

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

November 22, 2010

6:30 P.M.

****Fire Department's new Quick Response Vehicle - 6:15 p.m., 2nd Avenue North**

CALL TO ORDER – Mayor Hanel

PLEDGE OF ALLEGIANCE – Mayor Hanel

INVOCATION – Councilmember McFadden

ROLL CALL

MINUTES: November 8, 2010

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 ONLY. Speaker sign-in required. (Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda. **Please sign your name and address on the clipboard located at the podium.**)

1. CONSENT AGENDA -- Separations:

A. Bid Awards:

- 1. Two (2) 5-Yard Double Dump Trucks.** (Opened 11/9/2010) Recommend delay of bid award until December 13, 2010.
- 2. W.O. 10-24, Rimrock Park Irrigation and Seeding.** (Opened 11/9/2010) Recommend A-1 Landscaping; \$58,750.

- B. **Professional Services Contract** for W.O. 10-13, Safe Routes to School Study, Phase II; Sanderson-Stewart; \$55,350.
- C. **Professional Services Contract** for design and construction administrative services for the 2011 Chapple Area Water Main Improvement Projects; Morrison-Maierle, Inc.; not to exceed \$272,188.
- D. **Professional Services Contract** for landscape architectural and engineering design services for the extension of the Heritage Trail east past Yellowstone Kelly's Grave and Skeleton Cliff connecting to the existing tunnel under Airport Road and the existing trail segment at the Aronson Interchange; Sanderson Stewart; \$230,808.25.
- E. **Professional Services Contract** for System Development Fees and Water Re-Sale Rate Study; CDM, Inc.; \$59,900.
- F. **Approval** of Billings Legislative Priorities.
- G. **Approval of Resolution** creating an 8-member ad-hoc committee to interview Municipal Judge candidates and recommend a nominee to City Council by December 17, 2010, for approval at the December 20, 2010, business session.
- H. **Second/Final Reading Ordinance** amending the boundaries of Ward I to exclude Tract 2A, C/S 2544, in the Briarwood PUD, (Annexation #10-03).
- I. **Preliminary Major Plat** of Grand Peaks Subdivision, 2nd Filing, generally located northeast of the intersection of Grand Avenue and 54th Street West; Sanderson Stewart, agent; conditional approval and adoption of the findings of fact.
- J. **Final Plat Approval** of McKay Acres Subdivision Amended East Half of Lot 17, except the south 100 feet; and **approval** of variance reducing required right-of-way dedication for Rimrock Road.
- K. **Bills and Payroll:**
 - 1. October 25, 2010
 - 2. October 29, 2010

REGULAR AGENDA:

- 2. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #869:** A zone change from Public (P) to Residential 6,000 (R-60) on a 50-foot by 150-foot lot in the northeast corner of Lot 3 in Section 9, Township 1S, Range 26E located at 412 Hallowell Lane. Lean 2 LLP, owner; Marshall Phil, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria. (Action: approval or disapproval of Zoning Commission 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 podium.)

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: 11/22/2010

TITLE: (2) 2011 5-yard Double Dumps with Sanders and Plow Assemblies

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Bids were received by the Street/Traffic Division for the Public Works Department on November 9, 2010, to purchase (2) 5-yard Double Dump Trucks with sanders and plow assemblies. The Equipment Replacement Plan (ERP) and the FY 2011 budget contain these purchases. The cost of 5-year warranties will be included in the bid price. Staff is requesting additional time to review the bids and will make a recommendation at the December 13, 2010 City Council meeting.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the award of the (2) 5 yd Double Dumps Trucks
- Reject all bids and not award the purchase of the (2) 5yd Double Dumps.
- Delay bid award until the December 13th Council Meeting.

FINANCIAL IMPACT

The City received 3 bids for these Double Dump trucks as shown below:

Vendor	Bid	Trade-In	Warranty
IState	\$142,145 (x2)	Unit 1 - \$15,500 Unit 2 - \$18,500	\$2,575
Motor Power	\$137,254 (x2)	Unit 1 - \$15,500 Unit 2 - \$18,500	\$2,650
Bison Ford	\$134,633 (x2)	Unit 1 - \$15,500 Unit 2 - \$18,500	\$3,030

RECOMMENDATION

Staff recommends delaying bid award until December 13, 2010.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 11/22/2010

TITLE: WO 10-24 Rimpoint Park Irrigation/Seeding

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Bids were received and evaluated for WO 10-24 Rimpoint Park Irrigation/Seeding on November 9, 2010. Last Summer, Montana Department of Transportation (MDT) in cooperation with the City, completed construction of a three-lane section on Rimrock Road between Shiloh Road and 54th Street West. With this project, Rimpoint Park, located on the north side of Rimrock Road in the 4300 block, was regraded to include a detention pond. To alleviate concerns by the neighborhood, the city agreed to install irrigation and grass in the disturbed areas of the park.

ALTERNATIVES ANALYZED

Council may:

- Award Work Order 10-24, to A-1 Landscaping & Nursery in the amount of \$58,750.00; or
- Not award Work Order 10-24.

FINANCIAL IMPACT

Funding for WO 10-24 Rimpoint Park will be from Storm Drain Funds due to the fact that this is a storm drain facility. The City received five bids for this project as follows:

Engineer's Estimate	\$75,000.00
A-1 Landscaping & Nursery	\$58,750.00
The Good Earth Works Co, Inc.	\$67,380.00
Stevon's Inc.	\$73,479.00
Yellowstone Landscaping, Inc.	\$87,500.00
Sylvan Landscaping	\$103,800.00

RECOMMENDATION

Staff recommends that Council approve the construction contract for WO 10-24 Rimpoint Park Irrigation/Seeding with A-1 Landscaping & Nursery in the amount of \$58,750.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 11/22/2010

TITLE: W.O. 10-13, Safe Routes to School/Professional Services Contract

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The City has received a second \$50,000 Safe Routes to School non-infrastructure grant to complete an engineering study of walking and biking routes to Billings public elementary schools. As part of the grant application process, the School District also committed an additional \$10,000 to the study. Under the prior grant (2009) eleven of Billings's twenty-two elementary schools were reviewed. This contract will complete the review of the remaining eleven elementary schools not covered in the first phase. The phase one study report is complete and available on the City's website at <http://www.ci.billings.mt.us/DocumentView.aspx?DID=6342>. In September the Engineering Division solicited proposals from three pre-qualified firms to perform the phase two study. Two proposals were received. A selection committee comprised of members of the Engineering Division, Planning Department, School District, Riverstone Health, PTA Council and Police Department reviewed the proposals and recommended that Public Works contract with Sanderson-Stewart to complete the Study. The purpose of the study is to identify major obstacles and conflict areas children may encounter walking to elementary schools and then develop a prioritized list of short, medium and long-term projects necessary to address the problems at those schools. The project listing will include planning level cost estimates so that future Safe Routes to School (SRTS) and CTEP grants can be applied for to address the issues. Under the terms of the SRTS grant, the phase two study must be completed by June 30, 2011.

ALTERNATIVES ANALYZED

The Council may:

- Approve the award of the contract to Sanderson Stewart; or
- Not approve the award of the contract to Sanderson Stewart. If the study is not completed by June 30, 2011, the City will lose the \$50,000 in grant money already awarded.

FINANCIAL IMPACT

The study will be paid for by a combination of a \$50,000 SRTS grant from the State and \$10,000 in funding from School District 2. The proposed contract with Sanderson-Stewart is for \$55,350, leaving \$4,650 to cover City expenses in administering the grant and the study.

RECOMMENDATION

Staff recommends that the City Council approve the \$55,350 professional services contract with Sanderson-Stewart, contingent upon acceptance of the contract by the Montana Department of Transportation.

APPROVED BY CITY ADMINISTRATOR

Attachments

Contract

Contract for Professional Architectural and Engineering Services

W.O. 10-13, SRTS Study, Phase 2

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

- Part I, consisting of 15 Sections of Special Provisions;
- Part II, consisting of 11 Sections of General Provisions;
- Appendix A consisting of 4 pages (Basic Services of Contractor);
- Appendix B consisting of 1 page (Methods and Times of Payment);
- Appendix C consisting of 1 page (Additional Services of Contractor);
- Appendix D consisting of 3 pages (Schedule of Professional Fees);
- Appendix E consisting of 1 page (Project Schedule);
- Appendix F consisting of 2 pages (MDT Required Provisions)
- Appendix G consisting of 8 pages (SRTS Non-Infrastructure Contract #104597)
- Appendix H consisting of Certificate(s) of Insurance

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 Sanderson-Stewart.

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 mylars 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. NOT APPLICABLE~~
- ~~E. The Contractor shall provide certified construction payrolls to the Administrator stating in writing that the payrolls have been reviewed and are acceptable. NOT APPLICABLE~~

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 July 30, 2011.

Section 4. Compensation; Method of Payment.

- A. 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.
- B. The Contractor is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- C. As a condition of payment, the Contractor shall have paid all City taxes currently due and owing by the Contractor.

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 -- \$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: Debi Meling, P.E., City Engineer
City of Billings
Public Works
2224 Montana Ave
Billings, Montana 59101

e-mail: melingd@ci.billings.mt.us
FAX: (406) 237-6291

Contractor: Michael Sanderson, P.E., PTOE
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

e-mail: msanderson@sandersonstewart.com
FAX: (406) 656-0697

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

Contractor: Michael Sanderson, P.E., PTOE, Principal
(title of position)

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 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 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.

Appendix A

Basic Services of Engineer

Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.
- ~~J. 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 Engineer'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. NOT APPLICABLE~~

- K. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Danielle Scharff, P.E., PTOE working under the Principal-in-Charge, Michael Sanderson, P.E., PTOE.

Section 2. Billings Rights and Duties.

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

Section 3. Scope of Work.

Task 1: Inventory and Review

1.1 Incorporate field information verified by Police Department volunteers (including existing signing, sidewalks, and crosswalks) into GIS information provided by City of Billings within a 1 mile radius of each of the elementary schools included in the study. The eleven elementary schools included in the study are: Alkali Creek, Big Sky, Broadwater, Burlington, Central Heights, Highland, McKinley, Miles Avenue, Orchard, Rose Park, and Sandstone.

1.2 Review *School Zone Traffic Control Policy*, *School Route Priority Study*, *Survey about Walking and Biking to School*, and crossing guard policies for information relevant to current study.

Task 2: Identify Major Barriers and Conflict Areas

2.1 Within 1 mile of each school, identify barriers that prohibit safe pedestrian access to school, including roadways with high speeds or traffic volumes, waterways, lack of sidewalks, etc.

2.2 For up to 1 hour per school, observe unsafe driver behaviors near the schools and off-site conflict areas that are unsafe for students walking and bicycling to school. Observation times will be determined in consultation with City and School representatives.

2.3 For up to 1 hour per school, observe school access conditions, site circulation, and parent and bus loading zones.

Task 3: Develop Maps

3.1 Based on City GIS maps, develop base maps for 11 elementary schools that show existing sidewalks, trails, marked crosswalks, and crossing guard locations. Show barriers, recommended improvements, attendance boundaries, and 1-mile radius around each school. These maps will be developed in conjunction with Task 1.

3.2 Use base maps above to develop Recommended Walking Route Maps for each school.

3.3 School site circulation maps showing teacher parking, visitor parking, bus loading, and parent loading zones.

Task 4: Recommended Improvements

4.1 Identify short, medium, and long-term improvements at each school that will be based on the MUTCD and generally accepted traffic engineering principles. Recommended improvements will focus on the safety of students walking and biking to school, speed zones, parking lot circulation, and parent and bus loading zones.

4.2 Identify immediate low-cost solutions that can be implemented using existing resources.

4.3 Develop no more than three exhibits per school, as required, that illustrate recommended improvements for display at school meetings and inclusion in the final report.

Task 5: Implementation Strategies

5.1 Determine the three highest priority projects for each school based on stakeholder input and the significance of various safety concerns.

5.2 Perform budget level cost estimates, including a general cost range for the top three priority projects for each school.

5.3 Provide a list of potential funding sources.

5.4 Provide a recommended list of factors for consideration in establishing a city-wide priority list for the intermediate and long term projects identified at each school in both the Phase 1 and Phase 2 studies. The City shall be responsible for establishing any final city-wide prioritization of projects.

Task 6: Global Issues

6.1 Identify the big-picture issues that may be affecting students' ability to walk or bike to school.

6.2 Make general recommendations related to the location of school attendance boundaries, busing distances, and school start times.

6.3 Provide any additional comments required to address items needed for future SRTS funding applications. It is anticipated that these issues will be addressed within approximately three pages of the final report.

Task 7: Stakeholder Involvement

7.1 Review and summarize results from *Survey about Walking and Biking to School* for the 11 schools included in this study.

7.2 Hold up to three steering committee meetings at various points throughout the project.

7.3 Hold up front meetings with each school principal to explain the project and solicit school input on problem areas.

7.4 After these results have been compiled, review meetings will be held for two different groups of schools by area of town. Each school will designate two to three representatives (Principal, PTA member, etc.) to attend the meeting and provide input on behalf of the school.

Task 8: Final Report

8.1 Compile resulting information into a comprehensive report that provides the documentation needed to satisfy Safe Routes funding requirements.

8.2 Internal quality control review of draft report.

8.3 Present draft report to steering committee for review.

8.4 Prepare final report based on the comments received from the steering committee.

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Appendix B

Methods and Times of Payment

Section 1. Payments for Basic Services.

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

Partial payment shall be made to the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer. The total of all partial payments shall not exceed ninety per cent (90%) of the total contract amount prior to completion and acceptance of the final report (Task 8). 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, Appendix A, the Engineer shall be paid based upon actual time accrued, but not to exceed \$55,350.00
- 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 an hourly basis at the applicable fees in Appendix D.

Section 3. Corrections.

Costs of Billings work that is required for corrections to the Engineer's work which requires redoing by Billings shall be deducted from any payments due the Engineer, if the Engineer 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 Engineer's costs and hourly rates as shown in Appendix D have increased for all comparable clients.

Appendix C

Additional Services of Engineer

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

- A. Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study.

Appendix D

Schedule of Professional Fees

Current agreements for engineering services stipulate that the standard hourly rates are subject to review and adjustments. Hourly rates for services effective on the date of this Agreement are attached hereto.

The itemized schedule provided attached includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

Materials and other direct costs will be invoiced at current rates, plus a ten percent (10%) handling fee. Included as direct costs are the following:

- A. Approved Employee Meals, Lodging, Transportation
- B. Premium Delivery Service (UPS, Federal Express, etc.)
- C. Toll Communication Services (Telephone, Fax, etc.)
- D. Supplies
- E. Premiums for Special Insurance, Performance Bonds, etc.
- F. Other Out-of-Pocket Expenses
- G. Consultants

The cost of Professional Liability Insurance coverage is included in the hourly rates of personnel.

CHARGE OUT RATES EFFECTIVE JANUARY 1, 2010

SURVEY CREW SERVICES

1-man Crew	\$ 145.00 /hour
2-man Crew	\$ 175.00 /hour

- NOTE: 1) Charge out rate for travel time to and from the site same as above.
 2) Minimum of one-hour charge for field crew time.

STAFF PERSONNEL SERVICES

Expert Witness/Special Consultant	\$ 250.00 /hour
Principal	\$ 150.00 /hour
Senior Engineer	\$ 115.00 /hour
Project Engineer	\$ 90.00 /hour
Staff Engineer	\$ 77.00 /hour
Engineer Intern	\$ 66.00 /hour
Land Planner/Landscape Architect	\$ 105.00 /hour
Landscape Designer	\$ 77.00 /hour
Senior Professional Land Surveyor	\$ 105.00 /hour
Professional Land Surveyor	\$ 95.00 /hour
Staff Surveyor	\$ 79.00 /hour
Designer	\$ 75.00 /hour
CADD Technician	\$ 65.00 /hour
Senior Construction Engineering Technician	\$ 88.00 /hour
Construction Engineering Technician	\$ 65.00 /hour
Construction Inspector	\$ 60.00 /hour
Project Administrator	\$ 65.00 /hour
Party Chief	\$ 75.00 /hour
Administrative/Clerical	\$ 50.00 /hour

Outside Consultants:

- 1) At cost if independently billed direct to client.
- 2) Cost plus 5% if billed through us.

Independent Laboratories:

- 1) At cost if independently billed direct to client.
- 2) Cost plus 5% if billed through us.

ADMINISTRATIVE EXPENSES

Administrative expenses (including copies, prints, phone, postage, materials, and travel) based on professional services only 3.5% *

* *unless modified by contract*

Appendix E

Project Schedule

Based on a notice to proceed by Billings date no later than December 15, 2010, the completion date for the Engineer's work through final report shall be July 29, 2011. All work subject to reimbursement under the City-State Safe Routes to School Non-Infrastructure Contract included herein as Appendix G shall be completed and invoiced no later than June 30, 2011.

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

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

Appendix F

Montana Department of Transportation Required Provisions

NON-DISCRIMINATION NOTICE

During the performance of this Agreement, **Sanderson Stewart**, (hereafter in this Section "the Party"), for itself, its assignees and successors in interest, agrees as follows:

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

- (1) Compliance with Regulations: The Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) Nondiscrimination: The Party, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.
- (3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Party for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) Information and Reports: The Party will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the Party under the Agreement until the Party complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.

- (6) Incorporation of Provisions: The Party will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Party will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the Party is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Party may request the State to enter into the litigation to protect the interests of the State, and, in addition, the Party or the State may request the United States to enter into such litigation to protect the interests of the United States.

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

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

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

- (1) The Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: **"The Party will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."**
- (3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

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

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

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

Appendix G

City-State SRTS Contract

Pursuant to the Section 3.3 of the *Safe Routes to School Non-Infrastructure Contract Number 105132* between the City of Billings and the Montana Department of Transportation, attached hereto is a copy of said Contract 105132.

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Safe Routes to School Non-Infrastructure Contract
CFDA #20.205 – Safe Routes to School

This Contract is entered into between the State of Montana, Department of Transportation, Transportation Planning Division, 2701 Prospect Avenue, P.O. Box 201001, Helena, Montana (State) and, City of Billings, Planning and Community Services Department, City Hall, 210 North 27th Street, Billings, MT 59101 (Grantee), Ron Tussing, Mayor (Program Sponsor). Liaison for the State is Audrey Allums, Transit Supervisor. Liaison for the Grantee is Debi Meling.

The State, having received grant monies from the Federal Highway Administration (FHWA), through Section 1404, SAFE ROUTES TO SCHOOL PROGRAM,, and desiring to assist the Grantee, enters into the following contract with Grantee. Actual award is contingent upon the availability of FHWA funding.

ARTICLE 1. PROJECT

SECTION 1.1 Purpose of Contract. This contract provides assistance for the Grantee to execute a Safe Routes to School Non-Infrastructure program in accordance with the Safe Routes to School funding application submitted to and approved by Montana Department of Transportation – Transit Section.

SECTION 1.2 Scope of Project. Grantee shall undertake, implement, and complete the project as described in its Billings Elementary School Traffic Plan 2011 application (Attachment 1) in accordance with the regulations of Section 1404 Safe Routes to School program. The Grantee shall use its best efforts to efficiently and economically complete the Project. Approved activities for reimbursement include, but are not limited to:

Continuation of SRTS planning for all Billings Elementary Schools.

SECTION 1.3 Period of Performance. This contract will be effective from July 1, 2010 to June 30, 2011.

SECTION 1.4 Cost of Project. The total amount of reimbursements made by the State cannot exceed \$ 50,000.00 for completion of the approved Safe Routes to School Non-Infrastructure Project. State will make quarterly reimbursement payments to Grantee based upon the State's approval of reports and invoices submitted by the Grantee. The cost of the Project shall be shared as follows:

100 Percent FHWA Reimbursement Funding for Non-Infrastructure: \$ 50,000.00

SECTION 1.5 Purchase of Project Equipment. The State, on behalf of the Grantee, or the Grantee with the State's prior approval, shall purchase all Project equipment in accordance with applicable State law and the standards set forth by the Uniform Administration

Requirement for Grant and Cooperative Agreement to State and Local Government. Project equipment shall be purchased in conformity with the latest approved Cost of Project as shown in Section 1.4.

SECTION 1.6 Title to Project Equipment. The Grantee shall not hold title to Project equipment purchased. The State shall be the first secured party. The State shall be the first secured party. The State may enforce this provision through legal action to protect its security interests in the Project equipment.

SECTION 1.7 Use of Project Equipment. The Grantee shall use Project equipment for Safe Routes to School program service described in the Project Application and in accordance with FHWA regulations. If any Project equipment is no longer needed for this service, the Grantee shall immediately notify the State and the State shall release any secured interest of such Project equipment.

SECTION 1.8 Maintenance. During the contract period Grantee shall maintain the Project equipment and facilities at a high level of cleanliness, safety and mechanical soundness. In addition, all accessible features and equipment used by persons with disabilities must be maintained in operating condition. Equipment must be repaired promptly, and reasonable steps must be taken to continue serving persons with disabilities while the repairs are being made (reference 49 CFR, Subpart G, 37.161 and 37.163). The State reserves the right to rehabilitate any Project equipment covered under this contract, after proper application by Grantee and approval by the State.

SECTION 1.9 Insurance. During the Contract term, the Grantee shall maintain insurance or self-insurance (property damage and liability) adequate to protect the federal funded portion of Project facilities and equipment. Grantee will furnish proof of such insurance for the State's approval.

SECTION 1.10. Records, Reports and Information Access.

1.10.1 Recordkeeping. The Grantee shall keep records regarding the use of Project property, compliance with the provisions of this Contract, the federal assurances, and such records as the State and the Federal Highway Administration (FHWA) may require, including financial statements, program operation data, contracts and other Project-related documents. If a third party has exclusive possession of any required information and refuses or fails to provide that information, the Grantee shall inform the State and set forth its efforts to obtain this information. Grantee shall maintain these records for at least three years after any final payment and all other matters pending under this Contract are closed.

1.10.2 Reporting. Grantee shall advise the State in writing of Project progress at such times and in such manner as the State and FHWA may require, but not less than quarterly.

1.10.3 Media. Acknowledge funding for this project is provided through the Montana Department of Transportation in all publicity and earned media.

1.10.4 Information Access. The Grantee shall permit the State, FHWA, or their authorized representatives, to inspect all equipment purchased for the Project, all records, data, accounts, and materials pertaining to the Project.

ARTICLE 2. DEFAULT AND TERMINATION

SECTION 2.1 Default. Nonperformance by the Grantee of any obligation imposed by this Contract, including noncompliance with the federal assurances in Articles 3 and 4, or reduction of local project cost funding, will constitute default.

SECTION 2.2 Termination. This Contract may be terminated by the State by serving a notice of termination on the Grantee. Termination may occur for either convenience or default. If termination is for convenience, the notice shall give the Grantee thirty days to wind down its activities under this Contract. If termination occurs due to default, the notice shall state the nature of the Grantee's default, and offer the Grantee ten (10) days for an opportunity to explain its nonperformance. If the State finds that the Grantee has a reasonable excuse for nonperformance, which is beyond the control of the Grantee, the State may set up a new work schedule and allow the completion of this Contract.

In any termination, the State will make its contractual payments proportionate to the work properly performed in accordance with this Contract to the time of termination. Grantee shall account for any Project property in its possession.

SECTION 2.3. Litigation. Controversy arising from this contract may result in litigation. Arbitration is not available. This Contract shall be governed by Montana law.

SECTION 2.4 Venue. In the event of litigation concerning this contract, venue shall be in the First Judicial District of the State of Montana, in and for Lewis and Clark County.

ARTICLE 3. MISCELLANEOUS

SECTION 3.1 Contract Modification. Any change to this contract will only be by written agreement of the Parties.

SECTION 3.2 Assignment and Subcontracting. The Grantee shall not assign any portion of the work to be performed under this contract, or execute any contract, amendment or change order thereto, or obligate Grantee in any manner with any third party with respect to Grantee's rights and responsibilities under this contract, without the prior written concurrence of the State.

SECTION 3.3 Subcontracts. The Grantee shall include in all subcontracts entered into pursuant to this Agreement a copy of this Contract, and the subcontract will make the provisions of this Contract a specific part of the subcontract. In addition, the Grantee shall include the following provisions in any advertisement or invitation to bid for any procurement under this contract:

Statement of Financial Assistance

This agreement is subject to a financial assistance contract between the Montana Department of Transportation, the U. S. Department of Transportation, and the Federal Highway Administration.

SECTION 3.4 Indemnification. The Grantee shall indemnify, defend, and hold harmless the State of Montana, its Department of Transportation, its employees and agents from and against all claims, demands, or actions from damages to property or injury to persons or other damage to persons or entities arising or resulting from the performance of this Contract.

SECTION 3.5 Settlement of Third Party Contract Disputes or Breaches. The term "third-party contract," as used in this Contract, is defined as a contract between the Grantee and its subcontractor in which the Grantee has procured a good and/or service commercially from the

subcontractor. FHWA has a vested interest in the settlement of disputes, defaults, or breaches involving any federally assisted third party contracts. FHWA retains the right to a proportionate share, based on the percentage of the Federal share committed to the Project, of any proceeds derived from any third party recovery. Therefore, the Grantee shall avail itself of all legal rights available under any third party contract. The Grantee shall notify the State of any current or prospective litigation or major disputed claim pertaining to any third party contract. FHWA reserves the right to concur in any compromise or settlement of the Grantee's claim(s) involving any third party contract, before making Federal assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the Project account involved unless FHWA permits otherwise.

SECTION 3.6 Notice. All notices arising from the provisions of this Contract shall be in writing and given to the parties at the addresses listed above, either by regular mail or delivery in person.

SECTION 3.7 Agency Assistance. No assistance, other than provided for by this Contract, will be required, but may be provided at the discretion of State.

SECTION 3.8 Severability and Integration. If any part, or parts, of this contract are determined to be void, the remaining parts will remain valid and operative. This document, together with its schedules, attachments, and exhibits, represent the complete and entire understanding of the parties on its subject matter. No provision, express or implied, arising from any prior oral or written request, bid, inquiry, negotiation, contract, or any other form of communication, shall be a provision of this contract unless it is reduced to writing, signed by the parties, and attached to this document.

SECTION 3.9 Prohibited Interest. No employee, officer, board member or agent of the Grantee shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (1) The employee, officer, board member or agent;
- (2) Any member of his or her immediate family;
- (3) His or her partner; or
- (4) An organization which employs, or is about to employ any of the above; has a financial or other interest in the firm selected for award. The Grantee's employees, officers, board members or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of subagreements.

SECTION 3.10 Interest of Members of or Delegates to Congress. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom.

SECTION 3.11 Waivers. A party's failure to enforce any provision of this Contract shall not be construed as a waiver excusing the other party's future performance.

SECTION 3.12 Ineligible Bidders. Bidders or Suppliers whose names appear on the U. S. Comptroller General's List of Ineligible Contractors are not eligible for award of, or participation in, any contract that may be awarded as a result of this contract. Submission of a bid by any bidder constitutes certification that he or any subcontractor or suppliers to him, on this proposed contract, if one is awarded, are not on the Comptroller General's List of Ineligible Contractors. A subsequent determination by FHWA that a bidder knowingly made any misstatement of facts in this regard will be cause for immediate disqualification, suspension or termination of the contract for cause.

SECTION 3.13 Prohibition Against Use of Federal Funds for Lobbying. The Grantee or its subcontractor shall not use Federal assistance funds for publicity or propaganda purposes designed to support or defeat legislation or appropriations pending before Congress or a state legislature.

SECTION 3.14 Employee Political Activity. The provisions of 5 U.S.C. 1501-1508, 7324-7326 (the "Hatch Act"), and implementing regulations set forth in 5 C.F.R. Part 151 are applicable to State and local agencies and their officers and employees to the extent covered by the statute and regulations. The "Hatch Act" restricts the political activity of an individual principally employed by a State or local executive agency in connection with a program financed in whole or in part by Federal loans, grants, or cooperative agreement.

SECTION 3.15 False or Fraudulent Statements or Claims. The Grantee acknowledges that, should it make a false, fictitious, or fraudulent claim, statement, submission, or certification to the State or Federal Government in connection with this project, MDT reserves the right to pursue the procedures and impose on the Grantee the penalties of 18 U.S.C. 1001, 31 U.S.C. 3801, et seq., and/or 49 U.S.C. 5307(n)(1), as may be deemed by MDT to be appropriate.

SECTION 3.16 Debarment and Suspension. The Grantee shall obtain from its third party contractors certifications required by Department of Transportation regulations, "Government-wide Debarment and Suspension (Nonprocurement)," 49 C.F.R. Part 29, and otherwise comply with the requirements of those regulations.

SECTION 3.17 No State Obligations to Third Parties. The State shall not be subject to any obligations or liabilities to any third party in connection with the performance of this Project without the specific written consent of the State and FHWA. Neither the concurrence in nor the approval of the award of this contract or any subcontract, or the solicitation thereof, nor any other act performed by the State under this contract shall constitute such consent.

SECTION 3.18 Federal Changes. Grantee shall at all times comply with all applicable FHWA regulations, policies, procedures and directives.

SECTION 3.19 Authority. The Grantee warrants that it has the lawful authority to enter this contract (Signature Authority), and that it has taken all actions and complied with all procedures necessary to execute the authority lawfully in entering this contract, and that the undersigned signatory for Grantee has been lawfully delegated the authority to sign this contract on behalf of Grantee.

