDS, SERIES 2010; AUTHORIZING THE
ISSUANCE AND CALLING FOR THE SALE THEREOF

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

Section 1. Recitals. At an election duly called and held on November 2, 1999, the electors of the City authorized the issuance and sale of general obligation bonds in the principal amount of \$1,700,000. Pursuant to such authorization, this Council issued and sold general obligation bonds of the City denominated “General Obligation Bonds, Series 2000,” in the original aggregate principal amount of \$1,700,000 (the “Series 2000 Bonds”). The Series 2000 Bonds are currently outstanding in the aggregate principal amount of \$1,105,000.

Section 2. Authorization. For the purposes of reducing the interest cost on the bonds authorized at the election referred to in Section 1 and reducing the taxes necessary to pay the principal of and interest on the Series 2000 Bonds, it is hereby determined that it is in the best interests of the City and the owners of taxable property therein for the City to sell its general obligation refunding bonds, pursuant to Montana Code Annotated, Title 7, Chapter 7, Part 43, as amended, in order to refund in advance of their stated maturities the Series 2000 Bonds outstanding in the aggregate principal amount of \$1,105,000 with stated maturities in the years 2011 through 2020 (the “Refunded Bonds”). Such refunding bonds shall be denominated “General Obligation Refunding Bonds, Series 2010” (the “Bonds”), and shall be issued in the aggregate principal amount of \$1,110,000, subject to adjustment as provided in the Official Terms and Conditions hereinafter approved.

Section 3. Sale of Bonds. Pursuant to Montana Code Annotated, Section 7-7-4302, as amended, this Council hereby determines that it would be in the best interests of the City to sell the Bonds at a public, competitive sale.

Section 4. Terms of the Bonds. Pursuant to the authority described in Section 3, this Council hereby authorizes the issuance and sale of the Bonds of the City in the aggregate principal amount of \$1,110,000, subject to adjustment as hereinafter provided, for the purpose of providing funds to be used, with other available funds, to refund the Refunded Bonds and paying costs associated with the sale and issuance of the Bonds. The Bonds shall be dated, as originally issued, as of August 15, 2010, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2011, at a rate or rates designated by the successful bidder at public sale and approved by this Council; provided that while interest rates are not required to be in level or ascending order, the rate of interest on any principal stated maturity of the Bonds may not be more than one percent (1%) lower than the highest rate of interest on any of the preceding principal stated maturities of the Bonds, and no supplemental or additional interest shall be permitted. The Bonds shall be offered and sold in accordance with the terms and conditions of sale which are set forth on Exhibit A hereto (the “Official Terms and Conditions”), which is incorporated by reference and made a part hereof.

The Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2011	\$105,000	2016	\$115,000
2012	105,000	2017	115,000
2013	105,000	2018	115,000
2014	105,000	2019	115,000
2015	105,000	2020	125,000

As provided more particularly in the Official Terms and Conditions, the City reserves the right, after bids are opened and prior to award, to increase or reduce the aggregate principal amount of the Bonds and to increase or reduce the principal amount of Bonds that matures in any year, but in no event (except as provided in the following sentence) will the principal amount of the Bonds be in excess of the amount necessary to achieve the refunding and pay associated costs of issuance. Any such increase or reduction will be made in a multiple of \$5,000 as to any stated maturity.

Bidders will have the option of combining the stated principal maturities of the Bonds into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts set forth in the foregoing schedule on each July 1, concluding no later than 2020, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the Bonds would have matured if they were not included in a term bond.

The Bonds will not be subject to optional redemption by the City prior to their stated maturities.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, City Financial Services Manager, and City Clerk. The Bonds shall be issued only in "book entry" form.

Section 5. Public Sale. Bids for the purchase of the Bonds shall be considered at a regular meeting of this Council on August 9, 2010 at 11:00 a.m., M.T. Bids for the Bonds may be submitted by written sealed bids or by electronic transmission through Parity™. The City will receive sealed bids or bids transmitted through Parity™ in accordance with the Official Terms and Conditions. The City Clerk is hereby authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-7-4302, 7-7-4252 and 17-5-106, in *The Billings Times*, a newspaper of general circulation in Yellowstone County, Montana, once each week for two successive weeks preceding the week which contains the date of sale. The notice of sale shall be published in substantially the form set forth as Exhibit B to this resolution, which is hereby incorporated herein and made a part hereof.

