

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

January 24, 2011

6:30 P.M.

CALL TO ORDER – Mayor Hanel

PLEDGE OF ALLEGIANCE – Mayor Hanel

INVOCATION – Councilmember McFadden

ROLL CALL

MINUTES: January 10, 2011

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and 2b ONLY.

Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda.)

1. **CONSENT AGENDA** -- Separations:
 - A. **Approval** of lease with McKinstry Montana, LLC, for 10 vehicle parking spaces at the Downtown Transit Transfer Center; 10-month lease (2/1/11-10/30/11) with month-to-month option for additional 12 months; \$500 monthly revenue.
 - B. **Amendment #14, Airport Engineering Services Contract for 2011 AIP Projects;** Morrison Maierle, Inc.; \$464, 370.

- C. **Resolution of Intent To Construct W.O. 09-11, Rimrock Road from 17th Street West to Forsythia Boulevard;** street widening, installation of curb/gutter, sidewalk, drive approaches, and street lights; and set a public hearing date for February 14, 2011.
- D. **Acceptance of Bequest** to Parmly Billings Library from the will of Mr. Lilburn F. "Wally" Wallace; \$5,000.
- E. **Acceptance of Donation** from St. Vincent Healthcare on behalf of the Billings Area Resource Network; \$1,000.
- F. **Approval** of application for an AmeriCorps*VISTA Project authorizing City staff to negotiate and finalize project if awarded; approximately \$15,000 to \$20,000.
- G. **Resolution authorizing application submittal and finalization** with Montana Department of Transportation for paratransit operations assistance; TransADE-\$50,000, 5317 New Freedom-\$65,000, and 5316 JARC-\$150,000.
- H. **Acceptance** of 2011 AIP grant from Federal Aviation Administration (FAA), \$3,400,000, including City match of \$171,515.15.
- I. **Authorization** allowing Judge Mary Jane Knisely to retain her municipal court judicial robe as a gift for her years of service to the City of Billings.
- J. **Resolution** recognizing the incorporation of the South Billings Urban Renewal Association and the initial members of its Board of Directors.
- K. **Preliminary Plat One-Year Extension** for McCracken Subdivision, 2nd Filing, Amended Lot 1-A, Block 1, generally located west of the intersection of Lake Elmo Drive and Wicks Lane; extending preliminary plat approval to 1/14/2012.
- L. **Preliminary Subsequent Minor Plat** of Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing, described as two lots on approximately 1.25 acres of land for commercial and industrial development generally located on the east side of Barnard Street, south of Monad Road. Herbert and Geraldine Mangis, owners; Blueline Engineering, LLC, agent; approval of variance request, conditional approval of plat, and adoption of the Findings of Fact.
- M. **Bills and Payroll:**
 - 1. December 23, 2010
 - 2. December 30, 2010

REGULAR AGENDA:

2. **St. Vincent Healthcare Subdivision**
 - a. **PUBLIC HEARING AND RESOLUTION** vacating street rights-of-way within The Village Subdivision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
 - b. **PRELIMINARY MAJOR PLAT** of St. Vincent Healthcare Subdivision, generally located on the west side of Shiloh Road between Monad Road and King Avenue West. Sisters of Charity of Leavenworth Health System, Inc., owner; St. Vincent Healthcare Foundation, Inc., sub-divider. Approval of variance request, conditional approval of preliminary plat, and adoption of the Findings of Fact. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
 - c. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #870:** a zone change to allow a mixture of commercial, cultural, medical, clinical and residential uses in a Planned Development on a 111.91 acre parcel of land described as Blocks 1 through 5, The Village Subdivision; Sisters of Charity of Leavenworth Health Systems, owner; Will Ralph, Sanderson Stewart and Doug James, Moulton Bellingham PC, representatives. Zoning Commission recommends approval and adoption of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
3. **PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #11-01:** a 1.5 acre parcel located on the northwest corner of King Avenue East and Calhoun Lane, legally described as a portion of the south 310 feet of Lot 24, Sugar Subdivision; Almon R. Blain Jr., owner and petitioner. Staff recommends acceptance of quitclaim deed from Yellowstone County for its interest in a portion of Calhoun Lane right-of-way, annexation of right-of-way, and approval of the Resolution. (Action: approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #871:** a zone change from Residential 9,600 to Entryway General Commercial on a 1.554-acre parcel of land described as the south 310 feet of Lot 24, Sugar Subdivision, less 4,194 square feet for King Avenue East right-of-way, and located at 766 Calhoun Lane. Almon Blain, Jr., owner. Zoning Commission recommends approval and adoption 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; comments limited to three (3) minutes per speaker. Please sign 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: 01/24/2011

TITLE: Downtown Transfer Center Parking Space Lease with McKinstry Montana, LLC

PRESENTED BY: Thomas H. Binford

Department: Transit

Information

PROBLEM/ISSUE STATEMENT

During the design and construction of the Downtown Transit Transfer Center (DTTC), MET Transit had the opportunity to build a number of automobile parking spaces for future use. Currently, MET Transit has no immediate need for the parking spaces and has already leased 13 spaces to Yellowstone County, which Council approved on November 23, 2009. With the start of construction on the new Federal Courthouse project, McKinstry Montana, LLC has requested the opportunity to lease 10 vehicle parking stalls, located on the southwest side of the DTTC. McKinstry Montana, LLC plans to utilize the stalls as the location in which they will park their construction site office trailer. The term of the Lease shall be for 10 months with the option to extend it on a month-to-month basis for an additional 12 months. The Lease identifies that the Lessee is responsible for maintaining the leasehold, and includes the appropriate insurance coverage requirements and indemnification language.

ALTERNATIVES ANALYZED

The Council may:

- Approve the Lease Agreement with McKinstry Montana, LLC for 10 parking stalls; or
- Not approve the Lease Agreement with McKinstry Montana, LLC for 10 parking stalls.

FINANCIAL IMPACT

The Lease will generate \$500 per month for a total of \$5,000 over the initial term of the Lease. This will be considered operating revenues for MET Transit. The amount of \$50 per space, per month is the same as currently being charged to Yellowstone County in their Lease.

RECOMMENDATION

Staff recommends that City Council approve the Lease and authorize the Mayor to execute the 10 month DTTC Parking Space Lease with McKinstry Montana, LLC.

APPROVED BY CITY ADMINISTRATOR

Attachments

McKinstry Montana, LLC Parking Lease

DOWNTOWN TRANSIT TRANSFER CENTER

PARKING SPACE LEASE

THIS LEASE made and entered into this 16th day of December 2010, by and between the following:

CITY OF BILLINGS, MONTANA, hereinafter designated
"Lessor"

and

MCKINSTRY MONTANA, LLC, hereinafter
designated "Lessee"

W I T N E S S E T H

RECITALS

- 1) Lessor owns and operates the Downtown Transit Transfer Center (hereinafter designated the Transfer Center) situated in the City of Billings, Montana, and
- 2) Lessor deems it advantageous to itself and the operation of the Transfer Center to lease to the Lessee a certain parcel of land hereinafter described together with certain privileges, rights, uses, and interests, and
- 3) Lessee is an individual wishing to engage in construction vehicle parking, and proposes to lease on a net basis from Lessor said parcel of land and to avail itself of the same privileges, rights, uses, and interests contemplated herein, and
- 4) Lessee has indicated a willingness and ability to properly keep and maintain said premises in accordance with standards established by Lessor.

NOW THEREFORE, the parties hereto covenant and agree as follows:

ARTICLE I

PREMISES AND PRIVILEGES

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

Ten (10) Vehicle Parking Stalls located along the southwest side of the Downtown Transfer Center property.

Premises is further depicted on attached "Exhibit A," and hereto attached and made a part hereof.

ARTICLE II

TERM, POSSESSION, AND RENEWAL

A. The term of this Lease shall be for ten (10) months, commencing on February 1, 2011, and terminating on November 30, 2011. Lessor also grants to Lessee the option to renew this Lease for additional one-month terms, subject to the provisions of this Lease for up to an additional 12 months or as mutually agreeable to the parties to this agreement. It is further provided, that Lessee may exercise this option only in the event all rents have been fully paid and that all provisions of this Lease to be observed by Lessee have been fully and faithfully observed.

ARTICLE III

LEASE RENTAL AND FEES

A. Rental. For the Premises described in Article I, Paragraph A., herein, Lessee shall pay to Lessor \$50.00 per month per vehicle parking stall for a total monthly rental of

\$500.00. Said rental shall be payable monthly, in advance, without billing, on the first day of each month.

B. Interest Penalty. Without waiving any other right or action available to the Lessor, in the event of default in the payment of Lease rentals herein, or any other rentals, fees, or charges owed Lessor, the amount due shall accrue interest at the rate of one and one-half percent (1.5%) per month from the date such rentals, fees, or charges were due and payable, until paid in full. Said interest shall not apply with respect to items being contested in good faith by Lessee and which are resolved in Lessee's favor.

ARTICLE IV

OBLIGATIONS OF LESSEE

A. Condition of Premises. It shall be the sole responsibility of the Lessee to keep, maintain, and operate the entirety of the Premises and all improvements and facilities placed thereon at Lessee's sole cost and expense. This Lease in every sense shall be without cost or expense to the Lessor. Lessee accepts the Premises in its present condition, will repair and maintain any installations thereon, and will remove or cause to be removed any debris to the extent required for its continuing use thereof.

Damages to the Premises caused by Lessee, sub lessees, Lessee's employees, agents, or contractors, shall be the sole responsibility of Lessee. Said damage shall be immediately reported to Lessor and repaired at Lessee's expense. Should Lessor identify damage at the Premises, Lessor will give written notice to Lessee to repair said damage, and Lessee shall make the repairs to identified damage within fifteen (15) days of receiving the written notice. If

damage is found and Lessor is required to make the repairs, for whatever reason, all costs and charges associated with the repairs will be billed to Lessee and will be payable within fifteen (15) days of receipt.

B. Maintenance. Lessee shall, at their sole cost and expense, maintain the Premises, improvements, and appurtenances thereto in a presentable condition free of refuse and debris consistent with good business practice.

C. Specific Use. The use of the Premises shall be for the purpose of parking automotive vehicles and/or a construction-site office trailer. Lessee shall not allow the Premises to be used for the storage of such items as boats, disabled vehicles, storage canisters, dumpsters, pallets, or other containers.

D. Trash, Garbage, and Refuse. Lessee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal of all trash, garbage, and other refuse occurring as a result of Lessee's occupancy of the Premises. Any cost associated with the handling and disposal of any trash, garbage, and other refuse shall be the sole responsibility of the Lessee. Lessee shall provide and use Lessor approved receptacles for all garbage, trash, and other refuse, and shall place them on the Premises in a location acceptable to the Lessor for their removal. Piling of boxes, cartons, barrels, or other similar items in an unsightly or unsafe manner on or about the Premises, is forbidden.

E. Signs. Lessee shall not maintain on the Premises any billboards or advertising signs; provided however, that Lessee may maintain on the premises information signs or signs that identify the Lessee and to designate the Lessee's construction site office and parking

areas. The size, location, number, and design of which shall be subject to prior written approval of Lessor.

F. Federal, State, and Local Regulations. Lessee acknowledges that the right to use said Premises in common with others authorized to do so, shall be exercised subject to and in accordance with the laws, rules, regulations, and ordinances of the United States of America, the State of Montana, and the City of Billings, now in force or hereafter prescribed or promulgated by authority or by law and shall be closely observed during the full term of this Lease.

G. Roadways, Alleys, and Vehicle Right-of-Ways. Lessee shall ensure that Lessee's and/or sub lessees' vehicles, construction site office and other equipment do not block the public use roadways, alleys or other designated vehicle right-of-ways adjacent to the leased Premises.

H. Hazardous Substances. Lessee assumes full responsibility for the proper and legal use, handling, storage, and disposal of any hazardous substances used, consumed or stored on the Premises. "Hazardous Substance" shall be interpreted broadly to mean any substance or toxic material, hazardous or toxic or radioactive substance, or other similar term by any Federal, State, or local environmental law, regulation, or rule presently in effect or promulgated in the future, as such laws, regulations, or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease. Lessee shall hold Lessor harmless from and indemnify Lessor against and from any damage, loss, expenses, or liability resulting from any breach of these representations and warranty, including all attorneys' fees and litigation costs and expenses incurred as a result thereof.

ARTICLE V

INSURANCE AND INDEMNIFICATION OF LESSOR BY LESSEE

A. Indemnification. Lessee hereby agrees to indemnify, defend and hold the Lessor harmless at all times from and against all liabilities, actions, claims, demands, judgments and all costs, expenses and fees, including litigation costs and attorney's fees, incurred by the Lessor, arising from the use, occupancy or non-use of the Premises by the Lessee, or arising from Lessee's failure to comply with any Article of this Lease. Such indemnification shall include but not be limited to carelessness, negligence, improper conduct or breach of this Lease by Lessee or its agents, employees, subcontractors, customers, suppliers or licensees.

B. Insurance. During the term of this Lease, Lessee shall procure and maintain in effect a commercial general liability insurance policy (occurrence form only) providing coverage for bodily/personal injury, death and property damage, in the minimum amount of \$750,000 per claim and \$1,500,000 per occurrence. This insurance policy shall provide that the Lessor is a primary additional insured, and that any insurance maintained by the Lessor will be endorsed on lessee's policy as excess and non-contributory. At the time of execution of the Lease, Lessee shall furnish a Certificate of Insurance showing the required insurance is in effect. The insurer(s) of the policy or policies shall provide thirty (30) days advance written notification to Lessor of any reductions in policy coverage, any cancellation or other adverse amendments to the policy or policies affecting the covered risks. Insurance coverage shall be maintained with insurance underwriters authorized to do business in the State of Montana and that are satisfactory to the Lessor. Lessee shall cause a current Certificate of Insurance to be on file with Lessor at all times throughout the term of the Lease.

If the Lessor determines that the minimum amounts of insurance have become inadequate during the term of this Lease, Lessee agrees that it will increase the minimum limits by reasonable amounts upon the request of Lessor.

ARTICLE VI

TERMINATION AND HOLDING OVER OF LEASE, CANCELLATION, AND TRANSFER

A. Termination and holding over. This Lease shall terminate at the end of the full term hereof without any notice by either party, except as indicated in Article II, Paragraph A. A holding over by the Lessee, its assignees or sub lessees beyond the expiration of the term shall not be permitted without the written consent of the Director of Aviation and Transit and then only on a month-to-month basis. Such holdover tenancy shall be governed by the same conditions, restrictions, limitations and covenants of this lease as set forth herein or as subsequently amended.

Upon termination, Lessee, its assignees or sub lessees shall have the right to remove all moveable fixtures, equipment and all other personal property installed by them on the Premises, and all expenses connected with such removal shall be borne by the Lessee; said property to be removed within ten (10) days after termination of the Lease.

In the event the Lessee, its assignees or sub lessees elect not to remove from the Premises, personal property, automotive vehicles, or any other item upon termination of the Lease, the disposition of the personal property, automotive vehicles, or any other item will be left to the sole discretion of the Lessor. If Lessor elects to remove said personal property, automotive vehicles, or any other item because of failure of Lessee to do so, the cost of removal, and other related actions shall be solely at Lessee's expense.

B. Cancellation by Lessee. In addition to the rights of termination granted to the lessee in Section VI, Paragraph A of this Lease, this Lease shall be subject to cancellation by Lessee after happening of one or more of the following events:

- 1) Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Premises, and the remaining in force of such injunction for a period of at least ninety (90) days.
- 2) The default by Lessor in the performance of any covenant or agreement herein required to be performed by Lessor and the failure of Lessor to remedy such default for a period of ninety (90) days after receipt from Lessee or written notice to remedy same.

Lessee may exercise such right of termination by written notice to Lessor at any time after the lapse of the above applicable periods of time and this Lease shall terminate as of that date. Rental due hereunder shall be payable only to the date of the happening of the event which results in said termination. Upon termination under the provisions of the Paragraph, Lessee shall have the same rights as described in Article VI, Paragraph A. herein.

C. Cancellation by Lessor.

- 1) This Lease shall be subject to cancellation by Lessor after the happening of one or more of the following events
 - a) Lessee is in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of fifteen (15) days after payment is due.
 - b) Lessee files a voluntary petition of bankruptcy.

- c) Lessee makes a general assignment for the benefit of creditors.
 - d) Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty (30) days after written notice from Lessor of said default.
- 2) In the event of termination because of the happening of any of the aforesaid events, Lessor may take immediate possession of the Premises and remove Lessee's effects, without being deemed guilty of trespassing. Upon said entry, this Lease shall immediately terminate.
- 3) It is agreed that failure of Lessor to declare this Lease terminated or to reenter and take possession upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to declare this Lease null and void by reason of any subsequent violation of the terms of this Lease.

D. Subleasing, Assigning and Transferring. The Lessee shall have the right to sublease, assign or transfer all or any part of Lessee's leasehold interest in the Premises for the same purpose established in Article IV, Paragraph D., provided that prior written approval of the Lessor is obtained. As a condition of said approval, Lessor reserves the right to alter this Lease in any manner deemed necessary by Lessor. Any sublease, assignment, or transfer shall be subject to the conditions, obligations, terms set forth herein, and as may be subsequently amended. Lessee shall be responsible for the observance by its tenants and sub lessees for the terms and covenants of this Lease and any subsequent lease amendments.

ARTICLE VII

GENERAL PROVISIONS

A. Attorney Fees. Should either party employ an attorney or attorneys or utilize the services of in-house attorneys to enforce any of the provisions hereof or to protect its interest in any manner arising under this Lease, the nonprevailing party in any action pursued in a court of competent jurisdiction agrees to pay to the prevailing party all reasonable costs, damages, expenses, and attorney's fees, including fees for in-house attorneys, expended or incurred in connection therewith.

B. Taxes. Lessee shall pay any taxes or assessments, which may be lawfully levied against Lessee's occupancy or use of the Premises or any improvements placed thereon as a result of Lessee's occupancy, but Lessee reserves the right to contest the levy of any tax or assessment, which it feels is unjust.

C. Nondiscrimination. Lessee for itself, its personal representatives, successors in interest, and assignees, as a part of the consideration hereof, does hereby covenant and agree:

1) That no person, on the grounds of race, color, creed, political ideas, sex, age, or physical or mental disability, shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises, or the exercise of its rights and privileges under this Lease.

2) That, in the construction, alteration, expansion or maintenance of any improvements to the Premises on behalf of Lessee and the furnishing of services, no person shall be excluded from participation in, denied the benefits of,

or otherwise be subjected to discrimination on the grounds of race, color, creed, political ideas, sex, age, or physical or mental disability.

3) That Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

D. Modifications and Amendments. Changes or modifications to this Lease will be done in the form of a written lease amendment to be agreed upon and signed by both Lessee and Lessor.

E. Paragraph Headings. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provisions of this Lease or the particular paragraphs.

F. Dispute Resolution. Prior to either party initiating litigation, disputes that cannot be resolved between the Lessee and Lessor concerning the terms of this Lease shall be referred for determination to the Director of Aviation and Transit for the City of Billings.

G. Notices. Notices to Lessor provided for herein shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ATTN: Transit Manager
City of Billings MET Transit
1705 Monad Road
Billings, MT 59101

and notices to Lessee, if sent by certified mail, postage prepaid, addressed to:

Warren Tastad
McKinstry Montana, LLC
135 West Main
Missoula, MT 59802

or to such other addresses as the parties may designate to each other in writing from time to time.

H. Successors and Assignees. All of the terms, covenants and agreements herein contained, or subsequently amended from time to time, shall be binding upon and shall inure to the benefit of successors, assignees and sub lessees of the respective parties hereto.

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

ATTEST:

CITY OF BILLINGS

BY _____
CITY CLERK

BY _____
CITY ADMINISTRATOR

APPROVED AS TO FORM

MCKINSTRY MONTANA, LLC

BY _____
CITY ATTORNEY

BY _____

Regular City Council Meeting

Date: 01/24/2011

TITLE: Approval of Amendment Fourteen with Morrison-Maierle Inc., for Engineering Services for Airport Improvement Program (AIP) 2011 Projects

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

Due to the specialized nature of engineering services required for airfield infrastructure design, including knowledge of the Federal Aviation Administration (FAA) design and grant funding process, the City has historically entered into a five-year term contract to provide engineering services at the Airport. On November 13, 2006, the City approved a five-year contract with Morrison-Maierle, Inc. to provide the project design, site surveys, development of project plans, specifications and bidding documents, contract administration, to include coordination meetings, pay requests, etc. The contract also includes full time on-site inspection, construction surveys, and development and submittal of the final project closeout documents, as required for all Federal AIP projects. The base five-year contract is amended each time a new project is undertaken, and Amendment Fourteen for \$464,370, includes all of the services indicated above for this Summer's AIP projects. The scope of work and associated engineering fees have been reviewed and negotiated by Airport staff and have also been approved by the FAA. This Summer's AIP projects include the rehabilitation of the westerly 2,000 feet of RW 10L, the relocation of Taxiway G, and the installation of new surface painted hold signs. Amendment Fourteen will produce approximately \$3,000,000 in Airport improvements.

ALTERNATIVES ANALYZED

The City Council may:

- Approve Amendment Fourteen with Morrison-Maierle Inc., for Engineering Services for 2011 AIP projects; or
- Decline to approve the Amendment, delaying or postponing this year's AIP projects.

FINANCIAL IMPACT

The total cost of Amendment Fourteen to the five-year engineering contract with Morrison-Maierle, Inc. is \$464,370, and will be funded 95% with a FAA AIP entitlement grant, and 5% with local funds. The FAA's portion will be \$441,151.50 and the City's match is \$23,218.50. This project is included in the CIP and current budget with local match funds available in the Airport's capital account.