SECTION 3.20 Compliance with Laws. Some of the clauses contained in this contract are not governed solely by Federal law, but are significantly affected by State law. The laws and regulations cited in this contract are not all-inclusive of those which may apply to the successful completion of this contract. The Grantee understands that it is its responsibility to learn what federal, state and local laws and regulations will apply to its operation under this contract, and that Grantee is solely responsible for its lawful compliance with them.

SECTION 3.21 Audit Requirement. The Grantee shall perform an audit in compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 et seq. and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations." The Grantee will provide the MDT Transit Section with a copy of the audit report for each fiscal year FHWA funds are received by the Grantee if funding thresholds are met.

SECTION 3.22 Elderly and Handicapped. The Grantee agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et

seq., and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age. The Grantee also agrees to comply with the requirements of 49 U.S.C. 5301(d), 29 U.S.C. 794, the Americans with Disabilities Act, as amended (42 U.S.C. 12101 *et seq.*), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*), as well as the applicable requirements of the regulations implementing those laws.

SECTION 3.23 Air Pollution. No facilities or equipment shall be acquired, constructed, or improved as a part of the Project unless the grantee obtains satisfactory assurances that they are (or will be) designed and equipped to limit air-pollution as provided in accordance with EPA regulations, applicable federally-approved State Implementation Plan(s), appropriate FTA directives and all other applicable standards.

SECTION 3.24 Energy Conservation. The Grantee and its third party contractors shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321, *et seq.*).

SECTION 3.25 Federal Changes. Grantee shall at all times comply with all applicable FHWA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the State and FHWA, as they may be amended or promulgated during the term of this contract. Grantee's failure to so comply shall constitute a material breach of this contract.

SECTION 3.26 Incorporation of FHWA Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FHWA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Grantee shall not perform any act, fail to perform any act, or refuse to comply with any State requests which would cause the State to be in violation of the FHWA terms and conditions.

SECTION 3.27 Privacy Act. The Grantee agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Grantee agrees to obtain the express consent of the Federal Government before the Grantee or its employees operate a system of records on behalf of the Federal Government. The Grantee understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

ARTICLE 4. NON-DISCRIMINATION NOTICE

During the performance of this contract, City of Billings, Planning and Community Services Department (hereafter in this Section "the Party"), for itself, its assignees and successors in interest, agrees as follows:

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

- (1) **Compliance with Regulations:** The Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.
- (2) **Nondiscrimination:** The Party, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.
- (3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, whether by competitive bidding or negotiation by the Party for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.
- (4) **Information and Reports:** The Party will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party shall so certify to the Department or FHWA as requested, setting forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - (a) Withholding payments to the Party under the Agreement until the Party complies, and/or
 - (b) Cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) **Incorporation of Provisions:** The Party will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Party will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the Party is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Party may request the State to enter into the litigation

to protect the interests of the State, and, in addition, the Party or the State may request the United States to enter into such litigation to protect the interests of the United States.

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

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

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

- (1) The Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
- (2) The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: **"The Party will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."**
- (3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

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

Each Agreement the Department signs with a Party (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: **The Party, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Party shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Party to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.**

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed.

CITY OF BILLINGS, ~~PLANNING AND COMMUNITY SERVICES DEPARTMENT~~

BY: Christina Fleck, City Administrator

DATE: 6/17/10

MONTANA DEPARTMENT OF TRANSPORTATION

BY: Lynn Zanjo, Administrator

DATE: 7/1/10

Approved for Legal Content by: James J. [Signature]

Approved for Civil Rights Content by: Bill Anderson

Appendix H

Certificate(s) of Insurance

Attached hereto are all Certificates of Insurance from Sanderson Stewart required under the terms of the contract.

DRAFT

Regular City Council Meeting

Date: 11/22/2010

TITLE: Professional Services Contract - Work Order 11-05, 2011 Chapple Area Water Main Improvements

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Mayor and Council are asked to consider awarding a professional engineering services contract to Morrison-Maierle, Inc. (MMI) in the amount of \$272,188.00 for design and construction administration services on the 2011 Chapple Area Water Main Improvement Projects. Water mains would be replaced and/or added in various locations north of Rimrock Road in the vicinity of Chapple Pump Station as identified by City staff and by the results of distribution system modeling performed during project design. MMI was selected based on City staff review of project proposals submitted by prequalified firms. Other firms considered for the work were Sanderson Stewart and DOWL-HKM.

This is a scheduled Capital Improvement Project to improve fire flow to residences in the vicinity of Chapple Pump Station. Due to the combination of higher area elevations, older 4-, 6-, and 8-inch water mains, excessive head loss, and some lack of distribution system connectivity, several areas of the distribution system in this neighborhood do not meet minimum fire flow requirements. Approximately 6,000 feet of water mains will be replaced and/or added as identified by City staff and the results of distribution system modeling performed under the design phase of this project.

ALTERNATIVES ANALYZED

The Council may:

- Award the engineering contract to Morrison-Maierle, Inc.; or
- Not award the engineering contract to Morrison-Maierle, Inc.

If the project is not constructed, the City runs the risk of not providing adequate fire flow to residences in the project area.

FINANCIAL IMPACT

Funding for this project has been approved by City Council in the CIP. Funding is sufficient for the engineering design and construction administration portion of the project which is now under consideration, as well as for the project construction planned for bidding to contractors in May of 2011.

RECOMMENDATION

Staff recommends that Council award a professional engineering services contract for the design and construction administration portion of the 2011 Chapple Area Water Main Improvement Projects to Morrison-Maierle, Inc. in the amount not to exceed \$272,188.00.

APPROVED BY CITY ADMINISTRATOR

Attachments

FINAL WO 11-05 PES Contract



PUBLIC WORKS DEPARTMENT
Engineering Division
2224 Montana Avenue
Billings, Montana 59101
Office (406) 657-8231
Fax (406) 237-6291

City of Billings

Morrison-Maierle, Inc.

CONTRACT FOR

PROFESSIONAL

SERVICES

FOR

CITY OF BILLINGS
WORK ORDER 11-05

2011 Chapple Area Water Main Replacements

B I L L I N G S
M O N T A N A

November 2010

Contract for Professional Engineering Services

Project – City of Billings W.O. 11-05 2011 Chapple Area Water Main Replacements

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

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of 7 pages (Basic Services of Consultant);

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

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

Appendix D consisting of 3 pages (Schedule of Professional Fees);

Appendix E consisting of 1 page (Project Schedule);

Appendix F consisting of 6 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. "Consultant" or "Engineer" means Morrison-Maierle, Inc.
- D. "Contractor" means the third party responsible for physical project construction.

Section 2. Scope of Services.

- A. The Consultant shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
- B. Billings shall pay the Consultant in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.

- C. Billings shall not allow any claim for services other than those described in this Section. However, the Consultant may provide, at its own expense, any other services that are consistent with this Contract. Additional services may be provided with agreement by both parties as discussed in Appendix C.
- D. The Consultant shall provide as-built drawings as specified hereafter, as approved by the City of Billings, to the Administrator within 30 days after the project substantial completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.
- E. The Consultant 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 Consultant shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on December 31, 2011.

Section 4. Compensation; Method of Payment.

- A. Subject to the Consultant's satisfactory performance, Billings shall pay the Consultant no more than Two Hundred Seventy Two Thousand One Hundred Eighty Eight and NO/100 Dollars (\$272,188.00) in accordance with this Section.
- B. The Consultant is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- C. As a condition of payment, the Consultant shall have paid all City taxes currently due and owing by the Consultant.

Section 5. Termination of the Consultant's Services.

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

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

Section 6. Duties Upon Termination

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

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

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

Section 7. Insurance.

- A. The Consultant shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Consultant shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Consultant shall provide the following insurance:
 - 1. Workers' compensation and employer's liability coverage as required by Montana law.
 - 2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
 - 3. Commercial automobile liability -- \$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 Consultant of its interest in any part of this Contract or any delegation of duties under this Contract shall be void, and an attempt by the Consultant to assign any part of its interest or delegate duties under this Contract shall give Billings the right immediately to terminate this Contract without any liability for Work performed.

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

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

Section 10. Notices.

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

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

e-mail: melingd@ci.billings.mt.us
FAX: (406) 237-6291

Consultant: Morrison Maierle, Inc.
Carl J. Anderson, PE, Vice President
315 North 25th Street, Ste. 102
Billings, Montana 59101

e-mail: canderson@m-m.net
FAX: (406) 237-1201

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

Section 11. Contract Budget.

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

Section 12. Force Majeure.

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

Section 13. Financial Management System.

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

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

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

Section 14. Funding Requirements.

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

Section 15. Subcontracts.

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

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

**PART II
GENERAL CONTRACT PROVISIONS**

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

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

Section 3. Permits, Laws, and Taxes.

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

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

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

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

The City shall indemnify, defend, save, and hold the Consultant 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 City or any agent or employee as a result of the City's performance pursuant to this Contract.

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

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

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

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

City of Billings

Consultant

City Council or Designee

Date: _____

Name: _____

Title: _____

Date: _____

ATTEST:

IRS Tax ID # _____

City Clerk

APPROVED AS TO FORM:

Date: _____

By _____

BRENT BROOKS, City Attorney

STATE OF MONTANA)
 :ss.
COUNTY OF YELLOWSTONE)

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 Billings, Montana
My Commission Expires: _____

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

Appendix A

Basic Services of Engineer

Section 1. Engineer's Rights and Duties.

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

Section 2. Billings Rights and Duties.

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

Section 3. Scope of Work.

The scope of work includes the following items:

1. The Engineer shall perform the work outlined within this agreement that includes the completion of design and construction phase services for Water Main Replacement; Engineer shall assist Billings in identifying areas where water main upsizing and/or installation of new water main best serve the needs of the project area. Engineer will coordinate work efforts with other related or unrelated improvement projects expected to be completed concurrently in the project area. Design and construction work for the 2011 Chapple Area Water Main Replacements project has been based on 6,000 lf of water main.

Completion of said design shall include the following tasks:

A. Preliminary Engineering Services (Preliminary Report)

1. Engineer will model various scenarios of water main upsizing and new installation to assist Billings in selecting the optimal combination to best serve the needs of the project area.
2. Engineer will prepare a preliminary report recommending the improvements and associated budget based on the modeling results and historical linear footage costs.

B. Preliminary Engineering Services (30% Design)

1. Field surveys within the project limits and extending to appropriate match lines. Data collection shall include establishment of permanent horizontal and vertical control, topographic features and existing property pins. Engineer will provide appropriate temporary traffic control measures for all data collection completed in traffic areas. Field survey data will be utilized by the Engineer to develop preliminary project base mapping.

2. Research will be performed to verify existing right-of-way locations utilizing platted information, ownership records and found property pins.
3. Apply for all permits, licenses, and approvals necessary to construct the project; this includes, at a minimum water extension approval from the Montana Department of Environmental Quality. All permit and licensing fees will be paid by Billings.
4. Geotechnical engineering as provided by sub consultant to consultant shall include field sampling, laboratory testing and review of subsurface soils to determine appropriate pavement section design alternatives, sub-grade treatment, groundwater conditions, and foundations for utility installations. Recommendations for specific construction materials established in this review will be included in the project plans and specifications.
5. Coordinate with Billings staff and other public and private stakeholders in the development of roadway and utility improvements.
6. Coordination with property owners adjacent to the project.
7. Planning and facilitating one (1) public informational meeting during the design phase.
8. Design of utility alignments and cross-sections; water main; and related improvements.
9. Coordination with owners residents in piping or abandonment alternatives within the right-of-way. This may include verification of user(s).
10. Confirm appropriate utility sizing within the project limits. Design replacement of existing utilities.
11. Coordinating the identification and potential relocation of private utilities including, but not limited to, overhead and underground power, cable TV, underground telephone and communications, petroleum oil, and natural gas.
12. Prepare and submit of a Preliminary Design Report, report shall summarize project related design parameters; public utility improvements; right-of-way impacts; stakeholder impacts; traffic operations and traffic control measures; pedestrian improvements; corridor landscaping; and preliminary construction costs. Up to two (2) conceptual alternatives may also be considered for certain utility improvements. The report will also include a preliminary environmental evaluation, which reviews historical data related to the project area, including hazardous waste research and other know environmental issues. Five (5) copies of the Preliminary Design Report and three (3) full-size preliminary water utility plan and profile plan sets will be provided to Billings for review.

C. Preliminary Engineering Services (70% Design)

1. The 70% design package will incorporate Billings' comments pertaining to the Preliminary Design Report and preliminary public utility plans. Updated roadway plan and profile sheets will be presented, where applicable, as well as further development of the water main, and other recommended improvements.

Five (5) half-size, two (2) full-size plan set and three (3) project specifications will be provided to the Billings for review.

2. Attend periodic design review meetings with Billings.
3. Send 70% construction plans to the private utilities for review and comment, and hold a subsequent coordination meeting with the private utilities to assemble and evaluate comments.

D. Preliminary Engineering Services (90% & Final 100% Design)

1. The 90% design package will incorporate comments received from Billings, after the 70% design package submittal and periodic design review meetings are complete. The plan package will include design of the plan and profile utilities drawings, related traffic control measures, water main, and other recommended improvements.

Five (5) full-size plan set and three (3) project specifications will be provided to Billings for review.

2. Attend periodic design review meetings with Billings.
3. Engineer will provide final design services, upon receiving Billings' approval of the 90% plan package submittal. Plans and specifications will be prepared in accordance with the Montana Public Works Standard Specifications, Sixth Edition, April 2010 and the most current edition of the City of Billings Standard Modifications.
4. Stamp and sign all plans and specifications with seal of Professional Engineer in charge.
5. Computation of project construction quantities and preparation of an engineer's opinion of probable construction cost.
6. Prepare and supply of all project specifications and bidding documents necessary for bidding and construction. Bid advertisement text will be provided to Billings for publication. Schedule and hold a pre-bid conference publish meeting minutes and prepare any necessary addenda. Conduct a pre-bid field review with contractors as necessary. Attend the bid opening, analyze bids, submit a bid tabulation, and make a construction contract award recommendation.
7. Preparation of a complete construction traffic control plan. The plan will show required detours, required signing, applicable construction phasing.
8. Submittal of ten (10) half-size and two (2) full sized plan sets.

9. Submittal of six (6) copies of project specifications and contract bidding documents.
10. Electronic submittal of construction plans and bid documents.
11. Submittal of two (2) copies of the project specifications, two (2) half-size plan sets, contract-bidding documents, design report and certified water checklist to Montana department of Environmental Quality for approval.

E. Construction Services

1. Construction Layout and Control.
 - i. Provide personnel, equipment, and supplies for construction layout and control. Construction layout shall include, but not be limited to, measurements, lines, locations, and grades necessary for construction.
 - ii. Reference and preserve all existing survey monuments and benchmarks. All monuments required within the project shall be punched and elevations shown on as-built drawings.
2. Inspection and Testing.
 - i. Coordinate appropriate testing of materials intended for incorporation into the project and require documentation of testing results.
 - ii. Provide review of construction to check the Contractor's work for compliance with the drawings, specifications, and other applicable documents, codes or standards. Review of work shall be made on a full-time basis while any major item of work is in progress. Major items of work shall be storm drain, and irrigation utilities; subgrade preparation; gravel base course preparation; concrete pouring and finishing; paving; signalization, lighting, and striping. The Engineer shall provide a minimum of **48** hours notice for Billings personnel when specific inspections or testing require their presence on the project. Each daily review shall be documented in permanent reproducible form and kept in consecutive order with the project file. Copies of the daily review reports shall be furnished to Billings as requested during construction. Engineer will notify Billings immediately of contract problems or deviation from approved plans.
 - iii. Provide the services of a qualified materials engineering technician who will observe construction and provide representative tests. Provide direct coordination of laboratory and field quality assurance testing and geotechnical engineering between the project engineer, field inspector, and a project construction materials engineer. Geotechnical and materials engineering shall include interpretation and recommendations for the Engineer and Billings based upon field observation.
 - iv. The Engineer shall record the location of all underground utilities (including, but not limited to, conduit for all street lighting, signalization, or flasher assemblies) installed under and on the surface within the public right-of-way and show these

facilities, together with a representation of the general corridors in which other underground utilities are located, on the record drawings.

3. Submittal Review and Document Preparation.

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

4. Public Involvement Services.

- i. Schedule and hold a neighborhood meeting at the beginning of construction. At a minimum, all affected property owners and businesses shall be invited to attend. Engineer will develop a mailing list to be used for notification.
- ii. Develop an overall public involvement plan to be used during construction. At a minimum, plan will include provisions for providing information to Billings to be included in monthly newsletters; press releases and road closure notifications; weekly updates (figures and narratives) showing updated construction areas and traffic control layouts for Billings to post online; weekly construction meetings; and Contractor handouts. Plan to approved by Billings prior to implementation. Additional approvals by Billings may be required for release of public involvement plan materials to the public.

- iii. In addition to holding one (1) neighborhood meeting during the design phase of the project, schedule and hold one (1) public meeting during the course of construction, at Billings' request. Meeting times and locations are to be determined by Engineer and approved by Billings. Additional meetings if requested by Billings would be compensated for in accordance with the provisions of this contract.

5. Final Services.

- i. Prepare record drawings (As-Built) and furnish Billings with one (1) paper set for review and comments.
- ii. Following receipt of review comments from Billings, make necessary changes and furnish Billings with a sepia and two (2) paper prints of any sheet involving traffic control devices, signals, signing or striping, and utilities plans. Furnish Billings with two (2) sets of reproducible mylars and one (1) electronic set in AutoCAD (*.dwg) format, of record drawings.
 - a. Record drawings to show offset distances from centerline of rights-of-way to all public water mains.
 - b. Locations of water services based on measurements from property lines.
 - c. Elevations indicating the depth of bury of all public water mains. These elevations shall be shown at each street or right-of-way intersection and at such intervals along the public water mains as may be deemed appropriate by the City Engineer.
 - d. All above elevations shall be referenced to a permanent benchmark elevation – clearly show on the plans.
 - e. Record drawings and traffic control submissions are due within 60 days of Contractor's final payment and before final payment to the Engineer.
- iii. Provide one (1) bound copy (may include multiple volumes) of a project manual through final completion. At a minimum, the project manual shall include: project specifications and contract documents, pay estimates, correspondence, any change orders, Contractor submittals, test reports, daily inspection reports, public involvement plan and documentation, and other appropriate project records as determined by Billings.
- iv. Schedule and make final inspection with Billings and certify to Billings all construction items were constructed according to plans and specifications and are acceptable to the Engineer.
 - v. Schedule and make an inspection with Billings prior to the expiration of construction warranty period and provide a certification of final acceptance. If any problems are found, send a list of deficiencies to Billings and Contractor and continue until acceptable.

Appendix B

Methods and Times of Payment

Section 1. Payments for Basic Services.

Billings shall authorize payment to the Engineer for services performed under Appendix A of this Agreement. Partial payment shall be made to the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer. 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, Appendix A, the Engineer shall be paid based upon actual time accrued, but not to exceed Two Hundred Seventy Two Thousand One Hundred Eighty Eight and 00/100 Dollars (\$272,188.00) based on the following tasks:

1.	Project Management	\$ 9,600.00
2.	Survey	\$ 42,411.00
3.	Materials Testing and Geotechnical	\$ 7,480.00
4.	Additional Surface/Subsurface Investigation	\$ 6,000.00
4.	Design	\$107,643.00
5.	Construction Administration	\$ 89,501.00
6.	Closeout Services	\$ 9,553.00

- 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 an hourly basis at the applicable fees in Appendix D or by an addendum to the Agreement.

Section 3. Corrections.

Costs of Billings work that is required for corrections to the Engineer's work which requires redoing by Billings shall be deducted from any payments due the Engineer if the Engineer 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 Engineer's costs and hourly rates as shown in Appendix D have increased for all comparable clients.

Appendix C

Additional Services of Engineer

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

- A. Requests made or conditions identified by interested groups which are beyond the scope and intent of this project.

Appendix D

Schedule of Professional Fees

Current agreements for engineering services stipulate that the standard hourly rates are subject to review and adjustments. Hourly rates for services effective on the date of this Agreement are included below.

The itemized schedule provided below includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

Rate changes may be made to the fee schedule by the Engineer to reflect increased salaries and other business costs. Engineer shall submit a revised rate schedule at the time of the change if requested by Owner. Rate schedule changes effected by the Engineer during the term of this contract shall not alter the maximum project professional fee set forth in the contract; changes that alter the maximum project professional fee are covered in Appendix B.

The cost of Professional Liability Insurance coverage is included in the hourly rates of personnel.

MORRISON-MAIERLE, INC.
STANDARD BILLING RATES SCHEDULE Q21

RATES EFFECTIVE THROUGH APRIL 30, 2011

PROFESSIONAL SERVICES	STANDARD RATE	OVERTIME RATE
Principal:	\$186.00	\$186.00
Engineer:		
Supervising Engineer III	\$160.00	\$160.00
Supervising Engineer II	144.00	144.00
Supervising Engineer I	130.00	130.00
Senior Engineer II	123.00	123.00
Senior Engineer I	114.00	114.00
Design Engineer II	103.00	103.00
Design Engineer I	94.00	94.00
Engineer Intern II	87.00	87.00
Engineer Intern I	80.00	80.00
Planner		
Supervising Senior Planner	148.00	148.00
Senior Planner	126.00	126.00
Planner	107.00	107.00
Scientist:		
Senior Environmental Scientist	\$131.00	\$131.00
Environmental Scientist	97.00	97.00
Environmental Professional II	85.00	85.00
Environmental Professional I	70.00	70.00
Environmental Technician	61.00	91.50
Senior Geologist	143.00	143.00
Geologist II	123.00	123.00
Geologist I	98.00	98.00
Staff Geologist	77.00	77.00
Engineering Technician:		
Senior Engineering Technician	\$103.00	\$103.00
Engineering Technician II	93.00	93.00
Engineering Technician I	80.00	80.00
Technician III	68.00	102.00
Technician II	62.00	93.00
Technician	45.00	67.50
Resident Project Representative II	\$105.00	\$105.00
Resident Project Representative I	90.00	90.00
Expert Witness	Quote per Job	
Clerical, Graphics, and Reproduction:		
Administrative Manager	\$74.00	\$74.00
Administrative Coordinator	63.00	94.50
Administrative Specialist II	56.00	84.00
Administrative Specialist I	49.00	73.50
College Intern	43.00	64.50
College Intern II	50.00	75.00
IS Technician II	84.00	84.00
IS Technician I	78.00	78.00
SURVEYING SERVICES	STANDARD RATE	OVERTIME RATE
Senior Survey Manager	\$132.00	\$132.00
Survey Manager	116.00	116.00
Land Surveyor III	99.00	99.00
Land Surveyor II	90.00	90.00
Land Surveyor I	87.00	87.00
Survey Technician III	69.00	103.50
Survey Technician II	60.00	90.00
Survey Technician I	41.00	61.50
Survey Crew:		
3-Person Crew	Quote per Job	Quote per Job
2-Person Crew	Quote per Job	Quote per Job

MORRISON-MAIERLE, INC.
STANDARD BILLING RATES SCHEDULE Q21

RATES EFFECTIVE THROUGH APRIL 30, 2011

EQUIPMENT RATES	
Company Vehicle: highway miles - Pickups/SUV/4WD	\$.74/mile
highway miles - Sedans	\$.56/mile
on-site mileage	.55/mile plus 5.00/hour
Private Vehicle	Prevailing Federal Rate
ATV/Snowmobile	35.00/day
Total Station	10.00/hr, 55.00/day
Nuclear Densometer	10.00/hr, 35.00/day, 650.00/mo.
Traffic Counter	50.00/day
RTK/Static GPS Systems:	Quote per Job
HYDROLOGICAL EQUIPMENT	
Aquacalc Pro with Meter and Rod	125.00/day
Blue White Flow Meter	20.00/day, 50.00/wk
Checkvalve Pump (Brainard-Kilman)	10.00/day
Conductivity Meter	15.00/day
Disposable Bailers	10.00/each
Dissolved Oxygen Meter	20.00/day
Hach Test Kit for Hardness	6.00/test
Hach Test Kit for Sulfide	6.00/test
Hach Test Kit for Nitrate/Nitrate	6.00/test
Hach Test Kit for Iron/Magnese	6.00/test
Hermit Data Logger/Probe	100.00/day, 400.00/wk
In0Situ Level Troll 700	63.00day/, 250.00/wk
Open Channel Radar Flowmeter	50.00/day,300/wk/1,000/mo
Oil/Water Interface Well Probe	40.00/day, 150.00/wk
PH Meter	15.00/day
PH/Temp/Conductivity Meter	25.00/day
Rossum Sand Sampler	20.00/day,100.00/wk
Sinco Depth Meter	15.00/day
Stream Flow Meter	25.00/day
Submersible Pump (Redi Flo 2)	155.00/day
Turbidity Meter	25.00/day
Water Sample	10.00/each
Well Bailer 2" Stainless Steel	5.00/day
Well Bailer 4" PVC	5.00/day
Well Bailing Unit, Gas Powered	100.00/day
Well Probe, 300 Ft. with Temperature Sensor	25.00/day,75/wk
Well Probe, 500 Ft. with Temperature Sensor	50.00/day, 150.00/wk
BART Biodetector Test	11.50/each
MISCELLANEOUS EXPENSE	
Lodging	Current Rates
Meals	30.00/day
Technology and Communications	5.00 per labor hour
Copier Reproduction	.10/page
(Reduced rates for volume copying)	
Prints (Blue, Black, Brownline)	.10/sq.ft.

Materials and other direct costs will be invoiced at current rates plus a 10% handling fee. Included as direct costs are the following:

- * Approved employee meals, lodging, transportation
- * Premium delivery service (UPS, Federal Express, etc.)
- * Field and office supplies
- * Premiums for Special Insurance, Performance Bonds, etc.
- * Other out-of-pocket expenses
- * Consultants

The cost of Professional Liability Insurance coverage is included in the hourly rates of personnel.

Appendix E

Project Schedule

Based on a notice to proceed by Billings date no later than November 22, 2010, the completion date for the Engineer's work through final design shall be:

1. Preliminary Engineering Services (Preliminary Report): January 10, 2010
2. Preliminary Engineering Services (30% Design): February 21, 2011
3. Preliminary Engineering Services (70% Design): April 1, 2011
4. Final Engineering Services (90% and 100% Design): May 15, 2011

Construction Services to be based on Contractor Schedule.

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

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

Appendix F

Certificate(s) of Insurance

(Attach Certificate(s) of Insurance)



CERTIFICATE OF LIABILITY INSURANCE

OP ID LC
MORRMATDATE (MM/DD/YYYY)
11/04/10

PRODUCER Western States Ins - Helena P O Box 5207 Helena MT 59604 Phone: 406-442-8010 Fax: 406-442-8353	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Morrison-Maierle Inc. Morrison-Maierle Systems Morrison-Maierle Arizona Inc K.C. Hill PO Box 6147 Helena MT 59604	INSURER A: State Compensation Ins Fund	
	INSURER B:	
	INSURER C	
	INSURER D:	
	INSURER E	

COVERAGES

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

INSR LTR	ADD'L NSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GENTL. AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$
						GENERAL AGGREGATE	\$
						PRODUCTS - COMP/OP AGG	\$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY	EA ACC \$ AGG \$
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below Y/N <input type="checkbox"/> OTHER	033302811-MM INC. 033302837- MM SYSTEMS MT	01/01/10 01/01/10	01/01/11 01/01/11	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	E.L. EACH ACCIDENT \$ 100000 E.L. DISEASE - EA EMPLOYEE \$ 100000 E.L. DISEASE - POLICY LIMIT \$ 100000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 RE: 2011 Chappel Area Main Water Replacements
 PN: Client Number 0686 - City of Billings W.O. 11-04

CERTIFICATE HOLDER City of Billings 2224 Montana Ave 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 <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
--	--

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



CERTIFICATE OF LIABILITY INSURANCE

OP ID RC

DATE (MM/DD/YYYY)

11/04/10

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER The Hartwell Corporation - Cal PO Box 400 Caldwell ID 83606 Phone: 208-459-1678 Fax: 208-454-1114	CONTACT NAME: PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ PRODUCER CUSTOMER ID #: MORRI-4	
	INSURER(S) AFFORDING COVERAGE: _____ NAIC #: _____	
INSURED Morrison-Maierle, Inc. P. O. Box 6147 Helena MT 59604	INSURER A: American Zurich Ins Co	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

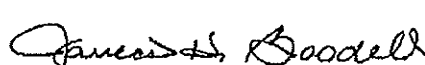
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				<input type="checkbox"/> WC STAT/TORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Prof. Liab. \$25,000 Deductible			EOC525353008	08/12/10	08/12/11	Ea. Claim \$2,000,000 Ann. Agg. \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: 2011 Chappel Area Main Water Replacements
 PN: Client Number 0686 - City of Billings W.O. 11-04

CERTIFICATE HOLDER**CANCELLATION**

CITBI-1 City of Billings 2224 Montana Ave. 2nd Floor Billings MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

© 1988-2009 ACORD CORPORATION. All rights reserved.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 11/04/2010
PRODUCER Montana International Ins. A Member of Payne Financial Group P.O. Box 6127 Helena, MT 59604-0638	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 Morrison - Materle, Inc. P.O. Box 6147 Helena, MT 59604-6147	INSURERS AFFORDING COVERAGE	NAIC #
	INSURER A: National Fire Insurance Co of	
	INSURER B: Transportation Insurance Co.	
	INSURER C: Valley Forge Insurance Co.	
	INSURER D:	
	INSURER E:	

COVERAGES

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

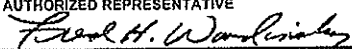
INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	2095451438	12/31/09	12/31/10	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/OP AGG \$2,000,000
C	X	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	2095451472	12/31/09	12/31/10	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$0	2095451522	12/31/09	12/31/10	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 RE: P/N 0686; City of Billings W.O.11-04 / 2011 Chappel Area Water Main Replacements.