Section 6. Preliminary Official Statement. The Financial Services Manager and other officers of the City, in cooperation with Springsted Incorporated, of St. Paul, Minnesota, financial consultants to the City, are hereby authorized and directed to prepare on behalf of the City a preliminary official statement to be distributed to potential purchasers of the Bonds, to be finalized as an official statement. Such preliminary official statement shall contain the Official Terms and Conditions and such other information as shall be advisable and necessary to describe accurately the City and the security for, and terms and conditions of, the Bonds. The Financial Services Manager is authorized on behalf of the City to deem the preliminary official statement near “final” as of its date, in accordance with Rule 15c2-12(b)(1) under the Securities Exchange Act of 1934.

Section 7. Continuing Disclosure. In order to permit bidders for the Bonds and other participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the “Rule”), the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The City is the only “obligated person” in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

Adopted by the City Council of City of Billings, Montana, on this 12th day of July, 2010.

CITY OF BILLINGS, MONTANA

Mayor

Attest: _____
City Clerk

EXHIBIT A

TERMS AND CONDITIONS OF SALE

\$1,110,000

General Obligation Refunding Bonds, Series 2010
City of Billings, Montana

NOTICE IS HEREBY GIVEN by the City Council (the "Council") of City of Billings, Montana (the "City"), that the City will receive sealed bids for the purchase of general obligation refunding bonds in the total principal amount of \$1,110,000 (the "Bonds"), in the City Clerk's office, 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, or bids for the purchase of the Bonds will be received by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on August 9, 2010, at which time the bids will be opened or accessed and tabulated. The City Council of the City will meet at 6:30 p.m., M.T., on the same day in Council Chambers, 2nd Floor of the Police Facility, 220 North 27th Street, Billings, Montana, to consider the bids, and if a responsive and acceptable bid is received, award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost ("TIC"), as calculated by the City's Financial Advisor and before adjustment of the principal amount and maturity schedule of the Bonds as hereinafter permitted.

THE BONDS

The Bonds will bear an original issue date of August 15, 2010, and will bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2011, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month, at a rate or rates designated by the successful bidder at public sale and approved by the Council; provided that while interest rates are not required to be in level or ascending order, the rate of interest on any principal stated maturity of the Bonds may not be more than one percent (1%) lower than the highest rate of interest on any of the preceding principal stated maturities of the Bonds, and no supplemental or additional interest shall be permitted. Interest rates shall be expressed in integral multiples of 5/100th or 1/8 of 1%. All Bonds of the same stated maturity must bear interest from date of original issue until paid at a single, uniform rate. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The Bonds shall mature on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2011	\$105,000	2016	\$115,000
2012	105,000	2017	115,000
2013	105,000	2018	115,000
2014	105,000	2019	115,000
2015	105,000	2020	125,000

The City reserves the right, after bids are opened and prior to award, to increase or reduce the aggregate principal amount of the Bonds and to increase or reduce the principal amount of Bonds that mature in any year, but in no event (except as provided in the following sentence) will the principal amount of the Bonds be in excess of the amount necessary to achieve the refunding and pay associated costs of issuance. Any such increase or reduction will be made in a multiple of \$5,000 as to any stated maturity. Comparison of bids will be as provided in the first paragraph above.

Bidders will have the option of combining the stated principal maturities of the Bonds into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts set forth in the foregoing schedule on each July 1, concluding no later than 2020, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the Bonds would have matured if they were not included in a term bond.

The Bonds will be issued as fully registered bonds only and shall be executed by the manual or facsimile signatures of the Mayor, City Financial Services Manager, and City Clerk.

The Bonds will not be subject to optional redemption by the City prior to their stated maturities.

BOOK ENTRY

The Bonds will be issued by means of a book entry system with no physical distribution of Bonds made to the public. The Bonds will be issued in fully registered form and one Bond, representing the aggregate principal amount of the Bonds maturing in each year, will be registered in the name of Cede & Co. as nominee of The Depository Trust Company ("DTC"), New York, New York, which will act as securities depository of the Bonds. Individual purchases of the Bonds may be made in the principal amount of \$5,000 or any multiple thereof of a single maturity, through book entries made on the books and records of DTC and its participants. Principal and interest are payable by the registrar to DTC or its nominee as registered owner of the Bonds. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC; transfer of principal and interest payments to beneficial owners by participants will be the responsibility of such participants and other nominees of beneficial owners. The purchaser, as a condition of delivery of the Bonds, will be required to deposit the Bonds with DTC.