RECOMMENDATION

Staff recommends the City Council Approve Amendment Fourteen with Morrison-Maierle, Inc., for Engineering Services for the 2011 AIP projects.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 01/24/2011

TITLE: W.O. 09-11 Rimrock Road; 17th to Forsythia- Resolution of Intent to construct improvements and set a Public Hearing

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

W.O. 09-11 will improve Rimrock Road from 17th Street West to Forsythia Boulevard. Improvements will consist of street widening, installation of curb/gutter, sidewalk, drive approaches, street lights, and other miscellaneous items. This project will also include assessments to property owners for curb/gutter, sidewalk, drive approach, and driveway improvements for lots which do not already have those improvements. In order to construct these improvements, Council must pass a Resolution of Intent and set a Public Hearing for the project to allow for property owner assessments.

ALTERNATIVES ANALYZED

The Council may:

- Pass this Resolution of Intent and set a Public Hearing for the February 14th Council meeting;
- or
- Do not pass this Resolution of Intent and do not set a Public Hearing date.

FINANCIAL IMPACT

The proposed project is funded through multiple sources, including direct property assessments for a total estimated project cost of \$4,500,000 as follows:

Assessed Costs	\$161,000
Water Funds	\$1,500,000
Sewer Funds	\$150,000
Storm Drain Funds	\$150,000
Gas Tax Funds	\$150,000
Arterial Funds	\$2,400,000

Funding for the proposed project is identified in the Capital Improvement Plan and in the Fiscal Year 2011 budget.

RECOMMENDATION

Staff recommends that Council approve this Resolution of Intent for W.O. 09-11 and set a public hearing for the February 14th Council meeting.

APPROVED BY CITY ADMINISTRATOR

Attachments

W.O. 09-11 Resolution of Intent

W.O. 09-11 Exhibit A

W.O. 09-11 Exhibit B

RESOLUTION NO. 11-_____

A RESOLUTION RELATING TO W.O. 09-11, RIMROCK ROAD – 17TH TO FORSYTHIA; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY’S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

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

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

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

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

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, driveways, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits “A” and “B” attached hereto.
2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit “B” attached hereto.
3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, project management costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be \$161,000.00 as described below:

Construction Costs	\$	113,263.61
Management Costs	\$	21,973.14
Engineering & Administration (6%)	\$	9,660.00
Revolving Fund (5%)	\$	8,050.00
Bond Discount (2%)	\$	3,220.00
Issuance Costs (3.0%)	\$	4,830.00
Bank Fees	\$	100.00
Roundoff	\$	(96.75)

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

<u>Removal of:</u>	<u>Unit Price:</u>
Concrete Flatwork Removal	\$10.00/SY
Saw Cutting	\$5.00/LF
 <u>New Construction:</u>	
Concrete Sidewalk	\$ 5.50/SF
Concrete Driveway	\$ 5.50/SF
Curb and Gutter	\$12.00/LF
New Drive Approach	\$ 6.50/SF
General Requirements	EA

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property, and upon bid prices received by the contractor.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against 46 separate lots, parcels, or tracts.

The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be \$3,502.61, with a high of \$13,583.54, low of \$445.67, and a median of \$2,283.48.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.
6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.
7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS. The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed \$161,000.00 in order to finance the costs of the

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

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

- (a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is \$4,185,748.00. The average market value is \$90,994.52 with a high of \$208,437.00 and a low of \$18,635.00 and median value of \$82,134.00. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.
- (b) Diversity of Property Ownership. For the 46 Tax codes in this project, there are 43 separate owners. Jack F. Mueller, Trustee owns two (2) parcels, and Abdullah S. Ramhormoz owns two (2) parcels. Abdullah S. Ramhormoz and Nancy J. Mueller share ownership of one (1) parcel. It is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.
- (c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, zero (0) parcels have an SID levied against them.

As noted in Section 4, the estimated average assessment levied by this project will be \$3,502.61. With an average market value of \$90,994.52, and an average yearly principal payment of \$291.88 (monthly principal of \$24.32) assuming 6% interest rate, the amount of assessment versus the value of the property would appear acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "B".

- (d) Delinquencies. For tax year 2010, Zero (0) parcels were delinquent. This rate is above the average city collection rate of 95%.

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

- (e) The Public Benefit of the Improvements. Current City Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new

curb, gutter, sidewalk, and drive approaches is to be borne by the adjoining property owners.

Rimrock Road is scheduled to be improved as part of the City's overall transportation plan, and this street reconstruction project will install both missing improvements and bring existing improvements into compliance. The subject improvements of curb/gutter, sidewalk, drive approach, and other miscellaneous items are identified as either missing or out of current Americans with Disability Act (ADA) compliance. Installation of these improvements will provide a safe, accessible walking surface for school children and other pedestrians walking along Rimrock Road. The cost to install new improvements will be borne by the adjoining property owners per City policy, but City funding sources will fund the costs to replace non-ADA compliant but otherwise serviceable drive approaches.

The project improvement limits are scheduled to extend along Rimrock Road from 17th Street West to Forsythia Boulevard.

8. REIMBURSEMENT EXPENDITURES.

- (a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.
- (b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$161,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

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

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

9. PUBLIC HEARING. On Monday, February 14, 2011, at 6:30 p.m., in the Council Chambers located on the Second Floor of the Police Facility, 220 North 27th Street, Billings, MT, the City Council will conduct a public hearing concerning this project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the BILLINGS TIMES, a newspaper of general circulation in the county on January 27 and February 3, 2011, in the form and manner prescribed by law, and to mail or cause to be mailed, a copy of said Notice to every person, firm corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, on or before the same day such notice is published.

PASSED by the City Council and APPROVED this 24th day of January, 2011.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel MAYOR

ATTEST:

Cari Martin CITY CLERK

EXHIBIT A
W.O. 09-11 RIMROCK ROAD

REHBERG LN

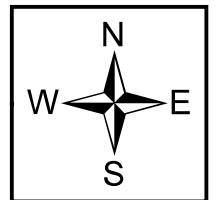
RIMROCK RD

ARVIN RD

RIMROCK RD

17TH ST W

ARVIN RD



Regular City Council Meeting

Date: 01/24/2011

TITLE: Donation from Mr. Lilburn F. Wallace Estate

PRESENTED BY: Bill Cochran

Department: Library

Information

PROBLEM/ISSUE STATEMENT

Parmly Billings Library received a bequest from the will of Mr. Lilburn F. "Wally" Wallace in the amount of \$5,000.00 to support the Library. In consultation with his surviving family members, the bequest will be used to purchase nonfiction books. For the last decade of his life, after retiring to Billings from his position as Personal Assistant to the President of Pan Am Airways, he enjoyed borrowing and reading books from the Library. This gift will help the Library to continue to provide quality resources for its patrons and the community.

ALTERNATIVES ANALYZED

The City Council may:

- Approve acceptance of the \$5,000 gift.
- Not approve the \$5,000 gift.

FINANCIAL IMPACT

The Library's budget for materials will increase by \$5,000 if the gift is accepted. There will be no ongoing costs as a result of accepting the gift.

RECOMMENDATION

Staff recommends that Council accept this \$5,000 bequest to purchase non-fiction materials for the Library and acknowledge this generous gift to Mr. Wallace's family.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 01/24/2011

TITLE: Donation Acceptance for the Billings Area Resource Network – Project Homeless Connect

PRESENTED BY: Brenda Beckett

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The Community Development Division is requesting approval to accept a donation from St. Vincent Healthcare for \$1,000 on behalf of the Billings Area Resource Network. The grant would assist the Billings Area Resource Network to provide services to individuals experiencing homelessness and individuals at risk of homelessness at the 2011 Project Homeless Connect.

The 2011 Project Homeless Connect will be the fifth annual event organized as a collaboration between the City of Billings, AmeriCorps*VISTA and the Billings Area Resource Network. Over 50 service providers will be present to help the estimated 600 individuals who will attend this year's Project Homeless Connect at the Al Bedoo Shrine Auditorium on January 26, 2011.

ALTERNATIVES ANALYZED

Alternatives analyzed include either accepting the donation or not accepting the donation. If unable to accept the donation, the Billings Area Resource Network would not be able to use this funding which helps them to connect services to those in need in our community.

FINANCIAL IMPACT

The City is not required to match the donation and the financial impact is limited to costs associated with Project Homeless Connect.

RECOMMENDATION

Staff recommends that the City Council accept the \$1,000 donation from St. Vincent Healthcare on behalf of the Billings Area Resource Network.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 01/24/2011

TITLE: Application Submittal for an AmeriCorps*VISTA Project, Third Year

PRESENTED BY: Brenda Beckett

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The Community Development Division has been approached by the Corporation for National and Community Services regarding sponsoring an AmeriCorps*VISTA project for a third year to build capacity in Billings to impact poverty and homelessness. Funding for the project would be provided by the Corporation for National and Community Service. This project is considered for funding on a year-to-year basis. The deadline for the application is in March, 2011.

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

Staff is preparing an application for up to ten members; however available member positions have significantly decreased across the nation. Therefore, the City may only be allocated three members directly and two additional members if positions are coordinated through another state project. Occasionally, the Corporation for National and Community Services has additional "cost share" positions available. One additional VISTA member position may be available for placement in Billings if a "cost share" requirement is met (totaling seven positions). This amount is estimated at \$5,000 to \$11,000, depending on available funding.

City Council approval for the application would allow the Community Development Division to assist in application preparation and administration of activities on behalf of several community agencies, including agencies such as The HUB, United Way, Family Service, Inc., the Billings Area Resource Network, Volunteers of America, Salvation Army, Family Support Network, and Second Chance Homes. The Corporation for National and Community Services recommends the City require organizations seeking VISTA members contribute to the overall administration costs; \$2,500 for a first year placement and \$4,000 for a second year placement. This funding would help support a cost share position, coordination services, expenses to attend mandatory trainings and overall administration for the project. Each VISTA member's personnel value has been estimated at \$30,000 for a year of service.

ALTERNATIVES ANALYZED

1) To submit an application for the AmeriCorps*VISTA Project; 2) To not submit an application for the AmeriCorps*VISTA Project.

FINANCIAL IMPACT

The City is not required to commit funding to the project and may receive approximately \$15,000-\$20,000 this year to support project coordination and administration costs from the Corporation for National and Community Services.

While the City has not been required to financially commit additional funding to the project for the first two years, allocating funding toward “cost share” may allow the City to gain one additional member placement in Billings. In FY10-11, the City Council approved \$17,906 in CDBG Professional Services funding to support the VISTA project. Funding remaining in this line item would meet the \$5,000 minimum cost share for one additional position. Staff may also bring forth an application for CDBG Professional Services funding during the FY11-12 budget allocation process for consideration to support the VISTA project.

Ten VISTA placements and administrative support are being requested (\$320,000) through this application. City match offered in the application includes \$3,500 of in-kind office space and equipment per volunteer, if positions are filled. Additional funding for administrative costs may be allocated through FY11-12 budget processes, within existing administration caps.

RECOMMENDATION

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

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 01/24/2011

TITLE: Submittal and Acceptance of a Grant Application with the Montana Department of Transportation (MDT) for Paratransit Operating Assistance

PRESENTED BY: Thomas H. Binford

Department: Transit

Information

PROBLEM/ISSUE STATEMENT

The Aviation and Transit Department, MET Transit Division, is seeking grant assistance from the Montana Department of Transportation (MDT) Transit Section, for paratransit operations. The deadline for filing applications is March 1, 2011.

The MDT Transit Section has three grant programs, TransADE, Section 5317 New Freedom, and Section 5316 Job Access Reverse Commute (JARC). MET Transit plans to apply for funding from all three grant programs. The application requests State funds for paratransit operating assistance in the amount of \$265,000. MET Transit is requesting \$50,000 from TransADE, \$65,000 from 5317 New Freedom, and \$150,000 from 5316 JARC. All programs must be applied for annually and MET Transit is awarded the grants based on available funds on a year-to-year basis. The State recognizes the rising costs of transporting elderly and disabled citizens, and the significant impact this has on operating budgets. The intent of this funding is to encourage all agencies to provide coordinated transit service to elderly and disabled citizens. In addition, this funding will help supplement operating expenses for paratransit service provided to newly annexed areas of the City, and to serve low income disabled citizens of Billings. It is anticipated that the outcome from this grant request will be known by May 2011.

ALTERNATIVES ANALYZED

The Council may:

- Approve the filing of the grant application in the amount of \$50,000 from TransADE, \$65,000 from 5317 New Freedom, and \$150,000 from 5316 JARC, for a total amount of \$265,000 for paratransit operating assistance; or
- Not approve the filing of the grant application in the amount of \$50,000 from TransADE, \$65,000 from 5317 New Freedom, and \$150,000 from 5316 JARC, for a total amount of \$265,000 for paratransit operating assistance.

FINANCIAL IMPACT

These grants, if awarded to MET, would provide varying levels of reimbursement for paratransit expenses incurred. Under the TransADE grant, MET can be reimbursed \$.5411 for every dollar spent on operating costs (driver wages and fuel), \$.70 for every administrative dollar spent, and \$.80 for every dollar spent on maintenance. Under the JARC and New Freedom grants, MET can receive \$.50 for every dollar spent on these same types of expenses up to the limit of the grants. Because MET's annual expenditures are significantly larger than the grants, the drawdown against these grants is completed fairly early in the budget year. The local match for these grants would be the remaining percentage of the incurred expenditures, which is commonly called a soft match.

RECOMMENDATION

Staff recommends that City Council approve the submittal of this grant application and the subsequent execution by the Mayor of the grant agreement(s) with the MDT.

APPROVED BY CITY ADMINISTRATOR

Attachments

Coordination Plan Application

Resolution

STATE OF MONTANA
Application for Financial Assistance
(Agencies applying for capital must complete this page!)

AGENCY PROFILE

A. Organization

1. Legal Name of Applicant Agency:

City of Billings – Aviation and Transit Department – MET Transit _____

Name of Transit Program: MET Special Transit _____

Transit Coordinator: Ron Wenger, Transit Manager _____

Street Address: 1705 Monad Road _____

Mailing Address: P.O. Box 1178 _____

City: Billings _____ State: MT _____ Zip Code: 59103 _____

County: Yellowstone _____

Phone Number: 406-657-8221 _____ Fax Number: 406-657-8419 _____

E-mail Address: wengerr@ci.billings.mt.us _____

Web Site Address (if available): www.mettransit.com _____

Tax ID #: 81-6001237 _____

Fiscal Year: July 1, 2011 _____ to June 30, 2012 _____
(start date) (end date)

Coordination Plan Approval Date: November 10, 2010 _____

2. Agency Sponsor: check

- City
- County
- Tribal
- Private Non-profit*
- Transit District
- Transportation Improvement Area
- Other (specify) _____

*Attach a copy of your IRS 501(c) or 501(a)

3. Board of Directors: List all. (This is the governing board for the lead agency.)

Name	Term of Office	Affiliation
Mayor Thomas W. Hanel	1 st Term	City of Billings
Peggie Denney Gaghen	2 nd Term	City of Billings
Jim Ronquillo	2 nd Term	City of Billings
Angela Cimmino	1 st Term	City of Billings
Denis Pitman	1 st Term	City of Billings
Vince Ruegamer	2 nd Term	City of Billings
Richard McFadden	1 st Term	City of Billings
Ed Ulledalen	2 nd Term	City of Billings
Jani McCall	1 st Term	City of Billings
Richard Clark	2 nd Term	City of Billings
Mark Astle	1 st Term	City of Billings

4. Structure of the Lead Agency: Include the number of paid full- and part-time positions.

	Number	Full Time	Part Time
Executive	6	X	
Office Staff	1	X	
Drivers	40	X	
Dispatch	3	X	
Mechanics	4	X	
Janitorial	2	X	X

➤ Attach a copy of your organizational chart.

5. Union Affiliation (if applicable):

Union Name: Teamster Union

Contact: Joe Dwyer

Address: P.O. Box 50969

City: Billings State: MT Zip Code: 59105

Phone: (406) 248-2658 E-mail Address: teamsters190.com

B. System Description

1. Type of Service (check all that apply):

- | | |
|---------------------------------------|--|
| <input type="checkbox"/> Local | <input checked="" type="checkbox"/> Demand/Response*** |
| <input type="checkbox"/> Fixed Route* | <input type="checkbox"/> Deviated Fixed Route |
| <input type="checkbox"/> Intercity** | <input type="checkbox"/> Regional |

*If Fixed Route, describe how you meet the requirements of the Americans with Disabilities Act. *A copy of your Complementary Paratransit Plan must be on file at the MDT Transit Office.*

**If Intercity, describe frequency of service and areas served.

***If Demand/Response is this:

- | |
|--|
| <input checked="" type="checkbox"/> Curb-to-curb |
| <input checked="" type="checkbox"/> Door-to-door |
| <input checked="" type="checkbox"/> Through the door |
| <input checked="" type="checkbox"/> Reservations required* |

*If reservations are required, how far in advance? Up to two weeks

2. Service Area:

Circle one: City, County, District, Reservation, Other (specify) _____

3. Population:

What is the population of your service area? 104,000

4. Connectivity:

Do you connect with other modes? Check all that apply.

- | | |
|--|---|
| <input type="checkbox"/> Urban Public Systems | <input type="checkbox"/> Airports/Trains |
| <input type="checkbox"/> Park and Ride Lots | <input type="checkbox"/> Intercity Carriers |
| <input type="checkbox"/> Other Operators in Your Region (<i>please list below</i>) | |

C. Level and Use of Service

1. Ridership:

Estimate the average number of rides – per day 256, per year 66,560

*Projected growth over last year: rides per day 257, per year 66,820

2. Passenger Type: Indicate percent. Must total 100%.

65 Elderly (60 and over)

35 Disabled

_____ Under 60

3. Minority Populations Served: Check all that apply. **See Guidance for breakout.**

Black

Hispanic

Asian

American Indian/Alaskan Native

_____ Other (specify) _____

4. Trip Purpose: Indicate percent.

1% Nutrition 45% Employment

2% Education 40% Medical

10% Shopping 2% Recreation

_____ Other (specify) _____

5. Days/Hours of Service:

List days of the week and hours you are in service. **See Guidance. **

Monday – Friday from 6:00 am to as late as 6:00 pm. Saturday from 8:15 am to as late as 5:15 pm.

6. Marketing or Advertising:

Explain how people know about or can access your service.

MET Transit has route and schedule booklets and system maps distributed throughout various places in the City (i.e. City Hall, Library, schools, shopping malls, Hotels, Resource Center, Chamber of Commerce, Social Service Agencies, Hospitals, medical clinics, etc.); a website; phone book listing; a DVD presentation; mass mailings; Senior Health Fairs; paratransit handbook, and our Paratransit Coordinator meetings with numerous agencies within the area.

7. Annual Miles of Service:

Total annual mileage of all vehicles: 202,487

* Describe Projected Growth in Coordination Plan

FINANCIAL INFORMATION - TRANSADA

D. Operating Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Driver Wages	\$ 31,794.93	_____	
Mechanic Wages	\$ 4,636.75	_____	
Dispatcher Wages	\$ 7,727.96	_____	
2. Fringe Benefits			
Driver/Mechanic/Dispatcher Fringe Benefits Distribution	\$ 17,151.48	_____	
3. Services			
Professional and Technical Services (itemize on page 10)	\$ 52.94	_____	_____
Advertising Fees	_____	_____	_____
Custodial Services (bus-related only)	_____	_____	_____
Other Services (itemize on page 10)	\$ 1,404.49	_____	_____
4. Materials and Supplies Consumed			
Fuel and Lubricants	\$ 5,986.78	_____	_____
Other Materials and Supplies	\$ 65.26	_____	_____
5. Purchased Transportation Service			
Purchased Transportation Service	\$ 11,556.29	_____	_____
6. Taxes			
Vehicle Licensing and Registration Fees	_____	_____	
7. Other Operating Expenses			
Other Expenses (itemize on page 10)	\$ 1,020.30	_____	_____
TOTAL OPERATING EXPENSES	\$ 81,397.18	\$ -	\$ -



E. Administrative Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Manager/Coordinator, Admin. Personnel (itemize on page 10)	\$ 5,297.44	_____	
2. Fringe Benefits			
Manager/Coordinator, Admin. Personnel Fringe Benefits Distribution	\$ 1,688.17	_____	
3. Materials and Supplies			
Office Supplies	\$ 123.28	_____	_____
4. Casualty and Liability Costs			
Casualty and Liability Costs	\$ 2,212.83	_____	_____
5. Utilities			
Utilities (Gas, Electric, Sewer, Phone and Internet)	\$ 1,159.75	_____	_____
6. Taxes			
Property Tax	_____	_____	
7. Leases and Rentals			
Vehicle (itemize on page 10)	_____	_____	_____
Facilities (itemize on page 10)	_____	_____	_____
8. Miscellaneous Expense			
Dues and Subscriptions (transit-related)	\$ 25.38	_____	
Travel and Meetings (transit-related)	\$ 87.02	_____	
Drug Testing	_____	_____	_____
Promotion for Coordination & Ridesharing	_____	_____	_____
Indirect Cost (prior approval required from MDT) *Attach Cost Allocation Plan	_____	_____	_____
9. Other Administrative Expenses			
Other Expenses (itemize on page 10)	\$ 248.00	_____	\$ 18.35
TOTAL ADMINISTRATIVE EXPENSES	\$ 10,841.87	\$ -	\$ 18.35



F. Maintenance Expenses

	Direct Cost	In-kind	DBE
1. Maintenance			
Vehicle Maintenance Parts and Service (itemize on page 10)	\$ 1,087.38		
Tires and Tubes	\$ 390.28		
TOTAL MAINTENANCE EXPENSES	\$ 1,477.66	\$ -	\$ -

G. Reimbursement Calculations

1. Total Operating Expenses	\$ 81,397.18 *		
2. Total Amount of Fares/Donations	\$ 5,202.53		
3. Total Amount of Advertising/Rent/Misc. Fees**			
4. Net Operating Deficit	\$ 76,194.65		
5. Eligible Operating Reimbursement at 54%		\$ 41,228.93	
6. Total Administrative Expenses	\$ 10,841.87 *		
7. Eligible Administrative Reimbursement at 70%		\$ 7,589.31	
8. Total Maintenance Expenses	\$ 1,477.66 *		
9. Eligible Maintenance Reimbursement at 80%		\$ 1,182.13	
10. FEDERAL OPERATING GRANT AMOUNT		\$ 50,000.36	
Eligible In-kind @ 15% of Federal Operating Grant Amount	\$ 7,500.05		

Once approved funding cannot be transferred between categories without prior written approval from your regional planner.