Engineering/Surveying Services
 Certificate Holder is Additional Insured per policy forms with respect to the operations of the Named Insured when required by written contract

CERTIFICATE HOLDER

CANCELLATION 10 Days for Non-Payment

City of Billings 2224 Montana Avenue, 2nd Floor Helena, MT 59601	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Regular City Council Meeting

Date: 11/22/2010

TITLE: Professional Services Contract for Swords Park Trail II STPE 1099 (60)

PRESENTED BY: Mike Whitaker

Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

Swords Park currently has in place a segment of the Heritage Trail running along the rims from 27th Street east two miles ending near the electric sub-station. The City of Billings has received funding through the Federal-aid Community Transportation Enhancement Program (CTEP) and funding from the Department of Energy (DOE) Recovery and Reinvestment program to extend the Heritage Trail further to the east past Yellowstone Kelly's Grave and Skeleton Cliff connecting to the existing tunnel under Airport Road and the existing trail segment at the Aronson Interchange built as part of the Airport Road Improvement Project in 2009. The Montana Department of Transportation (MDT) issued a notice to proceed with the development of this project entitled Swords Park Trail II STPE 1099 (60). A Request for Proposals (RFP) was issued in June, requesting responses from qualified Consultants to provide Landscape Architectural and Engineering design services along with construction oversight. Seven firms responded and the top three firms were interviewed. Sanderson Stewart was selected as the top firm to enter into contract negotiations. The negotiated fee for their services is \$230,808.25. If the contract is approved and signed, Sanderson Stewart will be available to begin work immediately. The project is scheduled to be completed in November 2011.

ALTERNATIVES ANALYZED

Council may: Approve the Contract for Swords Park Trail II STPE 1099 (60), or not approve the contract.

FINANCIAL IMPACT

Funding for this project is through Federal-aid Community Transportation Enhancement Program (CTEP) and through the Department of Energy (DOE) Recovery and Reinvestment (Recovery Act) funds. There will be no financial impact to the City.

RECOMMENDATION

Staff recommends Council approve the Swords Park Trail II - STPE 1099 (60) professional engineering contract with Sanderson - Stewart for \$230,808.25.

APPROVED BY CITY ADMINISTRATOR

Attachments

Contract and Appendicies

Contract for Professional Landscape Architectural and Engineering Services For:

Swords Park Trail STPE 1099 (60)

In consideration of the mutual promises herein, City of Billings and **Sanderson Stewart** 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 5 pages (Basic Services of Contractor);
- Appendix B consisting of 2 pages (Methods and Times of Payment);
- Appendix C consisting of 1 pages (Additional Services of Contractor);
- Appendix D consisting of 3 pages (Schedule of Professional Fees);
- Appendix E consisting of 1 pages (Project Schedule);
- Appendix F consisting of 7 pages (Certificate(s) of Insurance);
- Appendix G consisting of 2 pages (Certificate of Consultant);
- Appendix H consisting of 1 pages (Certificate of the City of Billings);
- Appendix I consisting of 3 pages (Notice to Contractor); and

PART I SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

- A. "Administrator" means the Park Planner of the Billings Parks Recreation and Public lands Department or his designee.
- B. "Billings" means the City of Billings.
- C. "Contractor" means **Sanderson Stewart**.

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 Consultant shall provide deliverables as outlined in Appendix A 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 deliverables are received by the City of Billings.
 - a. Survey drawings shall be provided on mylar and in Auto CAD.DWG file digital format. All files must be readable by the CITY; any files not readable or corrupted shall be resubmitted. Compressed Files are not acceptable. Drawings using separate reference files, X-ref, shall be bound into one file prior to submission.
 - b. Word processing files in Microsoft Word.doc format. Files must be readable by the CITY.
- 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, 2011.

Section 4. Compensation; Method of Payment.

- A. 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, accompanied by the *Contractor Invoice Cover Letter*, 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.
- B. The Contractor is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- C. As a condition of payment, the Contractor shall have paid all City taxes currently due and owing by the Contractor.

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) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Billings: Mark Jarvis, Park Planner
City of Billings
Parks, Recreation and Public Lands
390 North 23rd Street
Billings, Montana 59101 FAX: (406) 247-8641

Contractor: Danielle Scharf, PE
Sanderson Stewart
1300 North Transtech Way
Billings, Montana 59102 FAX: (406) 922-2768

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. See Appendix I.

Section 3. Non-Collusion Certification

- A. The parties to this Agreement have each executed a certification. The Certificate Of Contractor, labeled Appendix G, is attached and by this reference made a part of this Agreement. The Certificate Of The City of Billings, labeled Appendix H, is attached ad by this reference made a part of this Agreement.

Section 4. 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 5. 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 6. Amendment.

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

Contractor: **Michael Sanderson, PE**
(Principal in Charge)

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 7. 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 8. Severability.

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

Section 9. 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 10. 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 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 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 11. 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 12. 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

Date: _____

Name: _____

Title: _____

Date: _____

ATTEST:

IRS Tax ID # _____

City Clerk

APPROVED AS TO FORM:

Date: _____

By _____

BRENT BROOKS, City Attorney

STATE OF MONTANA)
 :ss.
COUNTY OF YELLOWSTONE)

On this ____ day of _____, 2004, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of _____, and acknowledged to me that they executed the foregoing instrument on behalf of said corporation having first been authorized to do so.

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

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

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

Appendix A

Basic Services of Contractor

Section 1. Contractor's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Contractor'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 Contractor 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. Contractor's work shall be in accordance with the standards of sound Contracting 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 Contractor 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 Contractor. 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 Contractor'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 Contractor. For this project the Task Director designated for the Contractor is **Danielle Scharf, PE** working under the Principal-in-Charge, **Michael Sanderson, PE**.

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 Contractor and Billings. For this project, the Task Director designated is **Mark Jarvis, Park Planner**.

Section 3. Scope of Work.

The Swords Park Trail Phase II project will include design and construction administration services for a 10-foot wide multi-use trail from the east end of the existing Swords Park Trail (Phase I) to the existing trail south of the interchange at Airport Road and Aronson Avenue and to the existing pedestrian underpass under Airport Road west of the interchange. A detailed scope of services required to complete this project includes the following:

A. Project Management

1. Weekly progress reports
2. Up to 6 progress meetings with Staff
3. Contract Management/Billing
4. Coordination with Sub-consultants
5. QA/QC

B. Compile Existing Information

1. Compile existing survey and mapping data provided by City and others
2. Compile and review environmental assessment (EA) and cultural resources information completed by others for previous projects
3. Review geotechnical studies, if available, from previous projects
4. Review existing master plan documents

C. Field Alignment Study

1. Conduct field walk-through to identify potential trail alignments consistent with Swords Park master plan. Field walk-through will include:
 - a. City Staff
 - b. Sanderson Stewart
 - c. AECOM
 - d. Western Heritage Center
 - e. Other stakeholders, to be identified in consultation with City Staff.

- D. Preliminary Survey
 - a. Project management and coordination
 - b. Conduct pre-survey research of property boundary and control information
 - c. Survey computation
 - d. Establish survey control
 - e. Conduct design-level topographic survey of area identified during Field Alignment Study
 - f. Pick up additional topographic survey as needed throughout design process

- E. Geotechnical Investigation
 - 1. Drill seven (7) borings, test resulting samples and compile report

- F. Environmental Documentation
 - 1. Prepare Group (c) Categorical Exclusion (combined effort by Sanderson Stewart and Ethnoscience)

- G. Concept Alignment and Cross-sections
 - 1. Develop concept alignment based on route identified during walk-through
 - 2. Develop up to 3 cross-section concepts

- H. Sign Program Development
 - 1. Coordination with Sanderson Stewart and team meetings by phone (4).
 - 2. Coordination with the WHC on vision and theme development for interpretive signs.
 - 3. (2) site visits (1 person, 1 day) for work sessions and presentations as needed.
 - 4. Draft and Final submittals for Concept Design (11 x 17 document) describing vision, themes, family of signs, materials, colors, fonts, template for panel layout, and structure concepts.
 - 5. Preliminary, Draft, and Final submittals for Panel Design for (5) Interpretive signs (2 types- horizontal large and horizontal small).
 - 6. Preliminary, Draft, and Final submittals for Wayfinding Sign Design for (6) signs (3 types).
 - 7. Preliminary, Draft, and Final submittals for Site Identification Sign Design for (1) sign (1 type). Numbers 4 thru 6 above may be combined in the same package. The Final submittal will have two sections: 1) graphics layout section for the sign panel and 2) detail section for the sign structures.
 - 8. Coordination with an illustrator for (2) illustrations for interpretive panels.
 - 9. Coordination with WHC on development of content for each of the (4) interpretive signs. It is our understanding that WHC will develop the content based on a specific topic for each sign as determined by the consultant team and client. Editing of content (3 rounds of client review and comment) for a consistent 'voice' and level of understanding will be provided by AECOM.

- I. Preliminary Design
 - 1. Develop preliminary design documents based on one preferred alternative identified during Staff and stakeholder reviews.
 - 2. Develop draft engineering specifications and contract documents
 - 3. Develop preliminary cost estimate based on unit prices from bids for recent comparable projects.
 - 4. Submit preliminary design documents for City review

- J. Preliminary Design Revisions
 - 1. Make revisions to preliminary design based on City review and input from Parks Board
 - 2. Revise contract documents
 - 3. Update cost estimate
 - 4. Submit preliminary design and bid documents to CTEP for review

- K. Final Design
 - 1. Make revisions to preliminary design based CTEP review comments
 - 2. Prepare final bid documents with bid alternates for:
 - a. Trail construction only
 - b. Asphalt vs. concrete surfacing
 - c. Additive Alternate – Interpretive and Wayfinding Signage
 - d. Additive Alternate – Rehab of historic rock cairns
 - 3. Prepare final cost estimate
 - 4. Erosion control plan

- L. Bid Process
 - 1. Prepare and publish bid advertisement
 - 2. Conduct pre-bid conference
 - 3. Attend bid opening and prepare bid tabulation
 - 4. Prepare bid award and process contract documents

- M. Construction Administration
 - 1. Conduct pre-construction conference
 - 2. Shop drawing review
 - 3. Construction inspection – Assume 200 hours based on approximately half-time inspection for an assumed 60 calendar day construction contract with 10-hour work days
 - 4. Construction testing coordination and review
 - 5. Process pay applications and change orders
 - 6. Substantial completion walkthrough and punch list
 - 7. Conduct one-year warranty inspection and prepare punch list
 - 8. Complete and submit as-built drawings

- N. Construction Staking
 - 1. Project management and coordination
 - 2. Upload staking alignments
 - 3. Build staking alignments
 - 4. Slope stake or O/S stake trail for cut and fill

5. Stake multi-use trail at 2-ft O/S and 50-ft stationing for approximately 1.5 miles
6. Miscellaneous staking for turnouts, parking areas, etc.

Appendix B

Methods and Times of Payment

Section 1. Payments for Basic Services.

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

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 as outlined in Appendix A, the Contractor shall be paid a total of **\$230,808.25** as follows:

PROPOSED FEE SCHEDULE:

The attached Budget Worksheet (pages 1 and 2) provides a breakdown of the project labor hours and resulting proposed Fee for Services. The fee includes expenses.

FEE SCHEDULE:

<u>Task</u>	<u>FEE</u>
Task 1 – Project Management	\$22,920.00
Task 2 – Compile Existing Information	\$2,980.00
Task 3 – Field Alignment Study	\$5,290.00
Task 4 – Preliminary Survey	\$10,215.00
Task 5 – Geotechnical Investigation	\$5,200.00
Task 6 – Environmental Documentation	\$8,440.00
Task 7 – Concept Alignment and Cross-sections	\$20,345.00
Task 8 – Sign Program Development	\$57,410.00
Task 9 – Preliminary Design	\$17,250.00
Task 10 – Preliminary Design Revisions	\$7,630.00
Task 11 – Final Design	\$4,950.00
Task 12 – Bid Process	\$4,702.00
Task 13 – Construction Administration	\$28,660.00
Task 14 – Construction Staking	\$18,090.00
Expenses (3.5% for SS, 5% for Sub-consultants)	\$8,626.25
Direct Sub-consultant Expenses	<u>\$8,100.00</u>
TOTAL PROPOSED FEE:	\$230,808.25

- B. Final payment shall be the above stated basic fee less all previous payments.

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

Requests made or conditions identified which are beyond the scope and intent of this study shall be paid for on an hourly basis at the applicable fees in Appendix D.

Section 3. Corrections.

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

Swords Park Trail II - STPE 1099 (60)
 Budget Worksheet
 11/4/2010

Task Description	Sanderson Stewart Staff Position/Charge-Out Rate										Sanderson Stewart Total	Sub-Consultant				Total incl. Sub-Consultants
	Principal	Senior Engineer	Project Engineer	CADD Technician	Project Administrator	Sen. Construction Eng. Tech.	Construction Inspector	Sen. Prof. Land Surveyor	Professional Land Surveyor	2-man Survey Crew		AECOM	Tetracon	Ethnoscience	Western Heritage Center	
	\$150.00	\$115.00	\$90.00	\$65.00	\$65.00	\$88.00	\$60.00	\$105.00	\$95.00	\$175.00		At cost	At cost	At cost	At Cost	
Task 1: Project Management																
a. Weekly Progress Reports		60									\$6,900.00					
b. Progress Meetings	8	20									\$3,500.00					
c. Contract Management/Billing		12									\$1,380.00	\$6,440.00				
d. Coordination with Sub-consultants		20									\$2,300.00					
e. QA/QC	16										\$2,400.00					
Subtotal for Task 1	\$3,600.00	\$12,880.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$16,480.00	\$6,440.00	\$0.00	\$0.00	\$0.00	\$22,920.00
Task 2: Compile Existing Information																
a. Existing Survey Information		4						4			\$880.00					
b. EA and Cultural Resources Information		4									\$460.00					
c. Geotechnical Studies		4	4								\$820.00					
d. Park Master Plans		4	4								\$820.00					
Subtotal for Task 2	\$0.00	\$1,840.00	\$720.00	\$0.00	\$0.00	\$0.00	\$0.00	\$420.00	\$0.00	\$0.00	\$2,980.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,980.00
Task 3: Field Alignment Study																
a. On-site meeting and walk-through	4	8	8								\$2,240.00	\$2,570.00			\$480.00	
Subtotal for Task 3	\$600.00	\$920.00	\$720.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,240.00	\$2,570.00	\$0.00	\$0.00	\$480.00	\$5,290.00
Task 4: Preliminary Survey																
a. Project Management and Coordination								5			\$525.00					
b. Pre-Survey Preparation and Research									2		\$190.00					
c. Survey Computation				2							\$130.00					
d. Survey Control									1	8	\$1,495.00					
e. Topographic Survey										37	\$6,475.00					
f. Pick-up Topographic Survey										8	\$1,400.00					
Subtotal for Task 4	\$0.00	\$0.00	\$0.00	\$130.00	\$0.00	\$0.00	\$0.00	\$525.00	\$285.00	\$9,275.00	\$10,215.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,215.00
Task 5: Geotechnical Investigation																
a. Drill 7 borings, test samples, and compile report											\$0.00		\$5,200.00			
Subtotal for Task 5	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,200.00	\$0.00	\$0.00	\$5,200.00	
Task 6: Environmental Documentation																
a. Prepare Group (c) Categorical Exclusion		16	40								\$5,440.00			\$3,000.00		
Subtotal for Task 6	\$0.00	\$1,840.00	\$3,600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,440.00	\$0.00	\$0.00	\$3,000.00	\$0.00	\$8,440.00
Task 7: Concept Alignment and Cross-sections																
a. Develop alignment based on route identified in walk-through	10	20	10	40							\$7,300.00				\$600.00	
b. Develop up to 3 cross-section concepts	10	20	10	40							\$7,300.00	\$5,145.00				
Subtotal for Task 7	\$3,000.00	\$4,600.00	\$1,800.00	\$5,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,600.00	\$5,145.00	\$0.00	\$0.00	\$600.00	\$20,345.00
Task 8: Sign Program Development																
a. Coordination and team meetings	4	8	8								\$2,240.00				\$600.00	
b. Vision and theme development for interpretive signs	4	8									\$1,520.00				\$600.00	
c. Site visits for work sessions and presentations	4	8									\$1,520.00					
d. Concept Design Document											\$0.00					
e. Panel Design for (5) Interpretive Signs											\$0.00					
f. Wayfinding Sign Design for (12) signs (3 types)											\$0.00					
g. Site Identification Sign Design											\$0.00					
h. Coordination with illustrator for interpretive panels											\$0.00					
i. Develop content for interpretive signs											\$0.00				\$3,600.00	
Subtotal for Task 8	\$1,800.00	\$2,760.00	\$720.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,280.00	\$47,330.00	\$0.00	\$0.00	\$4,800.00	\$57,410.00

Task Description	Sanderson Stewart Staff Position / Charge-Out Rate										Sanderson Stewart Total	Sub-Consultant				Total Incl. Sub-Consultants
	Principal	Senior Engineer	Project Engineer	CADD Technician	Project Administrator	Sen. Construction Eng. Tech	Construction Inspector	Sen. Prof. Land Surveyor	Professional Land Surveyor	2-man Survey Crew		AECOM	Terracon	EthnoScience	Western Heritage Center	
	\$150.00	\$115.00	\$90.00	\$65.00	\$65.00	\$88.00	\$60.00	\$105.00	\$95.00	\$175.00		At cost	At cost	At cost	At Cost	
Task 9: Preliminary Design																
a. Preliminary design documents for preferred alternative		37	37	37							\$9,990.00					
b. Draft engineering specifications and contract docs		20			40						\$4,900.00					
c. Preliminary cost estimate		12									\$1,380.00					
d. Submit preliminary documents for City review		4		4	4						\$980.00					
Subtotal for Task 9	\$0.00	\$8,395.00	\$3,330.00	\$2,665.00	\$2,860.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$17,250.00	\$0.00	\$0.00	\$0.00	\$0.00	\$17,250.00
Task 10: Preliminary Design Revisions																
a. Make revisions to preliminary design		19	9	19							\$4,230.00					
b. Revise contract docs		8			16						\$1,960.00					
c. Update cost estimate		4									\$460.00					
d. Submit preliminary documents for CTEP review		4		4	4						\$980.00					
Subtotal for Task 10	\$0.00	\$4,025.00	\$810.00	\$1,495.00	\$1,300.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,630.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,630.00
Task 11: Final Design																
a. Make revisions to preliminary design		9	5	9							\$2,070.00					
b. Prepare final bid documents with bid alternates		8			12						\$1,700.00					
c. Prepare final cost estimate		4									\$460.00					
d. Erosion Control Plan		4		4							\$720.00					
Subtotal for Task 11	\$0.00	\$2,875.00	\$450.00	\$845.00	\$780.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,950.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,950.00
Task 12: Bid Process																
a. Bid advertisement		2			4						\$490.00					
b. Conduct pre-bid conference		8			8	4					\$1,792.00					
c. Attend bid opening and prepare bid tabulation		4			8						\$980.00					
d. Prepare bid award and process contract documents		8			8						\$1,440.00					
Subtotal for Task 12	\$0.00	\$2,530.00	\$0.00	\$0.00	\$1,820.00	\$352.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,702.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,702.00
Task 13: Construction Administration																
a. Conduct pre-construction conference		8			8	4					\$1,792.00					
b. Shop drawing review		8				16					\$2,328.00					
c. Construction inspection						20	200				\$13,760.00					
d. Construction testing coordination and review						20	10				\$2,360.00					
e. Process pay applications and change orders		8			24	12					\$3,536.00					
f. Substantial completion walkthrough and punch list		4			8	4					\$1,332.00					
g. One-year warranty inspection and punch list		4			8	4					\$1,332.00					
h. As-built drawings		8		20							\$2,220.00					
Subtotal for Task 13	\$0.00	\$4,600.00	\$0.00	\$1,300.00	\$3,120.00	\$7,040.00	\$12,600.00	\$0.00	\$0.00	\$0.00	\$28,660.00	\$0.00	\$0.00	\$0.00	\$0.00	\$28,660.00
Task 14: Construction Staking																
a. Project Management and Coordination								8			\$840.00					
b. Upload Alignments									1		\$95.00					
c. Build Staking Alignments				4					1		\$355.00					
d. Slope Stake or O/S Stake Trail for Cut and Fill										37	\$6,475.00					
e. Sidewalk Staking 2'O/S 50' STA For 1.5 Miles										47	\$8,225.00					
f. Misc. Staking (turn outs, parking areas, etc.)										12	\$2,100.00					
Subtotal for Task 14	\$0.00	\$0.00	\$0.00	\$260.00	\$0.00	\$0.00	\$0.00	\$840.00	\$190.00	\$16,800.00	\$18,090.00	\$0.00	\$0.00	\$0.00	\$0.00	\$18,090.00
Total Hours	60	411	135	183	152	84	210	17	5	149	1406					
Total Labor Fee	\$9,000.00	\$47,265.00	\$12,150.00	\$11,895.00	\$9,880.00	\$7,392.00	\$12,600.00	\$1,785.00	\$475.00	\$26,075.00	\$138,517.00	\$61,485.00	\$5,200.00	\$3,000.00	\$5,880.00	\$214,082.00
Expenses (3.5% for SS, 5% for Sub-consultants)	\$315.00	\$1,654.00	\$425.00	\$416.00	\$346.00	\$259.00	\$441.00	\$62.00	\$17.00	\$913.00	\$4,848.00	\$3,074.25	\$260.00	\$150.00	\$294.00	\$8,626.25
Direct Sub-consultant Expenses												\$8,100.00	\$0.00	\$0.00	\$0.00	\$8,100.00
Grand Total											\$143,365.00	\$72,659.25	\$5,460.00	\$3,150.00	\$6,174.00	\$230,808.25

Appendix C

Additional Services of Contractor

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

- A. Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study.

Appendix D

Schedule of Professional Fees

Hourly rates for services effective on the date of this Agreement are included below.

The itemized schedule provided below includes direct labor costs, normal payroll and overhead costs, transportation, furnishing equipment and materials normally required for performance of the work and reasonable profit. Direct project costs not itemized herein shall be paid for at actual cost.

The cost of Professional Liability Insurance coverage is included in the hourly rates of personnel.

Section 1. Professional Services.

A. The following 2 pages provide a breakdown of professional fees:

CHARGE OUT RATES EFFECTIVE JANUARY 1, 2010

SURVEY CREW SERVICES

1-man Crew	\$ 145.00 /hour
2-man Crew	\$ 175.00 /hour
NOTE:	
1)	Charge out rate for travel time to and from the site same as above.
2)	Minimum of one-hour charge for field crew time.

STAFF PERSONNEL SERVICES

Expert Witness/Special Consultant	\$ 250.00 /hour
Principal	\$ 150.00 /hour
Senior Engineer	\$ 115.00 /hour
Project Engineer	\$ 90.00 /hour
Staff Engineer	\$ 77.00 /hour
Engineer Intern	\$ 66.00 /hour
Land Planner/Landscape Architect	\$ 105.00 /hour
Landscape Designer	\$ 77.00 /hour
Senior Professional Land Surveyor	\$ 105.00 /hour
Professional Land Surveyor	\$ 95.00 /hour
Staff Surveyor	\$ 79.00 /hour
Designer	\$ 75.00 /hour
CADD Technician	\$ 65.00 /hour
Senior Construction Engineering Technician	\$ 88.00 /hour
Construction Engineering Technician	\$ 65.00 /hour
Construction Inspector	\$ 60.00 /hour
Project Administrator	\$ 65.00 /hour
Party Chief	\$ 75.00 /hour
Administrative/Clerical	\$ 50.00 /hour

1300 North Transtech Way
Billings, Montana 59102
Phone 406.656.5255
Fax 406.656.0967
www.sanderasonstewart.com

Outside Consultants:

- 1) At cost if independently billed direct to client.
- 2) Cost plus 5% if billed through us.

Independent Laboratories:

- 1) At cost if independently billed direct to client.
- 2) Cost plus 5% if billed through us.

ADMINISTRATIVE EXPENSES

Administrative expenses (including copies, prints, phone, postage, materials, and travel) based on professional services only 3.5% *

* *unless modified by contract*

01-14-10

Appendix E

Project Schedule

Section 1. Project Timeline

- A. Based on Contract approval by Billings City Council, a notice to proceed will be issued by Billings on or about November 24, 2010, the completion date for the Contractor's work shall be December 31, 2011.
- B. Upon notice to proceed, Contractor shall prepare a Work Plan Schedule demonstration the approved Project Scope and proposed timeline for the project.
- C. Delays affecting the completion of the work within the time specified of more than ninety (90) days, not attributable to or cause by the Parties hereto, may be considered as cause for the renegotiation or termination of this Contract.
- D. If the Contractor is behind on this contract due to no fault of Billings, then the Contractor hereby acknowledges the right of Billings to withhold future contracts to the Contractor in addition to any other remedy until this Contract is brought back on schedule or otherwise resolved.

Appendix F

Certificate(s) of Insurance

Client#: 961	SANDERS01	DATE (MM/DD/YYYY) 10/07/2010
ACORD- CERTIFICATE OF LIABILITY INSURANCE		
PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		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 Engineering, Inc. DBA Sanderson Stewart 1300 North Transtech Way Billings, MT 59102		
		INSURERS AFFORDING COVERAGE
		NAIC #
		INSURER A: The Phoenix Insurance Company INSURER B: The Travelers Indemnity Co. INSURER C: Travelers Indemnity Co of IL INSURER D: INSURER E:

COVERAGES

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

INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY	6802286M792	04/01/10	04/01/11	EACH OCCURRENCE \$1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
C	X	AUTOMOBILE LIABILITY	BA2287M463	04/01/10	04/01/11	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
		<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
B	X	EXCESS/UMBRELLA LIABILITY	XSMCUP9485Y532	04/01/10	04/01/11	EACH OCCURRENCE \$1,000,000
		<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10000				AGGREGATE \$1,000,000 \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Certificate holder is added as additional insured. Waiver of subrogation applies.
 RE: Project: Swords Park Trail STPE 1099 (60)

CERTIFICATE HOLDER	CANCELLATION 10 Days for Non-Payment
City of Billings Parks, Recreation and Public Lands 390 North 23th Street Billings, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE John K. Roberts

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Client#: 961

SANDERS01

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 10/07/2010
PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		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 Engineering, Inc. DBA Sanderson Stewart 1300 North Transtech Way Billings, MT 59102		INSURERS AFFORDING COVERAGE INSURER A: Travelers Casualty & Surety Co. INSURER B: INSURER C: INSURER D: INSURER E:
		NAIC #

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.

INSUR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A		OTHER Professional	105269194	04/17/10	04/17/11	\$3,000,000 Each Occ \$3,000,000 Aggregate \$100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 All operations performed by the above insured.
 RE: Project: Swords Park Trail STPE 1099 (60)

CERTIFICATE HOLDER City of Billings Parks, Recreation and Public Lands 390 North 23th Street Billings, MT 59101	CANCELLATION 10 Days for Non-Payment SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE JOHN ROBERTS
--	--

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Client#: 961

SANDERS01

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 10/07/2010
PRODUCER Hoiness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638	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 Engineering, Inc. DBA Sanderson Stewart 1300 North Transtech Way Billings, MT 59102	INSURERS AFFORDING COVERAGE	
	INSURER A: Montana State Fund	NAIC #
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		

COVERAGES

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

INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPIOP AGG \$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	031048770	07/01/10	07/01/11	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> 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
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 All operations performed by the above insured.
 RE: Project: Swords Park Trail STPE 1099 (60)

CERTIFICATE HOLDER	CANCELLATION 10 Days for Non-Payment
City of Billings Parks, Recreation and Public Lands 390 North 23th Street Billings, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE John Roberts

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Appendix G

CERTIFICATE OF CONTRACTOR

I am a duly authorized representative of the firm of **Sanderson Stewart**, whose address is 1300 North Transtech Way, Billings, MT 59102 and I hereby certify as follows:

1. That neither the firm nor any person associated therewith in a management capacity:
 - a. has employed or retained for commission, percentage, brokerage, contingent fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement;
 - b. has agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or
 - c. has paid or agreed to pay to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the Agreement; with no exceptions.
2. That neither the firm, nor any person who has critical influence on or substantial control in the firm, nor any person associated therewith in a management or supervisory capacity:
 - a. is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any Federal agency or any agency of any State government;
 - b. has, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud; a criminal offense in connection with obtaining, attempting to obtain or performing a public transaction or contract under a public transaction; violation of antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
 - c. is currently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses listed in paragraph 2.b of this certification; or
 - d. has had one or more public transactions terminated for cause or default within a three-year period preceding this Agreement.
3. That to the best of my knowledge and belief:
 - a. no Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement; and
 - b. if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a

Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

I acknowledge that this certificate is to be furnished to the City of Billings, State of Montana, Department of Transportation and the Federal Highway Administration, in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

Appendix H

CERTIFICATE OF THE CITY OF BILLINGS

I hereby certify that I am the Mayor of the City of Billings of the State of Montana, and that the above consulting firm, or his representatives, has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement, to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay to any firm, person or organization, any fee, contribution, donation or consideration of any kind; with no exceptions.