PURPOSE AND SECURITY

The Bonds will be issued for the purpose of refunding the City's General Obligation Bonds, Series 2000, with stated maturities in 2011 and thereafter, and paying costs associated with the sale and issuance of the Bonds and the refunding, in accordance with the provisions of Montana Code Annotated, Title 7, Chapter 7, Part 43, as amended. The Bonds will be general obligations of the City to the payment of which the full faith, credit and taxing power of the City will be pledged. Bidders should consult a copy of the Preliminary Official Statement for a discussion of the security for the Bonds and the form of opinion of bond counsel relating to the Bonds.

CONTINUING DISCLOSURE

In order to permit bidders for the Bonds and other participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The City is the only "obligated person" in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds.

QUALIFIED TAX-EXEMPT OBLIGATIONS

The Bonds will be designated or deemed designated by the City as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and financial institutions described in Section 265(b)(5) of the Code may treat the Bonds for purposes of Sections 265(b)(2) and 291(e)(1)(B) of the Code as if they were acquired on August 7, 1986.

BIDDING AND SALE PROCEDURES

Submission of Bids. Bids may be transmitted electronically through Parity™ in accordance with these terms and conditions. Bids not received electronically through Parity™ must be on the Official Bid form, a copy of which may be obtained from the Financial Advisor and enclosed in a sealed envelope marked as follows: "Bid for \$1,110,000 General Obligation Refunding Bonds, Series 2010, City of Billings, Montana" and delivered to the City Clerk. Each envelope when delivered must indicate on the outside the name and address of the bidder, or in the case of a group of bidders, of the representative. The bids shall be transmitted electronically through Parity™ or delivered to the City Clerk, in either case for receipt by no later than 11:00 a.m., M.T., on August 9, 2010.

Basis of Award. The Bonds will be sold for not less than \$1,100,010 (99.1% of par), with accrued interest to the date of delivery, and all bidders must state the lowest rate or rates of interest at which they will purchase the Bonds at par. In the event the principal amount of the Bonds is adjusted, any premium offered or discount taken by the successful bidder will be increased or reduced by a percentage equal to the percentage by which the principal amount of the Bonds is increased or reduced. Bids will be compared on the basis of true interest cost ("TIC") and awarded to the responsive bidder whose bid reflects the lowest "TIC," in the manner described in the initial paragraph above. The TIC is the net present value of total interest on all Bonds from their dated date to their maturities, less any premium or plus any discount. In the event that two or more bids state the lowest true interest cost, the sale of the Bonds will be awarded by lot. The City will accept sealed bids or bids transmitted electronically through the Parity™ system only. The City reserves the right to reject any and all bids and to sell the Bonds at private sale and to waive any informality and irregularity in any and all bids. Each bid must be unconditional (or conditioned on only those items specified in these Official Terms and Conditions of Sale). No bid may be altered or withdrawn after the time specified above for opening bids without the express consent of the Council.

Electronic Transmission. To the extent any instructions or directions set forth in Parity™ conflict with these Terms and Conditions of Sale, the terms of these Terms and Conditions of Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3000 (Bond Services Division), or Parity™ at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City's Financial Services Manager, Pat Weber, at facsimile number (406) 247-8608 (phone (406) 657-8209) or to Springsted Incorporated at facsimile number (651) 223-3046 (phone (651) 223-3000).

Good Faith Deposit. A good faith deposit (the "Deposit") in the amount of \$22,200 in the form of money, cashier's check, certified check, bank money order, bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of \$22,200 for the Bonds payable to the order of the City of Billings, Montana, or wire transfer as instructed by the City or its Financial Advisor in the foregoing amount is required for each bid to be considered. If money, cashier's check, certified check, bank money order, or bank draft is used, it must accompany each bid and be delivered to the City Clerk. If a financial surety bond is used, it must be from an insurance company licensed and qualified to issue such a bond in the State of Montana and such bond must be submitted to the City Clerk prior to the opening of the bids. If wire transfer is used, the funds must be received and immediately available prior to or simultaneously with the receipt of the bid. Contemporaneously with such wire transfer, the bidder shall send an e-mail to bond_services@springsted.com, including the following information; (i) indication that a wire transfer has been made, (ii) the amount of the wire transfer, (iii) the issue to which it applies, and (iv) the return wire instructions if such bidder is not awarded the bid. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit its Deposit to the City in the form of a cashier's check (or wire transfer such amount as instructed by the City or its Financial Advisor) not later than 11:00 A.M., M.T., on the next

business day following the award. If such Deposit is not received by that time, the financial surety bond may be drawn by the City to satisfy the Deposit requirement. No interest on the Deposit will accrue to the purchaser. The Deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the Deposit will be retained by the City as liquidated damages. The Deposit of the unsuccessful bidders will be returned immediately on award of sale of the Bonds or after rejection of all bids.