LOCAL MATCH

Operating	\$ 34,965.72
Administrative	\$ 3,252.56
Maintenance	\$ 295.53
TOTAL LOCAL MATCH NEEDED	\$ 38,513.82

* This dollar amount must include the total direct costs and the total in-kind costs.

**Include revenue from rent, storage, etc.



H. Match Revenue

1. List sources and amounts of contracts, cash sources including public or private funds, local taxes, and/or federal funds from U.S. Department of Health and Human Services programs. FTA Section 5311(c) is not eligible match for other FTA funds.

Source	Amount
State of Montana	\$90,000
Yellowstone County Council on Aging	30,000
Nursing Homes	3,642
Senior Life Partners	8,000
Montana Medicaid	27,720
Remainder of match required will come from	
Tax Revenue	

I. List of Itemized Expenses and In-Kind

1. Identify and list those expenses as requested including the amount. Also, identify those items provided as in-kind. Non-transportation activities are not eligible in-kind costs.

Item	Amount
D. Operating Expenses	
3a. Professional/Tech Services – DOT Physicals	\$ 52.94
3.d Other Services-Radio Maint (parts,labor)	262.22
Dispatch Software maint/updates	1,142.27
7a. Other Operating Expenses – Uniforms	91.73
Building maint, supplies, etc.	239.30
Radio Access/Operation Monthly Charge	675.13
CDL Renewals	14.14
E. Administrative Expenses	
1a. Labor – Paratransit Coordinator	4,628.62
Transit Manager, Planner, Support Staff	668.82
9a. Other Expenses – Computer Equipment	50.76

I. List of Itemized Expenses and In-Kind (continued)

Item	Amount
Postage	\$43.51
Printing	56.56
Publication of Notices	10.15
Consultant Services	72.52
Skills Improvement for Staff	14.50
F. Maintenance Expenses	
1a. Vehicle Maintenance Parts & Services	
Motor Vehicle Parts (maintenance/pm, etc.)	1,043.87
Vehicle Body Repair	43.51

DESCRIPTION of Project: Section 5317 (New Freedom) Attachment A

The City of Billings' MET Special Transit (MST) provides a very valuable service to the City and its community. MST addresses the needs of people whose disabling conditions prevent their use of the regular fixed route MET Transit bus service. This is done through contracts with some agencies/entities and through MET-Plus, which is a service operated in accordance with the requirements of the Federal Americans with Disabilities Act of 1990 (ADA). New Freedom funding will allow the MET to provide service that will go above and beyond the requirements of ADA. This funding will allow MST to provide rides to newly annexed areas outside of the "¼ mile of a fixed route" requirement and to accommodate clients over 600 lbs. MET-Plus provides transportation to medical appointments, rehabilitation programs, dialysis, work, school, group homes, day care program, job training, senior centers, shopping, etc.

JARC New Freedom

FINANCIAL INFORMATION - NEW FREEDOM

D. Operating Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Driver Wages	\$ 46,697.54	_____	_____
Mechanic Wages	\$ 6,810.04	_____	_____
Dispatcher Wages	\$ 11,350.13	_____	_____
2. Fringe Benefits			
Driver/Mechanic/Dispatcher Fringe Benefits Distribution	\$ 25,190.56	_____	_____
3. Services			
Professional and Technical Services (itemize on page 10)	\$ 77.75	_____	_____
Advertising Fees	_____	_____	_____
Custodial Services (bus-related only)	_____	_____	_____
Other Services (itemize on page 10)	\$ 2,062.79	_____	_____
4. Materials and Supplies Consumed			
Fuel and Lubricants	\$ 8,792.84	_____	_____
Other Materials and Supplies	\$ 95.85	_____	_____
5. Purchased Transportation Service			
Purchased Transportation Service	\$ 16,972.85	_____	_____
6. Taxes			
Vehicle Licensing and Registration Fees	_____	_____	_____
7. Other Operating Expenses			
Other Expenses (itemize on page 10)	\$ 1,498.53	_____	_____
TOTAL OPERATING EXPENSES	\$ 119,548.88	\$ -	\$ -



E. Administrative Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Manager/Coordinator, Admin. Personnel (itemize on page 10)	\$ 7,780.40		
2. Fringe Benefits			
Manager/Coordinator, Admin. Personnel Fringe Benefits Distribution	\$ 2,479.44		
3. Materials and Supplies			
Office Supplies	\$ 181.06		
4. Casualty and Liability Costs			
Casualty and Liability Costs	\$ 3,250.00		
5. Utilities			
Utilities (Gas, Electric, Sewer, Phone and Internet)	\$ 1,703.33		
6. Taxes			
Property Tax			
7. Leases and Rentals			
Vehicle (itemize on page 10)			
Facilities (itemize on page 10)			
8. Miscellaneous Expense			
Dues and Subscriptions (transit-related)	\$ 37.28		
Travel and Meetings (transit-related)	\$ 127.81		
Drug Testing			
Promotion for Coordination & Ridesharing			
Indirect Cost (prior approval required from MDT) *Attach Cost Allocation Plan			
9. Other Administrative Expenses			
Other Expenses (itemize on page 10)	\$ 364.25		\$ 26.95
TOTAL ADMINISTRATIVE EXPENSES	\$ 15,923.57	\$ -	\$ 26.95



F. Maintenance Expenses

	Direct Cost	In-kind	DBE
1. Maintenance			
Vehicle Maintenance Parts and Service (itemize on page 10)	\$ 1,597.04	_____	_____
Tires and Tubes	\$ 573.21	_____	_____
TOTAL MAINTENANCE EXPENSES	\$ 2,170.25	\$ -	\$ -

G. Reimbursement Calculations

1. Total Operating Expenses	\$ 119,548.88 *		
2. Total Amount of Fares/Donations	\$ 7,642.48		
3. Total Amount of Advertising/Rent/Misc. Fees**	_____		
4. Net Operating Deficit	\$ 111,906.40		
5. Eligible Operating Reimbursement at 50%		\$ 55,953.20	
6. Total Administrative Expenses	\$ 15,923.57 *		
7. Eligible Administrative Reimbursement at 50%		\$ 7,961.79	
8. Total Maintenance Expenses	\$ 2,170.25 *		
9. Eligible Maintenance Reimbursement at 50%		\$ 1,085.13	
10. FEDERAL OPERATING GRANT AMOUNT		\$ 65,000.11	
Eligible In-kind @ 15% of Federal Operating Grant Amount	\$ 9,750.02		

Once approved funding cannot be transferred between categories without prior written approval from your regional planner.

LOCAL MATCH

Operating	\$ 55,953.20
Administrative	\$ 7,961.79
Maintenance	\$ 1,085.13
TOTAL LOCAL MATCH NEEDED	\$ 65,000.11

* This dollar amount must include the total direct costs and the total in-kind costs.

**Include revenue from rent, storage, etc.



H. Match Revenue

2. List sources and amounts of contracts, cash sources including public or private funds, local taxes, and/or federal funds from U.S. Department of Health and Human Services programs. FTA Section 5311(c) is not eligible match for other FTA funds.

Source	Amount
<u>State of Montana</u>	<u>\$90,000</u>
<u>Yellowstone County Council on Aging</u>	<u>30,000</u>
<u>Nursing Homes</u>	<u>3,642</u>
<u>Senior Life Partners</u>	<u>8,000</u>
<u>Montana Medicaid</u>	<u>27,720</u>
<u>Remainder of match required will come from</u>	
<u>Tax Revenue</u>	

I. List of Itemized Expenses and In-Kind

1. Identify and list those expenses as requested including the amount. Also, identify those items provided as in-kind. Non-transportation activities are not eligible in-kind costs.

Item	Amount
<u>D. Operating Expenses</u>	
<u>3a. Professional/Tech Services – DOT Physicals</u>	<u>\$ 77.75</u>
<u>3d. Other Services-Radio Maint (parts, labor)</u>	<u>385.12</u>
<u>Dispatch Software maint/updates</u>	<u>1,677.67</u>
<u>7a. Other Operating Expenses - Uniforms</u>	<u>134.73</u>
<u>Building maint, supplies,etc.</u>	<u>351.47</u>
<u>Radios Access/Operation Monthly Charge</u>	<u>991.56</u>
<u>CDL Renewals</u>	<u>20.77</u>
<u>E. Administrative Expenses</u>	
<u>1a. Labor – Paratransit Coordinator</u>	<u>6,798.11</u>
<u>Transit Manager, Planner, Support Staff</u>	<u>982.29</u>
<u>9a. Other Expenses – Computer Equipment</u>	<u>74.55</u>

I. List of Itemized Expenses and In-Kind (continued)

Item	Amount
<u>Postage</u>	<u>\$ 63.90</u>
<u>Printing</u>	<u>83.08</u>
<u>Publication of Notices</u>	<u>14.91</u>
<u>Consultant Services</u>	<u>106.51</u>
<u>Skills Improvement for Staff</u>	<u>21.30</u>
<u>F. Maintenance Expenses</u>	<u></u>
<u>1a. Vehicle Maintenance Parts & Service</u>	<u></u>
<u>Motor Vehicle Parts (maintenance/pm, etc.)</u>	<u>1,533.14</u>
<u>Vehicle Body Repair</u>	<u>63.90</u>

The City of Billings, MET Special Transit (MST) provides a very valuable service to the City of Billings. It seeks to address the transportation needs of low-income people with disabling conditions. In the past this has been accomplished through contracts with the Department of Public Health and Human Services (DPHHS) and other social service agencies. However, due to recent changes in DPHHS funding, MST is in need of finding alternative revenue to help fund the cost of transporting the disabled, low-income/welfare residents of Billings to and from their respective work sites and training programs. The new contract with DPHHS will provide for up to 37,000 rides to those individuals. The actual cost for providing those rides by MST, based on a cost-per-ride rate of \$15.24, is approximately \$564,620 and the new contract through DPHHS will only pay up to \$90,000 of MST's costs. Without the assistance of JARC funding to help provide this valuable service, many low-income/disabled individuals may find themselves without transportation to their work sites and training programs.

JARC New Freedom

FINANCIAL INFORMATION - JARC

D. Operating Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Driver Wages	\$ 107,763.22		
Mechanic Wages	\$ 15,715.42		
Dispatcher Wages	\$ 26,192.53		
2. Fringe Benefits			
Driver/Mechanic/Dispatcher Fringe Benefits Distribution	\$ 58,131.89		
3. Services			
Professional and Technical Services (itemize on page 10)	\$ 179.42		
Advertising Fees			
Custodial Services (bus-related only)			
Other Services (itemize on page 10)	\$ 4,760.27		
4. Materials and Supplies Consumed			
Fuel and Lubricants	\$ 20,291.11		
Other Materials and Supplies	\$ 221.20		
5. Purchased Transportation Service			
Purchased Transportation Service	\$ 39,167.99		
6. Taxes			
Vehicle Licensing and Registration Fees			
7. Other Operating Expenses			
Other Expenses (itemize on page 10)	\$ 3,458.12		
TOTAL OPERATING EXPENSES	\$ 275,881.17	\$ -	\$ -



E. Administrative Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Manager/Coordinator, Admin. Personnel (itemize on page 10)	\$ 17,954.72		
2. Fringe Benefits			
Manager/Coordinator, Admin. Personnel Fringe Benefits Distribution	\$ 5,721.76		
3. Materials and Supplies			
Office Supplies	\$ 417.83		
4. Casualty and Liability Costs			
Casualty and Liability Costs	\$ 7,499.98		
5. Utilities			
Utilities (Gas, Electric, Sewer, Phone and Internet)	\$ 3,930.76		
6. Taxes			
Property Tax			
7. Leases and Rentals			
Vehicle (itemize on page 10)			
Facilities (itemize on page 10)			
8. Miscellaneous Expense			
Dues and Subscriptions (transit-related)	\$ 86.02		
Travel and Meetings (transit-related)	\$ 294.94		
Drug Testing			
Promotion for Coordination & Ridesharing			
Indirect Cost (prior approval required from MDT) *Attach Cost Allocation Plan			
9. Other Administrative Expenses			
Other Expenses (itemize on page 10)	\$ 840.57		\$ 62.18
TOTAL ADMINISTRATIVE EXPENSES	\$ 36,746.58	\$ -	\$ 62.18



F. Maintenance Expenses

	Direct Cost	In-kind	DBE
1. Maintenance			
Vehicle Maintenance Parts and Service (itemize on page 10)	\$ 3,685.47	_____	_____
Tires and Tubes	\$ 1,322.79	_____	_____
TOTAL MAINTENANCE EXPENSES	\$ 5,008.26	\$ -	\$ -

G. Reimbursement Calculations

1. Total Operating Expenses	\$ 275,881.17 *	
2. Total Amount of Fares/Donations	\$ 17,635.44	
3. Total Amount of Advertising/Rent/Misc. Fees**	_____	
4. Net Operating Deficit	\$ 258,245.73	
5. Eligible Operating Reimbursement at 50%		\$ 129,122.87
6. Total Administrative Expenses	\$ 36,746.58 *	
7. Eligible Administrative Reimbursement at 50%		\$ 18,373.29
8. Total Maintenance Expenses	\$ 5,008.26 *	
9. Eligible Maintenance Reimbursement at 50%		\$ 2,504.13
10. FEDERAL OPERATING GRANT AMOUNT		\$ 150,000.29
Eligible In-kind @ 15% of Federal Operating Grant Amount	\$ 22,500.04	

Once approved funding cannot be transferred between categories without prior written approval from your regional planner.

LOCAL MATCH

Operating	\$ 129,122.87
Administrative	\$ 18,373.29
Maintenance	\$ 2,504.13
TOTAL LOCAL MATCH NEEDED	\$ 150,000.29

* This dollar amount must include the total direct costs and the total in-kind costs.

**Include revenue from rent, storage, etc.



H. Match Revenue

3. List sources and amounts of contracts, cash sources including public or private funds, local taxes, and/or federal funds from U.S. Department of Health and Human Services programs. FTA Section 5311(c) is not eligible match for other FTA funds.

Source	Amount
<u>State of Montana</u>	<u>\$90,000</u>
<u>Yellowstone County Council on Aging</u>	<u>30,000</u>
<u>Nursing Homes</u>	<u>3,642</u>
<u>Senior Life Partners</u>	<u>8,000</u>
<u>Montana Medicaid</u>	<u>27,720</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u>Remainder of match required will come from</u>	<u> </u>
<u>Tax Revenue</u>	<u> </u>

I. List of Itemized Expenses and In-Kind

1. Identify and list those expenses as requested including the amount. Also, identify those items provided as in-kind. Non-transportation activities are not eligible in-kind costs.

Item	Amount
<u>D. Operating Expenses</u>	<u> </u>
<u>3a. Professional/Tech Services – DOT Physicals</u>	<u>\$ 179.42</u>
<u>3d. Other Services – Radio Maint (parts, labor)</u>	<u>888.74</u>
<u>Dispatch Software maint/updates</u>	<u>3,871.53</u>
<u>7a. Other Operating Expenses - Uniforms</u>	<u>310.91</u>
<u>Building maint, supplies, etc.</u>	<u>811.07</u>
<u>Radios Access/Operation Monthly Charge</u>	<u>2,288.21</u>
<u>CDL Renewls</u>	<u>47.93</u>
<u>E. Administrative Expenses</u>	<u> </u>
<u>1a. Labor – Paratransit Coordinator</u>	<u>15,687.89</u>
<u>Transit Manager, Planner, Support Staff</u>	<u>2,266.83</u>
<u>9a. Other Expenses – Computer Equipment</u>	<u>172.05</u>

I. List of Itemized Expenses and In-Kind

Item	Amount
<u>Postage</u>	<u>\$ 147.47</u>
<u>Printing</u>	<u>191.71</u>
<u>Publication of Notices</u>	<u>34.41</u>
<u>Consultant Services</u>	<u>245.78</u>
<u>Skills Improvement for Staff</u>	<u>49.15</u>
<u>F. Maintenance Expenses</u>	<u></u>
<u>1a. Vehicle Maintenance Parts & Service</u>	<u></u>
<u> Motor Vehicle Parts (maintenance/pm, etc.)</u>	<u>3,538.00</u>
<u> Vehicle Body Repair</u>	<u>147.47</u>

AUTHORIZATION TO MAKE APPLICATION

Name of Applicant Agency: City of Billings

BY SIGNING BELOW, I Mayor, Thomas W. Hanel (name),

on behalf of the City of Billings (applicant),

declare that this **Applicant** has duly authorized me to make these certifications and assurances and bind the applicant's compliance. Thus, the **Applicant** agrees to comply with all state and federal statutes, regulations, executive orders and administrative guidance required by the State of Montana and Federal Transit Administration.

Further, I hereby authorize this **Applicant** to be the Lead Agency in this service area. I assure the **Applicant** has the fiscal, managerial, and legal capabilities to administer the transit program and to receive and disburse federal funds. I also assure that some combination of private, local, state, or federal funds have or will be committed to provide the required local match.

Signature: _____

Title: Mayor

Date: _____

ASSURANCES
AND
CERTIFICATIONS

APPLICANT ORGANIZATION ASSURANCES

The Montana Department of Transportation (MDT) and the Applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which funding is provided. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109 -59, Aug. 10, 2005.

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA(12) for Federal Fiscal Year 2006 at the FTA website http://www.fta.dot.gov/16874_16882_ENG_HTML.htm. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.

01. FOR EACH APPLICANT

A. The Applicant assures that it meets the required Section 5310, Section 5311 or TransADE program requirements as specified in the Application Guide.

B. Assurance of Authority of the Applicant and Its Representative

The authorized representative of the Applicant who signs these certifications, assurances, and agreements affirm that both the Applicant and its authorized representative have adequate authority under applicable state and local law and the Applicant's by-laws or internal rules to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant;
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
- (3) Execute grant agreements and cooperative agreements with MDT on behalf of the Applicant.

C. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes and regulations in carrying out any project supported by an MDT grant. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with MDT. The Applicant recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation. The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that

the most recent Federal laws, regulations, and directives will apply to the project, unless MDT issues a written determination otherwise.

D. Nondiscrimination Assurance

The Applicant assures that it will comply with all applicable civil rights requirements and has signed the Nondiscrimination Assurance attached to this document.

E. U.S. Office of Management and Budget (OMB) Assurances

Consistent with OMB assurances set forth in SF-424B and SF-424D, the Applicant assures that, with respect to itself or its project, the Applicant:

- (1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;
- (2) Will give FTA, the Comptroller General of the United States, and MDT, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
- (3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
- (4) Will initiate and complete the work within the applicable project time periods following receipt of MDT approval;
- (5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:
 - (a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;
 - (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;
 - (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;
 - (e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, 21 U.S.C. 1174 *et seq.* relating to nondiscrimination on the basis of drug abuse;
 - (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, 42 U.S.C. 4581 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-3 and 290ee-3, related to confidentiality of alcohol and drug abuse patient records;

- (h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and
 - (i) Any other nondiscrimination statute(s) that may apply to the project;
- (6) To the extent applicable, will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced or persons whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Applicant assures that it has the requisite authority under applicable state and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:
- (a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
 - (b) The Applicant will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;
 - (c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;
 - (d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
 - (e) The Applicant will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;
 - (f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
 - (g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Applicant's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;
 - (h) The Applicant will execute such amendments to third party contracts and subagreements financed with MDT/FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

- (i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;
- (7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;
- (8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Applicant and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- (9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;
- (10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with MDT/FTA assistance takes place without permission and instructions from MDT/FTA;
- (11) To the extent required by MDT/FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;
- (12) To the extent applicable, will comply with MDT/FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;
- (13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with MDT/FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or MDT;
- (14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:
 - (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;
 - (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
 - (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
 - (d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;

- (e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
 - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
 - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;
 - (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
 - (i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
 - (j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
 - (k) Provision of assistance to MDT/FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c ; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;
- (15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;
- (16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;
- (17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;
- (18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT; and

- (19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that MDT/FTA has expressly approved otherwise in writing.

02. LOBBYING CERTIFICATION

- A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application to MDT for Federal assistance exceeding \$100,000:
- (1) No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt 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 regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and
 - (2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt 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 any application for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.
 - (3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreements, contracts under grants, loans, and cooperative agreements).
- B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal Government and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

03. PROCUREMENT COMPLIANCE

The Applicant certifies that its procurements and procurement system will comply with all applicable third party procurement provisions of Federal laws, regulations, and directives, except to the extent MDT has expressly approved otherwise in writing.

04. PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires the property or an interest in the property of a private provider of public transportation or operates public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing public transportation company, it has or will

have:

- A. Determined that the assistance is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306;
- B. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
- C. Paid just compensation under state or local law to the company for any franchise or property acquired.

05. PUBLIC HEARING

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, it will have:

- A. Provided an adequate opportunity for public review and comment on the project preceded by adequate prior public notice of the proposed project, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served;
- B. Held a public hearing on the project if the project affects significant economic, social, or environmental interests after providing adequate notice as described above;
- C. Considered the economic, social, and environmental effects of the proposed project; and
- D. Determined that the proposed project is consistent with official plans for developing the urban area.

06. ACQUISITION OF ROLLING STOCK

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663 when procuring revenue service rolling stock. Among other things, the Applicant agrees to conduct or cause to be conducted the requisite pre-award and post-delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

07. ACQUISITION OF CAPITAL ASSETS BY LEASE

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 639.21, if the Applicant acquires any capital asset by lease financed with Federal assistance authorized for 49 U.S.C. chapter 53, the Applicant certifies as follows:

- (1) It will not use Federal assistance authorized to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
- (2) It will not enter into a capital lease for which FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

08. BUS TESTING

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that, before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665), the bus model:

- A. Will have been tested at FTA's bus testing facility; and
- B. Will have received a copy of the test report prepared on the bus model.