I acknowledge that this certificate is to be furnished the Montana Department of Transportation and Federal Highway Administration in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Mayor

Attachment I

NOTICE TO CONTRACTOR

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

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

1. Compliance with Regulations: The Contractor shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even though only State funding is here involved.
2. Nondiscrimination: The Contractor, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination.
4. Information and Reports: Contractor will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Local Entity, MDT or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Local Entity, MDT or the FHWA as requested, setting forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, Local Entity or MDT may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,
 - a. withholding payments to the Contractor under the Agreement until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions: Contractor will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Contractor will take such action with respect to any subcontract or procurement as the Local Entity, MDT or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Contractor may request the Local Entity to enter into the litigation to protect the interests of the Local Entity or State, and, in addition, the Contractor or the Local Entity may

request the United States to enter into such litigation to protect the interests of the United States.

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

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

C. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

1. Contractor will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.
2. Contractor will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The Contractor will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Contractor. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Contractor."
3. All video recordings produced and created under the Agreement will be closed-captioned.

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

Each Agreement the Local Entity signs with a Contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: "The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

Regular City Council Meeting

Date: 11/22/2010

TITLE: Professional Services Contract for System Development Fees and Water Resale Rate Study

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

In 2007 the City Council approved water and wastewater system development fees and a multi-year program of increases for the resale rate for the County Water District of Billings Heights. MCA 7-6-1602 requires periodic review and updates of system development fees. A periodic update is especially important given the cost magnitude of capital improvements in the water and wastewater capital improvement programs. The last phase of the resale rate increases went into effect July 1, 2010 and as a result, there are no further increases scheduled. In order to comply with State law and meet projected operation and maintenance costs, as well as fund major capital project needs, adjustments are needed for both the system development fees and water resale rates. A Request for Proposals (RFPs) was mailed to three firms from a list of prequalified firms. Two of these firms, HDR, Inc. and CDM, Inc., submitted responses. CDM, Inc. was selected based on having the most relevant experience with both resale rate and system development fee studies. The study will be completed in time to allow the outcome to be reflected in the FY 2012 budget.

ALTERNATIVES ANALYZED

The Council may:

1. Approve the contract; or
2. Not approve the contract. If the City does not perform this study, it will be unable to adjust these fees without violating state and case law.

FINANCIAL IMPACT

Sufficient funds to pay the contract amount were budgeted in the FY 2011 water and wastewater O&M accounts.

RECOMMENDATION

Staff recommends that the City Council approve the Contract with CDM Inc. in the amount of \$59,900 for the System Development Fees and Water Resale rate study.

APPROVED BY CITY ADMINISTRATOR

Attachments

Utility Rate Study Contract

Contract for Professional Engineering Services

System Development Fees and Water Resale Rate Study

In consideration of the mutual promises herein, City of Billings and Camp Dresser & McKee Inc, (CDM) agree as follows. This Contract consists of:

- Part I, consisting of 15 Sections of Special Provisions;
- Part II, consisting of 11 Sections of General Provisions;
- Appendix A consisting of 3 pages (Basic Services of Engineer);
- Appendix B consisting of 1 pages (Methods and Times of Payment);
- Appendix C consisting of 0 pages (Additional Services of Engineer);
- Appendix D consisting of 0 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 Finance Manager of the Public Works Department or her designee.
- B. "Billings" means the City of Billings.
- C. "Engineer" means CDM.

Section 2. Scope of Services.

- A. The Engineer 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 Engineer in accordance with the Appendix B 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 Engineer may provide, at its own expense, any other services that are consistent with this Contract.

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Engineer 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 July 1, 2011.

Section 4. Compensation; Method of Payment.

- A. 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 Engineer 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 Engineer's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Engineer of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Engineer within 30 days of receiving an acceptable invoice.
- B. The Engineer is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- C. As a condition of payment, the Engineer shall have paid all City taxes currently due and owing by the Engineer.

Section 5. Termination of the Engineer's Services.

The Engineer'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 Engineer 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 Engineer's services for convenience, Billings shall pay the Engineer 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 Engineer shall become the property of Billings.
- B. If the Engineer's services are terminated for cause, Billings shall pay the Engineer the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by Billings because of the Engineer'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 Engineer under this Contract shall become the property of Billings at its option.

- C. If the Engineer 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 Engineer shall not be entitled to any compensation under this Section until the Engineer has delivered to the Administrator all documents, records, Work product, materials and equipment owned by Billings and requested by the Administrator.
- E. If the Engineer's services are terminated for whatever reason the Engineer 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 Engineer'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 Engineer'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 Engineer shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Engineer shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Engineer 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 Engineer 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 Engineer 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 Engineer 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. Engineer shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Engineer shall have the right to include photographic or artistic representations of the design and construction of the Project among the Engineer's promotional and professional materials. The Engineer's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Engineer in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Engineer 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 Engineer 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 Engineer'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) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Billings:	Jennifer Duray, CPA City of Billings Public Works Administration 2224 Montana Ave Billings, Montana 59101	FAX: (406) 237-6291
Engineer:	Darrel Stordahl, P.E., BCEE CDM 50 West 14 th Street, Suite 200 Helena, MT 59601	FAX: (406) 449-7725

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 Engineer 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 Engineer 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 Engineer'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 Engineer;
- 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 Engineer agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Billings.

Section 15. Subcontracts.

The Engineer 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 Engineer delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Engineer.
- 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 Engineer shall perform its obligations hereunder as an independent Engineer of Billings. Billings may administer the Contract and monitor the Engineer's compliance with its obligations hereunder. Billings shall not supervise or direct the Engineer other than as provided in this Section.

Section 2. Nondiscrimination.

- A. The Engineer 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 Engineer 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 Engineer 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 Engineer 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 Engineer shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
- D. The Engineer 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 Engineer under this Contract.
- E. The Engineer shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.

Section 3. Permits, Laws, and Taxes.

The Engineer 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 Engineer under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Engineer shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Engineer: Darrel Stordahl, Principal in Charge

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 Engineer 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 Engineer or any agent, employee or subcontractor as a result of the Engineer's or any subcontractor's performance pursuant to this Contract.

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

Section 10. Inspection and Retention of Records.

The Engineer 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 Engineer is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Engineer 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 Engineer 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 Engineer 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.

Appendix A

Basic Services of Engineer

Section 1. Engineer's Rights and Duties.

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

- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Darrel M. Stordahl, P.E. working under the Project Manager, Jacob Boomhouwer.

Section 2. Billings Rights and Duties.

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

Section 3. Scope of Work.

This project includes updating water and wastewater System Development Fees (SDFs) and resale water rates for the County Water District of Billings Heights (District) and recommending rates to be in effect for the City's fiscal years beginning July 1, 2011 and July 1, 2012. Methodology used in calculating rates will be tailored to match current policies, practices, and unique attributes of the City, resulting in cost-based, defensible, and sustainable rates.

Task 1: Initial Project Meeting

Obtain an understanding of the studies goals, objectives, issues and concerns of both parties.

Prior to the initial project meeting, Consultant will provide the City a preliminary data request list. During the project initiation meeting, Consultant will review the preliminary data request, as well as discuss methodologies, rate making policies, goals, and scheduling. A discussion of utility operations, capital improvement planning, financing, and other relevant matters will be conducted.

Task 2: Data Collection

Accumulate necessary data to conduct the study and calculate system development fees and resale water rates.

Review, analyze, and validate the data provided by the City. Prepare any necessary written requests for follow-up information and work with City staff to complete the initial data collection activity.

Task 3: Update System Development Fees (SDFs)

Update SDFs for the water and sewer utility and recommend SDFs for a two-year period with rates that are calculated within the parameters of state law. The SDF will include both the existing system facilities and future facilities related to growth.

This task includes the following activities:

1. Review the City's existing SDF methodologies to understand the current approach.
2. Develop a SDF model in Microsoft Excel to be used to calculate the City's water and wastewater SDFs that is consistent with current practices.
3. Update the City's values of fixed assets.
4. Estimate capacity available in the current system.

5. Incorporate the City's water and wastewater capital improvement projects into the respective SDF models and allocate capital projects between existing and future customers
6. Estimate capacity from planned capital improvements.
7. Calculate the SDF and review/revise the assessment schedule.

Task 4: Update Water Resale Rates

Update water resale rates for the County Water District of Billings Heights and recommend rates for a two-year period with rates that are calculated within the parameters of the water supply agreement between the City and the District dated December 14, 1998 (Agreement). This task generally includes the following activities:

1. Develop Model
2. Calculate annual revenue requirements following the utility basis approach.
3. Develop Rate Base
4. Develop customer characteristics and allocate costs using the base/extra-capacity method.
5. Update City's existing cost-of service models and establish recommended rates.

Task 5: Report, Meetings, and Presentations

Prepare and submit a draft report documenting the rate study process, assumptions, methodology, findings, and recommendations of the rate analyses and SDF analyses. The draft report will be submitted as an Adobe Acrobat Portable Document Format (PDF) file. After comments from the City are received, Consultant will revise the draft report and provide the City five bound copies of the final report. Also provided to the City will be electronic copies of the final report and computerized models used throughout the study.

Consultant will attend the following meetings:

- Initial project meeting.
- Meeting with the District to present findings from the water resale rate study.
- Meeting with the Public Works Board which is serving as the Impact Fee Advisory Committee, to present findings from the SDF analyses.
- Present recommendations at City Council meeting/public hearing

Appendix B

Methods and Times of Payment

Section 1. Payments for Basic Services.

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

- A. For services outlined in, Appendix A, the Engineer shall be paid a lump sum in the amount of \$59,900
- B. Final payment shall be the above stated basic fee less all previous payments.

Section 2. Corrections.

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

Appendix C
Additional Services of Engineer

Not Used

Appendix D

Schedule of Professional Fees

Not Used

Appendix E

Project Schedule

Based on a notice to proceed by Billings date no later than November 24, 2010, the completion date for the Engineer's work through final design shall be:

- A. Submittal of the draft report by January 14, 2011
- B. Submittal of the final report by February 11, 2011
- C. Conduct Council Hearing on February 28, 2011

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

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

Appendix F

Certificate(s) of Insurance

(Attach Certificate(s) of Insurance)

Regular City Council Meeting

Date: 11/22/2010

TITLE: Approval of City 2011 State Legislative Priorities

PRESENTED BY: Bruce McCandless, Asst. City Administrator

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City Council traditionally adopts legislative priorities before each session of the Montana Legislature. The 2011 session begins on January 3. Council priorities help to guide individual Councilmembers, staff and the City's lobbyist when communicating with legislators, particularly those who are from the Billings area. The Council reviewed a draft set of priorities at its September 20 work session and staff made the revisions that were discussed at that meeting and have continued revising as more information develops. The Montana League of Cities and Towns adopted its Legislative Resolutions in October. The Billings Chamber of Commerce has continued refining the Community Policies statement. Both are referenced in the City's priorities as being generally supported. Staff is requesting that the Council approve the 2011 Legislative Priorities at this time so that they can be distributed to legislators before and during the upcoming session.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the Legislative Priorities as presented.
- Amend and approve the Legislative Priorities.
- Do not approve the Legislative Priorities. Staff and the City's lobbyist are planning weekly or bi-weekly legislation reviews with Council. If the Council chooses to not adopt priorities, staff and the lobbyist will try to obtain direction from the Council during those sessions. The City's legislative involvement would be primarily reactive.

FINANCIAL IMPACT

There are no immediate financial impacts related to the Legislative Priorities. The FY 2011 budget for the legislative session is \$45,000, which includes expenses for the lobbyist and travel expenses for staff and Council who periodically travel to Helena during the session.

RECOMMENDATION

Staff recommends that the City Council adopt the attached City of Billings Legislative Priorities.

APPROVED BY CITY ADMINISTRATOR

Attachments

2011 Legislative Priorities

City of Billings
2011 Montana Legislative Priorities
November 22, 2010

Finance & Taxation

Reports over the past two (2) years from the Governor's Budget Office and the Legislative Services Fiscal Division have consistently predicted dramatic revenue reductions compared to prior years. The current predictions are that the State's General Fund for the 2011 biennium will have an imbalance of \$350,000,000. The State budget will be THE issue for the 2011 Legislature. Given the scale of the imbalance and what has occurred in other states since 2008, the Legislature may attempt to share budget cutting pain with local governments. Billings will oppose any Legislative attempts to balance the State's budget by decreasing shared revenues or transferring costs to local governments.

- Entitlement Program: Support the current entitlement funding program and payments.
- Property Tax Reappraisal: Support a shorter reappraisal cycle; support a more easily understood method to establish taxable values; and oppose inequitable mitigation and extended appeals.
- Tax Increment Finance: Support continued local authority and control; oppose removal of the School Equalization 95 mills from the increment levy or other reductions in increment.
- Public Defender Costs: Oppose changes that impose more financial or operating burdens on local governments.
- Law Enforcement medical costs: Oppose making cities financially responsible for detainee medical costs.

Land Use, Property & Environmental Regulation

The City of Billings supports laws that protect the environment and our citizens' quality of life.

- Support legislation that will limit or reduce the expected financial burden of implementing the wastewater nutrient loading legislation and rules (SB 95, 2009).
- Authorize additional Street Maintenance District assessment methods.
- Support appropriate Subdivision Reviews and Exemptions.
- Support eliminating or reducing the Montana Dept. of Transportation Indirect Costs Allocation Plan (ICAP) charges on local costs of street improvement projects.

Local Government Powers

The City of Billings strongly supports local control and self governing powers. The City strongly resists legislative proposals and agency policies that would substitute state authority for local control.

- Medical Marijuana: Support authorizing local governments to regulate and zone Medical Marijuana businesses and support adoption of limited State controls.

Public Health, Safety & City Employee Relations

The City of Billings values its employees and supports State legislation that improves worker safety and protects employees' long term financial well being. Those protections must be within the City's financial capacity and should not jeopardize the City's ability to continue providing safe, convenient and effective public services. The City consistently supports state and local laws that protect public safety.

- Workers Compensation: Support reform legislation that reduces rates while providing adequate medical care; oppose presumptive illnesses legislation.
- Public Employees Retirement System Changes: Monitor PERS contribution and benefit changes; oppose adding overtime to firefighter wage calculations; oppose including dispatch employees in Sheriff's Retirement Fund.
- Mental Health: Support state payment of costs for Municipal Court ordered evaluations.
- Sexual Assault Penalties: Support enhanced penalties for multiple convictions
- Generally support DUI Legislation Reform.
- Support Wildland Urban Interface fire protection measures.
- Safety Belt Law: Support primary enforcement; support repealing 61-13-106 MCA (plaintiff responsibility in civil litigation).
- Handheld communication devices: Support statewide use restrictions while driving a vehicle.

Regional & Community Coalitions & Partnerships

The City of Billings supports Legislative initiatives that enhance our community, regional, private and public partners to improve the quality of life for all citizens.

- Support, in general, for Community Policies proposed by the Billings Area Chamber of Commerce.
- Support, in general, for the Montana League of Cities & Towns Legislative Resolutions.
- Support the State Library Commission budget proposals that assist local governments with providing public library services.
- Develop coalitions of mutual interest parties: City, Chamber, County, Hospitals, MSU-B, Big Sky EDA, School Districts.

Prepared by:

Ed Bartlett, City of Billings Lobbyist

Phone: 652-1373; Cell: (406) 431-6014

Email: edbartlett@q.com

And

Bruce McCandless, Assistant City Administrator

Phone: 657-8222; Cell (406) 690-3062

Email: mccandlessb@ci.billings.mt.us

Regular City Council Meeting

Date: 11/22/2010

TITLE: Resolution Appointing a Council Ad Hoc Municipal Judicial Nominating Committee

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The election of Municipal Court Judge Mary Jane Knisely to the District Court bench, effective Jan. 3, 2011, creates an interim opening that must be filled by a vote of six or more members of the City Council, according to Montana statutes and City Code. The selected candidate subsequently will be required to run for election pursuant to Montana Code Annotated section 7-4-4112 (2009)

In order to have an individual in place when Judge Knisely leaves, it is recommended that the City Council approve at the Council meeting of Nov. 22 the attached resolution appointing an ad-hoc municipal judicial nominating committee . Following a work session discussion with the Council, staff was directed to advertise the position immediately with applications due by 5 p.m. Dec. 10, 2010. The committee should interview candidates the week of Dec. 13 and make a recommendation to the City Council by Dec. 17. The Council must act on an appointment on Dec. 20, the Council's final scheduled session of 2010.

Based on practices in other courts, the ad hoc committee could include two Council members, two attorneys, two lay persons with interest or experience in legal matters, a member of the City Attorney's staff and a member of the Public Defender's Office.

ALTERNATIVES ANALYZED

The City Council may:

- Adopt the attached resolution creating an ad-hoc Council committee of eight to screen Municipal Judge applicants and recommend a nominee to the Council by Dec. 20;
- Appoint a Council subcommittee to screen Municipal Judge candidates and recommend a nominee to the Council by Dec. 17; or
- Conduct interviews of candidates as a committee of the whole and vote Dec. 20 on the selected candidate.

FINANCIAL IMPACT

There is no major anticipated cost to any of the alternatives. The Municipal Judge's position is budgeted in Fiscal Year 2011, with the salary set at 80% of a District Court Judge's salary (\$85,496) according to Resolution #05-18380.

RECOMMENDATION

It is recommended that the City Council approve the attached resolution creating an 8-member ad hoc Council committee to interview candidates for the Municipal Judge position and recommend a nominee to the Council by Dec. 17 for approval at its Dec. 20, 2010, business session.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

RESOLUTION NO. 10-_____

**A RESOLUTION OF THE CITY OF BILLINGS,
MONTANA, CITY COUNCIL, CREATING AN AD-HOC
CITY COUNCIL COMMITTEE TO INTERVIEW AND
MAKE A RECOMMENDATION ON AN INTERIM
MUNICIPAL COURT JUDGE**

WHEREAS, Municipal Court Judge Mary Jane Knisely has been elected to the District Court effective January 3, 2011, leaving a vacancy in the Municipal Judge's position; and

WHEREAS, a majority of at least six members of the Mayor and City Council must appoint an interim Municipal Court Judge by January 3, 2011; and

WHEREAS, the Council is desirous of having advice from members of the legal community, the public and the staff in making such an appointment; and

WHEREAS, BMCC 2-224 provides for Council appointment by resolution of ad hoc Council advisory committees as needed.

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

1. **Ad-Hoc Committee Creation:** There is hereby created a Council Ad Hoc Municipal Judicial Nominating Committee to recommend to the Council a nominee for the interim Municipal Court position;
2. **Membership:** The Committee shall consist of the following members, to be appointed by a majority of the Mayor and City Council:
 - a. Two representatives of the City Council;
 - b. Two attorneys;
 - c. Two members of the public with knowledge of legal matters;
 - d. A representative of the City Attorney's Office;
 - e. A representative of the Public Defender's Office;
3. **Purpose:** The Committee shall be responsible for the following:
 - a. Interviewing all individuals who are qualified for the interim Municipal Court Judge position and apply by December 10, 2010; and
 - b. Making a recommendation no later than December 17, 2010, of a Municipal Judge nominee to the City Council for the Council's approval.
4. **Duration:** The Ad Hoc Municipal Judicial Nominating Committee shall serve until it makes a recommendation to the City Council.

PASSED AND APPROVED by the City Council of the City of Billings,
Montana, this 22nd day of November, 2010.

THE CITY OF BILLINGS

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, City Clerk

Regular City Council Meeting

Date: 11/22/2010

TITLE: Second Reading of Ordinance Amending Ward I Boundary

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

City election ward boundaries must be adjusted to conform to city limit amendments resulting from annexing or excluding property from the City. The City Council approved the exclusion of Tract 2A, C/S 2544, in the Briarwood PUD, (Annexation #10-03) on October 25, 2010 by Resolution #10-19014, requiring a change in the boundaries of Ward I. Two readings are required for this action. The first reading of the ordinance was conducted on November 8, 2010 along with a public hearing, and the second reading is scheduled for this meeting.

ALTERNATIVES ANALYZED

City Council may approve or not approve the ordinance to amend the boundary of Ward I on second reading. The Council did approve the ordinance on first reading on November 8. Approving the ordinance will modify the boundaries of Ward I to exclude Tract 2A, C/S 2544. Denying the ordinance will not modify the boundaries of Ward I.

FINANCIAL IMPACT

There is no budget/financial impact from this action.

RECOMMENDATION

Staff recommends that Council approve this ordinance on second reading removing recently excluded property from Ward I.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance Changing Ward I Boundaries

ORDINANCE NO. 10-_____

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY REMOVING CERTAIN NEWLY EXCLUDED REAL PROPERTY FROM WARD I PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 1.16.030 and the State Law, Billings Municipal Code, Section 1.16.030 Ward Boundaries is hereby amended by removing from the following designated Ward the following described real property:

Ward I: Portions of Certificate of survey 2544, annexed under Resolution No. 02-17819, Recorded April 18, 2002, Under Document No. 3173017, Records of Yellowstone County, Montana,

Tract 2A, Certificate of Survey 2544: A tract of land situated in the SE1/4 and the SW1/4 of Section 22, and the NE1/4 and the NW1/4 of Section 27, T.1S., R.26E., P.M.M., City of Billings, Yellowstone County, Montana, being Tract 2A of Amended Tracts 2, 3, 4, 5, 6A-1, 7A, 12 & 13A, of Certificate of Survey No. 2544 4th and 5th Amended, Recorded December 17, 2004, Under Document No. 3315777, Records of Yellowstone County, Montana. Said Tract containing 121.78 acres.

(# 10-03) See Exhibit "A" Attached

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 8th day of November, 2010.

PASSED by the City Council on the second reading this 22nd day of November, 2010.

THE CITY OF BILLINGS

BY: _____

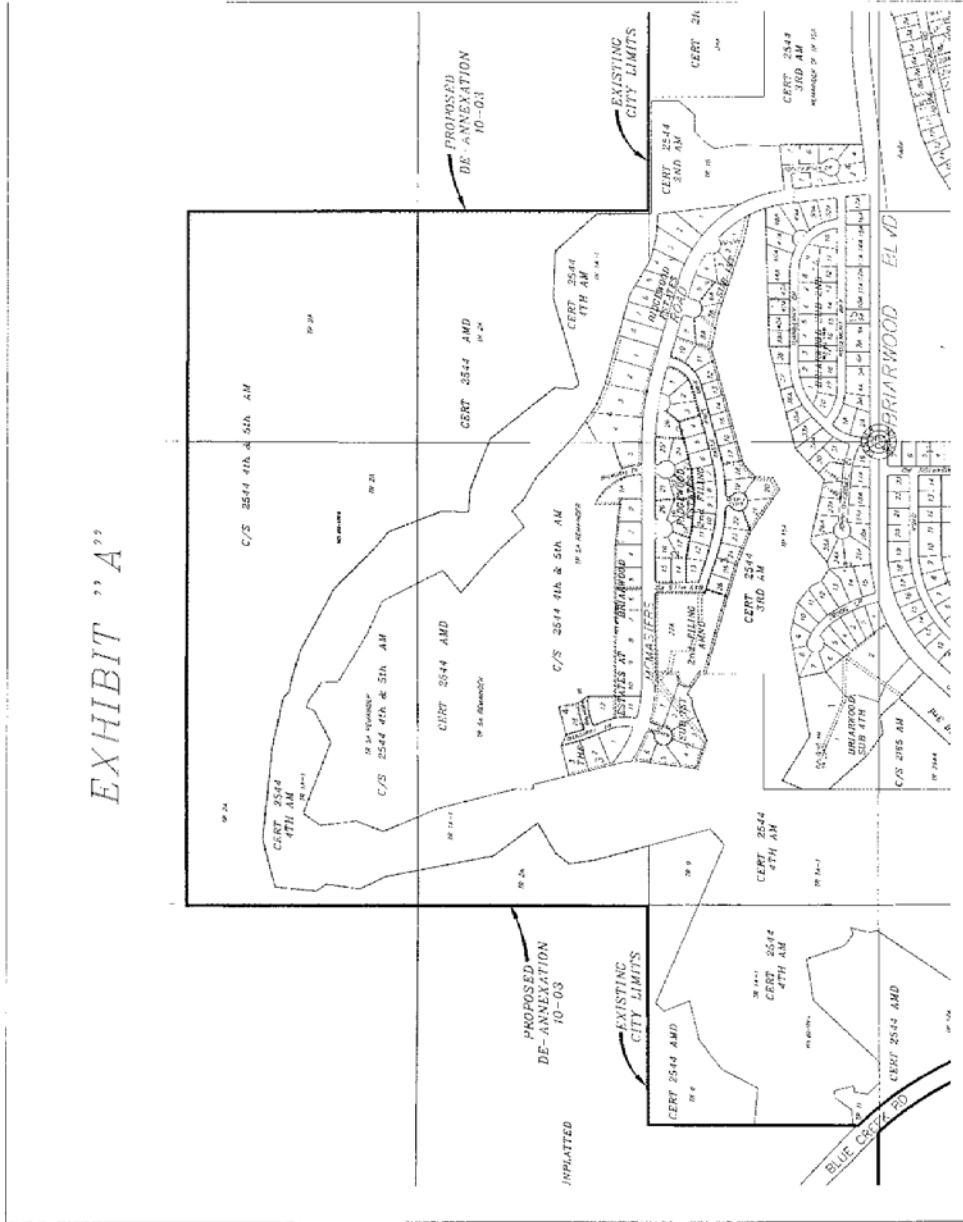
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____

Cari Martin, CITY CLERK

EXHIBIT "A"



Regular City Council Meeting

Date: 11/22/2010

TITLE: Grand Peaks Subdivision, 2nd Filing -- Preliminary Major Plat

PRESENTED BY: Candi Beaudry,
Planning & Community Services

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

On September 1, 2010, owners, Grand Peaks, LLC and Bishop Fox Company, applied for preliminary major plat approval for Grand Peaks Subdivision, 2nd Filing. The proposed subdivision re-plats 5 lots originally platted in the Grand Peaks Subdivision and Bishop Fox Subdivision, into 77 lots. The subject property is located northeast of the intersection of Grand Avenue and 54th Street West. The property is zoned Residential Multi-family Restricted (RMF-R), Residential-7000 (R-70), and Residential-5000 (R-50). The proposal would create 73 lots for single-family homes, two storm water retention pond lots, and two large lots to be further subdivided in the future. The representing agent is Sanderson Stewart. The Yellowstone County Board of Planning conducted a public hearing on October 26, 2010 and continued it on November 9, 2010, before making a recommendation to the City Council.

ALTERNATIVES ANALYZED

In accordance with state law, the City Council has 60 working days to act upon this preliminary major plat; the 60 working day review period for the proposed plat ends on November 29, 2010. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 day review period, the City Council is required to:

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

FINANCIAL IMPACT

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

BACKGROUND

On September 1, 2010, owners, Grand Peaks, LLC and Bishop Fox Company, applied for preliminary major plat approval for Grand Peaks Subdivision, 2nd Filing. The proposed subdivision re-plats 5 lots originally platted in the Grand Peaks Subdivision and Bishop Fox Subdivision, into 77 lots. The subject property is located northeast of the intersection of Grand Avenue and 54th Street West. The property is zoned Residential Multi-family Restricted (RMF-R), Residential-7000 (R-70), and Residential-5000 (R-50). The proposal would create 73 lots for single-family homes, two storm water retention pond lots, and two large lots to be further subdivided in the future. The subject property is bordered on the north and east by irrigated agriculture land, on the south by single-family attached condominiums within Grand Peaks Subdivision (1st Filing), and on the west by single-family lots within the Cottonwood Grove Subdivision.

General location: Northeast of the intersection of Grand Avenue and 54th Street West

Legal Description: Lots 2 and 3, Block 2, Lot 1, Block 3, and Lot 1, Block 4 of Grand Peaks Subdivision, and Lot 3, Block 1 of Bishop Fox Subdivision located in the SW ¼, Section 32, T1N, R25E

Owners: Grand Peaks, LLC & Bishop Fox Company

Subdivider: J&S Development Co.; Jeff Junkert, President

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: RMF-R, R-70, R-50

Existing land use: Platted vacant lots

Proposed land use: Single-family residential
Gross and Net area: 29.02 acres; 22.13 acres

Proposed number of lots: 77

Lot size: Max: 5.0 acres
Min.: 7,007 square feet

Parkland requirements: Parkland dedication is proposed to be met by a cash payment in lieu of land dedication.

STAKEHOLDERS

Certified mailings were sent to adjacent property owners of the proposed subdivision informing them of a public hearing before the Planning Board. The Public Hearing was held on October 26, 2010 and continued on November 9, 2010, due to a lack of quorum of boardmembers to close the hearing and make a recommendation. Aside from the applicant and his agent, no public testimony was given and no inquiries have otherwise been made about the project.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the 2008 Growth Policy, the 2009 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

RECOMMENDATION

The Yellowstone County Board of Planning recommends conditional approval of the preliminary plat of Grand Peaks Subdivision, 2nd Filing to the City Council, and adoption of the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

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

1. To minimize impacts on local services, centralized mail delivery site(s) shall be coordinated and identified prior to final plat approval. A letter from the USPS shall be provided for verification.