Instructions for wiring the Deposit may be obtained from the City's Financial Services Manager, Pat Weber, 210 North 27th Street, Billings, Montana 59101, telephone (406) 657-8209) or from the City's Financial Advisor, Springsted Incorporated, 380 Jackson Street, Suite 300, St. Paul, Minnesota 55101-2887, (651) 223-3000.

BOND REGISTRAR, TRANSFER AGENT AND PAYING AGENT

The City will designate and contract with a suitable bank or trust company to act as bond registrar, transfer agent and paying agent (the "Registrar"). The bond register will be kept, transfers of ownership will be effected and principal of and interest on the Bonds will be paid by the Registrar. The City will pay the charges of the Registrar for such services. The City reserves the right to remove the Registrar and to appoint a successor.

LEGAL OPINION

An opinion as to the validity of the Bonds and the exclusion from gross income for federal income tax purposes and Montana individual income tax purposes of the interest thereon will be furnished by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as Bond Counsel. The legal opinion will be delivered at the time of closing. The legal opinion will state that the Bonds are valid and binding general obligations of the City enforceable in accordance with their terms, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

DELIVERY

Within 40 days after the sale, the City will deliver to the Registrar the printed Bonds ready for completion and authentication. The original purchaser of the Bonds must notify the Registrar, at least five business days before issuance of the Bonds, of the persons in whose names the Bonds will be initially registered and the denominations of the Bonds to be originally issued. If notification is not received by that date, the Bonds will be registered in the name of the original purchaser and will be issued in denominations corresponding to the principal maturities of the Bonds. The City will furnish to the purchaser the opinion of Bond Counsel described above, an arbitrage certification and a certificate stating that no litigation in any manner questioning the validity of the Bonds is then pending or, to the best knowledge of officers of the City, threatened. Payment for the Bonds must be received by the City in immediately available funds at its designated depository on the day of closing. The successful bidder shall submit to the City Finance Director not earlier than 48 hours after the award of sale and not later than the date of closing a certificate, in form satisfactory to Bond Counsel, as to the initial reoffering

prices of each stated maturity of the Bonds and stating that at least ten percent of the principal amount of the Bonds of each stated maturity has been sold at such prices.

OFFICIAL STATEMENT

The City will prepare an Official Statement relating to the Bonds. The City will deliver, at closing, a certificate executed by the Mayor, Financial Services Manager, and the City Clerk to the effect that, to the best of their knowledge, as of the date of closing, the information contained in the Official Statement, including any supplement thereto, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading; provided that no comment will be made with respect to any information provided by the successful bidder for inclusion in any supplement to the Official Statement.

By submitting a bid for the Bonds, the successful bidder agrees: (1) to disseminate to all members of the underwriting syndicate copies of the Official Statement, including any supplements prepared by the City, (2) to file promptly a copy of the Official Statement, including any supplement prepared by the City, with a nationally recognized municipal securities repository, and (3) to take any and all other actions necessary to comply with applicable rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board governing the offering, sale and delivery of the Bonds to ultimate purchasers.

Within seven business days after the sale the City will furnish to the successful bidder without charge up to 50 copies of the final Official Statement relating to the Bonds. The successful bidder must notify the City Clerk in writing within two business days after the award of sale of the Bonds if it requires additional copies of the Official Statement. The cost of additional copies shall be paid by the successful bidder.

COSTS; CUSIP NUMBERS

The City will pay for the cost of the financial advisor, bond counsel, rating agency fees, printing of the bonds and the fees and charges of the Registrar. The City will apply for CUSIP numbers but will assume no cost or obligation for the printing of CUSIP numbers on the Bonds or for the correctness of any numbers printed thereon.

RATING

The City will apply for and obtain a rating on the Bonds from Moody's Investors Service. Rating agency fees of Moody's will be the responsibility of the City.