09. CHARTER SERVICE AGREEMENT

- A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and each subrecipient and third party contractor at any tier will:
 - (1) Provide charter service that uses equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects, only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its subrecipients or third party contractors at any tier desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and
 - (2) Comply with the requirements of 49 CFR part 604 before providing any charter service using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects.
- B. The Applicant understands that:
 - (1) The requirements of 49 CFR part 604 will apply to any charter service it or its subrecipients or third party contractors provide,
 - (2) The definitions of 49 CFR part 604 will apply to this Charter Service Agreement, and
 - (3) A violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

10. SCHOOL TRANSPORTATION AGREEMENT

- A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and each subrecipient or third party contractor at any tier will:
 - (1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and
 - (2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.
- B. The Applicant understands that:

- (1) The requirements of 49 CFR part 605 will apply to any school transportation service it or its subrecipients or third party contractors provide,
- (2) The definitions of 49 CFR part 605 will apply to this School Transportation Agreement, and
- (3) A violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

11. DEMAND RESPONSIVE SERVICE

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Applicant certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. When the Applicant's service is viewed in its entirety, the Applicant's service for individuals with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Applicant certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

13. NONURBANIZED AREA FORMULA PROGRAM

The Applicant assures on behalf of itself and its subrecipients as follows:

- A. The Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- B. The Applicant assures that the project equipment and facilities will be adequately maintained;
- C. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the Applicant's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
- D. The projects in the state's Nonurbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable, the projects are included in a metropolitan Transportation Improvement Program;
- E. The Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- F. The Applicant assures, as a minimum, that insurance coverage will be provided on all

vehicles and/or equipment purchased under this program grant sufficient to protect MDT/FTA's matching share for the lifetime of the project;

- G. The applicant assures that it has or will have available at the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with State or Federal assistance awarded for this project;
- H. The Applicant has complied or will comply with the transit employee protective provision of 49 U.S.C. 5333(b) and has signed the "Labor Warranty Section 13(c)" certification attached to this document; and
- I. Unless otherwise noted, each of the Applicant's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c).

14. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM

Each Applicant for Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. 5316 is required to provide the following certifications on behalf of itself and any subrecipient that may be implementing its project.

- A. As required by 49 U.S.C. 5316(f)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Job Access and Reverse Commute (JARC) formula grants, and 49 U.S.C. 5307(d)(1), the Applicant for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its subrecipients, if any, as follows:
 - (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
 - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
 - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
 - (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5316 not more than fifty (50) percent of the peak hour fare;
 - (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5316:
 - (1) will use competitive procurement (as defined or approved by the Secretary),
 - (2) will not use exclusionary or discriminatory specifications in its procurements,
 - (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
 - (6) In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has

made available, or will make available, to the public information on the amounts available for the JARC Formula Grant Program, 49 U.S.C. 5316, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

- (7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- (8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with:
 - 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil);
 - 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and
 - 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and
- (9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;
- B. In compliance with 49 U.S.C. 5316(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5316(f)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;
- D. In compliance with 49 U.S.C. 5316(g)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will have been coordinated with private nonprofit providers of services;
- E. In compliance with 49 U.S.C. 5316(g)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the

- public; and
- F. In compliance with 49 U.S.C. 5316(c)(3), before the Applicant uses funding apportioned under 49 U.S.C. 5316(c)(1)(B) or (C) for projects serving an area other than that specified in 49 U.S.C. 5316(2)(B) or (C), the Applicant certifies that the chief executive officer of the State, or his or her designee will have certified to the Federal Transit Administrator, apart from these certifications herein, that all of the objectives of 49 U.S.C. 5316 are being met in the area from which such funding would be derived.

15. NEW FREEDOM PROGRAM

Each Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 must provide the following certifications on behalf of itself and any subrecipient that may be implementing its project.

- A. As required by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to New Freedom grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, by 49 U.S.C. 5310(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and by 49 U.S.C. 5307(d)(1), the Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and assures on behalf of itself and its subrecipients, if any, as follows:
- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
 - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
 - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
 - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5317:
 - (1) will use competitive procurement (as defined or approved by the Secretary),
 - (2) will not use exclusionary or discriminatory specifications in its procurements,
 - (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
 - (5) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g), and if applicable by section 3012b(3) and (4), for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
 - (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with:
 - 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil);
 - 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for

elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

- B. In compliance with 49 U.S.C. 5317(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(B) or 49 U.S.C. 5317(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5317(f)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will have been or will have been coordinated with private nonprofit providers of services;
- D. In compliance with 49 U.S.C. 5317(e)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis; and
- E. In compliance with 49 U.S.C. 5317(f)(3), the Applicant certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public

Signed by _____

Organization Name City of Billings

Date _____

NON-DISCRIMINATION ASSURANCE

During the performance of this Agreement, the Applicant (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 Transit Administration (FTA) 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 FTA 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 FTA 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 FTA 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.

Signed by _____

Organization Name City of Billings

Date _____

**LABOR WARRANTY
SECTION 13(c)**

The Applicant hereby certifies that the terms and conditions of the Warranty still apply for the protection of the transportation-related employees of any employer providing transportation services assisted by the project and the transportation-related employers of any other surface public transportation provider in the transportation service area of this project as defined in 49 U.S.C. 5333(b).

Signed by _____

Organization Name City of Billings _____

Date _____

AUTHORIZING RESOLUTION

RESOLUTION NO. 11-

A RESOLUTION AUTHORIZING THE FILING OF ALL APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION PLANNING, CAPITAL, TRAINING, DEMONSTRATION, AND/OR OPERATING ASSISTANCE GRANTS AUTHORIZED BY 49 U.S.C. CHAPTER 53, TITLE 23 UNITED STATES CODE, AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION

WHEREAS, the City of Billings has the power to enter into agreements with the Federal Transit Administration; and

WHEREAS, the Federal Transportation Administration has been delegated authority to award Federal financial assistance for mass transportation projects; and

WHEREAS, all contracts for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs; and

WHEREAS, the applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project.

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

1. That the City of Billings Mayor is authorized to execute and file all applications on behalf of the City of Billings with the U.S. Department of Transportation, Federal Transit Administration to aid in the financing of all planning, capital, training, demonstration and/or operating assistance projects authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.
2. That the City of Billings Mayor is authorized to execute and file with such applications the annual certifications and assurances, and any other documents required by the U.S. Department of Transportation, Federal Transit Administration effectuating the purpose of the proposed projects, including the local share.
3. That the City of Billings Mayor is authorized to execute grant and cooperative agreements with the U.S. Department of Transportation, Federal Transit Administration, on behalf of the City of Billings.

4. That the Transit Manager is designated to furnish such additional information as the U.S. Department of Transportation, Federal Transit Administration may require in connection with all the applications.

APPROVED this 24th day of January, 2011.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, CITY CLERK

CERTIFICATE

The undersigned duly qualified and acting City Clerk of the City of Billings certifies that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Billings City Council held on January 24, 2011.

If applicant has an Official Seal, impress here.

(Seal)

Signature of Recording Officer

Title of Recording Clerk

Date

Regular City Council Meeting

Date: 01/24/2011

TITLE: Acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants for 2011

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

It is necessary to secure the City Council's approval and authorization for the Mayor to execute this year's Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants. This year's Grants provide the entitlement and discretionary funding needed to undertake the engineering, planning, and construction of the scheduled projects at the Airport. As required by the FAA, the Grant offer is based on the estimated amounts for construction and engineering for these projects. This year's projects include the relocation and rehabilitation of Taxiway G, the removal and overlay of 2,000 feet of runway pavement surface on the west end of Runway 10L, and the FAA required surface painted hold sign markings for the asphalt taxiways.

Typically, the annual AIP Grant projects are funded with a single FAA Grant. However, since the annual Federal Transportation Appropriations Bill has not passed for fiscal year 2011, the FAA funding has been subjected to prorated amounts authorized by the Continuing Resolutions that Congress has passed to keep the Federal Government operating. Therefore, the annual grant allocations are impacted and the Airport will receive this year's grant funding in multiple, smaller amounts. Council is being asked to authorize the Mayor to execute each of these partial grants as they are released by the FAA. It is anticipated the first grant will be issued in the next few weeks.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the acceptance of this year's AIP Grants, authorizing the Mayor to execute each Grant offer; or
- Decline to approve the acceptance of this year's AIP Grants, and not complete the associated projects.

FINANCIAL IMPACT

The total estimated costs of the engineering services and the construction associated with this year's Grants are \$3,400,000. The Grants will fund 95% of this cost (\$3,258,787.85) and the Airport will provide a 5% local share match (\$171,515.15). The source of the Airport's match is the Department's capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the acceptance of this year's AIP Grants and authorize the Mayor to execute each of the AIP Grant allocations received this year by the Airport as part of the total estimated \$3,400,000 FAA AIP Grant.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 01/24/2011

TITLE: Disposal of City Property - Municipal Court Judge Robe

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Judge Mary Jane Knisely has been appointed to the District Court Judge position and would like to retain her custom-made judicial robe. The City's purchasing policy and procedures dictate the ways that public property may be converted to private use. The Council is being asked to approve giving the robe to Judge Knisely.

ALTERNATIVES ANALYZED

Pursuant to section VII.10. of the City Purchasing Procedures, adopted by Administrative Order #97 on February 14, 2006 via Resolution 06-18388, surplus, worn out or obsolete material and equipment may be disposed of in any of the following ways:

- * By selling or donating to other City departments.
- * By cannibalizing.
- * By trading in on new equipment.
- * By advertising for sale and/or selling at City auction, or by advertising and obtaining sealed bids and selling to the highest responsible bidder.
- * By selling on-line through a surplus auction website.
- * By selling through a local auction house.
- * By selling as scrap.
- * By donating to a local charitable organization.
- * Junking. If any material or equipment is junked, lost, or stolen, it shall be reported to the Purchasing Agent.
- * By special Council approval.

FINANCIAL IMPACT

The cost of a new, altered judicial robe ranges between \$200 and \$400.

RECOMMENDATION

Staff recommends allowing Judge Knisely to retain her judicial robe and treating it as a gift for her years of service to the City of Billings.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 01/24/2011

TITLE: Resolution Recognizing the South Billings Urban Renewal Association and its Board of Directors

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

City Council approved the creation of the South Billings Boulevard Urban Renewal District (SBBURD) on December 8, 2008. During and shortly after the creation of the District, the Southwest Corridor Neighborhood Task Force took on the responsibility of identifying priority projects for the District that would qualify for tax increment funding. The task of project prioritization and the advisory role has since transferred to the recently formed South Billings Urban Renewal Association (SBURA), a non-profit organization with representation from the businesses and residents in the SBBURD and the Southwest Corridor Neighborhood Task Force. The SBURA will act as advisory body to the City Council with regard to expenditures of tax increment funds and administration of the SBURD. The SBURA is composed of voluntary members from the District and the initial Board of Directors consists of five members recently appointed by the current Board chair. The following members comprise the Board of Directors:

Shawn Hanser, President, Owner, Hanser Automotive and Wrecker, business owner representative

Floyd Martin, Vice President, Residential owner

Dave Duke, General Manager, Cabela's, business owner representative

Richard Deis, Residential owner

Tom Ruschkewicz, Chairman, Southwest Corridor Task Force, Task Force representative

The South Billings Urban Renewal Association was formed for the purpose of "unified promotions, advocacy, revitalization and redevelopment" of the South Billings Boulevard Urban Renewal District according to its Articles of Incorporation. The Association will be of great service and benefit to the businesses and residents of the District and for that reason, the City Council recognizes the members of its Board of Directors.

ALTERNATIVES ANALYZED

None.

FINANCIAL IMPACT

None.

RECOMMENDATION

Staff recommends that Council recognize the South Billings Urban Renewal Association as the advisory body to the Council on matters of tax increment fund expenditures and administration for the South Billings Boulevard Urban Renewal District and the initial members of its Board of Directors:

Shawn Hanser, President, Owner, Hanser Automotive and Wrecker, business owner representative

Floyd Martin, Vice President, Residential owner
Dave Duke, General Manager, Cabela's, business owner representative
Richard Deis, Residential owner
Tom Ruschkewicz, Chairman, Southwest Corridor Task Force, Task Force representative

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

RESOLUTION NO: 11-

A RESOLUTION RECOGNIZING THE INCORPORATION OF THE SOUTH BILLINGS URBAN RENEWAL ASSOCIATION AND THE INITIAL MEMBERS OF ITS BOARD OF DIRECTORS.

WHEREAS, under the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"), the City of Billings, Montana (the "City") is authorized, among other things, to identify and declare an area as ~~containing blight with the intention of eliminating requiring redevelopment and accomplishing~~ it through urban renewal; and

WHEREAS, the City is authorized by the Act to create urban renewal areas with tax increment provisions by adopting an urban renewal plan by ordinance; and

WHEREAS, the City Council approved the creation of the South Billings Boulevard Urban Renewal District on December 8, 2008; and

WHEREAS, the City Council desires input from the businesses and residents of the South Billings Boulevard Urban Renewal District with regard to expenditures of tax increment funds and administration; and

WHEREAS, the South Billings Urban Renewal Association was formed as a non-profit corporation under the Montana Non-Profit Corporation Act on September 28, 2010 as advisors to the City Council on matters of expenditures of tax increment funds and administration of the South Billings Boulevard Urban Renewal District.

NOW, THEREFORE, the City Council of the City of Billings, Montana, declares and resolves as follows:

The South Billings Urban Renewal Association is now recognized as the advisory body to the City Council on matters of expenditures of tax increment funds and administration of the South Billings Boulevard Urban Renewal District. Also, the City Council formally recognizes the initial members of the South Billings Urban Renewal Association, specifically:

Shawn Hanser, President	Owner, Hanser Automotive and Wrecker, business owner representative
Floyd Martin, Vice President	Residential owner
Dave Duke	General Manager, Cabela's, business owner representative
Richard Deis	Residential owner
Tom Ruschkewicz	Chairman, Southwest Corridor Task Force, Task Force representative

APPROVED AND PASSED by the City Council of the City of Billings this 24th day of January, 2011.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

Regular City Council Meeting

Date: 01/24/2011

TITLE: McCracken Subdivision, 2nd Filing, Amended Lot 1-A, Block 1: Preliminary Plat Approval Extension Request

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

McCracken Subdivision, 2nd Filing, Amended Lot 1-A, Block 1, is a proposed subdivision that would create two lots on 4.90 acres of land west of the intersection of Lake Elmo Drive and Wicks Lane. City Council granted conditional approval the preliminary plat of McCracken Subdivision, 2nd Filing, Amended Lot 1-A, Block 1, on January 14, 2008. Section 23-303.I. of the City Subdivision Regulations stipulates that the conditional approval of preliminary plats shall be in force not more than three years, unless a request for a one-year extension is received and approved by the City Council. Because the final plat is not ready for approval, and the preliminary plat approval will expire on January 14, 2011, the subdivider has requested an extension for the Council's consideration (see Attachment). Approval of this request would extend the preliminary plat approval to January 14, 2012.

ALTERNATIVES ANALYZED

The City Council may approve or deny the request to extend the preliminary plat for one additional year.

FINANCIAL IMPACT

Allowing the subdivider one additional year to prepare the final plat will not have any direct financial impact to the city.

RECOMMENDATION

Planning staff recommends that the City Council approve the request for a one-year extension of the preliminary plat approval date for McCracken Subdivision, 2nd Filing, Amended Lot 1-A, Block 1, and set the new expiration date for January 14, 2012.

APPROVED BY CITY ADMINISTRATOR

Attachments

request to extend preliminary approval

Plat



HOPE

UNITED METHODIST CHURCH

*As a Christ-centered community, we invite, nurture, and empower
all God's children to become disciples of Jesus Christ.*

GARY GEIMAN, Pastor
CAROL MATHEW, Minister of Music
JENNIFER PINNOW, Children's Education Director
BECKY WOLFE, Youth Director
STAN McINTIRE, Finance Chair

P. O. Box 50066
Billings, MT 59105
(406) 259-4673
hopeumc@imt.net
www.gbgm-umc.org/billings-hope

December 20, 2010

Ms. Juliet Spaulding
City of Billings Planning Department
540 North Broadway
Billings, MT 59101



Ref: (a) Planning Dept. Letter of November 9, 2010


Dear Ms. Spaulding:

In response to your reference letter we request a one-year extension for the preliminary plat approved on January 14, 2008.

Due to medical treatments for some of the principles involved in this matter and the slowing economy, this has not proceeded as we anticipated.

Thank you for your consideration.

Sincerely,


Stanley McIntire
Chairman, Finance Committee

PRELIMINARY PLAT OF LOT 1-A, BLOCK 1, AMENDED PLAT OF McCRACKEN SUBDIVISION, 2ND FILING.

LOCATED IN THE NE1/4 NW1/4 OF SECTION 22, T.1N., R.26E., P.M.M.,
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

FOR: HOPE UNITED METHODIST CHURCH
BILLINGS, MT.

BY: ATLAS ENGINEERS INC.
BILLINGS, MT.

DATE: JULY, 2007



GRAPHIC SCALE



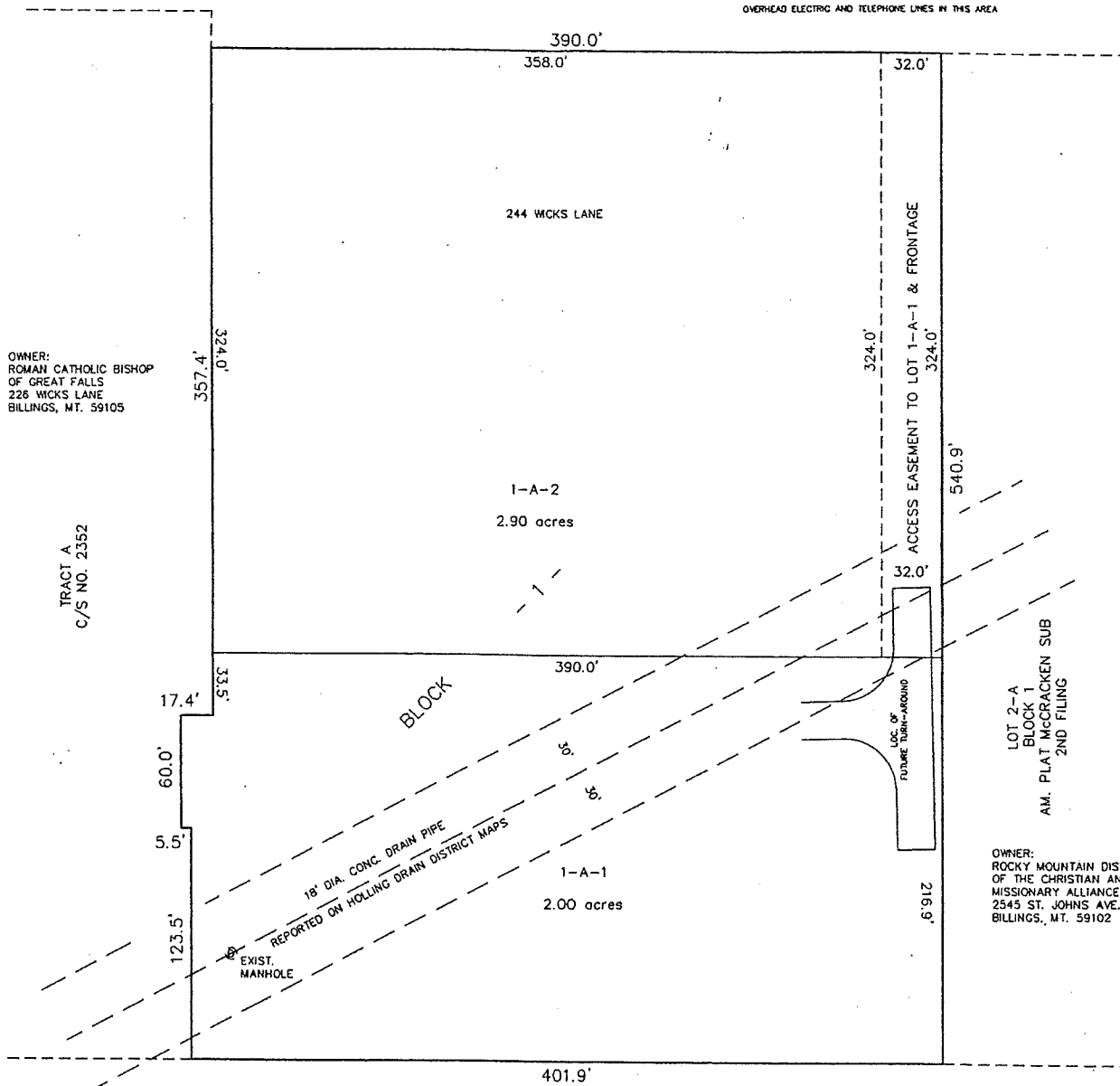
(IN FEET)
1 inch = 50 ft.

CODY DRIVE

12" WATER MAIN LOCATED IN THIS STREET.
36" SANITARY SEWER MAIN LOCATED IN THIS STREET.
GAS LINE IN THIS STREET.

WICKS LANE (90' WIDE)

OVERHEAD ELECTRIC AND TELEPHONE LINES IN THIS AREA



OWNER:
ROMAN CATHOLIC BISHOP
OF GREAT FALLS
226 WICKS LANE
BILLINGS, MT. 59105

TRACT A
C/S NO. 2352

OWNER:
HEATHER HEIGHTS
VILLAGE CONDOMINIUM
1 HEATHER DRIVE
BILLINGS, MT. 59105

HEATHER HEIGHTS SUBDIVISION

PURPOSE OF
THE PURPOSE
PARCEL FOR

BASIS OF BE
THE BASIS
A GPS BEAR
POINT NEAR

SITE DATA:
NUMBER OF LOTS:
AREA OF SMALLEST LOT
AREA OF REMAINDER LOT
ZONE:
PARK DEDICATION:
LENGTH OF NEW STREETS:
GROSS AREA:

MONUMENTATION:
CORNER MARKED WITH SYMBOL
IS MONUMENTED BY A 5/8" ST
WITH PLASTIC CAP STAMPED "A"
SET BY THIS SURVEY OR AS MAY
OTHERWISE.