2. To minimize impacts to public health and safety, a site specific Geotechnical Report shall be completed prior to final plat approval and that the resulting recommendations are to be noted in the 'Conditions that Run with the Land' section of the SIA.

3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

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

APPROVED BY CITY ADMINISTRATOR

Attachments

Preliminary Plat

Findings of Fact

Zoning Exhibit

PRELIMINARY PLAT OF GRAND PEAKS SUBDIVISION, SECOND FILING

BEING LOT 3, BLOCK 1 OF BISHOP FOX SUBDIVISION; AND, LOTS 2, 3, & 4, BLOCK 2; LOT 1, BLOCK 3 & LOT 1, BLOCK 4 & A PORTION OF DEDICATED PUBLIC RIGHT-OF-WAY IN GRAND PEAKS SUBDIVISION SITUATED IN THE SW¼ OF SECTION 32, T. 1 N., R. 25 E., P.M.M. IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

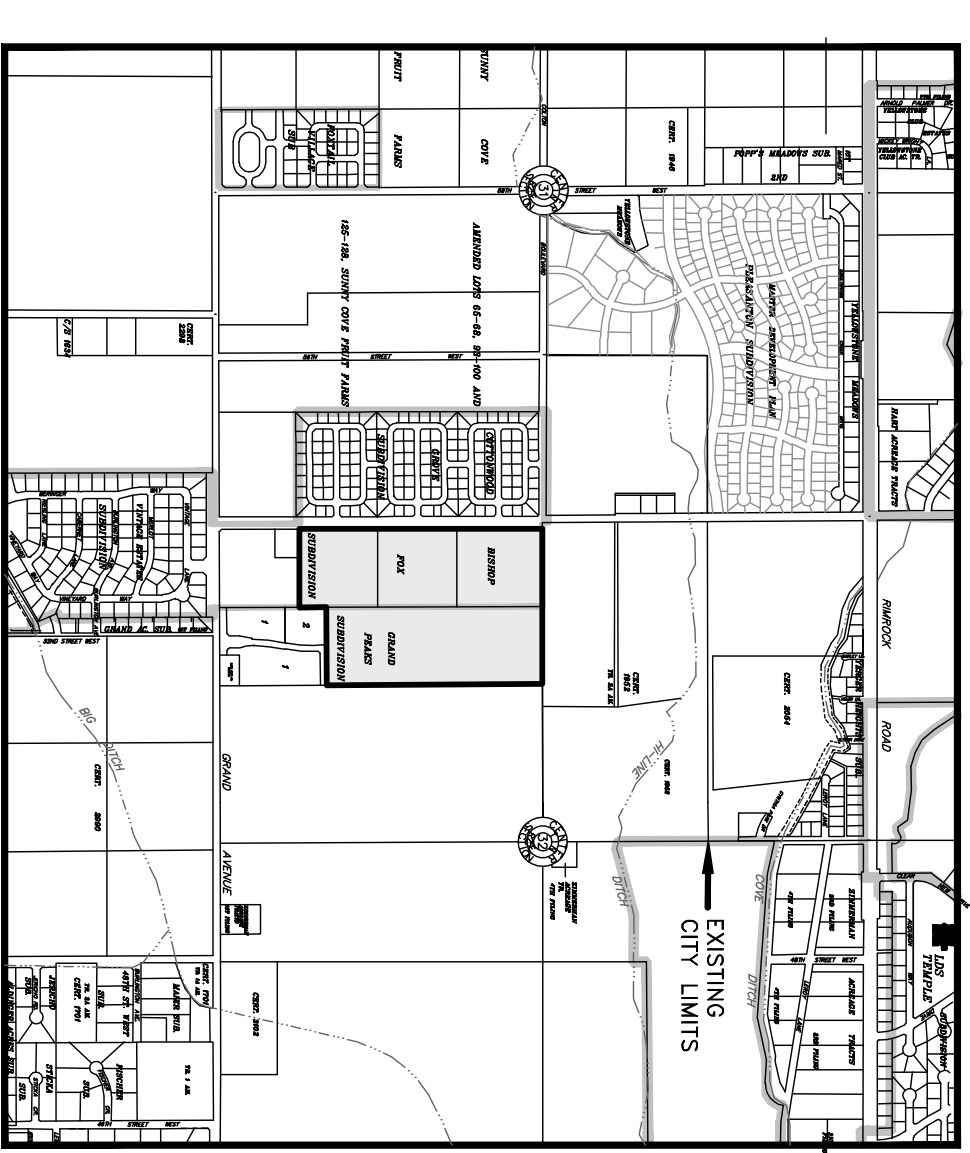
AUGUST, 2010

PREPARED FOR : J&S DEVELOPMENT COMPANY

PREPARED BY : SANDERSON STEWART

C.O.S. 1952 TR. 2A AM.

BILLINGS, MONTANA



VICINITY MAP
NOT TO SCALE



SCALE: 1"=100'

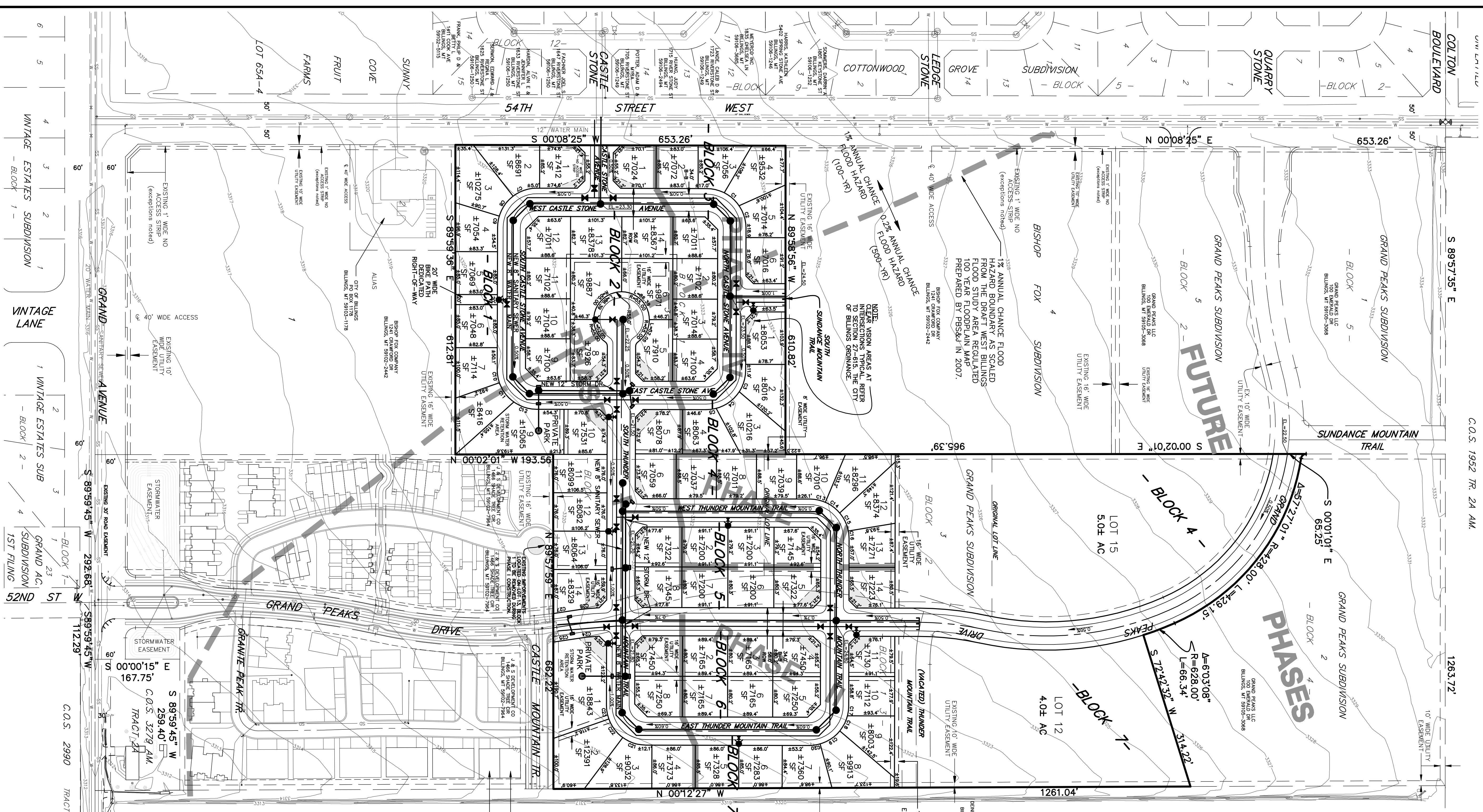
CURVE	DELTA	RADIUS	LENGTH
C1	293.04°	78.00'	39.57'
C2	342.71°	78.00'	46.91'
C3	325.95°	78.00'	44.88'
C4	42.17°	78.00'	57.28'
C5	371.75°	78.00'	50.28'
C6	355.92°	78.00'	48.93'
C7	18.48°	78.00'	22.92'
C8	18.20°	78.00'	26.33'
C9	35.28°	78.00'	48.30'
C10	232.22°	78.00'	31.89'
C11	201.41°	78.00'	35.72'
C12	282.27°	78.00'	40.01'
C13	117.00°	78.00'	14.98'
C14	14.98°	78.00'	19.28'
C15	24.59°	78.00'	33.86'
C16	18.08°	78.00'	21.94'
C17	35.48°	78.00'	48.85'
C18	34.20°	78.00'	46.74'
C19	18.54°	78.00'	22.02'
C20	6.08°	472.00'	50.62'
C21	6.10°	528.00'	60.12'
C22	6.13°	528.00'	60.12'
C23	6.13°	528.00'	60.12'
C24	6.13°	528.00'	60.12'
C25	6.13°	528.00'	60.12'
C26	6.13°	528.00'	60.12'
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C42	6.13°	528.00'	60.12'
C43	6.13°	528.00'	60.12'
C44	6.13°	528.00'	60.12'
C45	6.13°	528.00'	60.12'
C46	6.13°	528.00'	60.12'
C47	6.13°	528.00'	60.12'
C48	6.13°	528.00'	60.12'
C49	6.13°	528.00'	60.12'
C50	6.13°	528.00'	60.12'
C51	6.13°	528.00'	60.12'
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C69	6.13°	528.00'	60.12'
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C71	6.13°	528.00'	60.12'
C72	6.13°	528.00'	60.12'
C73	6.13°	528.00'	60.12'
C74	6.13°	528.00'	60.12'
C75	6.13°	528.00'	60.12'
C76	6.13°	528.00'	60.12'
C77	6.13°	528.00'	60.12'
C78	6.13°	528.00'	60.12'
C79	6.13°	528.00'	60.12'
C80	6.13°	528.00'	60.12'
C81	6.13°	528.00'	60.12'
C82	6.13°	528.00'	60.12'
C83	6.13°	528.00'	60.12'
C84	6.13°	528.00'	60.12'
C85	6.13°	528.00'	60.12'
C86	6.13°	528.00'	60.12'
C87	6.13°	528.00'	60.12'
C88	6.13°	528.00'	60.12'
C89	6.13°	528.00'	60.12'
C90	6.13°	528.00'	60.12'
C91	6.13°	528.00'	60.12'
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C95	6.13°	528.00'	60.12'
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C99	6.13°	528.00'	60.12'
C100	6.13°	528.00'	60.12'

BASIS OF BEARING: GRAND PEAKS SUBDIVISION

- o FOUND SURVEY MONUMENT, AS NOTED
- o SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND SANDERSON STEWART
- o SET INTERSECTION MONUMENT, 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND SANDERSON STEWART. WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

PLAT DATA

- GROSS AREA = 29.02 AC
- NET AREA = 22.13 AC
- NUMBER OF LOTS = 77
- MINIMUM LOT SIZE = 7007 SF
- MAXIMUM LOT SIZE = 5.0 AC
- LINEAL FEET OF STREETS = 2,430.80 LF
- PARKLAND REQUIREMENT = 2.43 AC
- PARKLAND DEDICATION = CASH-IN-LIEU
- EXISTING ZONING = R-7000, R-5000, RMF-R
- PROPOSED ZONING:
 - NORTH = R-7000
 - SOUTH = R-5000, RMF-R
 - EAST = AG OPEN
 - WEST = R-7000
 - VACANT = VACANT
 - SINGLE-FAMILY RESIDENTIAL = SINGLE-FAMILY RESIDENTIAL



FINDINGS OF FACT

The Planning Board has reviewed the Findings of Fact for the preliminary plat of Grand Peaks Subdivision, 2nd Filing and has provided them for adoption by the City Council, as follows:

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-304 (c) (1)]

1. Effect on agriculture and agricultural water user facilities

Although the subject property is currently being used for irrigated crop production, it is located in the City limits and has been slated for urban development since it was originally platted in 2005 and 2007. With this further platting and development, the property will be removed from crop production and irrigation water rights will be severed. Adjacent cropland properties will be guaranteed access to existing irrigation water rights via ditch easements currently in place. As such, this development should not have a negative effect on the agricultural industry.

2. Effect on local services

- a. **Utilities** – Water services will be provided by the City of Billings. There are two existing water mains, an 8-inch main in Grand Peaks Drive and a 12-inch main in 54th St. West, to which the development can connect. The developer will install new 8-inch water mains in all of the new local streets, new individual services to all of the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

Sanitary sewer service will be provided by connecting to the existing City of Billings' sewer mains in Grand Peaks Drive and 54th St. West. The subdivider will install new 8-inch sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ.

MDU will provide gas services and NorthWestern Energy will provide electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

- b. **Storm water** – Storm water drainage for the public streets shall be provided by surface drainage via curbs and gutters to underground storm drains that discharge into two new storm water retention ponds within the subdivision. The storm water ponds shall be sized appropriately to hold all the required storm water, and will be privately owned and maintained. These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

- d. **Streets** – A portion of the proposed subdivision fronts 54th Street West, a Minor Arterial Street. The proper amount of street right of way for 54th St. West was previously provided with the platting of the Bishop Fox Subdivision in 2005. Improvements to 54th St. West will be delayed until such time as the entire street is improved. Until that time, the developer will be required to provide cash contribution for the needed improvements of a half-width local residential street. At the time of development, additional improvements beyond the residential street section are paid for using Arterial fund monies.

All of the interior local access streets such as the extension of Grand Peaks Drive, Castle Stone Avenue, and Thunder Mountain Trail, shall be constructed to the current residential local street standard, including 34-foot width of hard surface, curbs, gutters, and boulevard-style sidewalks.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station (which also has a police department presence) is located very near to the subdivision, on 54th St. West (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – School District #2 provides educational services to elementary through high school students. Burlington Elementary School, Lewis and Clark Middle School, and Senior High School will most likely serve the children in this subdivision. Responses from these schools were not received at the time this report was written.
- g. **Parks and Recreation** – The parkland dedication requirement for this subdivision is proposed to be met by making cash contributions in lieu of land dedication. The cash will be used toward the eventual construction of Cottonwood Park, just to the northwest of the subdivision, across 54th St. West. The lot owners within the subdivision will also be required to join a Park Maintenance District for Cottonwood Park once developed. The developer proposes to provide the monetary contribution in phases, in accordance with the phasing plan proposed for the subdivision development.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has requested the installation of centralized mailbox units (CBUs). It is recommended as a condition of approval that the developer work with the USPS to identify appropriate locations of CBUs prior to final plat approval (**Condition #1**).

3. Effect on the natural environment

The subject property is flat, agricultural property that has been planned for urban development since its original platting in 2005. Two items relating to the natural environment have been identified as possible concerns to development on the property. These are soils with relatively low bearing capacity and high consolidation potential, and surface water flooding. The required geotechnical study on the subject property was delayed due to the presence of an irrigated crop on the land until recently. However, a geotechnical evaluation was done for the building sites immediately adjacent to the south of the subject area in April of 2010. The study was prepared

to investigate soil, rock, and groundwater conditions and provide recommendations to support design and construction of foundation and drainage elements. The study indicated that the property has soils that are characterized by a relatively low bearing capacity and high consolidation potential under the anticipated foundation loads. As a result, the study recommends using “underpinning or deep foundation systems (piers or piles)” or over-excavation and soil replacement, to ensure foundation stability. It is recommended as a condition of approval that a site specific Geotechnical Report be completed prior to final plat approval and that the resulting recommendations are to be noted in the ‘Conditions that Run with the Land’ section of the SIA to forewarn future homeowners and builders (**Condition #2**).

The other item of concern is the potential for sheet-flow flooding from the Cove Creek Drainage. Since the Cove Creek drainage is not channeled south of Rimrock Road like most creeks, during flood events water sheet flows across the lowest elevations in this area. In an effort to identify flood hazard areas of Cove Creek, the West Billings flood study was completed in 2007. The results of this study show that portions of this subdivision are within the 100-year floodplain. The affected lots are shown on a floodplain exhibit provided with the plat review packet. Since this is not a FEMA-regulated floodplain, mitigation of the flood plain issue is proposed by requiring homes built on those lots to have a minimum finished floor elevation of at least two feet above the base flood elevation. This mitigation measure has been effectively used in other nearby developments. If these recommendations are followed, the re-platting of these lots should have minimal effects on the natural environment.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the presence of deer in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

As noted above in #3, the proposed subdivision is located in an area with soils of relatively low bearing capacity and high consolidation potential under the anticipated foundation loads. Also, a portion of the property is within the unregulated 100-year floodplain of Cove Creek. Both of these issues have been disclosed in the SIA, and mitigation measures will be employed at the time of site construction, as enforced through the building permit process.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-304 (c) (1)]

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

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the Urban Area 2010 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]

1. Yellowstone County-City of Billings 2008 Growth Policy

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

- a. Goal: More housing and business choices within each neighborhood (p. 6).
- b. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).
- c. Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2010 Transportation Plan Update and preserves the street network and street hierarchy specified in the plan.

3. Heritage Trail Plan

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. No trail corridors are identified on the plan within this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-304 (c) (4)]

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

E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]

The subdivision will utilize the City's water, sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304 (c) (6)]

The subject property is located within the RMF-R, R-70 and R-50 zoning districts (see zoning exhibit) and shall comply with the standards set forth in Section 27-308, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 9 (c) (7)]

The subdivider has provided utility easements as requested by MDU and NWE on the face of the plat.

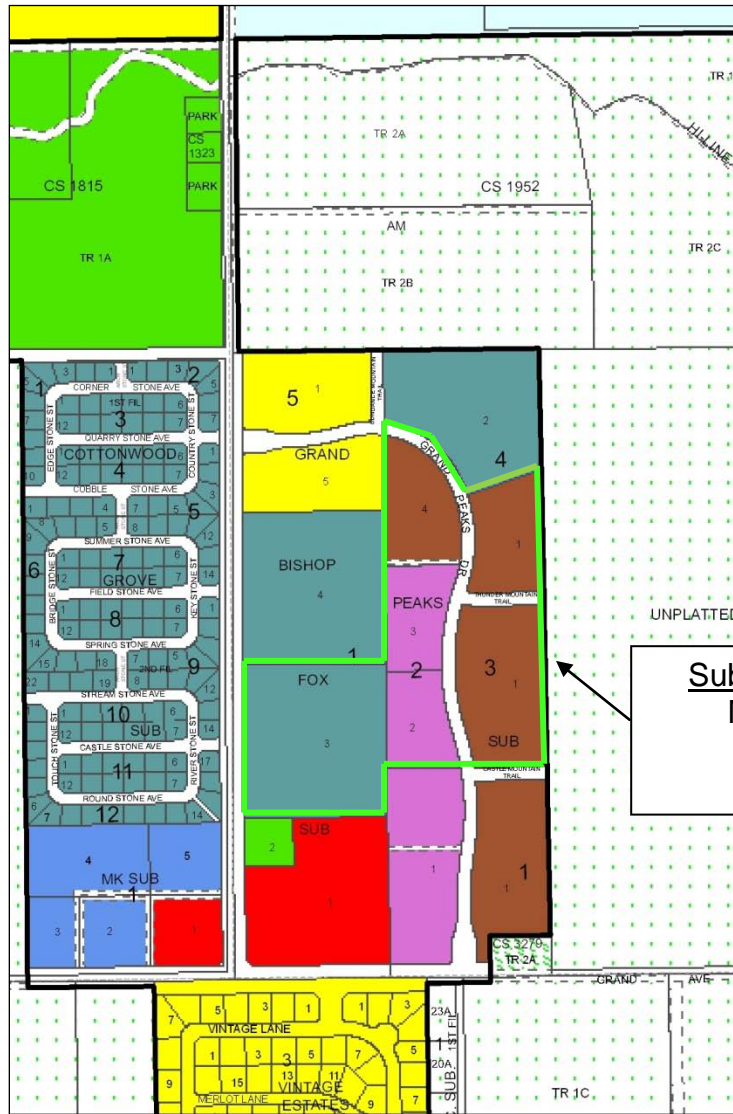
H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-304 9 (c) (8)]

Legal and physical access is provided to the proposed lots from Grand Peaks Drive and 54th Street West.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Grand Peaks Subdivision, 2nd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy Update and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Grand Peaks Subdivision, 2nd Filing Zoning Exhibit



Subject Property Zoning
 Magenta = RMF-R
 Brown = R-5000
 Aqua = R-7000

Regular City Council Meeting

Date: 11/22/2010

TITLE: Final Plat of McKay Acres Subdivision, Amended East Half of Lot 17, except the south 100 Feet

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The final plat for McKay Acres Subdivision, Amended East Half of Lot 17, except the south 100 feet, is being presented to Council for approval. On September 2, 2010, City staff held a pre-application meeting with the applicant to discuss the creation of a two-lot subdivision of 32,476 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 on the southeast corner of Rimrock Road and Orchard Drive. It is zoned Residential-9600 (R-96). There is one existing single-family residence on proposed Lot 17-A. One variance has been requested from Section 23-406(B)(6) of the City Subdivision Regulations. The variance would allow the required right-of-way dedication for Rimrock Road to be reduced (see Attachment B). The property owner is Kincaid Land, LLC, Gene Culver, Managing Member, and 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 McKay Acres Subdivision, Amended East Half of Lot 17, except the south 100 Feet. 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, the creation of an additional residential building site will result in an increase in tax revenues for the City. Furthermore, the development of new housing units within the existing City core (aka infill development) helps to preserve resources by using existing City facilities and services.

RECOMMENDATION

Staff recommends that the City Council approve the requested variance from Section 23-460(B)(6), BMCC, and approve the final plat of McKay Acres Subdivision, Amended East Half of Lot 17, except the south 100 Feet.

APPROVED BY CITY ADMINISTRATOR

Attachments

final plat

Applicant Variance Request letter

Staff evaluation of Variance Request

AMENDED PLAT OF THE EAST HALF OF LOT 17, EXCEPT THE SOUTH 100 FEET THEREOF,

McKAY ACRES

SITUATED IN THE NORTHWEST 1/4 OF SECTION 36, T. 1 N., R. 25 E., P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

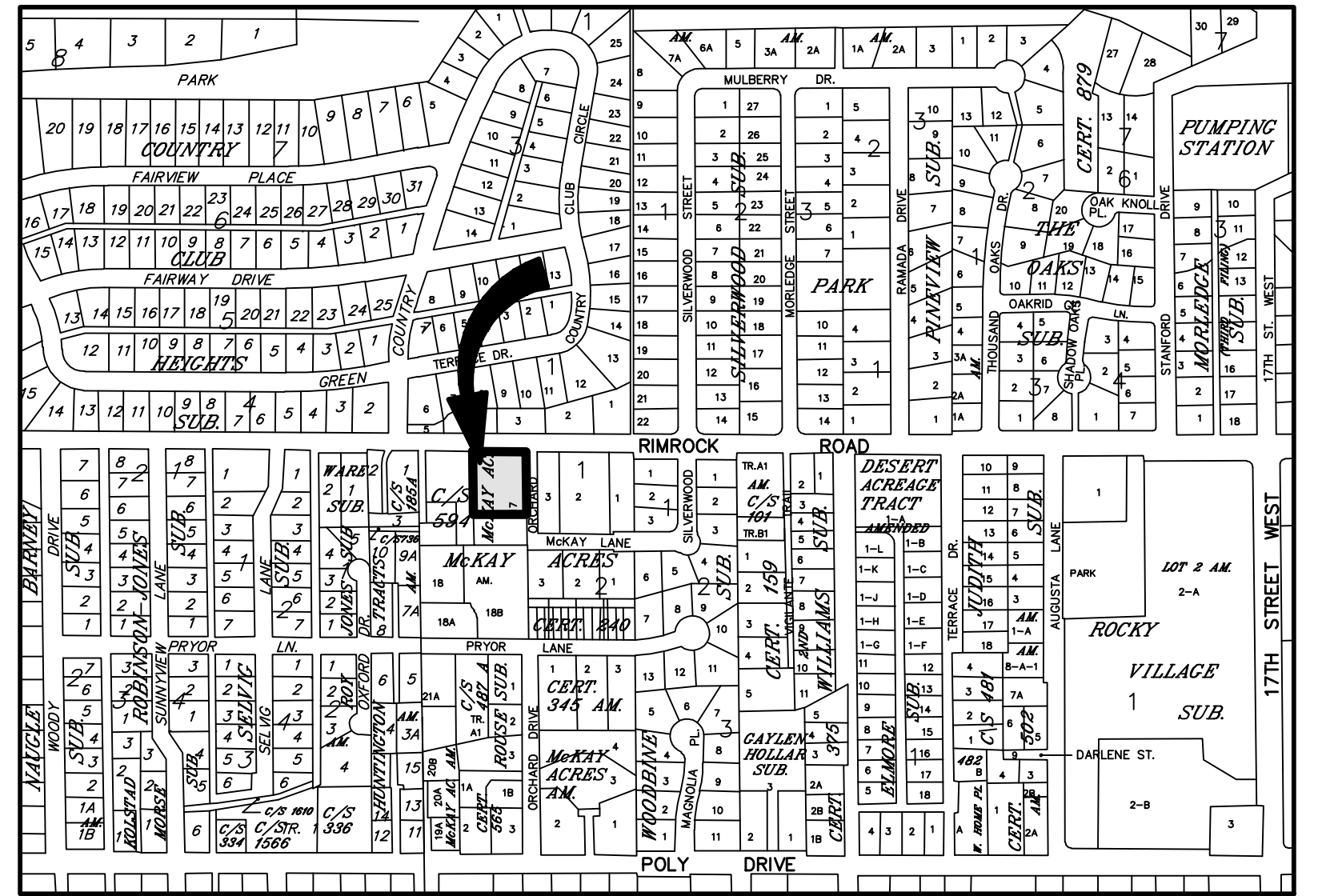
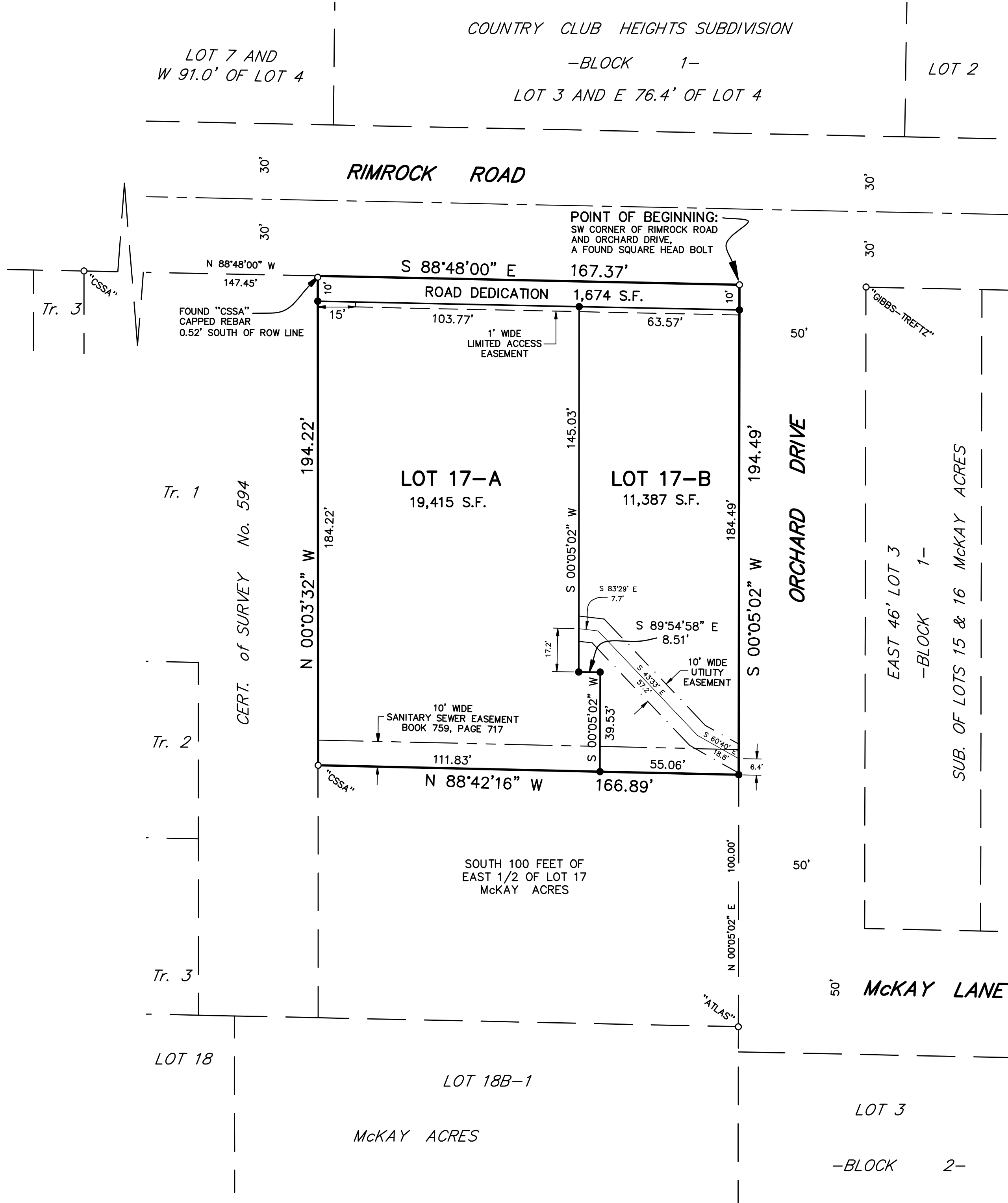
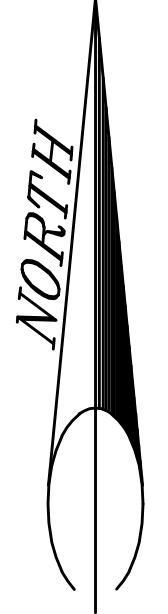
PREPARED FOR: KINCAID LAND, LLC

SEPTEMBER 2010

PREPARED BY: SANDERSON STEWART

BILLINGS, MONTANA

SCALE : 1" = 30'



VICINITY MAP

BASIS OF BEARING: SOUTH RIGHT-OF-WAY LINE OF RIMROCK ROAD PER ORIGINAL PLAT OF McKAY ACRES.