BY ORDER OF THE CITY COUNCIL

City Clerk

EXHIBIT B

NOTICE OF BOND SALE

\$1,110,000

General Obligation Refunding Bonds, Series 2010
City of Billings, Montana

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of City of Billings, Montana (the "City"), will receive sealed bids for the purchase of General Obligation Refunding Bonds, Series 2010, in the aggregate principal amount of \$1,110,000, subject to adjustment as hereinafter provided (the "Bonds"), in the City Clerk's office, 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, 59103, or bids for the purchase of the Bonds will be received by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on August 9, 2010, at which time the bids will be opened or accessed and tabulated. The Council will meet at 6:30 p.m., M.T., on the same day in the City Council Chambers to consider the bids. The Bonds will be awarded to the responsive bidder whose bid reflects the lowest true interest cost ("TIC"), as calculated by the City's Financial Advisor and before adjustment of the principal amount and maturity schedule of the Bonds as hereinafter permitted.

The Bonds are being issued for the purpose of refunding in advance of their stated maturities the City's outstanding General Obligation Bonds, Series 2000 and to pay costs of issuance of the Bonds. The Bonds shall mature on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2011	\$105,000	2016	\$115,000
2012	105,000	2017	115,000
2013	105,000	2018	115,000
2014	105,000	2019	115,000
2015	105,000	2020	125,000

The City reserves the right, after bids are opened and prior to award, to increase or reduce the aggregate principal amount of the Bonds and to increase or reduce the principal amount of Bonds that mature in any year, but in no event (except as provided in the following sentence) will the principal amount of the Bonds be in excess of the amount necessary to achieve the refunding and pay associated costs of issuance. Any such increase or reduction will be made in a multiple of \$5,000. Comparison of bids will be as provided in the first paragraph above.

Bidders will have the option of combining the stated principal maturities of the Bonds into one or more term bonds. If any Bonds are issued as term bonds, such term bonds will be subject to annual mandatory sinking fund redemption in the principal amounts set forth in the foregoing schedule on each July 1, concluding no later than 2020, at a redemption price equal to the principal amount of such Bonds or portions thereof to be redeemed with interest accrued thereon and payable on January 1 and July 1 to the redemption date, in installments and in the same amounts and on the same dates as the Bonds would have matured if they were not included in a term bond.

The Bonds will not be subject to optional redemption by the City prior to their stated maturities. The Bonds will be issued in "book entry" only form.

The Bonds will bear an original issue date of August 15, 2010, and will bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2011, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month, at a rate or rates designated by the successful bidder at public sale and approved by the Council; provided that while interest rates are not required to be in level or ascending order, the rate of interest on any principal stated maturity of the Bonds may not be more than one percent (1%) lower than the highest rate of interest on any of the preceding principal stated maturities of the Bonds, and no supplemental or additional interest shall be permitted. Interest rates shall be expressed in integral multiples of 5/100th or 1/8 of 1%. Bonds of the same maturity shall bear a single rate from the date of the Bonds to the date of maturity.

The City will designate the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The Bonds will be sold for not less than \$1,100,010 (99.1% of par) with accrued interest on the principal amount of the Bonds to the date of their delivery. In the event the principal amount of the Bonds is adjusted, any premium offered or discount taken by the successful bidder will be increased or reduced by a percentage equal to the percentage by which the principal amount of the Bonds is increased or reduced. The Council reserves the right to reject any and all bids, to waive any informality in any bid, and to sell the Bonds at private sale.

A good faith deposit in the amount of \$22,200 in the form of money, cashier’s check, certified check, bank money order, bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of \$22,200 payable to the order of the City of Billings, Montana, or wire transfer, is required for each bid to be considered, as further specified in the Official Terms and Conditions of Sale.

Copies of a statement of the Official Terms and Conditions of Sale and additional information may be obtained from Springsted Incorporated, 380 Jackson Street, Suite 300, St. Paul, Minnesota 55101-2887, (651) 223-3000. Prospective bidders should consult the Official Terms and Conditions of Sale and the Preliminary Official Statement for a description of the Bonds, the security therefor, and the form of legal opinion proposed to be rendered by Dorsey & Whitney LLP, of Missoula, Montana, as bond counsel. To the extent any instructions or directions set forth in ParityTM conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about ParityTM, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3000 (Bond Services Division), or ParityTM at (212) 849-5021. In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City’s Financial Services Manager, Pat Weber, at facsimile number (406) 247-8608 (phone (406) 657-8209) or to Springsted Incorporated at facsimile number (651) 223-3046 (phone (651) 223-3000).

Dated: July 12, 2010.

BY ORDER OF THE CITY COUNCIL

City Clerk

Publish: July 22, 2010
July 29, 2010