CORNER MARKED WITH SYMBOL
IS MONUMENTED AS NOTED AND
BY THIS SURVEY OR AS MAY
OTHERWISE.

OWNER:
ROCKY MOUNTAIN DISTRICT
OF THE CHRISTIAN AND
MISSIONARY ALLIANCE.
2545 ST. JOHNS AVE.
BILLINGS, MT. 59102

Regular City Council Meeting

Date: 01/24/2011

TITLE: Preliminary Subsequent Minor Plat, Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

On December 15, 2010, the Planning Division received an application for a subsequent minor plat approval for Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing. The plat contains two lots on approximately 1.25 acres of land for commercial and industrial development. The proposed subdivision is located on the east side of Barnard Street, south of Monad Road. The lot currently has one building on the northern half. One variance has been requested, from Section 23-406.B.6. of the City Subdivision Regulations. The owners are Herbert and Geraldine Mangis, and the representing agent is Blueline Engineering, LLC.

ALTERNATIVES ANALYZED

In accordance with state law, the City Council has 35 working days to act upon this subsequent minor plat; the 35 working day review period for the proposed plat ends on February 4, 2011. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the preliminary plat

FINANCIAL IMPACT

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

BACKGROUND

On December 15, 2010, the Planning Division received an application for a subsequent minor plat approval for Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing. The plat contains two lots on approximately 1.25 acres of land for commercial and industrial development. The proposed subdivision is located on the east side of Barnard Street, south of Monad Road. The lot currently has one building on the northern half. One variance has been requested, from Section 23-406.B.6. of the City Subdivision Regulations. The owners are Herbert and Geraldine Mangis, and the representing agent is Blueline Engineering, LLC.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

RECOMMENDATION

Staff recommends approval of the variance request from Section 23-406.B.6, BMCC, and conditional approval of the preliminary subsequent minor plat of Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing, and adoption of the Findings of Fact as presented in the staff report to the City Council.

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

1. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
2. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

APPROVED BY CITY ADMINISTRATOR

Attachments

Preliminary Plat

Findings of Fact

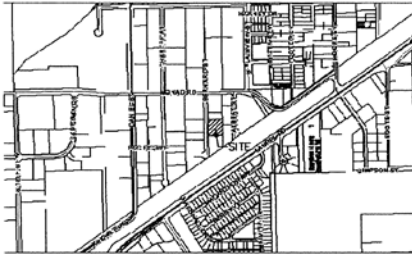
Variance Request and Staff Analysis

Mayor's Letter

ATTACHMENT A

Preliminary Plat

PRELIMINARY PLAT OF
 AMENDED LOT 3, BLOCK 4
BURLINGTON NORTHERN SUBDIVISION 14TH FILING
 SITUATED IN THE SW 1/4, SECTION 8, T. 1 S., R. 26 E., P.M.M.
 CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

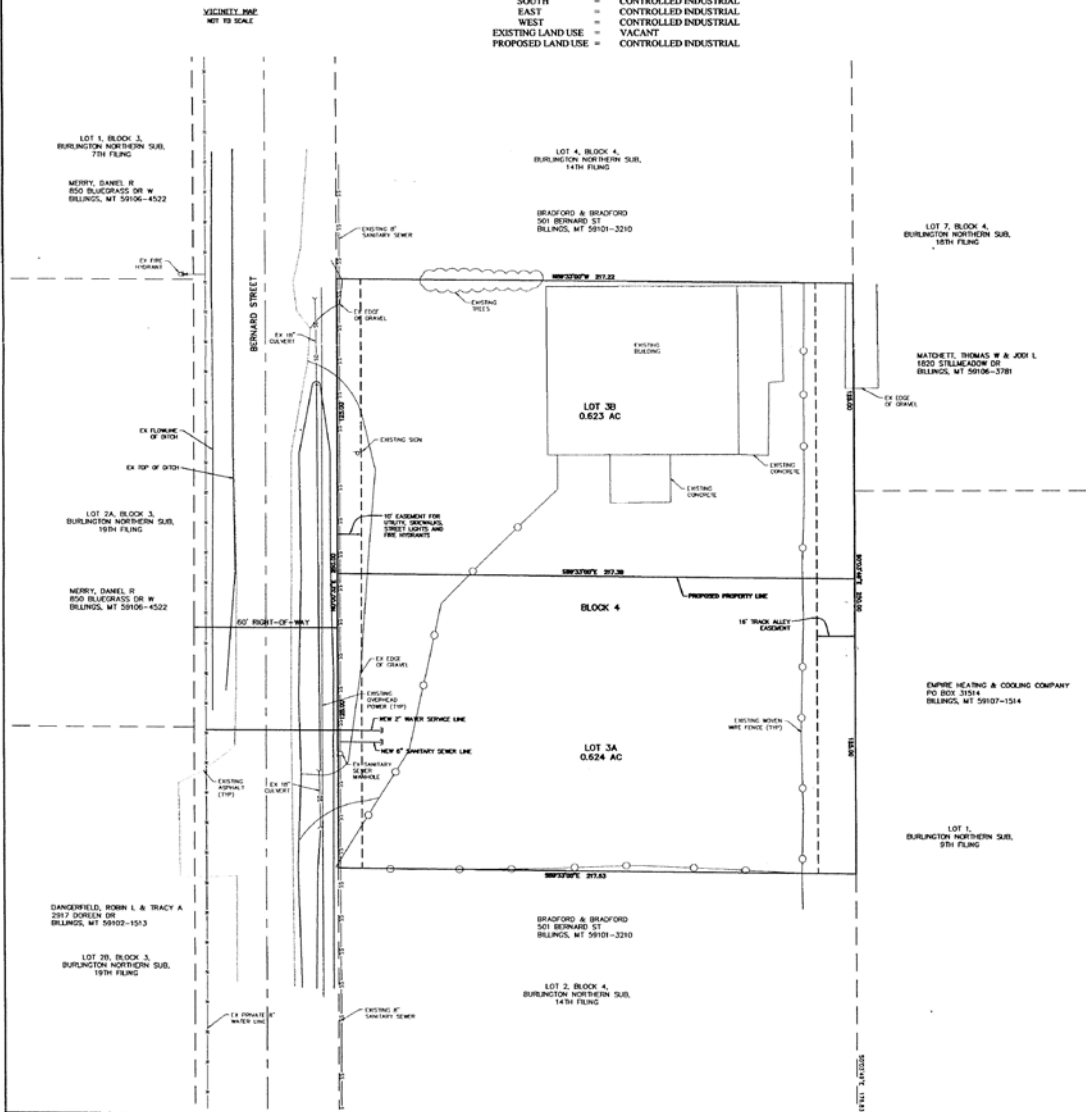


PREPARED FOR: HERBERT J MANGIS & GERALDINE J MANGIS
 SURVEYOR: NORTH STAR LAND SERVICES, P.C.
 ENGINEER: BLUELINE ENGINEERING LLC
 DECEMBER, 2010
 BILLINGS, MONTANA



SUBDIVISION DETAILS:

GROSS AREA	=	1.247 ACRES
NET AREA	=	1.247 ACRES
ROAD AREA	=	0.000 ACRES
NUMBER OF LOTS	=	2
MINIMUM LOT SIZE	=	0.623 ACRES
MAXIMUM LOT SIZE	=	0.624 ACRES
EXISTING ZONING	=	CONTROLLED INDUSTRIAL
SUBORDINATING ZONING		
NORTH	=	CONTROLLED INDUSTRIAL
SOUTH	=	CONTROLLED INDUSTRIAL
EAST	=	CONTROLLED INDUSTRIAL
WEST	=	CONTROLLED INDUSTRIAL
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	CONTROLLED INDUSTRIAL



ATTACHMENT B
Findings of Fact

Staff is forwarding the following Findings of Fact for Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing, for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Section 23-303(H), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [(76-3-608(3)(a), MCA) and (23-303(H)(1), BMCC)]

1. Effect on agriculture and agricultural water user facilities

The subject property is an under-used industrial lot in the Burlington Northern Subdivision, 14th Filing. It has not been used for agricultural production for many decades. A portion of the lot is developed with a building and parking area, while the remainder is a fenced-off weed patch. There is no anticipated effect on agriculture or irrigation facilities in the area.

2. Effect on local services

- a. **Utilities** – Water and sanitary sewer for the proposed subdivision shall come from the existing mains located in Barnard Street. The developer of the new lot will be responsible for the service extensions upon development.

Private electrical and gas services are also already stubbed to the property. The services are within the 10-foot wide utility easements found on the front property lines.

- b. **Storm water** – There are no existing storm drain sewer facilities in this area. The properties in the area currently use on site detention and road-side ditches to mitigate stormwater. Any new development will be done in accordance with the provisions of the City of Billings Storm Water Management Manual and Section 23-407, BMCC.
- c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Barnard Street fronts the property on the west. Barnard is a local commercial street, approximately 23 feet wide, within a 60-foot right-of-way. Section 23-406(B)(6) of the City Subdivision Regulations requires a right-of-way dedication of 70 feet total for local commercial streets. The subdivider has requested a variance from this requirement, since Barnard Street serves very few properties at this location south of Monad Road and ends in a dead-end cul-de-sac near this property. Additionally the subdivider has provided a 10-foot wide easement on the side adjacent to Barnard Street for utilities, sidewalks, street lights and fire hydrants. Staff is supportive of granting this variance (see Attachment C).

As noted above, Barnard Street exists but does not current City street construction standards. It is too narrow, and does not have curb, gutters, or sidewalks. As is often the

case for minor subdivisions on existing streets, City Engineering will not require construction of the 250 feet of Barnard Street that fronts the subject property. The entire street will be reconstructed to standards in the future and a waiver of right to protest future Special Improvement Districts (SIDs) for such a project will be recorded with the final plat documents. In the meantime each lot will have a separate drive approach off of Barnard Street, and any new development of on-site driveways and parking areas will be reviewed at the time of site development for compliance with current standards.

- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 S. 24th Street West (Station #5). Fire hydrants have been previously installed to meet the fire department requirements. The subdivision is located within the ambulance service area of American Medical Response.
- f. **Schools** –The property is within an industrial area and no school-aged children are expected to reside on the property. No impact to schools is anticipated as a result of this subdivision.
- g. **Parks and Recreation** - Parkland dedication is not required for subdivisions creating commercial or industrial lots only, in accordance with MCA 76-3-621(3)(b).
- h. **Mail Delivery** - The United States Postal Service reviewed the proposal and has requested individual mailboxes for each property, placed adjacent to Barnard Street. The details will be worked out upon further development.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment, as the subdivision is located within a developed area of the City. There will be short term air and noise pollution associated with construction on the property and site development codes are in place to minimize those impacts. Additionally, a geotechnical analysis will be required prior to any new construction on either lot within the subdivision. This will ensure that any structural considerations due to the soil conditions are identified and met at the time of construction.

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. The geotechnical report will ensure that any structural considerations due to the soil conditions are identified and met at the time of construction. There are no obvious threats to public health, safety or welfare.

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

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

C. Is the subdivision consistent with the Yellowstone County-City of Billings 2008 Growth Policy, the Urban Area 2009 Transportation Plan and the Heritage Trail Plan? (23-303(H)(3), BMCC)

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

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

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

The proposed commercial and industrial uses on the site are consistent with the surrounding uses.

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

The proposed amendment will make use of vacant land, and will support the continued infill development of the area.

2. Urban Area Transportation Plan 2009 Update

The proposed subdivision adheres to the goals and objectives of the 2009 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The Heritage Trail Plan does not identify any preferred corridors or on-street connectors within the bounds of the proposed subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [(76-3-608(3)(b), MCA) and (23-303(H)(2), BMCC)]

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

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

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

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [(23-303(H)(2), BMCC)]

The subject property is located within Controlled Industrial zoning district which allows a variety of commercial and industrial land uses. The individual lots will be further reviewed for compliance with the zoning codes at the time of development.

G. Does the proposed plat provide easements for the location and installation of any utilities? [(76-3-608(3)(c), MCA) and (23-303(H)(2), BMCC)]

A ten-foot wide easement is provided across the western frontage of the lots for the extension of private utilities such as electric, gas, and phone.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [(76-3-608(3)(d), MCA) and (23-303(H)(2), BMCC)]

Access to the subdivision shall be from Barnard Street, which is a dedicated City street as noted on the plat.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision is consistent with several goals and policies of the 2008 Growth Policy and with the 2009 Transportation Plan Update and the Heritage Trail Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, January 24, 2011.

Thomas W. Hanel, Mayor

ATTACHMENT C

Variance Request/Analysis and Staff Response

Block 4, Burlington Northern Subdivision, 14th Filing

foot right-of-way width for Bernard Street in lieu of a 70-foot commercial local access streets.

g a 60-foot right-of-way instead of a 70-foot right-of-way on street, this variance will not be detrimental to public health, general welfare and it will not injure other adjoining properties.

al surroundings and conditions of the property will not interfere variance since the variance is giving the extra right-of-way area. The street, sidewalk and easement widths will still be met as a variance.

he right-of-way width will not induce an increase in taxes.

; of Burlington Northern Subdivision are requesting this the right-of-way width so it will not effect any zoning that are in existence.

oot right-of-way, there is still enough space to have standard gutters and sidewalks on both sides of Bernard Street. This design will satisfy the needs of the owner while still ing the necessary features of the commercial local access street.

Staff Analysis and Response

Section 23-406(B)(6) of the City Subdivision Regulations requires a right-of-way dedication of 70 feet total for local commercial streets. The subdivider has requested a variance from this requirement to remain with the current 60-foot right-of-way, and not dedicate an addition five feet. Staff is supportive of this variance for a number of reasons. First, Barnard Street serves very few properties at this location south of Monad Road, and those properties are platted and largely developed, and will not likely be subject to subdivision dedication requirements in the future. This would likely be the only property along this portion of Barnard that would ever give the additional right-of-way. Also, Barnard Street ends in a dead-end cul-de-sac near this property so its future use as a thoroughfare is limited. Additionally the subdivider has provided a 10-foot wide easement on the side adjacent to Barnard Street for utilities, sidewalks, street lights and fire hydrants should additional space ever been needed. There shall be no increase in taxpayer burden by granting this variance request. Staff is supportive of granting this variance for these reasons.

ATTACHMENT D
Mayor's Approval Letter

January 25, 2011

Herbert and Geraldin Mangis
1726 Parkhill Dr.
Billings, MT 59102

Dear Mr. and Mrs. Mangis:

On January 24, 2011, the Billings City Council conditionally approved the preliminary plat of Amended Lot 3, Block 4, Burlington Northern Subdivision, 14th Filing, subject to the following conditions of approval:

1. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
2. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

Thomas W. Hanel, Mayor

Pc: Marshall Phil, Blueline Engineering

Regular City Council Meeting

Date: 01/24/2011

TITLE: Payment of Claims December 23, 2010.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,679,385.81 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 23, 2010, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

List of claims greater than \$2500.

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
12/23/2010	740035	A & I DISTRIBUTORS	16			13,907.01	
601-0000-141.00-00	11/04/2010	MP	1975124		05/2011	1,104.18	
601-1553-481.26-50	11/04/2010	MP	1975124	278323	05/2011	.33-	
150-2226-422.23-10	11/05/2010	FIRE/FUEL SUPPLEMENT	1977611 FIRE1	278323	05/2011	84.57	
601-0000-141.71-41	11/16/2010	MET	278323		05/2011	2,604.58	
601-1553-481.26-50	11/16/2010	MET	278323	278323	05/2011	.27-	
601-0000-141.00-00	11/17/2010	MP	1977307		05/2011	2,329.91	
601-0000-141.00-00	11/17/2010	MP	1977307		05/2011	51.48	
150-2112-421.23-20	11/17/2010	MP	1977307	278323	05/2011	26.65	
211-3130-433.23-20	11/17/2010	MP	1977307	278323	05/2011	26.65	
541-3122-435.23-20	11/17/2010	MP	1977307	278323	05/2011	26.54	
601-0000-141.00-00	11/22/2010	MP	1983643		05/2011	2,383.37	
601-1553-481.26-50	11/22/2010	MP	1983643	278323	05/2011	.22-	
541-3123-435.23-10	11/23/2010	OIL AND GREASE	1982636	278323	05/2011	1,324.76	
541-3123-435.23-10	12/01/2010	CITGO TRANSGUARD	1985695	278323	06/2011	1,202.18	
150-2226-422.23-10	12/02/2010	FIRE/ANTIFREEZE&FUEL SUPL	1979003 FIRE	278323	06/2011	341.12	
601-0000-141.00-00	12/08/2010	MP	1985692		06/2011	736.12	
601-1553-481.26-50	12/08/2010	MP	1985692	278323	06/2011	.22-	
541-3122-435.23-20	12/14/2010	MP	1977309	278323	06/2011	1,441.90	
541-3123-435.23-20	12/16/2010	MP	1984274	278323	06/2011	224.04	
12/23/2010	740040	ADB ALNACO	8415			12,543.01	
405-7125-711.96-72	12/21/2010	MISC SERVICES	9087207	276245	06/2011	11,915.86	
405-7125-711.96-73	12/21/2010	MISC SERVICES	9087207	276245	06/2011	627.15	
12/23/2010	740041	AIR CONTROLS CO INC	65			2,522.87	
150-2171-441.24-50	12/20/2010	AIR HANDLER MAINTENACE	88421-106-325	280432	06/2011	2,522.87	
12/23/2010	740042	ALTA PLANNING & DESIGN INC	21295			6,733.89	
240-4301-419.72-14	12/20/2010	INV 10-067-05	INV 10-067-05	280398	06/2011	6,733.89	
12/23/2010	740052	BALTER MELINDA	20248			3,464.23	
10-1220-412.38-24	12/17/2010	TUITION REIMB.	2011-6	280176	06/2011	3,315.23	
10-1220-412.38-24	12/20/2010	REIMBURSEMENT ECOURTS	2011-6	280440	06/2011	149.00	
12/23/2010	740054	BECCO GENERAL CONSTRUCTION SER	21173			150,423.29	
513-0000-201.10-00	12/22/2010	WO0908 WWTP WATER LINE	RET RELEASE	275042	06/2011	18,526.58	
513-8491-623.93-90	12/22/2010	WO0908 WWTP WATER LINE	5	275042	06/2011	131,896.71	
12/23/2010	740060	BRENNTAG PACIFIC INC	17236			4,578.78	
211-3132-433.47-21	12/21/2010	ROAD/HIGHWAY MATERIAL	BPI056760	280294	06/2011	4,578.78	
12/23/2010	740063	BROWN AND CALDWELL	18626			2,615.82	
503-7591-609.93-40	12/21/2010	WO0825 ZONE 3 RESERVOIR	20	264675	06/2011	2,615.82	
12/23/2010	740065	BUSINESS TAX SECTION	2449			10,128.05	
405-0000-201.10-00	12/23/2010	RETAINAGE RELEASE 276271	FINAL PAYREQ #4	276271	06/2011	537.53	
405-0000-201.10-00	12/23/2010	RETAINAGE RELEASE 276271	FINAL PAYREQ #4	276271	06/2011	72.99	
405-0000-201.10-00	12/23/2010	RETAINAGE RELEASE 276271	FINAL PAYREQ #4	276271	06/2011	79.95	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
416-7493-603.92-20	12/21/2010	WO0426 ZONE 4 RESERVOIR	14	267994	06/2011	303.97
421-8493-623.93-40	12/21/2010	WO0822 WWTP DISINFEC SYS	8	272597	06/2011	3,077.31
435-3165-431.93-11	12/21/2010	WO0412 ALKALI CR RD	6	274581	06/2011	.98
845-3186-431.93-10	12/21/2010	WO0412 ALKALI CR RD	6	274581	06/2011	906.84
205-3131-433.93-10	12/21/2010	WO0821 LAKE ELMO DR	6	274941	06/2011	561.97
210-3110-431.93-11	12/21/2010	WO0821 LAKE ELMO DR	6	274941	06/2011	282.14
438-3165-431.93-11	12/21/2010	WO0821 LAKE ELMO DR	6	274941	06/2011	409.74
840-3184-431.93-10	12/21/2010	WO0821 LAKE ELMO DR	6	274941	06/2011	69.55
405-7125-711.96-72	12/21/2010	MISC SERVICES	276271-F	276271	06/2011	190.08
405-7125-711.96-73	12/21/2010	MISC SERVICES	276271-F	276271	06/2011	10.00
405-7125-711.96-72	12/21/2010	MISC SERVICES	276271-F1	276271	06/2011	5.70
405-7125-711.96-73	12/21/2010	MISC SERVICES	276271-F1	276271	06/2011	.30
406-7119-711.92-90	12/21/2010	MISC SERVICES	278674-2	278674	06/2011	1,684.58
513-0000-201.10-00	12/22/2010	WO0908 WWTP WATER LINE	RET RELEASE	275043	06/2011	187.14
210-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274941	06/2011	83.02
840-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274941	06/2011	57.64
205-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274941	06/2011	200.32
438-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274941	06/2011	57.20
503-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274941	06/2011	16.81
513-8491-623.93-90	12/22/2010	WO0908 WWTP WATER LINE	5	275043	06/2011	1,332.29
12/23/2010	740068	CMG CONSTRUCTION, INC.	17342			89,874.23
435-3165-431.93-11	12/21/2010	WO0412 ALKALI CR RD	7	274580	06/2011	98.52
845-3186-431.93-10	12/21/2010	WO0412 ALKALI CR RD	7	274580	06/2011	89,775.71
12/23/2010	740069	COLSTRIP ELECTRIC INC	11663			2,671.13
512-8400-623.23-60	12/21/2010	MISC SERVICES	13541	280461	06/2011	2,671.13
12/23/2010	740071	CRYOTECH DEICING TECHNOLOGY	13448			5,321.56
561-7113-711.36-50	12/21/2010	MISC SERVICES	IN23184	279654	06/2011	5,321.56
12/23/2010	740073	D N D SECURITY	16586			2,514.67
521-1591-493.39-70	12/21/2010	GARAGE SECURITY DEC. '10	455	280491	06/2011	504.92
521-1592-493.39-70	12/21/2010	GARAGE SECURITY DEC. '10	455	280491	06/2011	999.92
521-1593-493.39-70	12/21/2010	GARAGE SECURITY DEC. '10	455	280491	06/2011	504.92
521-1594-493.39-70	12/21/2010	GARAGE SECURITY DEC. '10	455	280491	06/2011	504.91
12/23/2010	740079	DESMAN ASSOCIATES	21403			5,775.00
521-1521-493.35-90	12/21/2010	TECHNOLOGY AUDIT	D10027	279185	06/2011	5,775.00
12/23/2010	740080	DOWNTOWN BILLINGS ASSOCIATION	1083			3,000.00
521-1521-493.33-70	12/21/2010	DWNTWN MAPS	724	280490	06/2011	3,000.00
12/23/2010	740081	DOWNTOWN BILLINGS BID, INC.	19065			7,508.75
872-5198-452.36-50	12/20/2010	BID CONTRACT OCT-DEC	BID OCT-DEC2010	280418	06/2011	3,501.00
872-5198-452.36-50	12/20/2010	BID CONTRACT OCT-DEC	BID OCT-DEC2010	280418	06/2011	3,125.00
521-1592-493.36-50	12/21/2010	P2 MX OCT-DEC '10	153	280489	06/2011	401.25
521-1524-493.36-90	12/21/2010	LINC/LIBR LOTS OCT/DEC'10	154	280489	06/2011	481.50
12/23/2010	740088	FIRST INTERSTATE BANK	1303			5,216.40
723-6595-465.62-00	12/22/2010	MISC SERVICES	1100216095	280523	06/2011	5,216.40