○ = FOUND SURVEY MONUMENT, AS NOTED

● = SET 5/8" X 18" REBAR AND CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART".

CERTIFICATE OF DEDICATION

STATE OF MONTANA)
:ss
County of Yellowstone)

KNOW ALL MEN BY THESE PRESENTS: That KINCAID LAND, LLC, 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 36, T. 1 N., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point which is the southwest corner of the intersection of Rimrock Road and Orchard Drive; thence, from said Point of Beginning, along the west right-of-way line of Orchard Drive, S 00'05"02" W a distance of 194.49 feet; thence, along the north line of the south 100 feet of the east half of Lot 17 McKay Acres, N 88'42'16" W a distance of 166.89 feet; thence, along the east line of Tract 1 in Certificate of Survey No 594, N 00'03'32" W a distance of 194.22 feet to a point on the south right-of-way line of Rimrock Road; thence, along said south right-of-way line, S 88'48'00" E a distance of 167.37 feet to the Point of Beginning.

Pursuant to Section 76-3-621(3)(d), M.C.A. and Yellowstone County subdivision regulations, there is no parkland requirement for this minor subdivision in which only one additional lot is created.

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 THE EAST HALF OF LOT 17, EXCEPT THE SOUTH 100 FEET THEREOF, McKAY ACRES and the lands included in all roads are hereby granted and donated to the use of the public forever.

KINCAID LAND, LLC

By: _____
Title: _____

STATE OF MONTANA)
:ss
County of Yellowstone)

On this ____ day of _____, 20____, before me, the undersigned Notary Public for the State of Montana, personally appeared _____, known to me to be the person who signed the forgoing instrument as _____ of KINCAID LAND, LLC, and acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

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

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
:ss
County of Yellowstone)

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of September 2010, a survey was performed under his supervision of a tract of land to be known as AMENDED PLAT OF THE EAST HALF LOT 17, EXCEPT THE SOUTH 100 FEET THEREOF, McKAY ACRES, 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 32,476 square feet and the net area is 30,802 square feet.

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 _____

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and forgoing 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 _____

NOTICE OF APPROVAL

STATE OF MONTANA)
:ss
County of Yellowstone)

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 _____

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
:ss
County of Yellowstone)

We hereby certify that we have examined the annexed and foregoing AMENDED PLAT OF THE EAST HALF OF LOT 17, EXCEPT THE SOUTH 100 FEET THEREOF, McKAY ACRES, 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 and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

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 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

SUBDIVISION IMPROVEMENT AGREEMENT

Document No. _____

CONSENT TO PLATTING

Document No. _____

September 24, 2010

Ms. Juliet Spalding
Planner II/Subdivision Coordinator
City of Billings
Planning and Community Services Department
510 North Broadway, 4th Floor
Billings, MT 59101



Reference: Amended Plat of the East Half of Lot 17, Except the South 100 feet Thereof
McKay Acres - Variance Request
Project No. 04032.03

Dear Juliet:

On behalf of Kincaid Land LLC, we are requesting a variance from the provisions of Section 23-406(B)(6) of the City of Billings Subdivision Regulations requiring the dedication of a 35-foot strip of land along Rimrock Road which is a principal arterial. The City of Billings Public Works Department has approved a 10-foot strip of land to be dedicated in order to meet the future right-of-way needs along this portion of Rimrock Road. Therefore, we are requesting that the 10-foot strip of land be dedicated in lieu of the 35-foot strip of land required by the subdivision regulations. The following information has been provided to address the variance request:

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

The variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties. The City of Billings Public Works Department has requested that a 10-foot strip of land be dedicated to meet the future right-of-way needs of Rimrock Road, therefore the 35-foot dedication required by the subdivision regulations is not required.

2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;

The City of Billings Public Works Department has requested that a 10-foot strip of land be dedicated to meet the future right-of-way needs of Rimrock Road, therefore the 35-foot dedication required by the subdivision regulations is not required.

3. The variance will not result in an increase in taxpayer burden;

This variance will not result in an increase to taxpayers. By allowing the variance, there will be more private property that is taxable.

4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or growth policy;

Granting this variance would not place the subdivision in any nonconformance with the adopted City of Billings zoning regulations or growth policy. The 2003 growth policy has several goals including the following:

A. Visually appealing rights-of-way that serve the needs of all modes of travel

The City of Billings Public Works Department has requested that a 10-foot strip of land be dedicated to meet the future right-of-way needs of Rimrock Road, therefore the 35-foot dedication required by the subdivision regulations is not required.

B. Well maintained network of safe and interconnected sidewalks

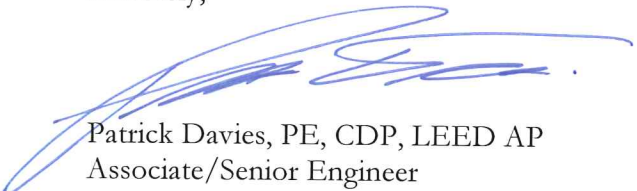
The City of Billings Public Works Department has requested that a 10-foot strip of land be dedicated to meet the future right-of-way needs of Rimrock Road, therefore the 35-foot dedication required by the subdivision regulations is not required.

5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.

The City of Billings Public Works Department has requested that a 10-foot strip of land be dedicated to meet the future right-of-way needs of Rimrock Road, therefore the 35-foot dedication required by the subdivision regulations is not required.

Please review the above information, and feel free to contact me at 406/656-5255 if you have any questions.

Sincerely,



Patrick Davies, PE, CDP, LEED AP
Associate/Senior Engineer

PD/tsc

c: Gene Culver, Kincaid Land, LLC

P:04032.03_Spalding_Variance_Ltr_092410

Staff Evaluation of Variance Request

City Public Works staff routinely craft right-of-way plans for existing City streets in need of upgrades and reconstruction. Rimrock Road, at this location, has been slated for reconstruction within the next year, to be funded through a Special Improvement District. The existing right-of-way width at this location is currently 60 feet (30 feet for each half). The current City Subdivision Regulations (Section 23-406(B)(6)) require the dedication of 130 feet (65 feet half-width) at the time of subdivision on arterial streets such as Rimrock Road. Due to the fact that most of this street corridor is fully built-out with residences, City Public Works has minimized their additional right-of-way needs to an additional ten feet per half-width to accomplish the planned improvements.

In reviewing the criteria for granting subdivision variances, granting this variance will not be detrimental to public health and safety or injurious to adjoining properties, and due to the built out nature of this street corridor, requiring the full 35 feet of right-of-way dedication may place an undue hardship on the existing property. Additionally, the variance will not result in an increase in taxpayer burden, as the design for the street upgrade only requires 10 feet of additional right-of-way. Lastly, granting the variance will not place the subdivision in violation of any adopted zoning regulations or the 2008 Growth Policy.

Therefore, City staff recommends that City Council approve the requested variance from Section 23-406(B)(6) of the City Subdivision Regulations to allow for the dedication of 10 additional feet of right-of-way for Rimrock Road, in lieu of the required 35 feet.

Regular City Council Meeting

Date: 11/22/2010

TITLE: Payment of Claims October 25, 2010.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$2,958,236.56 have been audited and are presented for your approval for payment. A complete listing of the claims dated October 25, 2010, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

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	
10/25/2010 202-1503-466.79-73	738044 10/20/2010	ACE ELECTRIC INC	40	WO0925 DOWNTOWN SIGNAL	2	276286 04/2011	22,902.31 22,902.31
10/25/2010 150-2226-422.24-50 150-2226-422.24-50	738052 10/18/2010 10/18/2010	AIRPRO, INC.	19071	FIRE:1/2/3 PLYMOVENT SYST	46462 FIRE1,2,3	277302 04/2011	6,934.38 6,782.64 151.74
10/25/2010 240-4301-419.72-14	738056 10/20/2010	ALTA PLANNING & DESIGN INC	21295	INV 10-067-3	INV 10-067-3	278948 04/2011	3,470.00 3,470.00
10/25/2010 296-6680-463.72-75	738058 10/21/2010	AMERICAN TITLE & ESCROW	159	MISC SERVICES	REDINGER, JEN	278995 04/2011	10,000.00 10,000.00
10/25/2010 561-7112-711.24-50	738064 10/18/2010	ARMACOST TRANE SERVICE CO	7204	INVOICE #20292	20292	F11750 04/2011	2,749.10 2,749.10
10/25/2010 260-5512-455.36-60	738078 10/19/2010	BILLINGS CARPET CLEANING	15109	CARPET CLEANING	15929	F11768 04/2011	2,537.58 2,537.58
10/25/2010 606-1931-484.94-80	738085 10/19/2010	BLACK BOX NETWORK SERVICES	19541	MISC SERVICES	2216890	275678 04/2011	19,997.35 19,997.35
10/25/2010 502-7400-603.23-60 502-7400-603.23-60	738086 10/18/2010 10/18/2010	BRANCH GROUP INC	21207	MISC SERVICES	S100340363.001	278805 04/2011	7,567.75 2,240.75 5,327.00
10/25/2010 513-0000-201.10-00 513-8491-623.93-90 513-8491-623.93-90 512-8400-623.24-50 205-0000-201.10-00 407-7128-711.93-97 407-7128-711.93-97 503-7591-609.93-40 513-8591-625.93-40 405-7125-711.96-72 405-7125-711.96-72 405-7125-711.96-73 405-7125-711.96-73 405-7125-711.96-72 405-7125-711.96-73 503-0000-201.10-00 513-0000-201.10-00 513-0000-201.10-00	738093 10/14/2010 10/14/2010 10/14/2010 10/18/2010 10/20/2010 10/21/2010 10/21/2010 10/21/2010	BUSINESS TAX SECTION	2449	WO0908 WWTP WTR LIN WO0908 WWTP WATER LINE WO0908 WWTP WTR LINE MISC SERVICES WO0904 2009 ACCESS RAMPS MISC SERVICES MISC SERVICES WO1001 WTR&SWR REHAB SCH3 WO1001 WTR&SWR REHAB SCH3 MISC SERVICES MISC SERVICES MISC SERVICES MISC SERVICES MISC SERVICES MISC SERVICES MISC SERVICES WO1001 WTR&SWR REPLC SCH3 WO1001 WTR&SWR REPLC SCH3 WO1001 WTR&SWR REPLC SCH3	RET CORRECTION CORRECTION 3 008409 RET RELEASE 274365-3 274396-3 4 4 276271-2 276271-4 276271-4 276271-4 276271-5 276271-5 RET RELEASE RET RELEASE RET RELEASE	275043 04/2011 275043 04/2011 275043 04/2011 278773 04/2011 265228 04/2011 274396 04/2011 274396 04/2011 274400 04/2011 274400 04/2011 276271 04/2011 276271 04/2011 276271 04/2011 276271 04/2011 276271 04/2011 276271 04/2011 276271 04/2011 274400 04/2011 274400 04/2011 274400 04/2011	16,731.28 67.28 1,345.63 1,278.35 55.76 58.45 1,815.06 710.86 3,393.16 2,312.71 989.43 15.34 52.08 .81 6,248.74 328.88 500.00 182.20 67.80
10/25/2010 296-6680-463.72-75	738100 10/19/2010	CHICAGO TITLE INSURANCE	753	MISC SERVICES	GLASSING, LYNDY	278926 04/2011	15,000.00 15,000.00
10/25/2010 840-3184-431.91-20	738101 10/14/2010	CMYL INC	21391	WO0515 HOWARD HEIGHTS	AGREEMENT	278742 04/2011	24,150.93 24,150.93

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
10/25/2010 716-2178-441.94-90	738102 10/20/2010	CON'EER ENGINEERING INC ENGINEERING SERVICES	15479	10062.1	278971 04/2011	2,650.00 2,650.00	
10/25/2010 561-7112-711.24-50	738103 10/18/2010	CONNOR'S GARAGE DOOR SERVICE INVOICE #1230	20573	1230	F11744 04/2011	3,300.00 3,300.00	
10/25/2010 845-3186-431.93-10	738104 10/18/2010	CONOCO PIPE LINE COMPANY WO 05-20 ARONSON AVE	17233	AGREEMENT	278841 04/2011	24,351.69 24,351.69	
10/25/2010 503-7591-609.93-40 513-8591-625.93-40 503-0000-201.10-00 513-0000-201.10-00 513-0000-201.10-00	738105 10/20/2010 10/20/2010 10/21/2010 10/21/2010 10/21/2010	COP CONSTRUCTION CO WO1001 WTR&SWR REPLC SCH3 WO1001 WTR&SWR REPLC SCH3 WO1001 WTR&SWR REPLC SCH3 WO1001 WTR&SWR REPLC SCH3 WO1001 WTR&SWR REPLC SCH3	865	4 4 RET RELEASE RET RELEASE RET RELEASE	274399 04/2011 274399 04/2011 274399 04/2011 274399 04/2011 274399 04/2011	639,130.96 335,923.20 228,957.76 49,500.00 18,037.13 6,712.87	
10/25/2010 414-1519-493.93-90	738107 10/19/2010	CTA ARCHITECTS 29TH ST. SKY-BRIDGE	920	85663	278908 04/2011	2,883.82 2,883.82	
10/25/2010 225-2232-422.29-25 225-2232-422.29-25	738113 09/29/2010 10/01/2010	DELL COMPUTER L P MISC SERVICES MISC SERVICES	13426	XF3J7R2C7 XF3KKJWM3	278333 04/2011 278333 04/2011	5,457.52 57.56 5,399.96	
10/25/2010 606-1931-484.34-50	738116 10/07/2010	DIAL PRO NORTHWEST INC MISC SERVICES	15887	13081	278835 04/2011	4,000.00 4,000.00	
10/25/2010 260-5519-455.33-80	738121 10/19/2010	EBSCO RENEWAL	1142	INV 0336756	F11765 04/2011	4,165.17 4,165.17	
10/25/2010 502-7400-603.22-20 502-7400-603.22-20	738128 10/18/2010 10/18/2010	ENVIRONMENTAL RESOURCE ASSOC MISC SERVICES MISC SERVICES	1202	595081 596660	278791 04/2011 278791 04/2011	2,905.50 1,978.25 927.25	
10/25/2010 502-7400-603.24-50 505-7515-609.36-71 503-7591-609.93-40	738132 10/18/2010 10/18/2010 10/19/2010	FERGUSON ENTERPRISES INC MISC SERVICES MISC SERVICES PBD004	17215	0547326 0547691 0546665-1	278812 04/2011 278812 04/2011 278009 04/2011	10,866.08 44.59 663.10 10,158.39	
10/25/2010 723-6595-465.62-00	738135 10/20/2010	FIRST INTERSTATE BANK MISC SERVICES	1303	1100216095	278958 04/2011	6,182.40 6,182.40	
10/25/2010 296-6680-463.72-75	738136 10/19/2010	FIRST MONTANA TITLE CO MISC SERVICES	1304	STEARNS, MEGAN	278830 04/2011	15,000.00 15,000.00	
10/25/2010 258-2132-421.38-24 258-2134-421.38-24	738140 10/20/2010 10/20/2010	GARTNER JASON IABTI CONF CHARGED TO 08 IABTI CONF CHARGED TO 09	8877	TRVL REIMB 4118 TRVL REIMB 4118	F11780 04/2011 F11780 04/2011	2,918.49 805.74 2,112.75	
10/25/2010 150-2150-421.61-00	738142 10/20/2010	GENERAL ELECTRIC CAPITAL CORP MISC SERVICES	19598	TOUGHBOOK	278945 04/2011	9,370.42 8,848.68	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
150-2150-421.62-00	10/20/2010	MISC SERVICES	TOUGHBOOK	278945	04/2011	521.74	
10/25/2010	738157	HDR INC	1544			53,527.88	
416-7493-603.92-20	10/18/2010	WO0426 ZONE 4 & 5	44	247294	04/2011	11,691.63	
421-8493-623.93-40	10/18/2010	WO0822 WWTP DISINFEC SYS	20	263835	04/2011	17,449.97	
513-8491-623.93-90	10/20/2010	WO0908 WWTP WATER LINE	16	266958	04/2011	10,299.49	
502-7211-601.35-40	10/20/2010	INTEGRATED WATER PLAN	217962-H	270373	04/2011	5,023.00	
512-8211-621.35-40	10/20/2010	INTEGRATED WATER PLAN	217962-H	270373	04/2011	4,040.79	
840-3184-431.35-90	10/20/2010	INTEGRATED WATER PLAN	217962-H	270373	04/2011	5,023.00	
10/25/2010	738160	HKM ENGINEERING INC	10883			34,535.64	
205-3131-433.93-10	10/18/2010	WO0821 LAKE ELMO DR	5	274946	04/2011	12,379.64	
210-3110-431.93-11	10/18/2010	WO0821 LAKE ELMO DR	5	274946	04/2011	8,556.00	
438-3165-431.93-11	10/18/2010	WO0821 LAKE ELMO DR	5	274946	04/2011	11,300.00	
840-3184-431.93-10	10/18/2010	WO0821 LAKE ELMO DR	5	274946	04/2011	2,300.00	
10/25/2010	738162	HOUSE OF CLEAN	5789			2,840.13	
512-8400-623.24-50	10/18/2010	MISC SERVICES	041131A	278814	04/2011	2,589.80	
512-8400-623.24-50	10/18/2010	MISC SERVICES	403083	278814	04/2011	250.33	
10/25/2010	738164	IAFF	20196			4,228.20	
900-0000-209.99-20	10/22/2010	PAYROLL SUMMARY	20101022		04/2011	4,228.20	
10/25/2010	738167	INTERSTATE POWERSYSTEMS	17926			4,348.10	
601-0000-141.71-41	10/15/2010	MP	7015423.01		04/2011	89.44	
571-7144-713.23-20	10/15/2010	MP	R007012431.01	278804	04/2011	1,133.01	
571-7144-713.23-20	10/18/2010	MP	7011192.02	278893	04/2011	1,443.14	
225-2232-422.35-90	10/19/2010	2ND/QTR/CHKS/SACRIFICE TW	R007012407 SRFC	276389	04/2011	270.00	
607-2235-486.36-60	10/19/2010	2ND/QTR CHECK/SWORDS TWR	R007012404 SWRD	276390	04/2011	285.87	
607-2235-486.36-60	10/19/2010	2ND/QTR/CHECK/FOX TWR	R007012405 FOX	276390	04/2011	270.00	
607-2235-486.36-60	10/19/2010	2ND/QTR CHK/LANDFILL TWR	R007012406 LNDF	276390	04/2011	270.00	
150-2226-422.23-20	10/19/2010	MP	7012412.01	278927	04/2011	359.95	
601-0000-141.71-41	10/20/2010	MP	7015423.02		04/2011	89.44	
571-7144-713.23-20	10/20/2010	MP	7015531.01	278989	04/2011	137.25	
10/25/2010	738170	J & J CONCRETE	15244			6,237.15	
505-7515-609.36-71	10/18/2010	MISC SERVICES	092210	278794	04/2011	450.00	
205-0000-201.10-00	10/20/2010	WO0904 ACCESS RAMPS	RET RELEASE	265227	04/2011	5,787.15	
10/25/2010	738172	JIMS ELECTRIC SERVICE	1906			3,439.00	
512-8500-625.23-60	10/18/2010	MISC SERVICES	25421	278808	04/2011	3,439.00	
10/25/2010	738173	JTL GROUP INC DBA KNIFE RIVER	2417			250,066.43	
407-7128-711.93-97	10/20/2010	MISC SERVICES	274395-3	274395	04/2011	179,692.30	
407-7128-711.93-97	10/20/2010	MISC SERVICES	274395-3	274395	04/2011	70,374.13	
10/25/2010	738174	JUNIOR LIBRARY GUILD	10962			5,105.40	
260-5519-455.33-33	10/19/2010	CHILDREN'S BOOKS	87921	F11772	04/2011	5,105.40	
10/25/2010	738177	KENNEDY & GRAVEN CHARTERED	20245			8,000.00	
406-7119-476.55-10	10/20/2010	MISC SERVICES	AIRREVREFBONDS	278965	04/2011	8,000.00	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
10/25/2010	738179	KENS MACHINE & WELDING TRAININ	19194			4,500.00	
219-2250-422.21-20	10/18/2010	ISC/LAB/EQUIP/BOXES	404 ICS LAB/BXS	278892	04/2011	4,500.00	
10/25/2010	738182	KOIS BROTHERS EQUIPMENT CO	6452			6,788.70	
601-0000-141.00-00	09/14/2010	MP	87307		03/2011	28.92	
601-0000-141.00-00	09/20/2010	MP	87160		03/2011	110.94	
541-3122-435.23-20	10/01/2010	MP	87387	278330	04/2011	1,009.23	
601-0000-141.00-00	10/06/2010	MP	87296		04/2011	110.94	
211-3132-433.23-20	10/06/2010	MP	87356	275721	04/2011	43.95	
211-3132-433.23-20	10/06/2010	MP	87356	275721	04/2011	11.21	
541-3122-435.23-20	10/06/2010	MP	87468	275721	04/2011	815.00	
601-0000-141.00-00	10/07/2010	MP	87235		04/2011	99.51	
601-0000-141.00-00	10/07/2010	MP	87338		04/2011	125.97	
541-3122-435.23-20	10/07/2010	MP	87242	275721	04/2011	421.99	
541-3122-435.23-20	10/07/2010	MP	87243	275721	04/2011	390.32	
541-3122-435.23-20	10/08/2010	MP	87480	275721	04/2011	411.54	
10-5112-452.23-20	10/08/2010	LOCK AND PADDLE LATCH	87514	278330	04/2011	41.67	
211-3132-433.23-20	10/19/2010	MP	87492	275721	04/2011	2,878.47	
541-3122-435.23-20	10/19/2010	MP	87517	275721	04/2011	289.04	
10/25/2010	738188	LESMAN IRON WORKS	2156			3,777.00	
541-3123-435.24-50	10/18/2010	REPAIR CONTAINER SITE LF	29593	278508	04/2011	2,487.00	
541-3123-435.24-50	10/18/2010	POWDER COAT	29594	278508	04/2011	1,290.00	
10/25/2010	738190	LOWE'S	19725			5,000.00	
872-5198-452.36-50	09/28/2010	WINTERIZER	60656	277726	03/2011	2,500.00	
872-5198-452.36-50	09/28/2010	WINTERIZER	60656	277726	03/2011	1,500.00	
872-5198-452.36-50	09/28/2010	WINTERIZER	60656	277726	03/2011	1,000.00	
10/25/2010	738207	MONTANA FLOORING LIQUIDATORS I	21387			5,520.08	
512-8400-623.24-50	10/18/2010	MISC SERVICES	008409	278772	04/2011	5,520.08	
10/25/2010	738209	MONTANA STATE FIREMAN'S ASSOC	20195			2,654.44	
900-0000-209.99-24	10/22/2010	PAYROLL SUMMARY	20101022		04/2011	2,654.44	
10/25/2010	738211	MOODY'S INVESTORS SERVICE	8608			6,200.00	
311-1530-471.35-92	10/20/2010	MISC SERVICES	F1764031	278967	04/2011	6,200.00	
10/25/2010	738212	MORRISON MAIERLE INC	2572			108,647.99	
421-8493-623.93-40	10/18/2010	WO0814 WWTP STRMWTR MOD	5	273122	04/2011	2,739.87	
513-8591-625.93-40	10/20/2010	WO0210 BENCH CONNECTION	11 & 12	265562	04/2011	7,133.07	
407-7128-711.93-97	10/20/2010	MISC SERVICES	101556	274012	04/2011	9,044.35	
407-7128-711.93-97	10/20/2010	MISC SERVICES	101556	274012	04/2011	2,261.09	
405-7125-711.96-72	10/20/2010	MISC SERVICES	101557	274777	04/2011	1,296.28	
405-7125-711.96-73	10/20/2010	MISC SERVICES	101557	274777	04/2011	68.22	
405-7125-711.96-72	10/20/2010	MISC SERVICES	101558	274777	04/2011	2,881.43	
405-7125-711.96-73	10/20/2010	MISC SERVICES	101558	274777	04/2011	151.65	
405-7125-711.96-72	10/20/2010	MISC SERVICES	104562	274777	04/2011	6,247.25	
405-7125-711.96-73	10/20/2010	MISC SERVICES	104562	274777	04/2011	328.80	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
405-7125-711.96-72	10/20/2010	MISC SERVICES	10563	274777	04/2011	56,417.69	
405-7125-711.96-73	10/20/2010	MISC SERVICES	10563	274777	04/2011	2,969.35	
406-7119-711.92-90	10/20/2010	MISC SERVICES	101559/101560	277318	04/2011	16,455.26	
406-7119-711.92-90	10/20/2010	MISC SERVICES	101561	277318	04/2011	653.68	
10/25/2010 738216	MPPA	20198				2,505.73	
900-0000-209.99-23	10/22/2010	PAYROLL SUMMARY	20101022		04/2011	2,505.73	
10/25/2010 738222	NATURE'S GREEN LLC	21214				3,384.60	
561-7113-711.36-60	10/18/2010	MISC SERVICES	643	276400	04/2011	3,384.60	
10/25/2010 738225	NORTHWESTERN ENERGY	15771				148,482.47	
266-6773-465.39-90	10/13/2010	MISC SERVICES	1894944-6	278698	04/2011	23.29	
266-6773-465.39-90	10/13/2010	MISC SERVICES	1894940-4	278700	04/2011	10.30	
266-6773-465.39-90	10/15/2010	MISC SERVICES	1894944	278815	04/2011	23.29	
266-6773-465.39-90	10/15/2010	MISC SERVICES	CANCEL 278700	278824	04/2011	10.30	
512-8400-623.34-10	10/18/2010	MISC SERVICES	01005917 OCT10	278828	04/2011	35,761.24	
512-8500-625.34-10	10/18/2010	MISC SERVICES	17568932 OCT10	278828	04/2011	107.19	
561-7113-711.34-10	10/18/2010	0100483-7	101810	F11743	04/2011	2,070.69	
561-7113-711.34-10	10/18/2010	0100484-5	101810	F11743	04/2011	1,692.41	
561-7117-711.34-10	10/18/2010	1669567-8	101810	F11743	04/2011	718.58	
561-7113-711.34-10	10/18/2010	1647695-4	101810	F11743	04/2011	28.77	
561-7117-711.34-10	10/18/2010	1264299-7	101810-1	F11749	04/2011	614.37	
561-7117-711.34-10	10/18/2010	1341288-7	101810-1	F11749	04/2011	260.94	
561-7117-711.34-10	10/18/2010	1341289-5	101810-1	F11749	04/2011	28.30	
561-7117-711.34-10	10/18/2010	1341291-1	101810-1	F11749	04/2011	149.22	
561-7117-711.34-10	10/18/2010	1341295-2	101810-1	F11749	04/2011	163.69	
266-6773-465.39-90	10/19/2010	MISC SERVICES	1894944-6	278819	04/2011	11.57	
266-6773-465.39-90	10/19/2010	MISC SERVICES	1894940-4	278826	04/2011	5.15	
502-7400-603.34-10	10/19/2010	MISC SERVICES	01004852 OCT10	278920	04/2011	852.10	
502-7314-602.34-10	10/19/2010	MISC SERVICES	01006063 OCT10	278920	04/2011	2,934.85	
502-7400-603.34-10	10/19/2010	MISC SERVICES	01006063 OCT10	278920	04/2011	73,371.41	
502-7400-603.34-10	10/19/2010	MISC SERVICES	01006063 OCT10	278920	04/2011	19,565.71	
512-8314-622.34-10	10/19/2010	MISC SERVICES	01006063 OCT10	278920	04/2011	1,956.57	
502-7400-603.34-10	10/19/2010	MISC SERVICES	18672659 OCT10	278920	04/2011	1.80	
502-7400-603.34-10	10/19/2010	MISC SERVICES	19059435 OCT10	278920	04/2011	6.17	
211-3132-433.34-10	10/21/2010	NW PUBLIC WORKS	08554040		04/2011	9.00	
10-5112-452.34-10	10/21/2010	NW PARK/REC/PL	09254962		04/2011	434.52	
650-1566-487.34-10	10/21/2010		09758087		04/2011	416.92	
872-5198-452.34-10	10/21/2010	NW PARK/REC/PL	10458131		04/2011	3.66	
502-7400-603.34-10	10/21/2010	NW PUD	11164522		04/2011	526.60	
561-7117-711.34-10	10/21/2010	NW PUD	11389269		04/2011	49.79	
650-1566-487.34-10	10/21/2010	ACCOUNTS PAYABLE	11608023		04/2011	935.73	
650-1566-487.34-10	10/21/2010	ACCOUNTS PAYABLE	11608049		04/2011	2,466.52	
650-1566-487.34-10	10/21/2010	NW	12693917		04/2011	3,339.00	
10/25/2010 738235	NORTHWESTERN ENERGY	15784				138,300.48	
211-3132-433.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE SIGNALS		04/2011	10,362.94	
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712544-6		04/2011	457.48	
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712545-3		04/2011	474.27	