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
12/23/2010	740090	GALLES FILTER SERVICE	1397				2,602.43
571-7144-713.23-20	11/03/2010	MP	215919	278328	05/2011	39.90	
571-7144-713.23-20	11/03/2010	MP	215965	278328	05/2011	38.60	
601-0000-141.71-41	11/15/2010	MP	216202		05/2011	102.43	
601-0000-141.00-00	11/16/2010	MP	216945		05/2011	332.76	
601-0000-141.00-00	11/17/2010	MP	2162.07		05/2011	761.37	
601-0000-141.00-00	11/19/2010	MP	217228		05/2011	70.50	
601-0000-141.00-00	11/23/2010	MP	217152		05/2011	118.70	
601-0000-141.00-00	11/23/2010	MP	217396		05/2011	440.67	
211-3134-433.23-20	11/23/2010	MP	217205	278328	05/2011	29.04	
601-0000-141.00-00	12/15/2010	MP	215956		06/2011	32.68	
601-0000-141.00-00	12/15/2010	MP	216479		06/2011	496.68	
541-3122-435.23-20	12/15/2010	MP	216171	278328	06/2011	13.10	
211-3134-433.23-20	12/15/2010	MP	216277	278328	06/2011	29.57	
541-3122-435.23-20	12/15/2010	MP	216359	278328	06/2011	7.32	
150-2112-421.23-20	12/15/2010	MP	216530	278328	06/2011	13.44	
541-3123-435.23-20	12/15/2010	MP	216530	278328	06/2011	60.04	
541-3122-435.23-20	12/21/2010	MP	217335	278328	06/2011	15.63	
12/23/2010	740093	GENERAL ELECTRIC CAPITAL CORP	19598				9,370.42
150-2150-421.61-00	12/20/2010	MISC SERVICES	TOUGHBOOK	280446	06/2011	8,927.02	
150-2150-421.62-00	12/20/2010	MISC SERVICES	TOUGHBOOK	280446	06/2011	443.40	
12/23/2010	740103	HDR INC	1544				65,903.50
502-7211-601.35-40	12/15/2010	DRINKING WTR SOURCE STUDY	253070-H	258046	06/2011	9,924.83	
513-8491-623.93-90	12/21/2010	WO0908 WWTP WTR LIN REPLC	18	266958	06/2011	3,745.87	
502-7211-601.35-40	12/21/2010	WO0923 ELECTRICAL MSTR	11	269621	06/2011	1,903.49	
512-8211-621.35-40	12/21/2010	WO0923 ELECTRICAL MSTR	11	269621	06/2011	1,903.48	
416-7493-603.92-20	12/22/2010	WO0426 ZONE 4 & 5 RESVRS	46	247294	06/2011	14,666.62	
421-8493-623.93-40	12/22/2010	WO0822 WWTP DISINFEC SYS	22/253069-H	263835	06/2011	15,523.27	
502-7211-601.35-40	12/22/2010	WO0916 WTP &WWTP ELECTRIC	11	267012	06/2011	2,762.77	
512-8211-621.35-40	12/22/2010	WO0916 WTP &WWTP ELECTRIC	11	267012	06/2011	2,762.77	
513-8491-623.93-90	12/22/2010	WO1009 WWTP T-5 TRNSFRMR	10	273263	06/2011	1,802.62	
503-7491-603.93-90	12/22/2010	WO1011 WTP HIGH SRVC	9/253066-H	273326	06/2011	1,100.71	
503-7591-609.93-40	12/22/2010	WO1012 BLGS LOW SRVC	5/253727-H	276189	06/2011	9,807.07	
12/23/2010	740106	HKM ENGINEERING INC	10883				9,885.84
210-5151-452.93-90	12/21/2010	WO0307 ALKALI CR	49	250043	06/2011	4,060.23	
490-5161-452.93-70	12/21/2010	WO0307 ALKALI CR	49	250043	06/2011	629.34	
210-3110-431.93-11	12/22/2010	WO0821 LAKE ELMO DR	7	274946	06/2011	5,196.27	
12/23/2010	740113	INGRAM BOOK COMPANY	1820				9,472.02
260-5519-455.32-26	12/17/2010	PUBLICATIONS/AUDIOVISUAL	54927106	278623	06/2011	51.43	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55048598	278623	06/2011	389.17	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55048598	278623	06/2011	1,077.36	
260-5519-455.32-55	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55048598	278623	06/2011	404.74	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55059267	278623	06/2011	19.77	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55059267	278623	06/2011	10.00	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55059273	278623	06/2011	20.99	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55059273	278623	06/2011	18.58	
260-5519-455.32-42	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55067402	278623	06/2011	5.49	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55067403	278623	06/2011	199.21	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55067403	278623	06/2011	134.69	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55067404	278623	06/2011	13.17	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55134882	278623	06/2011	14.99	
260-5519-455.32-42	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55134885	278623	06/2011	28.71	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55134887	278623	06/2011	13.72	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55134887	278623	06/2011	8.40	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55134887	278623	06/2011	31.56	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154813	278623	06/2011	15.33	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154814	278623	06/2011	15.33	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154815	278623	06/2011	16.51	
260-5519-455.32-42	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154816	278623	06/2011	16.49	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154817	278623	06/2011	30.05	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154818	278623	06/2011	14.74	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154819	278623	06/2011	46.58	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154820	278623	06/2011	49.21	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154821	278623	06/2011	379.36	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154821	278623	06/2011	693.91	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55154821	278623	06/2011	824.79	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55185571	278623	06/2011	30.66	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194040	278623	06/2011	14.97	
260-5519-455.33-33	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194041	278623	06/2011	13.72	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194042	278623	06/2011	23.14	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194043	278623	06/2011	37.12	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194044	278623	06/2011	159.33	
260-5519-455.32-55	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194044	278623	06/2011	20.19	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194045	278623	06/2011	134.93	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194045	278623	06/2011	44.36	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194045	278623	06/2011	181.34	
260-5519-455.32-41	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194045	278623	06/2011	26.96	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55194046	278623	06/2011	7.80	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55231225	278623	06/2011	58.90	
260-5519-455.33-82	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55235906	278623	06/2011	15.59	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281226	278623	06/2011	15.00	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281227	278623	06/2011	31.84	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281228	278623	06/2011	27.54	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281229	278623	06/2011	8.99	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281230	278623	06/2011	16.50	
260-5519-455.32-42	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281230	278623	06/2011	38.47	
260-5519-455.33-82	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281231	278623	06/2011	32.10	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281232	278623	06/2011	49.19	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281233	278623	06/2011	28.29	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281233	278623	06/2011	9.60	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281234	278623	06/2011	40.80	
260-5519-455.33-33	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281234	278623	06/2011	20.04	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281235	278623	06/2011	58.46	
260-5519-455.32-27	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281236	278623	06/2011	23.54	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281237	278623	06/2011	74.89	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
260-5519-455.32-23	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281238	278623	06/2011	36.05	
260-5519-455.32-26	12/20/2010	PUBLICATIONS/AUDIOVISUAL	55281238	278623	06/2011	40.87	
260-5511-455.79-30	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55281239	278623	06/2011	37.72	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55281240	278623	06/2011	23.57	
260-5519-455.32-23	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55303058	278623	06/2011	8.97	-
260-5519-455.33-82	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316046	278623	06/2011	21.00	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316047	278623	06/2011	14.15	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316048	278623	06/2011	14.97	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316049	278623	06/2011	29.05	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316050	278623	06/2011	17.69	
260-5519-455.32-23	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316051	278623	06/2011	108.93	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316051	278623	06/2011	397.49	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316051	278623	06/2011	1,339.59	
260-5519-455.33-33	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316051	278623	06/2011	936.20	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316052	278623	06/2011	11.97	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316053	278623	06/2011	17.67	
260-5519-455.33-33	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316054	278623	06/2011	51.87	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55316055	278623	06/2011	21.00	
260-5519-455.33-33	12/21/2010	PUBLICATIONS/AUDIOVISUAL	554245516	278623	06/2011	15.98	
260-5519-455.32-23	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425512	278623	06/2011	16.49	
260-5519-455.32-41	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425512	278623	06/2011	10.86	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425513	278623	06/2011	11.77	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425514	278623	06/2011	12.95	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425514	278623	06/2011	24.00	
260-5519-455.32-23	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425515	278623	06/2011	50.96	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425515	278623	06/2011	111.72	
260-5519-455.32-27	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425515	278623	06/2011	143.98	
260-5519-455.33-33	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55425515	278623	06/2011	192.52	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	554258511	278623	06/2011	10.17	
260-5519-455.32-26	12/21/2010	PUBLICATIONS/AUDIOVISUAL	55432543	278623	06/2011	28.74	-
12/23/2010	740117	JACKSON CONTRACTOR GROUP INC	21359			166,773.77	
406-7119-711.92-90	12/21/2010	MISC SERVICES	278672	278672	06/2011	166,773.77	
12/23/2010	740119	JTL GROUP INC DBA KNIFE RIVER	2417			9,911.19	
211-3132-433.45-20	12/21/2010	ROAD/HIGHWAY MATERIAL	234234	280295	06/2011	3,055.83	
211-3132-433.45-20	12/21/2010	ROAD/HIGHWAY MATERIAL	234255	280295	06/2011	2,121.91	
211-3132-433.45-20	12/21/2010	ROAD/HIGHWAY MATERIAL	234274	280295	06/2011	4,733.45	
12/23/2010	740121	KADRMAS LEE & JACKSON	14850			67,718.06	
503-7591-609.93-40	12/21/2010	WO0911 RIMROCK RD	14	268015	06/2011	1,190.42	
840-3184-431.93-10	12/21/2010	WO0911 RIMROCK RD	14	268015	06/2011	1,843.24	
845-3186-431.93-10	12/21/2010	WO0911 RIMROCK RD	14	268015	06/2011	4,646.48	
845-3186-431.93-10	12/22/2010	WO0412 ALKALI CR RD	20	259114	06/2011	17,986.65	
845-3186-431.93-10	12/22/2010	WO0412 ALKALI CR RD	8	259114	06/2011	42,051.27	
12/23/2010	740130	LSC	7725			2,865.38	
571-7141-713.73-35	12/16/2010	MISC SERVICES	43881	280183	06/2011	2,865.38	
12/23/2010	740142	MORRISON MAIERLE INC	2572			99,428.83	
503-7591-609.93-40	12/21/2010	WO0801 2008 WTR & SWR	35	252779	06/2011	3,457.67	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
503-7591-609.93-40	12/21/2010	WO1001 2010 WTR & SWR	14	268044	06/2011	20,991.22	
513-8591-625.93-40	12/21/2010	WO1001 2010 WTR & SWR	14	268044	06/2011	11,302.97	
421-8493-623.93-40	12/21/2010	WO0814 WWTP STRMWTR	7	273122	06/2011	112.18	
407-7128-711.93-97	12/21/2010	MISC SERVICES	101861	274012	06/2011	2,336.42	
407-7128-711.93-97	12/21/2010	MISC SERVICES	101861	274012	06/2011	584.10	
405-7125-711.96-72	12/21/2010	MISC SERVICES	101862	274777	06/2011	2,592.35	
405-7125-711.96-73	12/21/2010	MISC SERVICES	101862	274777	06/2011	136.44	
405-7125-711.96-72	12/21/2010	MISC SERVICES	101863	274777	06/2011	3,029.85	
405-7125-711.96-73	12/21/2010	MISC SERVICES	101863	274777	06/2011	159.47	
405-7125-711.96-72	12/21/2010	MISC SERVICES	101865	274777	06/2011	29,336.37	
405-7125-711.96-73	12/21/2010	MISC SERVICES	101865	274777	06/2011	1,544.02	
406-7119-711.92-90	12/21/2010	MISC SERVICES	101864	277318	06/2011	10,531.65	
205-3131-433.93-10	12/22/2010	WO0210 BENCH CONNECTION	13/101843	265562	06/2011	13,314.12	
12/23/2010	740153	NORTHWESTERN ENERGY	15771			82,336.71	
512-8400-623.34-10	12/15/2010	MISC SERVICES	01005917 DEC10	280309	06/2011	46,706.02	
150-2221-422.34-10	12/20/2010	FIRE1:ELEC/28,600 KWH	0100476-1 10DEC	276426	06/2011	2,345.82	
561-7117-711.34-10	12/23/2010	NW AVIATION/TRAN	07127921		06/2011	387.61	
561-7117-711.34-10	12/23/2010	NW AVIATION/TRAN	07127996		06/2011	18.08	
561-7117-711.34-10	12/23/2010	NW AVIATION/TRAN	07128002		06/2011	1,190.20	
561-7113-711.34-10	12/23/2010	NW AVIATION/TRAN	07128093		06/2011	7.70	
561-7117-711.34-10	12/23/2010	NW AVIATION/TRAN	07128176		06/2011	211.15	
561-7113-711.34-10	12/23/2010	NW AVIATION/TRAN	07196165		06/2011	54.98	
660-3110-431.34-10	12/21/2010	ELECTRICITY	1741314-7	280509	06/2011	320.61	
670-3141-489.34-10	12/21/2010	ELECTRICITY	1741314-7	280509	06/2011	480.91	
561-7113-711.34-10	12/20/2010	0100483-7	122010	F12064	06/2011	3,024.59	
561-7113-711.34-10	12/20/2010	0100484-5	122010	F12064	06/2011	2,513.94	
561-7113-711.34-10	12/20/2010	1647695-4	122010	F12064	06/2011	59.41	
561-7117-711.34-10	12/20/2010	1669567-8	122010	F12064	06/2011	595.40	
561-7117-711.34-10	12/20/2010	1264299-7	122010	F12064	06/2011	576.59	
561-7117-711.34-10	12/20/2010	1341288-7	122010	F12064	06/2011	315.40	
561-7117-711.34-10	12/20/2010	1341289-5	122010	F12064	06/2011	57.03	
561-7117-711.34-10	12/20/2010	1341291-1	122010	F12064	06/2011	402.88	
561-7117-711.34-10	12/20/2010	1341295-2	122010	F12064	06/2011	406.85	
650-1567-487.34-10	12/23/2010	FACILITIES MANAGEMENT	01005073		06/2011	6,098.57	
521-1592-493.34-10	12/23/2010	NW FINANCE	07208341		06/2011	4,519.68	
607-2235-486.34-10	12/23/2010	NW FIRE	07215809		06/2011	218.73	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222375		06/2011	10.96	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222474		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222540		06/2011	.08	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222557		06/2011	87.71	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222573		06/2011	9.00	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222607		06/2011	51.26	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222664		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222698		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222920		06/2011	11.18	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07222938		06/2011	19.09	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07229057		06/2011	7.80	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07229339		06/2011	68.11	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230352		06/2011	95.59	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230360		06/2011	9.53	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230378		06/2011	168.81	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230428		06/2011	34.61	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230444		06/2011	9.00	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230543		06/2011	9.00	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230550		06/2011	7.80	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230568		06/2011	15.25	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230576		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230584		06/2011	15.35	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07230907		06/2011	9.00	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07231624		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07231707		06/2011	16.04	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07236441		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07236458		06/2011	7.70	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	07894371		06/2011	7.91	
211-3132-433.34-10	12/23/2010	NW PUBLIC WORKS	08554040		06/2011	9.00	
10-5112-452.34-10	12/23/2010	NW PARK/REC/PL	09254962		06/2011	195.09	
650-1566-487.34-10	12/23/2010		09758087		06/2011	393.76	
872-5198-452.34-10	12/23/2010	NW PARK/REC/PL	10590933		06/2011	307.05	
650-1566-487.34-10	12/23/2010	ACCOUNTS PAYABLE	11608023		06/2011	848.24	
650-1566-487.34-10	12/23/2010	ACCOUNTS PAYABLE	11608049		06/2011	3,325.57	
650-1566-487.34-10	12/23/2010	NW	12693917		06/2011	3,542.90	
10-5112-452.34-10	12/23/2010	NW	15220957		06/2011	274.26	
521-1592-493.34-10	12/23/2010	PARK 2 GARAGE	15942824		06/2011	1,886.24	
571-7148-713.34-10	12/23/2010	MET DOWNTOWN TRANS CENTER	17847567		06/2011	325.47	
12/23/2010	740163	QWEST COMMUNICATIONS SERVICES	16050			8,090.40	
225-2232-422.35-90	12/16/2010	E911/SOFTWR SUPPORT/RENEW	PLANTCML/2010	280378	06/2011	8,090.40	
12/23/2010	740164	QWEST COMMUNICATIONS	6319			8,451.33	
225-2232-422.34-50	12/16/2010	QWEST DEC 2010 2ND PAY	252-1190		06/2011	8,408.35	
521-1592-493.34-50	12/16/2010	QWEST DEC 2010 2ND PAY	252-2041		06/2011	42.98	
12/23/2010	740171	RIVERSIDE SAND & GRAVEL INC	19447			260,860.09	
405-0000-201.10-00	12/23/2010	RETAINAGE RELEASE 276263	FINAL PAY REQ 4	276263	06/2011	53,214.80	
405-0000-201.10-00	12/23/2010	RETAINAGE RELEASE 276263	FINAL PAY REQ 4	276263	06/2011	7,224.89	
405-0000-201.10-00	12/23/2010	RETAINAGE RELEASE 276263	FINAL PAY REQ 4	276263	06/2011	7,914.56	
205-3131-433.93-10	12/21/2010	WO0821 LAKE ELMO DR	6	274940	06/2011	55,635.16	
210-3110-431.93-11	12/21/2010	WO0821 LAKE ELMO DR	6	274940	06/2011	27,932.13	
438-3165-431.93-11	12/21/2010	WO0821 LAKE ELMO DR	6	274940	06/2011	40,564.33	
840-3184-431.93-10	12/21/2010	WO0821 LAKE ELMO DR	6	274940	06/2011	6,885.85	
405-7125-711.96-72	12/21/2010	MISC SERVICES	276263-F	276263	06/2011	18,818.19	
405-7125-711.96-73	12/21/2010	MISC SERVICES	276263-F	276263	06/2011	990.43	
405-7125-711.96-72	12/21/2010	MISC SERVICES	276263-F1	276263	06/2011	566.18	
405-7125-711.96-73	12/21/2010	MISC SERVICES	276263-F1	276263	06/2011	29.80	
210-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274940	06/2011	8,219.30	
840-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274940	06/2011	5,706.16	
205-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274940	06/2011	19,830.90	
438-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274940	06/2011	5,663.06	
503-0000-201.10-00	12/22/2010	WO0821 LAKE ELMO DR	RET RELEASE	274940	06/2011	1,664.35	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
150-2221-422.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	FIRE DEPT		06/2011	549.98
10-1750-417.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	HUMAN RESOURCES		06/2011	42.53
620-1913-482.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	ITD GIS		06/2011	12.91
620-1911-482.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	ITD		06/2011	99.27
260-5517-455.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	LIBRARYOUTREACH		06/2011	25.82
260-5512-455.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	LIBRARY		06/2011	173.58
10-1100-411.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	MAYOR		06/2011	42.45
601-1550-481.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	MOTOR POOL		06/2011	49.48
10-1220-412.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	DRUG COURT		06/2011	163.96
10-1212-412.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	MUNI JUDGE		06/2011	158.92
240-4301-419.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PLANNING		06/2011	12.91
150-2111-421.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	POLICE		06/2011	2,947.64
251-2187-421.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	POLICE FORENSIC		06/2011	67.84
249-2196-421.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	698 1391 DV		06/2011	22.46
521-1521-493.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PARKING		06/2011	351.49
10-5110-453.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PRPL ADM		06/2011	60.59
10-5121-451.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PRPL-RECREATION		06/2011	87.92
10-5140-436.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	CEMETERY		06/2011	82.40
10-5112-452.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PARKS PMD		06/2011	43.33
10-5112-452.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PARKS		06/2011	484.61
10-5112-452.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PARKS IRRIGTION		06/2011	55.81
10-1543-415.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PURCHASING		06/2011	88.36
660-3110-431.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PW ADM		06/2011	136.93
209-4451-428.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	BUILDING		06/2011	180.68
670-3141-489.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	ENGINEERING		06/2011	442.89
541-3121-435.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	SOLID WASTE		06/2011	48.96
211-3132-433.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	STREET/TRAFFIC		06/2011	356.34
541-3123-435.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	SW ON CALL		06/2011	73.23
502-7700-611.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PUD ENVIRN 1/2		06/2011	19.07
512-8700-628.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PUD ENVIRN 1/2		06/2011	19.07
502-7400-603.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	WATER TREATMENT		06/2011	820.25
502-7500-609.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	DIST & COLL 60%		06/2011	634.53
512-8500-625.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	DIST & COLL 40%		06/2011	423.03
502-7312-602.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PWBLKNP MTRSHOP		06/2011	457.94
502-7314-602.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PWBLKNP STOR75%		06/2011	85.81
502-7311-602.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PWBLKNP OFF 60%		06/2011	68.65
512-8400-623.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	WASTEWATER TREA		06/2011	1,065.41
606-1931-484.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	TELECOMM SYS		06/2011	51.02
571-7142-713.31-60				12/21/2010	VERIZON WIRELESS DEC 2010	ON-CALL MET		06/2011	91.21
571-7141-713.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	MET TRANSIT		06/2011	36.13
10-4321-419.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	CODE ENFORCEMT		06/2011	149.32
512-8314-622.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PWBLKNP STOR25%		06/2011	28.61
512-8311-622.34-50				12/21/2010	VERIZON WIRELESS DEC 2010	PWBLKNP OFF 40%		06/2011	45.77
512-8500-625.34-50				12/21/2010	VERIZON WSCA DEC 2010	PUD AIR CARD40%		06/2011	17.21
12/23/2010	740202	WELLS FARGO BANK-LOAN PAYMENT	16716						5,216.40
	723-6595-465.62-00			12/22/2010	MISC SERVICES	16-0910824-3	280522	06/2011	5,216.40
12/23/2010	740203	WESTERN SECURITY BANK	16462						5,216.40
	723-6595-465.62-00			12/22/2010	MISC SERVICES	2157001592	280524	06/2011	5,216.40