PROGRAM: GM350L

MINIMUM AMOUNT: 2,500.00

CITY OF BILLINGS

FROM 10/25/2010 TO 10/25/2010

BANK CODE

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712546-1		04/2011	1,369.75
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0721276-4		04/2011	3,570.15
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0721277-2		04/2011	1,763.28
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712553-7		04/2011	1,126.49
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712554-5		04/2011	82.37
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712556-0		04/2011	394.22
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712557-8		04/2011	13,052.08
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712558-6		04/2011	1,447.02
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712559-4		04/2011	2,375.07
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712560-2		04/2011	1,618.89
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712561-0		04/2011	4,060.10
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712562-8		04/2011	156.26
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712563-6		04/2011	873.70
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712564-4		04/2011	205.58
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712565-1		04/2011	539.62
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712566-9		04/2011	2,973.65
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712567-7		04/2011	211.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712568-5		04/2011	138.42
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712570-1		04/2011	2,312.72
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712571-9		04/2011	175.50
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712572-7		04/2011	308.35
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712573-5		04/2011	899.39
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712574-3		04/2011	359.75
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712575-0		04/2011	179.88
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712576-8		04/2011	658.11
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712577-6		04/2011	460.66
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712578-4		04/2011	308.35
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712579-2		04/2011	132.54
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712580-0		04/2011	796.61
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712581-8		04/2011	215.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712582-6		04/2011	497.01
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712583-4		04/2011	482.61
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712584-2		04/2011	427.71
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712585-9		04/2011	339.15
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712586-7		04/2011	693.82
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712587-5		04/2011	231.27
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712588-3		04/2011	536.96
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712589-1		04/2011	25.57
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712590-9		04/2011	438.74
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712591-7		04/2011	334.05
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712592-5		04/2011	428.92
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712593-3		04/2011	1,309.57
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712594-1		04/2011	701.99
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712595-8		04/2011	591.02
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712596-6		04/2011	4,022.10
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712597-4		04/2011	504.54
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712598-2		04/2011	1,140.73
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712599-0		04/2011	462.54
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712600-6		04/2011	855.54
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712601-4		04/2011	745.21

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712602-2		04/2011	996.31
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712603-0		04/2011	668.13
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712604-8		04/2011	987.17
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712605-5		04/2011	54.72
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712606-3		04/2011	567.46
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712607-1		04/2011	350.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712608-9		04/2011	822.31
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712609-7		04/2011	219.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712610-5		04/2011	526.48
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712611-3		04/2011	497.01
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712612-1		04/2011	1,096.85
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712613-9		04/2011	921.34
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712614-7		04/2011	307.11
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712615-4		04/2011	39.09
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712616-2		04/2011	241.32
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712617-0		04/2011	482.61
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712618-8		04/2011	329.04
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712619-6		04/2011	1,567.50
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712620-4		04/2011	548.42
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712621-2		04/2011	1,096.84
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712622-0		04/2011	350.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712623-8		04/2011	131.62
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712624-6		04/2011	530.83
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712625-3		04/2011	219.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712626-1		04/2011	263.23
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712627-9		04/2011	219.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712628-7		04/2011	1,140.73
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712629-5		04/2011	391.87
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712630-3		04/2011	285.17
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712631-1		04/2011	701.99
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712632-9		04/2011	219.65
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712633-7		04/2011	183.04
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712634-5		04/2011	59.04
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712635-2		04/2011	59.04
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712636-0		04/2011	109.69
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712637-8		04/2011	62.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712638-6		04/2011	460.66
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712639-4		04/2011	675.07
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712640-2		04/2011	15.75
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712641-0		04/2011	307.65
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712642-8		04/2011	31.27
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712643-6		04/2011	307.11
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712644-4		04/2011	350.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712645-1		04/2011	227.56
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712646-9		04/2011	504.54
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712647-7		04/2011	70.86
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712648-5		04/2011	39.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712649-3		04/2011	39.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712650-1		04/2011	23.62
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712651-9		04/2011	435.66

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712652-7		04/2011	131.62
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712653-5		04/2011	325.97
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712654-3		04/2011	212.04
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712655-0		04/2011	7.82
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712656-8		04/2011	62.09
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712657-6		04/2011	94.48
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712658-4		04/2011	1,640.52
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712659-2		04/2011	339.86
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712660-0		04/2011	251.90
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712661-8		04/2011	509.67
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712662-6		04/2011	745.21
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712663-4		04/2011	385.44
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712664-2		04/2011	899.40
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712665-9		04/2011	539.62
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712666-7		04/2011	2,338.41
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712667-5		04/2011	686.61
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712668-3		04/2011	403.57
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712669-1		04/2011	431.02
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712670-9		04/2011	137.27
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712671-7		04/2011	372.92
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712672-5		04/2011	13.48
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712673-3		04/2011	87.75
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712674-1		04/2011	329.49
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712675-8		04/2011	569.71
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712676-6		04/2011	77.09
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712677-4		04/2011	102.79
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712678-2		04/2011	78.35
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712679-0		04/2011	308.35
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712680-8		04/2011	1,051.74
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712681-6		04/2011	2,233.12
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0718734-7		04/2011	2,543.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1301786-8		04/2011	13.01
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0719001-0		04/2011	166.90
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0718801-4		04/2011	3,644.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0719162-0		04/2011	513.94
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0719644-7		04/2011	1,781.43
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0719763-5		04/2011	124.20
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720813-5		04/2011	126.69
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720360-7		04/2011	722.17
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720606-3		04/2011	2,413.59
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1301786-8		04/2011	12.01
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720810-1		04/2011	1,127.72
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720705-3		04/2011	462.54
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720937-2		04/2011	2,910.84
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0720716-0		04/2011	798.41
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0721427-3		04/2011	135.48
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0721556-9		04/2011	326.61
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0833098-7		04/2011	64.07
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0906944-4		04/2011	361.14
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0995095-7		04/2011	920.69

PROGRAM: GM350L
CITY OF BILLINGS

MINIMUM AMOUNT: 2,500.00
FROM 10/25/2010 TO 10/25/2010

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0905005-5		04/2011	2,618.62
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0926386-4		04/2011	187.72
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0907926-0		04/2011	54.91
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0961926-3		04/2011	391.37
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1058710-3		04/2011	770.34
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1087619-1		04/2011	192.21
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1124127-0		04/2011	56.84
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1045653-1		04/2011	594.92
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1079722-3		04/2011	305.49
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1172743-5		04/2011	309.93
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1206985-2		04/2011	312.96
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1296582-8		04/2011	221.56
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1246537-3		04/2011	98.10
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1303978-9		04/2011	1,665.27
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1685375-6		04/2011	288.52
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1433921-2		04/2011	87.34
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481532-8		04/2011	565.33
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481534-4		04/2011	219.36
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481535-1		04/2011	438.74
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481536-9		04/2011	102.79
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481537-7		04/2011	1,179.03
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481539-3		04/2011	197.43
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1481540-1		04/2011	175.50
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1662840-6		04/2011	375.19
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1687005-7		04/2011	1,660.43
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1607534-3		04/2011	195.07
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1695873-8		04/2011	650.04
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 1740353-6		04/2011	234.98
810-3183-431.34-10	10/31/2010	LIGHT MAINT TRANSFER	NWE 0712569-3		04/2011	45.73
10/25/2010	738252	QWEST COMMUNICATIONS	6319			9,039.61
225-2232-422.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	252-1190		04/2011	8,406.28
521-1592-493.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	252-2041		04/2011	42.98
601-1550-481.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	256-5047		04/2011	44.48
10-1212-412.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	256-6082		04/2011	46.93
561-7110-711.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	256-7070		04/2011	44.03
225-2232-422.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	651-0282		04/2011	42.98
10-5140-436.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	652-0269		04/2011	42.98
10-5112-452.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	652-5507		04/2011	44.03
10-5121-451.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	652-8403		04/2011	32.98
150-2111-421.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	656-1046		04/2011	42.98
150-2111-421.34-50	10/14/2010	QWEST OCT 2010 2ND PAY	656-3671		04/2011	192.24
240-4301-419.72-14	10/14/2010	QWEST OCT 2010 2ND PAY	656-9578		04/2011	28.36
240-4301-419.72-14	10/14/2010	QWEST OCT 2010 2ND PAY	656-9604		04/2011	28.36
10/25/2010	738263	RIMROCK ENGINEERING INC	16562			2,825.00
205-3131-433.93-10	10/18/2010	WO0515, SID1388, WO0821	VARIOUS	278834	04/2011	75.00
438-3165-431.93-11	10/18/2010	WO0515, SID1388, WO0821	VARIOUS	278834	04/2011	1,625.00
840-3184-431.93-10	10/18/2010	WO0515, SID1388, WO0821	VARIOUS	278834	04/2011	200.00
840-3184-431.93-10	10/18/2010	WO0515, SID1388, WO0821	VARIOUS	278834	04/2011	925.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
10/25/2010	738264	RIVERSIDE SAND & GRAVEL INC	19447			755,892.79	
405-7125-711.96-72	10/20/2010	MISC SERVICES	276263-2	276263	04/2011	1,518.91	
405-7125-711.96-73	10/20/2010	MISC SERVICES	276263-2	276263	04/2011	5,155.49	
405-7125-711.96-73	10/20/2010	MISC SERVICES	276263-2	276263	04/2011	79.94	
405-7125-711.96-72	10/20/2010	MISC SERVICES	276263-5	276263	04/2011	618,624.89	
405-7125-711.96-73	10/20/2010	MISC SERVICES	276263-5	276263	04/2011	32,559.21	
405-7125-711.96-72	10/20/2010	MISC SERVICES	276273-2	276263	04/2011	97,954.35	
10/25/2010	738265	ROOTX	19882			3,408.45	
512-8500-625.22-20	10/19/2010	MISC SERVICES	33151	278923	04/2011	3,408.45	
10/25/2010	738268	RUDDOCK JOHN	9074			5,707.80	
150-2224-422.38-10	10/18/2010	TUITION:FALL10/75%	TUITION FALL10	278891	04/2011	5,707.80	
10/25/2010	738278	SPRINGSTED	3526			3,100.00	
561-7110-711.35-92	10/20/2010	MISC SERVICES	U1R02693	278963	04/2011	3,100.00	
10/25/2010	738280	STOCKMAN BANK	15350			6,182.40	
723-6595-465.62-00	10/20/2010	MISC SERVICES	WAYNE NELSON	278962	04/2011	6,182.40	
10/25/2010	738283	SUNSET EXCAVATION	11477			5,600.00	
505-7515-609.36-71	10/18/2010	MISC SERVICES	904717	278795	04/2011	2,900.00	
505-7515-609.36-71	10/18/2010	MISC SERVICES	904718	278795	04/2011	2,700.00	
10/25/2010	738285	SYMPRO INC	18323			3,331.00	
10-1512-415.35-53	10/20/2010	MISC SERVICES	5721	278969	04/2011	3,331.00	
10/25/2010	738290	TIRE-RAMA	1864			9,369.52	
541-3122-435.23-90	09/02/2010	REPAIR TIRE KENS TK	1050165869	275725	03/2011	15.00	
541-3122-435.23-90	09/09/2010	TIRES AND REPAIRS SW	1050166183	275725	03/2011	1,644.85	
541-3122-435.23-90	09/09/2010	TIRES AND REPAIRS SW	1050166186	275725	03/2011	1,727.60	
541-3123-435.23-90	09/09/2010	TIRE REPAIRS LF	1050166188	275725	03/2011	58.50	
541-3123-435.23-90	09/28/2010	TIRES AND REPAIRS SW	1050167187	275725	03/2011	1,956.00	
541-3123-435.23-90	09/28/2010	TIRES AND REPAIRS	1050167196	275725	03/2011	430.84	
541-3122-435.23-90	09/28/2010	TIRES AND REPAIRS	1050167218	275725	03/2011	642.00	
541-3122-435.23-90	09/28/2010	TIRES AND REPAIRS	1050167219	275725	03/2011	1,170.00	
541-3122-435.23-90	09/28/2010	TIRES AND REPAIRS	1050167239	275725	03/2011	1,036.72	
571-7144-713.23-90	10/07/2010	AUTO &TRUCK MAINT.ITEMS	1050166423	275725	04/2011	95.00	
150-2226-422.23-90	10/19/2010	MP	1050-166806	275725	04/2011	40.00	
150-2226-422.23-90	10/19/2010	MP	1050-166806	275725	04/2011	553.01	
10/25/2010	738291	TITAN MACHINERY INC	20569			2,707.73	
502-7500-609.53-33	10/18/2010	MISC SERVICES	001771	278797	04/2011	368.00	
211-3132-433.23-20	10/19/2010	MP	1C04328	278906	04/2011	431.54	
211-3132-433.23-20	10/19/2010	MP	1C05529	278906	04/2011	422.66	
211-3132-433.23-20	10/19/2010	MP	1C05597	278906	04/2011	140.92	
211-3132-433.23-20	10/19/2010	MP	1C05597	278906	04/2011	18.00	
211-3132-433.23-20	10/19/2010	MP	1C05668	278906	04/2011	670.15	
211-3132-433.23-20	10/19/2010	MP	1C05802	278906	04/2011	592.86	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
211-3132-433.23-20	10/19/2010	MP	1C05802	278906	04/2011	63.60	
10/25/2010 738292	TITAN RENTAL	21031				4,000.00	
541-3123-435.53-30	10/18/2010	LOADER RENTAL	QF02147	278507	04/2011	4,000.00	
10/25/2010 738293	TOTAL ASPHALT REPAIR INC	13249				3,286.75	
503-7591-609.93-40	10/18/2010	MISC SERVICES	3822	278821	04/2011	3,286.75	
10/25/2010 738295	TOWN & COUNTRY SUPPLY ASSOCIAT	18295				72,229.10	
601-0000-141.00-00	10/18/2010	MP	78344		04/2011	10,014.80	
561-7118-711.23-13	10/18/2010	INVOICE #78948	78948	F11746	04/2011	5,431.60	
601-0000-141.00-00	10/20/2010	MP	78479		04/2011	10,305.60	
601-0000-141.00-00	10/20/2010	MP	78955		04/2011	15,436.20	
601-0000-141.71-41	10/20/2010	MP	78133		04/2011	18,008.90	
601-0000-141.00-00	10/22/2010	MP	78961		04/2011	13,032.00	
10/25/2010 738298	TRACTOR & EQUIPMENT	3775				3,620.34	
541-3122-435.23-20	10/19/2010	MP	BLW00119135	278900	04/2011	2,655.33	
541-3123-435.23-20	10/20/2010	MP	BLB00010171-A	278954	04/2011	965.01	
10/25/2010 738299	TRAILS WEST DEVELOPMENT LLC	21392				237,360.00	
503-7591-609.93-40	10/20/2010	COMP AGREEMENT GRAND AVE	AGREEMENT	278842	04/2011	52,418.00	
513-8591-625.93-40	10/20/2010	COMP AGREEMENT GRAND AVE	AGREEMENT	278842	04/2011	184,942.00	
10/25/2010 738305	US BANK-REVOLVING LOAN FUND	16715				6,182.40	
723-6595-465.62-00	10/20/2010	MISC SERVICES	537240483306	278961	04/2011	6,182.40	
10/25/2010 738310	WATER RESEARCH FOUNDATION	20638				16,156.35	
502-7211-601.33-50	10/19/2010	MISC SERVICES	RF2010-0003824	278921	04/2011	16,156.35	
10/25/2010 738314	WELLS FARGO BANK-LOAN PAYMENT	16716				6,182.40	
723-6595-465.62-00	10/20/2010	MISC SERVICES	1609108243	278960	04/2011	6,182.40	
10/25/2010 738319	WESTERN SECURITY BANK	16462				6,182.40	
723-6595-465.62-00	10/20/2010	MISC SERVICES	100022110	278957	04/2011	3,091.20	
723-6595-465.62-00	10/20/2010	MISC SERVICES	157011874	278957	04/2011	3,091.20	
10/25/2010 738325	YELLOWSTONE COUNTY SHERIFFS	6218				7,291.49	
255-2145-421.12-20	10/20/2010	MISC SERVICES	10 HIDTA OT	278942	04/2011	4,483.99	
255-2145-421.79-10	10/20/2010	MISC SERVICES	10 HIDTA PE/PI	278942	04/2011	2,807.50	
10/25/2010 738326	YELLOWSTONE VALLEY ELEC	4174				3,773.33	
541-3123-435.34-10	10/19/2010	ELEC AT LF	4179000	278511	04/2011	653.89	
502-7400-603.34-10	10/19/2010	MISC SERVICES	4179006 OCT10	278922	04/2011	1,318.12	
512-8400-623.34-10	10/19/2010	MISC SERVICES	4179006 OCT10	278922	04/2011	58.94	
512-8400-623.34-10	10/19/2010	MISC SERVICES	4179008 OCT10	278922	04/2011	1,227.65	
512-8500-625.34-10	10/19/2010	MISC SERVICES	4179008 OCT10	278922	04/2011	138.07	
512-8500-625.34-10	10/19/2010	MISC SERVICES	4179010 OCT10	278922	04/2011	128.25	
512-8500-625.34-10	10/19/2010	MISC SERVICES	4179011 OCT10	278922	04/2011	19.00	
512-8500-625.34-10	10/19/2010	MISC SERVICES	4179015 OCT10	278922	04/2011	229.41	

PREPARED 10/25/2010, 10:56:08

PROGRAM: GM350L

CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR

MINIMUM AMOUNT: 2,500.00

FROM 10/25/2010 TO 10/25/2010

PAGE 12

BANK CODE

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
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DATE RANGE TOTAL *

2,846,741.01 *

Regular City Council Meeting

Date: 11/22/2010

TITLE: Payment of Claims October 29, 2010.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,049,691.77 have been audited and are presented for your approval for payment. A complete listing of the claims dated October 29, 2010, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

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	
10/29/2010	738330	ACORN TECHNOLOGIES LLC	821			3,036.80	
150-2112-421.23-20	10/21/2010	MP	1009-1014	279029	04/2011	120.00	
150-2226-422.23-20	10/26/2010	MP	1010-1046	279124	04/2011	68.00	
251-2186-421.21-90	10/27/2010	MISC SERVICES	ITEM 242	278949	04/2011	2,779.80	
150-2226-422.23-20	10/27/2010	MP	1010-1063	279163	04/2011	69.00	
10/29/2010	738331	ADVANCED TRAFFIC PRODUCTS INC	9284			12,404.50	
211-3132-433.24-30	10/25/2010	MISC SERVICES	0000002557	278492	04/2011	12,404.50	
10/29/2010	738338	AMERICAN WATER WORKS ASSOCIATI	16380			4,850.00	
502-7211-601.33-50	10/25/2010	MISC SERVICES	7000274181	279048	04/2011	4,850.00	
10/29/2010	738341	ARCHIE COCHRANE	800			5,627.10	
150-2112-421.23-20	10/26/2010	MP	5034964-5035180	279095	04/2011	48.36	
502-7312-602.23-20	10/26/2010	MP	5034964-5035180	279095	04/2011	64.64	
630-1753-485.73-10	10/27/2010	MISC SERVICES	806887/1	279148	04/2011	4,807.69	
150-2112-421.23-20	10/27/2010	MP	5035430	279161	04/2011	42.21	
150-2112-421.23-20	10/27/2010	MP	5035613	279161	04/2011	664.20	
10/29/2010	738346	BIG SKY SENIOR SERVICES, INC	18390			2,895.50	
296-6526-463.72-75	10/28/2010	MISC SERVICES	SHH #1	279177	04/2011	2,895.50	
10/29/2010	738353	BRADFORD ROOFING & INSULATION	533			43,850.81	
150-2226-422.24-50	10/26/2010	FIRE1:ROOF REPAIRS OCT5	2010-418 FIRE1	279061	04/2011	300.71	
562-7120-711.92-90	10/27/2010	MISC SERVICES	2010 316	277550	04/2011	43,550.10	
10/29/2010	738355	BRESNAN COMMUNICATIONS	16532			8,115.07	
10-1100-411.34-50	10/14/2010	BRESNAN OCT 2010 2ND PAY	0245950		04/2011	44.45	
10-1212-412.34-50	10/14/2010	BRESNAN OCT 2010 2ND PAY	0171891		04/2011	46.94	
541-3123-435.35-90	10/21/2010	RELOCATE CABLE LINE	40456	278505	04/2011	8,023.68	
10/29/2010	738358	BUSINESS TAX SECTION	2449			4,662.92	
562-0000-201.10-00	10/29/2010	RELEASE RETAINAGE 273594	REQ. #5 273594	273594	04/2011	2.19	
562-7120-711.92-90	10/27/2010	MISC SERVICES	276056-2	276056	04/2011	156.84	
562-7120-711.92-90	10/27/2010	MISC SERVICES	2010 316	277551	04/2011	439.90	
562-7120-711.93-10	10/27/2010	MISC SERVICES	279098-5	279098	04/2011	17.68	
416-7493-603.92-20	10/28/2010	WO0426 ZONE 4 RESRVR PHS1	7	267953	04/2011	2,506.60	
513-8591-625.93-40	10/28/2010	WO1001 WTR&SWR REPLC SHC1	5	274056	04/2011	1,539.71	
10/29/2010	738360	CB & I INC	20708			248,153.40	
416-7493-603.92-20	10/28/2010	WO0426 ZONE 4 RESERVOIR	7	267952	04/2011	248,153.40	
10/29/2010	738372	CUSTOM COMPUTER TECHNOLOGIES I	20567			6,825.50	
252-2187-421.21-20	10/28/2010	MISC SERVICES	102002512	279181	04/2011	6,825.50	
10/29/2010	738373	D N D SECURITY	16586			2,619.67	
521-1591-493.39-70	10/26/2010	SEPT/OCT 2010 SECURITY	375	279104	04/2011	504.92	
521-1592-493.39-70	10/26/2010	SEPT/OCT 2010 SECURITY	375	279104	04/2011	1,089.92	
521-1593-493.39-70	10/26/2010	SEPT/OCT 2010 SECURITY	375	279104	04/2011	519.92	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
521-1594-493.39-70	10/26/2010	SEPT/OCT 2010 SECURITY	375	279104	04/2011	504.91	
10/29/2010	738376	DEPT OF JUSTICE DCI	17163			3,343.77	
251-2186-421.21-90	10/14/2010	MISC SERVICES	07 ICAC	278750	04/2011	560.00	
251-2186-421.38-22	10/14/2010	MISC SERVICES	07 ICAC	278750	04/2011	2,783.77	
10/29/2010	738378	DESMAN ASSOCIATES	21403			11,550.00	
521-1521-493.35-90	10/28/2010	PYMNT 1 TECHNOLOGY AUDIT	D10018	279185	04/2011	11,550.00	
10/29/2010	738389	EMPIRE LATH & PLASTER INC.	1185			15,527.16	
562-7120-711.92-90	10/27/2010	MISC SERVICES	276053-2	276053	04/2011	15,527.16	
10/29/2010	738417	HDR INC	1544			19,681.14	
502-7211-601.35-40	10/18/2010	DRINKING WTR SOURCE STUDY	229557-H	258046	04/2011	2,659.26	
502-7211-601.35-40	10/18/2010	DRINKING WTR SOURCE STUDY	237676-H	258046	04/2011	534.54	
502-7400-603.24-50	10/18/2010	WO1006 STAPLES RESERVOIR	237745-H	271831	04/2011	172.21	
502-7211-601.35-40	10/28/2010	WO0916 WTP&WWTP ELECTRIC	8/237678-H	267012	04/2011	245.40	
512-8211-621.35-40	10/28/2010	WO0916 WTP&WWTP ELECTRIC	8/237678-H	267012	04/2011	245.40	
502-7211-601.35-40	10/28/2010	WO0923 ELEC MSTR PLAN	10/237684-H	269621	04/2011	148.87	
512-8211-621.35-40	10/28/2010	WO0923 ELEC MSTR PLAN	10/237684-H	269621	04/2011	148.87	
513-8491-623.93-90	10/28/2010	WO1009 WWTP T-5 TRSFRMR	8/237681-H	273263	04/2011	2,330.00	
503-7491-603.93-90	10/28/2010	WO1011 WTP HIGH SRVC H2-1	7	273326	04/2011	3,442.91	
503-7591-609.93-40	10/28/2010	WO1012 BLGS LOW SRVC ST#1	3/237679-H	276189	04/2011	9,753.68	
10/29/2010	738418	HKM ENGINEERING INC	10883			19,997.44	
210-5151-452.93-90	10/28/2010	WO0307 ALKALI CR MULTI	46 & 47	250043	04/2011	17,292.14	
490-5161-452.93-70	10/28/2010	WO0307 ALKALI CR MULTI	46 & 47	250043	04/2011	2,705.30	
10/29/2010	738421	ICL PERFORMANCE PRODUCTS LP	21257			2,858.40	
150-2231-422.26-90	10/19/2010	PHOS-CHEK/FOAM 240-GAL	50189570 FOAM	278909	04/2011	2,858.40	
10/29/2010	738427	JACOBS CONSULTANCY INC	19805			10,779.40	
406-7119-711.92-90	10/27/2010	MISC SERVICES	37BIL300101004	273606	04/2011	161.90	
561-7110-711.35-90	10/27/2010	MISC SERVICES	37BIL300101004	273607	04/2011	10,617.50	
10/29/2010	738436	L N CURTIS & SONS	10392			3,548.40	
150-2229-422.26-40	10/20/2010	HEDSTROM:BUNKER COAT/PANT	3102420-00 HEDS	275255	04/2011	1,515.84	
150-2229-422.26-40	10/20/2010	HEDSTROM:BUNKER COAT/PANT	3102420-00 HEDS	275255	04/2011	94.16	
150-2229-422.26-40	10/20/2010	SPINI:BUNKER COAT/PANTS	3102420-00 SPIN	275255	04/2011	1,610.00	
150-2229-422.26-90	10/20/2010	BLACK RIT/KIT BAG	3104227-00 BLK	276844	04/2011	315.00	
150-2229-422.26-90	10/20/2010	BLACK RIT/KIT BAG	3104227-00 BLK	276844	04/2011	13.40	
10/29/2010	738445	MACHINERY POWER & EQUIPMENT CO	17427			2,762.50	
502-0000-141.00-00	10/27/2010	SYSTEMS	41CS0372521		04/2011	2,762.50	
10/29/2010	738446	MARIC SALES	5723			3,052.92	
211-3132-433.23-80	10/25/2010	MISC SERVICES	10393	278939	04/2011	3,052.92	
10/29/2010	738452	MES-NW	19056			9,906.88	
150-2229-422.22-90	10/20/2010	REGULATOR ASSY/DEXTRAS	00189023 RGULTR	276847	04/2011	144.74	

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
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150-2221-422.31-10	10/20/2010	NEIDER/HOSE TESTER/COMPLT	00188682	HSETST	277066	04/2011	150.02
150-2229-422.24-90	10/20/2010	NEIDER/HOSE TESTER/COMPLT	00188682	HSETST	277066	04/2011	720.11
150-2231-422.26-90	10/20/2010	NEIDER/HOSE TESTER/COMPLT	00188682	HSETST	277066	04/2011	4,908.75
10/29/2010	738454	MISSOULA COUNTY SHERIFF OFFICE	8713				5,417.97
251-2186-421.21-90	10/14/2010	MISC SERVICES	07 ICAC	278748	04/2011		1,535.94
251-2186-421.34-50	10/14/2010	MISC SERVICES	07 ICAC	278748	04/2011		129.03
251-2186-421.38-22	10/14/2010	MISC SERVICES	07 ICAC	278748	04/2011		3,753.00
10/29/2010	738464	NEW WORLD SYSTEMS	8477				170,224.00
150-2150-421.35-53	10/27/2010	MISC SERVICES	004973	279069	04/2011		112,039.00
150-2221-422.35-53	10/27/2010	MISC SERVICES	004973	279069	04/2011		10,553.00
150-2227-422.35-53	10/27/2010	MISC SERVICES	004973	279069	04/2011		4,574.00
225-2232-422.35-53	10/27/2010	MISC SERVICES	004973	279069	04/2011		28,281.00
620-1911-482.53-15	10/27/2010	MISC SERVICES	004973	279069	04/2011		14,777.00
10/29/2010	738467	NORTHWESTERN ENERGY	15771				4,469.26
660-3110-431.34-10	10/26/2010	MONTHLY ELECTRICITY	17413147	279103	04/2011		391.40
670-3141-489.34-10	10/26/2010	MONTHLY ELECTRICITY	17413147	279103	04/2011		587.09
521-1595-493.34-10	10/26/2010	LEASE ELEC SEPT/OCT 2010	11/08/2010B	279123	04/2011		62.00
521-1595-493.34-10	10/26/2010	LEASE ELEC. SEPT/OCT 2010	11/08/2010C	279123	04/2011		110.35
521-1591-493.34-10	10/26/2010	P1 ELEC. SEP/OCT 2010	11/8/10	279123	04/2011		1,933.06
521-1594-493.34-10	10/26/2010	P4 ELEC SEPT/OCT 2010	11/8/2010A	279123	04/2011		1,385.36
10/29/2010	738469	OSHKOSH TRUCK CORPORATION	6293				7,598.67
561-7113-711.23-20	10/27/2010	MISC SERVICES	1086998	SP	277320	04/2011	7,598.67
10/29/2010	738482	QWEST COMMUNICATIONS	6319				3,796.88
561-7110-711.34-50	10/21/2010	QWEST OCT 2010 3RD PAY	252-9412		04/2011		85.96
571-7141-713.34-50	10/21/2010	QWEST OCT 2010 3RD PAY	254-7038		04/2011		44.20
211-3132-433.34-50	10/21/2010	QWEST OCT 2010 3RD PAY	652-8104		04/2011		29.16
150-2225-422.34-50	10/21/2010	QWEST OCT 2010 3RD PAY	655-0728		04/2011		42.98
10-5112-452.34-50	10/21/2010	QWEST OCT 2010 3RD PAY	657-3014		04/2011		28.36
606-1931-484.34-50	10/21/2010	QWEST OCT 2010 3RD PAY	657-8377		04/2011		3,566.22
10/29/2010	738489	RIMROCK ENGINEERING INC	16562				3,550.00
205-3131-433.93-10	10/28/2010	WO0821&0515, SID1388/1391	VARIOUS	279101	04/2011		475.00
205-3131-433.93-10	10/28/2010	WO0821&0515, SID1388/1391	VARIOUS	279101	04/2011		250.00
464-3161-431.93-10	10/28/2010	WO0821&0515, SID1388/1391	VARIOUS	279101	04/2011		1,300.00
840-3184-431.93-10	10/28/2010	WO0821&0515, SID1388/1391	VARIOUS	279101	04/2011		375.00
840-3184-431.93-10	10/28/2010	WO0821&0515, SID1388/1391	VARIOUS	279101	04/2011		525.00
840-3184-431.93-10	10/28/2010	WO0821&0515, SID1388/1391	VARIOUS	279101	04/2011		625.00
10/29/2010	738496	SANDERSON STEWART	20446				19,174.92
840-3184-431.93-10	10/28/2010	WO0912 INNER BELT LOOP	14/31668	267730	04/2011		2,486.15
845-3186-431.93-10	10/28/2010	WO0912 INNER BELT LOOP	14/31668	267730	04/2011		16,688.77
10/29/2010	738501	SHERMAN & HOWARD L.L.C.	3414				3,595.75
10-1611-416.35-60	10/22/2010	CONSULTANT SERVICES	503562	278867	04/2011		3,595.75

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650-1567-487.36-90	10/26/2010	MISC SERVICES	29357	279127	04/2011	275.00	
650-1567-487.36-90	10/26/2010	MISC SERVICES	29358	279127	04/2011	235.00	
521-1591-493.36-50	10/28/2010	P1 WINDOW CLEANING	29386	279188	04/2011	1,150.00	
521-1592-493.36-50	10/28/2010	P2 WINDOW CLEANING	29387	279188	04/2011	1,575.00	
521-1593-493.36-50	10/28/2010	P3 WINDOW CLEANING	29388	279188	04/2011	585.00	
521-1594-493.36-50	10/28/2010	P4 WINDOW CLEANING	29389	279188	04/2011	975.00	
10/29/2010	738510	SUNSET EXCAVATION	11477			3,300.00	
505-7515-609.36-71	10/21/2010	MISC SERVICES	904719	279006	04/2011	3,300.00	
10/29/2010	738520	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			65,351.95	
150-2226-422.23-10	10/20/2010	FIRE1:UNLEADED 420-GAL	78480 FIRE1	276337	04/2011	1,074.74	
150-2226-422.23-10	10/20/2010	FIRE1:DIESEL/180 GALLONS	78481 FIRE1	276337	04/2011	463.75	
502-0000-141.00-00	10/21/2010	WATER PARTS AND SUPPLIES	78962		04/2011	15,650.79	
502-0000-141.00-00	10/21/2010	WATER PARTS AND SUPPLIES	78476		04/2011	468.91	
601-0000-141.00-00	10/27/2010	MP	78766		04/2011	7,498.37	
601-0000-141.00-00	10/27/2010	MP	78606		04/2011	15,999.34	
561-7113-711.23-10	10/25/2010	INVOICE #78899	78899/78947	F11788	04/2011	11,927.25	
561-7113-711.23-10	10/25/2010	INVOICE #78947	78899/78947	F11788	04/2011	12,268.80	
10/29/2010	738527	UNITED ROTARY BRUSH CORP	5955			10,773.84	
561-7113-711.23-20	10/27/2010	MISC SERVICES	CI110701	278132	04/2011	10,773.84	
10/29/2010	738528	USDA APHIS	8313			8,993.01	
561-7110-711.35-90	10/26/2010	INVOICE #7330-11001/10-73	7330-11001	F11793	04/2011	8,993.01	
10/29/2010	738532	VERIZON WIRELESS	14490			29,282.32	
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717-2166-421.34-50	10/26/2010	VERIZON OCTOBER 2010	CCSIU		04/2011	85.04	
10-1611-416.34-50	10/26/2010	VERIZON OCTOBER 2010	LEGAL		04/2011	79.46	
150-2225-422.34-50	10/26/2010	VERIZON OCTOBER 2010	COMM CENTER 911		04/2011	119.13	
650-1565-487.34-50	10/26/2010	VERIZON OCTOBER 2010	FACILITIES BOC		04/2011	54.78	
650-1567-487.34-50	10/26/2010	VERIZON OCTOBER 2010	FACILITIES CH		04/2011	89.87	
10-1512-415.34-50	10/26/2010	VERIZON OCTOBER 2010	FINANCE PAT		04/2011	102.46	
150-2221-422.34-50	10/26/2010	VERIZON OCTOBER 2010	FIRE DEPT		04/2011	531.11	
10-1750-417.34-50	10/26/2010	VERIZON OCTOBER 2010	HUMAN RESOURCES		04/2011	42.53	
620-1913-482.34-50	10/26/2010	VERIZON OCTOBER 2010	ITD GIS		04/2011	12.91	
620-1911-482.34-50	10/26/2010	VERIZON OCTOBER 2010	ITD		04/2011	99.29	
260-5517-455.34-50	10/26/2010	VERIZON OCTOBER 2010	LIBRARYOUTREACH		04/2011	25.84	
260-5512-455.34-50	10/26/2010	VERIZON OCTOBER 2010	LIBRARY		04/2011	176.94	
10-1100-411.34-50	10/26/2010	VERIZON OCTOBER 2010	MAYOR		04/2011	42.47	
601-1550-481.34-50	10/26/2010	VERIZON OCTOBER 2010	MOTOR POOL		04/2011	54.40	
10-1220-412.34-50	10/26/2010	VERIZON OCTOBER 2010	DRUG COURT		04/2011	164.02	
10-1212-412.34-50	10/26/2010	VERIZON OCTOBER 2010	MUNI JUDGE		04/2011	152.51	
240-4301-419.34-50	10/26/2010	VERIZON OCTOBER 2010	PLANNING		04/2011	12.91	
150-2111-421.34-50	10/26/2010	VERIZON OCTOBER 2010	POLICE		04/2011	10,880.28	
251-2187-421.34-50	10/26/2010	VERIZON OCTOBER 2010	POLICE FORENSIC		04/2011	66.51	

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10-5110-453.34-50	10/26/2010	VERIZON OCTOBER 2010	PRPL ADM		04/2011	66.59
10-5121-451.34-50	10/26/2010	VERIZON OCTOBER 2010	PRPL-RECREATION		04/2011	137.62
10-5140-436.34-50	10/26/2010	VERIZON OCTOBER 2010	CEMETERY		04/2011	67.41
10-5112-452.34-50	10/26/2010	VERIZON OCTOBER 2010	PARKS PMD		04/2011	41.06
10-5112-452.34-50	10/26/2010	VERIZON OCTOBER 2010	PARKS		04/2011	1,250.59
10-5112-452.34-50	10/26/2010	VERIZON OCTOBER 2010	PARKS IRRIGTION		04/2011	216.02
10-1543-415.34-50	10/26/2010	VERIZON OCTOBER 2010	PURCHASING		04/2011	67.69
660-3110-431.34-50	10/26/2010	VERIZON OCTOBER 2010	PW ADM		04/2011	132.60
209-4451-428.34-50	10/26/2010	VERIZON OCTOBER 2010	BUILDING		04/2011	182.74
670-3141-489.34-50	10/26/2010	VERIZON OCTOBER 2010	ENGINEERING		04/2011	1,001.87
541-3121-435.34-50	10/26/2010	VERIZON OCTOBER 2010	SOLID WASTE		04/2011	47.48
211-3132-433.34-50	10/26/2010	VERIZON OCTOBER 2010	STREET/TRAFFIC		04/2011	345.57
541-3123-435.34-50	10/26/2010	VERIZON OCTOBER 2010	SW ON CALL		04/2011	118.78
502-7700-611.34-50	10/26/2010	VERIZON OCTOBER 2010	PUD ENVIRN 1/2		04/2011	17.94
512-8700-628.34-50	10/26/2010	VERIZON OCTOBER 2010	PUD ENVIRN 1/2		04/2011	17.93
502-7400-603.34-50	10/26/2010	VERIZON OCTOBER 2010	WATER TREATMENT		04/2011	792.83
502-7500-609.34-50	10/26/2010	VERIZON OCTOBER 2010	WATER SYSTEMS		04/2011	306.55
512-8500-625.34-50	10/26/2010	VERIZON OCTOBER 2010	WASTEWATER SYS		04/2011	730.08
502-7312-602.34-50	10/26/2010	VERIZON OCTOBER 2010	PWBLKNP MTRSHOP		04/2011	1,048.06
502-7314-602.34-50	10/26/2010	VERIZON OCTOBER 2010	PWBLKNP STORES		04/2011	116.41
502-7311-602.34-50	10/26/2010	VERIZON OCTOBER 2010	PWBLKNP OFFICE		04/2011	112.15
512-8400-623.34-50	10/26/2010	VERIZON OCTOBER 2010	WASTEWATER TREA		04/2011	1,056.62
606-1931-484.34-50	10/26/2010	VERIZON OCTOBER 2010	TELECOMM SYS		04/2011	1,568.11
571-7142-713.31-60	10/26/2010	VERIZON OCTOBER 2010	ON-CALL MET		04/2011	90.65
571-7141-713.34-50	10/26/2010	VERIZON OCTOBER 2010	MET TRANSIT		04/2011	35.70
10-4321-419.34-50	10/26/2010	VERIZON OCTOBER 2010	CODE ENFORCEMT		04/2011	133.85
150-2170-441.34-50	10/26/2010	VERIZON WSCA OCT 2010	AN SHELTER MDT		04/2011	215.09
717-2166-421.34-50	10/26/2010	VERIZON WSCA OCT 2010	CCSIU AIR CARD		04/2011	528.16
717-2166-421.34-50	10/26/2010	VERIZON WSCA OCT 2010	CCSIU RAVEN		04/2011	86.02
150-2221-422.34-50	10/26/2010	VERIZON WSCA OCT 2010	FIRE DEPT AIR C		04/2011	43.01
150-2221-422.34-50	10/26/2010	VERIZON WSCA OCT 2010	FIRE MDT		04/2011	559.15
620-1911-482.34-50	10/26/2010	VERIZON WSCA OCT 2010	ITD AIR CARD		04/2011	75.82
260-5517-455.34-50	10/26/2010	VERIZON WSCA OCT 2010	LIBRARYOUTREACH		04/2011	129.03
150-2111-421.34-50	10/26/2010	VERIZON WSCA OCT 2010	MDT TOUGHBOOK		04/2011	3,566.61
150-2111-421.34-50	10/26/2010	VERIZON WSCA OCT 2010	POLICE ICAC		04/2011	54.67
150-2111-421.34-50	10/26/2010	VERIZON WSCA OCT 2010	POLICE AIR CARD		04/2011	43.01
150-2111-421.34-50	10/26/2010	VERIZON WSCA OCT 2010	POLICE USM MDT		04/2011	165.96
10-5112-452.34-50	10/26/2010	VERIZON WSCA OCT 2010	PARKS PMD AIR		04/2011	43.01
209-4451-428.34-50	10/26/2010	VERIZON WSCA OCT 2010	BUILDING AIR		04/2011	344.14
502-7500-609.34-50	10/26/2010	VERIZON WSCA OCT 2010	PUD AIR CARD		04/2011	43.01
10/29/2010	738535	WESTERN MUNICIPAL CONSTRUCTION	11742			152,431.46
513-8591-625.93-40	10/28/2010	WO1001 WTR&SWR REPLC SCH1	5	274055	04/2011	152,431.46
10/29/2010	738540	YELLOWSTONE COUNTY FINANCE DPT	16736			4,767.98
150-2111-421.35-90	10/27/2010	MISC SERVICES	SEPTEMBER	279131	04/2011	4,767.98
10/29/2010	738542	YELLOWSTONE E-WASTE SOLUTIONS	21399			4,371.79
541-3123-435.35-90	10/21/2010	EWASTE RECYCLE	101410001	278873	04/2011	4,371.79

PREPARED 10/29/2010, 15:55:45

PROGRAM: GM350L

CITY OF BILLINGS

A/P CHECKS BY PERIOD AND YEAR

MINIMUM AMOUNT: 2,500.00

FROM 10/29/2010 TO 10/29/2010

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
10/29/2010	738543	YELLOWSTONE VALLEY ANIMAL SHEL	20525				20,256.05
150-2170-441.39-90	10/25/2010	CONTRACT 9-22-10\10-21-10	09-1151	279072	04/2011		20,256.05
DATE RANGE TOTAL *							968,200.13 *

Regular City Council Meeting

Date: 11/22/2010

TITLE: Zone Change #869 - Public Hearing and 1st reading - 412 Hallowell Lane

PRESENTED BY: Candi Beaudry,
Planning & Community Services

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request from Public (P) to Residential 6,000 (R-60) on a 50 foot by 150 foot lot in the northeast corner of Lot 3 in Section 9, T1S, R26E located at 412 Hallowell Lane. The property is owned by Lean 2, LLP and the agent is Marshall Phil of Blueline Engineering. The owners conducted a pre-application neighborhood meeting on September 27, 2010 at 7:00 pm at the residence on the subject property. The Zoning Commission conducted a public hearing on November 3, 2010, and is forwarding a recommendation of approval and adoption of the 12 criteria on a 5-0 vote.

ALTERNATIVES ANALYZED

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

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

FINANCIAL IMPACT

If approved, the zone change will ensure the long-term taxable value of the property and protect the city tax base in this area.

BACKGROUND

The applicant is requesting to rezone this property near the northeast corner of Optimist Park just south of Vaughn Lane. The current zoning, Public, was initially applied to the property in 1973 when the property was outside the city limits. The Public zoning district does not allow any residential use of property. The property was annexed in to the city in 2004 but the owner did not request a change in the zoning at the time of annexation. According to the applicant and agent, the dwelling has been used as a three-unit, multi-family dwelling for some time although the property is not assessed as a multifamily dwelling. The property tax records indicate the dwelling was constructed in 1927 and then remodeled in 1990. The Department of Revenue lists the dwelling as a single family residence. The proposed zoning of R-60 does not make the 3-plex conforming to zoning and the owner will need approval of a variance to re-construct a 3-plex on the property. The R-60 would allow the owner to re-build a single family or two-family dwelling with the current 7,500 square feet of lot area.

Hallowell Lane is a local street that connects State Avenue and King Avenue East and carries primarily local residential traffic. There are no traffic counts available for this street, but Optimist Park and the connection between State Avenue and King Avenue East likely generates traffic not normally associated with a local street. Property to the east and north has been developed

for single family and multifamily uses. There is a 4-plex directly north but most property on the east side of Hallowell Lane is single family residences. The Optimist Park off-street parking lot is directly south and to the west are one and two-family dwellings on Vaughn Lane. The zone change will not increase or decrease existing traffic on Hallowell Lane.

The applicant conducted a pre-application neighborhood meeting on September 27, 2010 at the residence at 412 Hallowell Lane. No surrounding property owners attended the meeting. No surrounding property owners contacted the Planning Division staff prior to the Zoning Commission public hearing.

The owners have proposed the zone change so the multi-family dwelling can be replaced in the future if necessary. The current zoning does not allow any residential use of the property. There are no current plans to re-build the structure or change the nature or extent of the current use. The zone change will facilitate the financing and insuring of the property in the future. The lot is not large enough in the proposed R-60 to support a 3-plex dwelling unless the owner obtains a lot area variance from the Board of Adjustment. The proposed zoning would allow the owner the ability to reconstruct if necessary either a single family or two-family dwelling. Several similar zone changes have been approved in this Southwest Corridor neighborhood including a 2008 zone change from R-96 to R-60 for existing dwellings at 203 Monroe Street.

The proposed R-60 zone is compatible with the zoning west, north and east of the subject property. The lot directly north is developed with a 4-plex apartment building, the lots to the west are single family and two-family dwellings and lots across Hallowell Lane to the east are primarily single family dwellings.

The Planning Division reviewed the application and recommended approval based on the twelve (12) criteria for zone changes. The subject property is adjacent to R-60 zoning and no changes in the character of the property are predicted. The uses allowed within the proposed R-60 zoning are compatible with the surrounding zoning and neighborhood character. Any re-development of the property requires compliance with the new zoning and the ability to re-build a 3-plex will depend on a lot area variance from the Board of Adjustment. The 2008 Growth Policy encourages predictable land use decisions that are consistent with neighborhood character and land use patterns. The existing use and proposed zoning are consistent with this neighborhood and land use pattern.

The Zoning Commission is forwarding a recommendation of approval and adoption of the 12 criteria on a 5-0 vote.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on November 3, 2010, and received the Planning Staff recommendation and report. The applicant's agent, Marshall Phil, of Blueline Engineering, provided testimony in favor of the application. There was no other testimony. The Zoning Commission voted 5-0 to recommend approval and adoption of the 12 criteria.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Prior to any action to approve or disapprove, the City Council will consider the recommendation of the Zoning Commission and shall consider the following:

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

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

- Predictable land use decisions that are consistent with neighborhood character and land use

patterns. (Land Use Element Goal, page 6)

The proposed zoning would permit the existing residential use to continue and would allow re-construction if necessary of either a single family or two-family dwelling. The existing 3-plex could only be rebuilt if a lot area variance is granted by the Board of Adjustment. Residential uses to the north and west are compatible with the existing use and the proposed zoning.

• Affordable housing for all income levels dispersed throughout the City. (Land Use Element Goal, Page 6)

The proposed zoning will allow the preservation of existing affordable housing in the area and allow the owner the surety of future financing and insurance for the residential use.

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

There should be no effect on traffic congestion. The existing dwelling likely generates between 20 and 30 vehicle trips per day and the owner is not proposing any change in the existing 3-plex.

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

The subject property is currently serviced by City Fire and Police. Any future re-construction of the 3-plex would have no effect on these services.

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

The proposed zoning would permit the existing 3-plex dwelling to continue and would allow reconstruction of either a single family or two-family dwelling in the future. The current zoning would not allow any reconstruction for residential uses on the lot. The new zoning will allow the owner to invest in maintenance and improvement to the residential use without risking a total loss of that investment.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning prevent overcrowding of land?

The proposed zoning, like all zoning districts, contains limitations on the maximum percentage of the lot area that can be covered with structures. The proposed R-60 zone allows 40% lot coverage and the current Public zone allows up to 50% lot coverage. The proposed R-60 zone and the Public zone have similar setback requirements.

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

The new zoning does avoid undue concentration of population. The R-60 zoning allows single family homes on a minimum lot size of 6,000 square feet and two-family dwellings on lots of at least 7,000 square feet. Reconstruction of the existing 3-plex would require a lot area variance approval from the Board of Adjustment.

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

Transportation: The proposed zoning should not impact the surrounding streets.

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

Schools and Parks: There should be no impact to schools from the proposed zone change.

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

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

The proposed zoning will allow preservation of an existing multi-family dwelling in an established neighborhood. Many of the adjacent lots to the north and west have similar development and the proposed zoning is in character with the area.

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

The subject property is suitable for the requested zoning district. The location is on a corner lot adjacent to a large public park and a medium density neighborhood. The new zoning allows the existing residential use to continue.

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

Surrounding residential property to the north and west exhibits higher taxable land value. The existing dwelling although rated in average condition will likely need future investment to maintain the quality of the structure. The R-60 allows the owner to invest in the property without risking a total loss of the investment. The proposed zoning will conserve the value of this building.

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

The proposed zoning will permit the current development to continue and could allow future reconstruction if necessary. This is the most appropriate use of the lot.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval and adoption of the 12 criteria for Zone Change #869 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

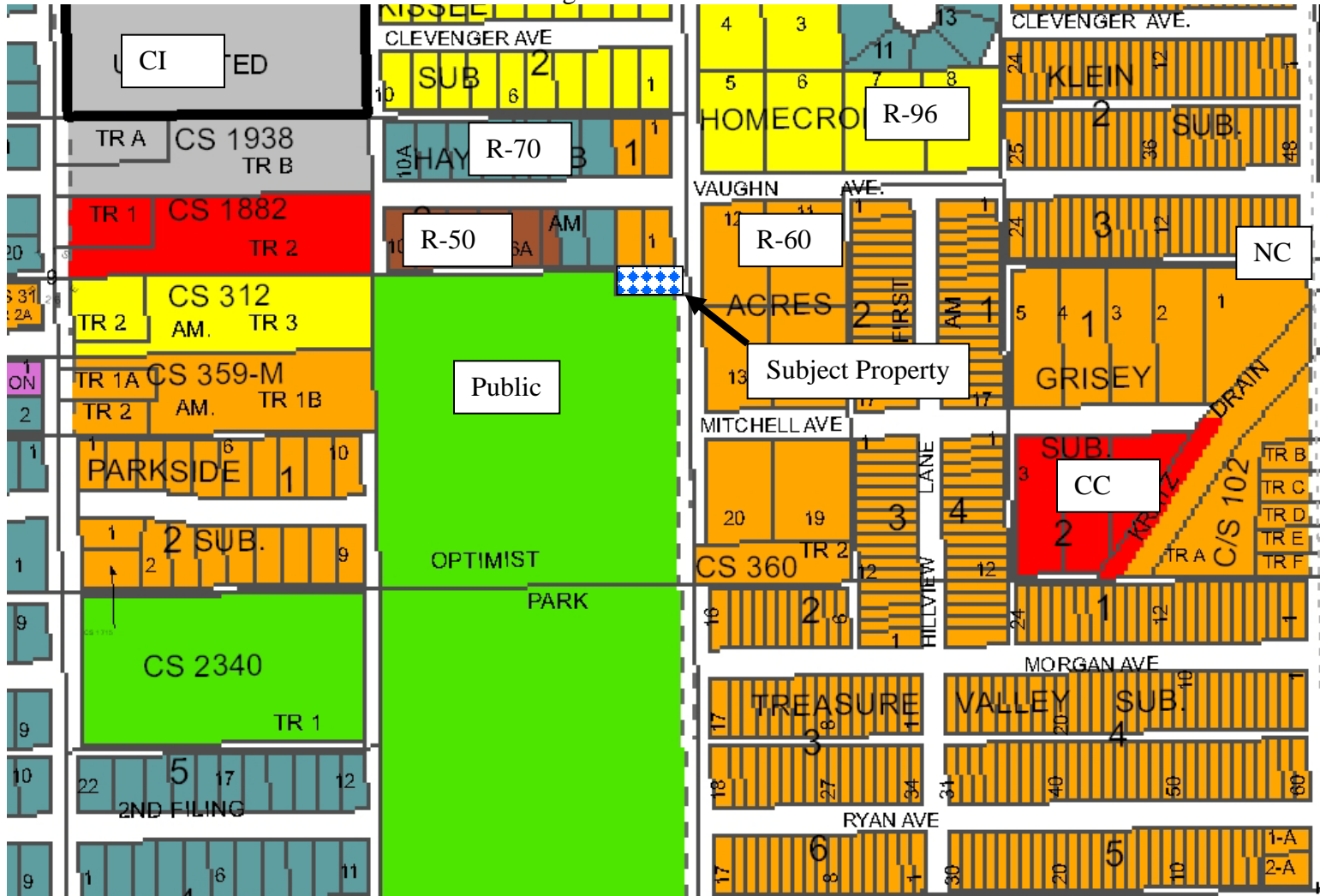
Attachments

Zoning Map

Site Photos

Applicant's Letter

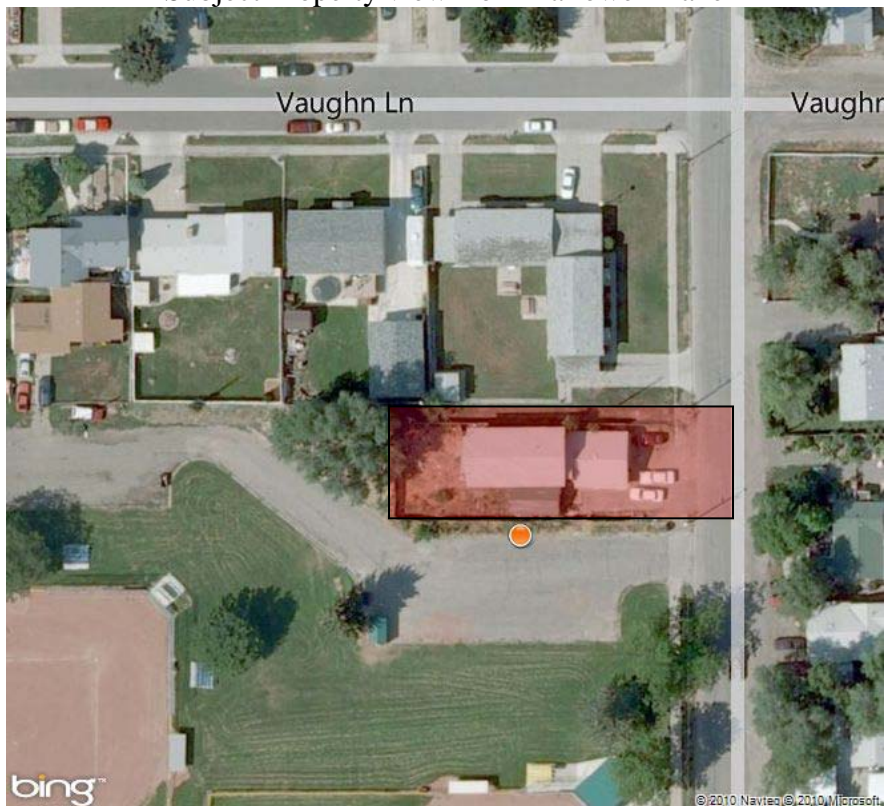
Attachment A: Surrounding Zoning
Zone Change #869 – 412 Hallowell Lane



Attachment B
Site Photographs, Zone Change #869– 412 Hallowell Lane



Subject Property view from Hallowell Lane



Aerial Map

Attachment B, continued
Site Photographs, Zone Change #869 – 412 Hallowell Lane



View south and west from east side of Hallowell Lane



View north and west from east side of Hallowell Lane

Attachment C
Applicant's Letter



October 4, 2010

2110 Overland Avenue, Suite 119B
Billings, MT 59102
Work: 406-294-2294
Fax: 406-294-2295

City of Billings
Planning and Community Services Department
510 North Broadway
4th Floor, Parmly Library
Billings, MT 59101

RE: Special Review Application

To Whom It May Concern:

I am applying for a Zone Change from Public to R-6000 to allow the existing triplex to be located on the proper zoning for the use and the area. This parcel was not rezoned when it was annexed into the City and the structure was existing at that time. The area of the parcel within the Zone Change is 7,500 square feet.

A neighborhood meeting was held on Monday, September 27, 2010 at 7:00 P.M. A mailing list was obtained from the Planning Office and those individuals were sent letters from the owner and engineer along with a copy of the 300' radius map for reference. No meeting minutes are available as none of the individuals invited attended the meeting. We waited until 7:20 and determined that no one was going to show. Based on the attendance of the meeting, the neighbors appear to be in favor of the Zone Change.

Issue 1 of the Land Use Element is covered by the Zone Change to have predictable land use that is consistent with neighborhood. By allowing the Zone Change, the land use becomes more consistent with the R-6000 Zoning to the North and East. The property is currently used as a rental triplex and the proposed use will not change.

Issue 2 of the Public Facilities and Services Element is met by this application. The property is being well maintained by the current owner and the site is not dipapidated or unsafe.

Issue 7 of the Community Health Element will be satisfied. This triplex provides adequate affordable housing options for the community.

I am available to answer any questions regarding the requested Zone Change. Thank you for your consideration of this proposal.

Sincerely,

A handwritten signature in blue ink that reads "Marshall Phil".

Marshall Phil