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
12/23/2010	740204	WILLIAMS BROTHER CONSTRUCTION	8323			304,654.15	
421-8493-623.93-40	12/21/2010	WO0822 WWTP DISINFEC SYS	8	272596	06/2011	304,654.15	
12/23/2010	740209	YELLOWSTONE VALLEY ELEC	4174			4,363.27	
607-2235-486.34-10	12/20/2010	800MHZ/10NOV/LNDFILL TWR	4179002	10NOV	276421	06/2011	213.00
150-2221-422.34-10	12/21/2010	FIRE7/PD3/ELEC/6523KWH	4179013	10NOV	276368	06/2011	666.52
541-3123-435.34-10	12/21/2010	POWER LF NOV	4179000		280081	06/2011	972.99
502-7400-603.34-10	12/21/2010	MISC SERVICES	4179006	DEC10	280469	06/2011	973.05
512-8400-623.34-10	12/21/2010	MISC SERVICES	4179006	DEC10	280469	06/2011	59.04
512-8400-623.34-10	12/21/2010	MISC SERVICES	4179008	DEC10	280469	06/2011	1,152.78
512-8500-625.34-10	12/21/2010	MISC SERVICES	4179008	DEC10	280469	06/2011	150.68
512-8500-625.34-10	12/21/2010	MISC SERVICES	4179010	DEC10	280469	06/2011	156.21
512-8500-625.34-10	12/21/2010	MISC SERVICES	4179011	DEC10	280469	06/2011	19.00
DATE RANGE TOTAL *						1,628,639.75 *	

Regular City Council Meeting

Date: 01/24/2011

TITLE: Payment of Claims December 30, 2010.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$821,626.08 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 30, 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	
12/30/2010	740212	A-1 LANDSCAPING & NURSERY	2			15,475.00	
521-1524-493.39-90	12/29/2010	SNOW REMOVAL DEC. 2010	3536	280654	06/2011	2,145.00	
521-1591-493.39-90	12/29/2010	SNOW REMOVAL DEC. 2010	3536	280654	06/2011	1,840.00	
521-1592-493.39-90	12/29/2010	SNOW REMOVAL DEC. 2010	3536	280654	06/2011	1,850.00	
521-1593-493.39-90	12/29/2010	SNOW REMOVAL DEC. 2010	3536	280654	06/2011	2,660.00	
521-1594-493.39-90	12/29/2010	SNOW REMOVAL DEC. 2010	3536	280654	06/2011	6,980.00	
12/30/2010	740215	ACUITY BRANDS LIGHTING INC	20345			3,416.75	
211-0000-141.31-83	12/28/2010	STREET LIGHTS	15915187		06/2011	2,458.00	
211-0000-141.31-83	12/28/2010	STREET LIGHTS	15921993		06/2011	958.75	
12/30/2010	740216	ALFA LAVAL	15706			7,963.64	
502-0000-141.00-00	12/23/2010	WASTEWATER PARTS & SUPPLY	E270051976		06/2011	7,963.64	
12/30/2010	740219	ARCHIE COCHRANE	800			64,223.43	
211-3132-433.94-20	12/27/2010	AUTO MAJOR TRANSPORTATION	DEAL#80695	278592	06/2011	30,495.00	
211-3132-433.94-20	12/27/2010	AUTO MAJOR TRANSPORTATION	DEAL#80696	278592	06/2011	29,995.00	
150-2112-421.23-20	12/28/2010	MP	5041657	280624	06/2011	96.00	
630-1753-485.73-10	12/29/2010	MISC SERVICES	807658/1	280627	06/2011	3,234.25	
150-2112-421.23-20	12/29/2010	MP	5040717	280681	06/2011	11.72	
150-2112-421.23-20	12/29/2010	MP	5040764	280681	06/2011	17.87	
150-2112-421.23-20	12/29/2010	MP	5040935	280681	06/2011	33.53	
150-2112-421.23-20	12/29/2010	MP	5040938	280681	06/2011	223.07	
150-2112-421.23-20	12/29/2010	MP	5041102	280681	06/2011	15.29	
211-3130-433.23-20	12/29/2010	MP	5041248	280681	06/2011	67.80	
670-3141-489.23-20	12/29/2010	MP	5041248	280681	06/2011	33.90	
12/30/2010	740220	ARTCRAFT PRINTERS OF BILLINGS	214			4,975.00	
571-7146-713.32-10	12/27/2010	INVOICE# 02029BO-IN	02029BO-IN	F12096	06/2011	4,975.00	
12/30/2010	740227	COMMUNITY CRISIS CENTER	19183			8,120.00	
10-1220-412.35-75	12/27/2010	MENTAL HEALTH SVCS	2011-6	280540	06/2011	8,120.00	
12/30/2010	740228	COMMUNITY SOLUTIONS INC	18339			4,250.00	
245-1257-412.35-81	12/27/2010	BAMHC SUPERVISION OCT/NOV	2011-6	280538	06/2011	4,000.00	
246-1253-412.35-90	12/27/2010	DRUG TESTING	2011-6	280539	06/2011	250.00	
12/30/2010	740230	CRETEX CONCRETE PRODUCTS WEST	17285			6,113.00	
502-0000-141.00-00	12/23/2010	SYSTEMS	310459		06/2011	6,113.00	
12/30/2010	740236	DOWNTOWN BILLINGS BID, INC.	19065			79,891.78	
780-1575-415.76-80	12/29/2010	MISC SERVICES	DEC10	280679	06/2011	79,891.78	
12/30/2010	740240	EBMS	20398			66,222.79	
627-1752-417.35-12	12/27/2010	ADMIN FEES			07/2011	16,600.00	
627-1752-417.35-15	12/27/2010	SPECIFIC PREM			07/2011	35,454.04	
627-1752-417.51-61	12/27/2010	CARE LINK FEE			07/2011	7,224.75	
627-1752-417.35-11	12/27/2010	FLEX ADMIN FEE			07/2011	2,075.00	
627-1752-417.35-15	12/27/2010	PRO FEE			07/2011	3,444.00	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #			CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
627-1752-417.35-13	12/27/2010		SCRIPTS		07/2011	1,425.00
12/30/2010 740242	ESCOSUPPLY	19696				4,140.50
211-3132-433.23-20	12/28/2010	MISC SERVICES	1044964	279982	06/2011	3,312.40
211-3132-433.23-20	12/28/2010	MISC SERVICES	1044965	279982	06/2011	828.10
12/30/2010 740247	FREMONT MOTOR COMPANY	20835				14,770.55
670-3141-489.94-40	12/23/2010	ENG MID SIZE 2WD PICKUP	FINAL/61516	278467	06/2011	14,770.55
12/30/2010 740261	JTL GROUP INC DBA KNIFE RIVER	2417				12,669.37
211-3132-433.45-20	12/28/2010	ROAD/HIGHWAY MATERIAL	234627	280579	06/2011	1,582.22
211-3132-433.45-20	12/28/2010	ROAD/HIGHWAY MATERIAL	234697	280579	06/2011	1,922.79
211-3132-433.45-20	12/28/2010	ROAD/HIGHWAY MATERIAL	234698	280579	06/2011	599.78
211-3132-433.45-20	12/28/2010	ROAD/HIGHWAY MATERIAL	234791	280579	06/2011	3,519.15
211-3132-433.45-20	12/28/2010	ROAD/HIGHWAY MATERIAL	234814	280579	06/2011	2,581.68
211-3132-433.45-20	12/28/2010	ROAD/HIGHWAY MATERIAL	234834	280579	06/2011	2,463.75
12/30/2010 740264	KIRST ENGINEERING	2018				6,243.86
502-0000-141.00-00	12/23/2010	WASTEWATER PARTS & SUPPLY	142100		06/2011	6,243.86
12/30/2010 740265	KOIS BROTHERS EQUIPMENT CO	6452				10,374.28
601-0000-141.00-00	11/17/2010	MP	87987		05/2011	1,005.84
601-0000-141.00-00	11/17/2010	MP	87987		05/2011	221.88
541-3122-435.23-20	11/18/2010	MP	87914	278330	05/2011	825.86
601-0000-141.00-00	11/23/2010	MP	88042		05/2011	271.97
541-3122-435.23-20	11/23/2010	MP	88042	278330	05/2011	336.18
211-3130-433.23-20	11/26/2010	MP	87891	278330	05/2011	753.31
541-3122-435.23-20	11/26/2010	MP	87906	278330	05/2011	41.70
541-3122-435.23-20	11/30/2010	MP	88100	278330	05/2011	571.67
541-3122-435.23-20	12/01/2010	MP	88020	278330	06/2011	2,560.77
601-1553-481.26-50	12/01/2010	MP	88020	278330	06/2011	.01-
211-3134-433.23-20	12/01/2010	MP	88063	278330	06/2011	1,012.42
601-0000-141.00-00	12/14/2010	MP	88138		06/2011	217.01
601-0000-141.00-00	12/14/2010	MP	88138		06/2011	866.88
541-3122-435.23-20	12/14/2010	MP	87884	278330	06/2011	1,835.19
541-3122-435.23-20	12/14/2010	MP	87884	278330	06/2011	255.35
541-3122-435.23-20	12/14/2010	MP	87931	278330	06/2011	114.91
541-3122-435.23-20	12/28/2010	MP	7617	278330	06/2011	176.65-
541-3122-435.23-20	12/28/2010	MP	7618	278330	06/2011	136.00-
541-3122-435.23-20	12/29/2010	MP	7616	278330	06/2011	204.00-
12/30/2010 740270	LENHARDT PROPERTY LP	9991512				4,312.42
840-3184-431.78-20	12/28/2010	BLSW REFUND D00514C	BLSW REFUN		06/2011	1,995.37
802-3181-433.78-20	12/28/2010	BS#2 REFUND D00514C	BS#2 REFUND		06/2011	2,317.05
12/30/2010 740277	GREGORY P MOHR	21483				3,622.38
10-1220-412.38-22	12/27/2010	MI TRAINING AND CONSULT	2011-6	280533	06/2011	3,622.38
12/30/2010 740279	MONTANA DAKOTA UTILITIES CO	2492				48,810.36
561-7117-711.34-40	12/23/2010	073869 28	122310	F12089	06/2011	196.83

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN	AMOUNT
561-7117-711.34-40	12/23/2010	073858 25	122310	F12089	06/2011		413.81
502-7400-603.34-40	12/30/2010	PUD	07365822		06/2011		13.15
502-7400-603.34-40	12/30/2010	PUD	07365822		06/2011		13.15
561-7113-711.34-40	12/30/2010	AIRPORT	07385922		06/2011		2,810.34
561-7112-711.34-40	12/30/2010	AIRPORT	07387221		06/2011		3,232.86
561-7117-711.34-40	12/30/2010	AIRPORT	07388722		06/2011		1,473.46
561-7117-711.34-40	12/30/2010	AIRPORT	07388824		06/2011		10.40
512-8400-623.34-40	12/30/2010	PUD	07555321		06/2011		3,047.62
512-8400-623.34-40	12/30/2010	PUD	07555321		06/2011		6,095.24
512-8400-623.34-40	12/30/2010	PUD	07555321		06/2011		3,047.62
10-5127-451.34-40	12/30/2010	REC	07586821		06/2011		509.39
650-1567-487.34-40	12/30/2010	FACILITIES	07610421		06/2011		2,615.13
260-5512-455.34-40	12/30/2010	LIBRARY	07617521		06/2011		3,021.04
521-1595-493.34-40	12/30/2010	PARKING 2906 N 3RD AVE	07624629		06/2011		163.28
521-1595-493.34-40	12/30/2010	PARKING 2910 N 3RD AVE	07624725		06/2011		87.02
521-1595-493.34-40	12/30/2010	PARK 1 LEASE	07624823		06/2011		50.35
571-7143-713.34-40	12/30/2010	TRANSIT	07647023		06/2011		2,655.81
150-2221-422.34-40	12/30/2010	FIRE	07676421		06/2011		1,736.02
150-2221-422.34-40	12/30/2010	FIRE	07935121		06/2011		596.04
541-3123-435.34-40	12/30/2010	SW	08073321		06/2011		1,439.64
502-7400-603.34-40	12/30/2010	PUD	31753602		06/2011		78.58
150-2171-441.34-40	12/30/2010	ANIMAL SHELTER	32062801		06/2011		1,209.51
650-1566-487.34-40	12/30/2010	ADMIN BUILDING	32577402		06/2011		3,777.61
650-1566-487.34-40	12/30/2010	EVIDENCE BUILDING	32629302		06/2011		392.96
650-1566-487.34-40	12/30/2010	PD1	32708002		06/2011		926.69
512-8500-625.34-40	12/30/2010	PUD	32739201		06/2011		23.31
650-1566-487.34-40	12/30/2010	GARAGE	32781001		06/2011		4,033.28
512-8500-625.34-40	12/30/2010	PUD LIFT STATION	33154101		06/2011		24.60
521-1592-493.34-40	12/30/2010	PARK II	34941902		06/2011		12.93
512-8500-625.34-40	12/30/2010	PUD	35059801		06/2011		23.95
150-2221-422.34-40	12/30/2010	FIRE STATION #7	35322001		06/2011		697.11
660-3110-431.34-40	12/30/2010	PUBLIC WORKS	37667401		06/2011		164.93
670-3141-489.34-40	12/30/2010	PUBLIC WORKS	37667401		06/2011		201.59
561-7113-711.34-40	12/30/2010		31454301		06/2011		408.74
561-7113-711.34-40	12/30/2010		31454401		06/2011		278.92
561-7113-711.34-40	12/30/2010		31454601		06/2011		844.79
561-7113-711.34-40	12/30/2010		31454701		06/2011		1,180.76
561-7113-711.34-40	12/30/2010		31454801		06/2011		716.07
561-7113-711.34-40	12/30/2010		31454902		06/2011		585.83
12/30/2010	740284	MONTANA STATE FIREMAN'S ASSOC	20195				2,692.66
900-0000-209.99-24	12/30/2010	PAYROLL SUMMARY		20101230	06/2011		2,692.66
12/30/2010	740285	MONTANA STATE UNIVERSITY BLGS	9574				7,102.38
233-4371-419.35-90	12/29/2010	MISC SERVICES	5	280667	06/2011		2,700.00
233-4371-419.35-90	12/29/2010	MISC SERVICES	6	280667	06/2011		4,402.38
12/30/2010	740290	NAPA AUTO PARTS	2632				2,639.73
601-0000-141.00-00	12/27/2010	MP	162674		06/2011		7.70
601-0000-141.00-00	12/27/2010	MP	148390		06/2011		47.15

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
601-0000-141.00-00	12/27/2010	MP	159405	06/2011 6.90
601-0000-141.71-41	12/27/2010	MP	161539	06/2011 171.55
601-0000-141.00-00	12/27/2010	MP	162492	06/2011 252.52
601-0000-141.00-00	12/27/2010	MP	162917	06/2011 96.37
240-4301-419.23-20	12/27/2010	MP	151742	280581 06/2011 21.74
150-2112-421.23-20	12/27/2010	MP	151996	280581 06/2011 178.09
150-2112-421.23-20	12/27/2010	MP	162131	280581 06/2011 232.98
541-3122-435.23-20	12/27/2010	MP	162674	280581 06/2011 10.10
10-5112-452.23-20	12/27/2010	MP	163213	280581 06/2011 63.19
209-4452-428.23-20	12/27/2010	MP	163619	280581 06/2011 13.83
150-2112-421.23-20	12/27/2010	MP	152067	280584 06/2011 170.88
150-2112-421.23-20	12/27/2010	MP	152298	280584 06/2011 329.57
571-7144-713.23-20	12/27/2010	MP	153649	280584 06/2011 34.05
10-5112-452.23-20	12/27/2010	MP	154044	280584 06/2011 47.72
211-3134-433.23-20	12/27/2010	MP	154528	280584 06/2011 7.59
150-2112-421.23-20	12/27/2010	MP	155431	280584 06/2011 15.22
150-2226-422.23-20	12/27/2010	MP	159405	280585 06/2011 19.78
10-5121-451.23-20	12/27/2010	MP	159481	280585 06/2011 70.03
601-1553-481.26-50	12/27/2010	MP	159488	280585 06/2011 5.86
150-2112-421.23-20	12/27/2010	MP	418598	280585 06/2011 7.77
601-0000-141.00-00	12/28/2010	MP	159947	06/2011 17.79
601-0000-141.71-41	12/28/2010	MP	160242	06/2011 176.62
601-0000-141.71-41	12/28/2010	MP	161773	06/2011 234.00
150-2172-441.23-20	12/28/2010	MP	060202	280620 06/2011 12.15
150-2172-441.23-20	12/28/2010	MP	159920	280620 06/2011 44.03
211-3132-433.23-20	12/28/2010	MP	159947	280620 06/2011 38.88
571-7144-713.23-20	12/28/2010	MP	160241	280620 06/2011 10.99
571-7144-713.23-20	12/28/2010	MP	160242	280620 06/2011 167.60
571-7144-713.23-20	12/28/2010	MP	160242	280620 06/2011 49.99
571-7144-713.23-20	12/28/2010	MP	163132	280620 06/2011 74.38
150-2226-422.23-20	12/28/2010	MP	164125	280620 06/2011 2.71
12/30/2010	740293	NORTHWESTERN ENERGY	15771	91,253.01
502-7400-603.34-10	12/21/2010	MISC SERVICES	01004852 DEC10	280460 06/2011 853.28
502-7400-603.34-10	12/21/2010	MISC SERVICES	01005404 DEC10	280460 06/2011 2,235.17
502-7400-603.34-10	12/21/2010	MISC SERVICES	01005404 DEC10	280460 06/2011 2,235.17
502-7314-602.34-10	12/21/2010	MISC SERVICES	01006063 DEC10	280460 06/2011 2,019.75
502-7400-603.34-10	12/21/2010	MISC SERVICES	01006063 DEC10	280460 06/2011 50,493.53
502-7400-603.34-10	12/21/2010	MISC SERVICES	01006063 DEC10	280460 06/2011 13,464.94
512-8314-622.34-10	12/21/2010	MISC SERVICES	01006063 DEC10	280460 06/2011 1,346.49
512-8500-625.34-10	12/21/2010	MISC SERVICES	17568932 DEC10	280460 06/2011 245.71
521-1591-493.34-10	12/28/2010	P1 ELECTRIC	01/05/11	280621 06/2011 3,437.07
521-1595-493.34-10	12/28/2010	LEASE SPACE ELECTRIC (1)	01/05/11 1	280621 06/2011 82.50
521-1595-493.34-10	12/28/2010	LEASE SPACE ELECTRIC (2)	01/05/11 2	280621 06/2011 84.21
521-1594-493.34-10	12/28/2010	P4 ELECTRIC	01/06/11	280621 06/2011 1,630.25
260-5512-455.34-10	12/28/2010	ACCOUNT 0100467-0 PARMLY	ACCT100467 1/10	F12107 06/2011 8,035.86
10-5127-451.34-10	12/30/2010	NW PARK/REC/PL	07123870	06/2011 613.58
10-5122-451.34-10	12/30/2010	NW PARK/REC/PL	07126832	06/2011 90.24
571-7148-713.34-10	12/30/2010	NW AVIATION/TRAN	07127640	06/2011 22.86
521-1595-493.34-10	12/30/2010	NW FINANCE	07208291	06/2011 670.38

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #			CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
150-2221-422.34-10	12/30/2010	NW FIRE	07208408		06/2011	325.18
502-7400-603.34-10	12/30/2010	NW PUD-WATER TREAT	07222524		06/2011	1,278.30
502-7400-603.34-10	12/30/2010	NW PUD-WATER TREAT	07230436		06/2011	1,915.06
260-5512-455.34-10	12/30/2010	NW LIBRARY	07244643		06/2011	85.31
10-5112-452.34-10	12/30/2010	NW PARK/REC/PL	08317026		06/2011	7.70
521-1595-493.34-10	12/30/2010	NW	13815279		06/2011	80.47
12/30/2010	740301	PUBLIC UTILITIES	5022			127,028.71
512-8400-623.34-20	12/30/2010	PUD - WATER BILLS	187212152		06/2011	1,305.46
805-1570-425.53-50	12/30/2010	4430 HI-LINE DR	6712510003200		06/2011	125,424.54
512-8500-625.34-20	12/30/2010	4430 HI-LINE DR	671274846		06/2011	227.85
211-3132-433.34-20	12/30/2010	4430 HI-LINE DR	671294847		06/2011	70.86
12/30/2010	740302	Q BUSINESS SOURCE	3073			3,028.52
150-2150-421.32-10	12/27/2010	INVOICE 0114237 DATED 12/	0114237	F12091	06/2011	3,028.52
12/30/2010	740303	QWEST COMMUNICATIONS	6319			3,911.30
561-7110-711.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	252-9412		06/2011	85.96
571-7141-713.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	254-7038		06/2011	44.20
10-5140-436.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	652-0269		06/2011	42.98
10-5112-452.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	652-5507		06/2011	44.03
211-3132-433.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	652-8104		06/2011	29.16
10-5121-451.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	652-8403		06/2011	32.90
150-2225-422.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	655-0728		06/2011	42.98
10-5112-452.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	657-3014		06/2011	28.36
606-1931-484.34-50	12/22/2010	QWEST DEC 2010 3RD PAY	657-8377		06/2011	3,560.73
12/30/2010	740305	RAPELJE GRAIN COMPANY	8931			7,530.32
211-3132-433.47-21	12/21/2010	ROAD/HIGHWAY MATERIAL	0129061	280422	06/2011	3,772.30
211-3132-433.47-21	12/28/2010	ROAD/HIGHWAY MATERIAL	129081	280575	06/2011	3,758.02
12/30/2010	740308	RIMROCK FOUNDATION	3210			28,057.26
246-1253-412.35-90	12/27/2010	BAMDC IOP COUNSELOR NOV	2011-6	280529	06/2011	3,457.75
248-1263-412.35-90	12/27/2010	SERVICES BAMDUI-NOV 2010	2011-6	280531	06/2011	7,157.71
738-1264-412.35-60	12/27/2010	SAMHSA-RIMROCK SERVICES	2011-6	280532	06/2011	3,355.42
738-1264-412.35-90	12/27/2010	SAMHSA-RIMROCK SERVICES	2011-6	280532	06/2011	2,743.03
738-1264-412.37-30	12/27/2010	SAMHSA-RIMROCK SERVICES	2011-6	280532	06/2011	16.28
738-1264-412.39-90	12/27/2010	SAMHSA-RIMROCK SERVICES	2011-6	280532	06/2011	2,695.39
738-1264-412.35-60	12/29/2010	SAMHSA COUNSELORS/TRTMN	2010-7		06/2011	3,085.82
738-1264-412.35-90	12/29/2010	SAMHSA COUNSELORS/TRTMN	2010-7		06/2011	8,529.30
738-1264-412.39-90	12/29/2010	SAMHSA COUNSELORS/TRTMN	2010-7		06/2011	2,134.61
738-1264-412.35-90	12/29/2010	NEGATIVE PO - DBL BILLED	2010-8		06/2011	5,118.05-
12/30/2010	740311	SHIPTONS SUPPLY CO	3420			3,658.42
541-3122-435.22-60	12/29/2010	COLD WEATHER GEAR SW	7101/2	279165	06/2011	2,814.54
541-3123-435.22-60	12/29/2010	COLD WEATHER GEAR LF	7362/2	279165	06/2011	843.88
12/30/2010	740318	TITAN MACHINERY INC	20569			3,514.37
211-3133-433.23-20	12/23/2010	MP	1C05667	280542	06/2011	187.73
211-3134-433.23-20	12/23/2010	MP	1C06389	280542	06/2011	3,326.64

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
12/30/2010	740320	TOWN & COUNTRY SUPPLY ASSOCIAT	18295				11,320.29
601-0000-141.00-00	12/27/2010	MP	79874		06/2011		8,471.33
150-2226-422.23-10	12/21/2010	FIRE1:DIESEL/280 GALLONS	79856 FIRE1	276337	06/2011		736.89
150-2226-422.23-10	12/27/2010	FIRE5:UNLEADED/385 GALS	79341 FIRE5	276337	06/2011		1,061.06
150-2226-422.23-10	12/27/2010	FIRE1:UNLEADED/395 GALS	79855 FIRE1	276337	06/2011		1,051.01
12/30/2010	740321	TRACTOR & EQUIPMENT	3775				7,889.27
541-3122-435.23-20	12/21/2010	MP	BLCS0475941	280502	06/2011		2,064.93
541-3123-435.23-20	12/21/2010	MP	BLCS0475941	280502	06/2011		313.12
541-3123-435.23-20	12/21/2010	MP	BLCS0475942	280502	06/2011		33.30
541-3123-435.23-20	12/21/2010	MP	BLCS0475943	280502	06/2011		70.11
541-3123-435.23-20	12/23/2010	MP	BLCS0475845	280546	06/2011		750.74
541-3123-435.23-20	12/23/2010	MP	BLCS0475846	280546	06/2011		664.11
541-3122-435.23-20	12/27/2010	MP	BLW00120322	280573	06/2011		3,712.33
541-3123-435.23-20	12/27/2010	MP	41W00392768	280574	06/2011		280.63
12/30/2010	740323	UGRIN, ALEXANDER, ZADICK, & HIG	20866				13,192.48
10-1611-416.35-60	12/27/2010	MISC SERVICES	15318	280578	06/2011		13,192.48
12/30/2010	740329	WESTERN MUNICIPAL CONSTRUCTION	11742				105,998.33
513-0000-201.10-00	12/23/2010	WO1001 2010 WTR&SWR SCH1	RET RELEASE	274055	06/2011		37,363.52
513-8591-625.93-40	12/23/2010	WO1001 WTR & SWR SCH 1	6	274055	06/2011		68,634.81
DATE RANGE TOTAL *							784,412.16 *

Regular City Council Meeting

Date: 01/24/2011

TITLE: Public Hearing and Resolution for Vacation of Portions of Right of Way in The Village Subdivision

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Sisters of Charity of Leavenworth Health System, property owner in The Village Subdivision, is replatting the Village Subdivision. With the new plat, which will be named St. Vincent Healthcare Subdivision, portions of the internal streets will be realigned. This requires portions of the street right of way to be vacated and new right of way to be dedicated. None of the streets have been constructed. St. Vincent is the original developer, therefore, the owner is not charged for the vacated right of way. Attached is a map showing the right of way to be vacated and the new right of way to be dedicated. The vacation of the rights of way is necessary for the approval of the St. Vincent Healthcare Subdivision plat, also being considered at this council meeting.

ALTERNATIVES ANALYZED

The Council may:

- After holding a public hearing, approve the vacation of the above-mentioned rights of way.
- Do not approve the vacation of the rights of way.

FINANCIAL IMPACT

Since the right of way proposed to be vacated will revert to the original developer and no streets are constructed, there is no cost for the vacation. New right of way will be dedicated to replace the vacated area.

RECOMMENDATION

Staff recommends that Council approve the vacation of portions of right of way within The Village Subdivision.

APPROVED BY CITY ADMINISTRATOR

Attachments

Exhibit Showing Proposed ROW Vacation

Resolution to Vacate

STREET VACATION EXHIBIT
ST. VINCENT HEALTHCARE SUBDIVISION

BEING ALL OF BLOCKS 1, 2, 3, 4 AND 5 OF THE VILLAGE SUBDIVISION
 INCLUDING RIGHTS-OF-WAY FOR MONAD ROAD, MARILLAC STREET,
 ST. VINCENT WAY, ST. MARY WAY AND DECATIUN PARKWAY
 SITUATED IN THE SE1/4 OF SECTION 10, T 1 S., R. 25 E., P.M.M.,
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

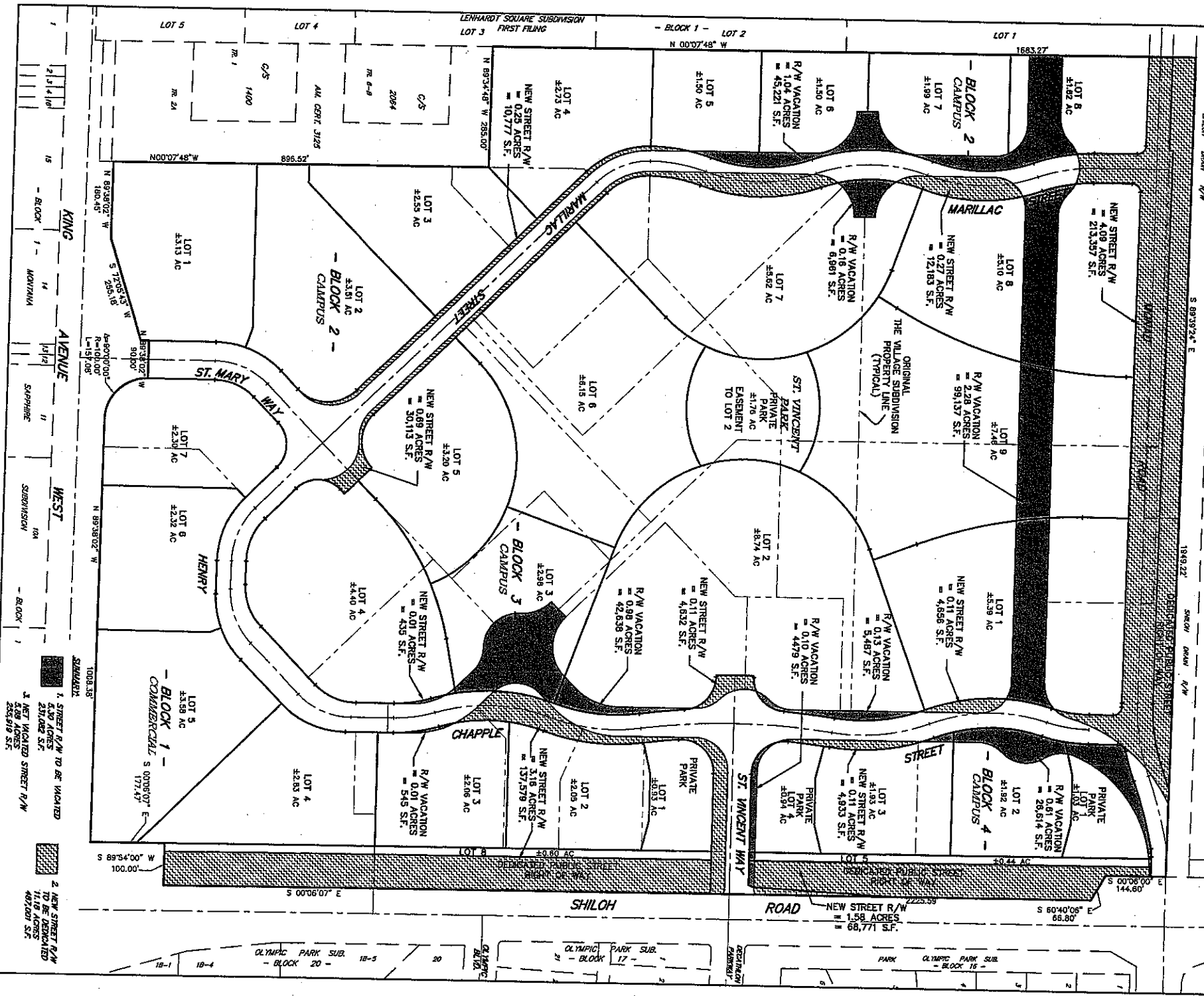
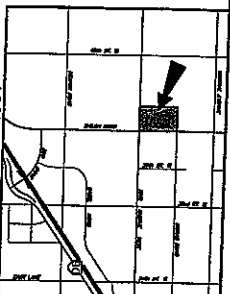
PREPARED FOR: ST. VINCENT HEALTHCARE FOUNDATION, INC.
 PREPARED BY: SANDERSON STEWART

SEPTEMBER, 2009
 BILLINGS, MONTANA

SCALE: 1"=100'

VICINITY MAP
 NOT TO SCALE

DEPARTMENT OF SURVEY No. 2828
 SECTION DRAW N/W
 DEPARTMENT OF SURVEY No. 1648
 TRACT 5-4
 SECTION DRAW N/W



1. STREET R/W TO BE VACATED
 2. NEW STREET R/W TO BE DEDICATED

020150077.DWG 02015024 9/20/10 BMB/ALV/RBO

RESOLUTION NO. 11-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING AND VACATING **portions of Right of Way within The Village Subdivision.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **portions of Right of Way within The Village Subdivision** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **portions of Right of Way within The Village Subdivision** more particularly described as follows:

Right-of-way vacations within The Village Subdivision, according to the official plat on file in the Office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3324330; said vacations being more particularly described as follows, to-wit:

R.O.W. VACATION #1:

Beginning at a point which is the southwest corner of Lot 1, Block 5 of The Village Subdivision; thence, from said Point of Beginning, N 89°54'21" E along the south line of said Lot 1 a distance of 149.29 feet; thence along a tangent curve to the left with a central angle of 45°07'10", a radius of 75.00 feet, and a length of 59.06 feet (chord bears N67°20'46"E, 57.55 feet); thence along a reversing curve to the right with a central angle of 23°01'45", a radius of 88.00 feet, and a length of 35.37 feet (chord bears N56°18'03"E, 35.13 feet); thence along a non-tangent curve to the left with a central angle of 14°03'35", a radius of 435.00 feet, and a length of 106.74 feet (chord bears S12°29'24"E, 106.48 feet); thence along a reversing curve to the

right with a central angle of 38°51'04", a radius of 365.00 feet, and a length of 247.50 feet (chord bears S00°05'39"E, 242.78 feet); thence along a reversing curve to the left with a central angle of 38°51'04", a radius of 435.00 feet, and a length of 294.96 feet (chord bears S00°05'39"E, 289.35 feet); thence along a reversing curve to the right with a central angle of 38°51'04", a radius of 365.00 feet, and a length of 247.50 feet (chord bears S00°05'39"E, 242.78 feet); thence along a reversing curve to the left with a central angle of 7°06'59", a radius of 435.00 feet, and a length of 54.03 feet (chord bears S15°46'23"W, 53.99 feet) to a point on the east line Lot 6, Block 2 of The Village Subdivision; thence along the east line of said Lot 6 and the east and north lines of Lot 7 of said Block 2 the following courses and distances:

N 00°05'39" W a distance of 299.45 feet;

Along a tangent curve to the left with a central angle of 90°00'00", a radius of 100.00 feet, and a length of 157.08 feet (chord bears N45°05'39" W, 141.42 feet);

N 00°05'39" W a distance of 50.00 feet;

Along a non-tangent curve to the left with a central angle of 90°00'00", a radius of 100.00 feet, and a length of 157.08 feet (chord bears N44°54'21" E, 141.42 feet);

N 00°05'39" W a distance of 184.87 feet;

Along a tangent curve to the left with a central angle of 90°00'00", a radius of 75.00 feet, and a length of 117.81 feet (chord bears N45°05'39" W, 106.07 feet);

S 89°54'21" W a distance of 164.74 feet to the northwest corner of said Lot 7; thence

N 00°07'48" W a distance of 80.00 feet to said Point of Beginning; said described

vacation having an area of 1.038 acres (45,221 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #2:

Beginning at a point which is the southeast corner of Lot 3, Block 5 of The Village Subdivision; thence, from said Point of Beginning, N 89°54'21" E along the south line of the parkland lying adjacent to said Lot 3, a distance of 194.68 feet; thence along a tangent curve to the left with a central angle of 46°18'39", a radius of 85.00 feet, and a length of 68.70 feet (chord bears N66°45'01"E, 66.85 feet); thence along a non-tangent curve to the right with a central angle of 1°29'59", a radius of 300.00 feet, and a length of 7.85 feet (chord bears S16°34'43"W, 7.85 feet); thence along a reversing curve to the left with a central angle of 13°45'46", a radius of 470.00 feet, and a length of 112.90 feet (chord bears S10°26'50"W, 112.62 feet) to a point on the north line of Lot 15, Block 3 of The Village Subdivision; thence along the north line of said Lot 15 and the north line of Lot 14 of said Block 3 the following courses and distances:

Along a non-tangent curve to the left with a central angle of 32°48'12", a radius of 75.00 feet, and a length of 42.94 feet (chord bears N73°41'33" W, 42.36 feet);

S 89°54'21" W a distance of 1127.01 feet;

Along a tangent curve to the left with a central angle of 23°59'44", a radius of 75.00 feet, and a length of 31.41 feet (chord bears S77°54'28"W, 31.18 feet); thence,

leaving said north line, along a non-tangent

curve to the left with a central angle of 6°29'21", a radius of 435.00 feet, and a length of 49.27 feet (chord bears N16°16'31"W, 49.24 feet); thence along a reversing curve

to the right with a central angle of 12°43'19", a radius of 365.00 feet, and a length of

81.04 feet (chord bears N13°09'32"W, 80.88 feet) to a point on the south line of Lot 2 of said Block 5; thence along the south lines of said Lots 2 and 3 the following courses and distances:

Along a non-tangent curve to the right with a central angle of 19°54'00", a radius of 88.00 feet, and a length of 30.56 feet (chord bears S54°55'30"E, 30.41 feet);

Along a reversing curve to the left with a central angle of 45°07'10", a radius of 75.00 feet, and a length of 59.06 feet (chord bears S67°32'05"E, 57.55 feet);

N 89°54'21" E a distance of 918.86 to the Point of Beginning; said described vacation having an area of 2.276 acres (99,137 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #3:

Beginning at a point which bears N 00°05'39" W along the west line of Lot 1, Block 4 of The Village Subdivision a distance of 9.67 feet from the southwest corner of said Lot 1; thence, from said Point of Beginning,

along a non-tangent curve to the left with a central angle of 3°22'27", a radius of 500.00 feet, and a length of 29.45 feet (chord bears N19°04'40"W, 29.44 feet);

thence along a reversing curve to the right with a central angle of 38°05'36", a radius of 400.00 feet, and a length of 265.94 feet (chord bears N01°43'05"W, 261.07 feet);

thence along a reversing curve to the left with a central angle of 17°25'22", a radius of 370.00 feet, and a length of 112.51 feet (chord bears N08°37'02"E, 112.08 feet);

thence N 00°05'39" W a distance of 69.59 feet; thence along a tangent curve to the right with a central angle of 77°27'40", a radius of 20.00 feet, and a length of 27.04 feet (chord bears N38°38'10"E, 25.03 feet);

thence along a reversing curve to the left with a central angle of 8°15'38", a radius of 513.00 feet, and a length of 73.96 feet (chord bears N73°14'11"E, 73.90 feet);

thence along a reversing curve to the right with a central angle of 9°38'56", a radius of 987.00 feet, and a length of 166.22 feet (chord bears N73°55'50"E, 166.02 feet);

thence along a compounding curve to the right with a central angle of 11°08'41", a radius of 100.00 feet, and a length of 19.45 feet (chord bears N84°19'39"E, 19.42 feet);

thence N 89°54'00" E a distance of 46.78 feet; thence S 00°06'00" E a distance of 4.16 feet to the northeast corner of Ann Ross Park;

thence along the north line of said Ann Ross Park and the north and west lines of said Lot 1 the following courses and distances:

Along a non-tangent curve to the left with a central angle of 67°57'25", a radius of 302.37 feet, and a length of 358.63 feet (chord bears S56°50'13"W, 337.98 feet);

Along a compounding curve to the left with a central angle of 55°10'17", a radius of 80.00 feet, and a length of 77.03 feet (chord bears S04°43'38"E, 74.09 feet);

Along a reversing curve to the right with a central angle of 77°13'28", a radius of 82.65 feet, and a length of 111.40 feet (chord bears S06°17'57"W, 103.16 feet);

Along a reversing curve to the left with a central angle of 45°00'20", a radius of 80.00 feet, and a length of 62.84 feet (chord bears S22°24'31"W, 61.24 feet);

S 00°05'39" E a distance of 135.98 feet to the Point of Beginning;

said described vacation having an area of 0.611 acres (26,614 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #4:

Beginning at a point which is the northwest corner of Lot 13, Block 3 of The

Village Subdivision; thence, from said Point of Beginning, along said west line of Lot 13 and the west line of Lot 12 of said Block 3 the following course and distances:
S 00°05'39" E a distance of 25.00 feet;

Along a non-tangent curve to the left with a central angle of 53°58'14", a radius of 100.00 feet, and a length of 94.20 feet (chord bears S62°55'13"W, 90.75 feet);
thence leaving said west line, along a non-tangent curve to the right with a central angle of 21°58'50", a radius of 365.00 feet, and a length of 140.03 feet (chord bears N01°56'42"W, 139.17 feet) to the west line of Lot 14 of said Block 3; thence along said west line of Lot 14 the following courses and distances:

Along a non-tangent curve to the left with a central angle of 58°36'43", a radius of 100.00 feet, and a length of 102.30 feet (chord bears S60°47'18"E, 97.89 feet);
S 00°05'39" E a distance of 25.00 feet to the Point of Beginning;
said described vacation having an area of 0.160 acres (6,961 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #5:

Beginning at a point which is the southeast corner of Lot 15, Block 3 of The Village Subdivision; thence, from said Point of Beginning, along the east line of said Lot 15, N 00°05'39" W a distance of 162.81 feet; thence, leaving said east line, along a non-tangent curve to the right with a central angle of 27°08'55", a radius of 430.00 feet, and a length of 203.75 feet (chord bears S05°10'58"E, 201.85 feet); thence along a reversing curve to the left with a central angle of 4°18'31", a radius of 1,635.00 feet, and a length of 122.95 feet (chord bears S06°14'14"W, 122.92 feet); thence along a reversing curve to the right with a central angle of 61°40'47", a radius of 80.00 feet, and a length of 86.12 feet (chord bears S34°55'22"W, 82.02 feet) to a point on the east line of Lot 7 of said Block 3; thence along said east line of Lot 7 and the east line of Lot 8 of said Block 3 the following courses and distances:

Along a non-tangent curve to the right with a central angle of 25°06'51", a radius of 82.65 feet, and a length of 36.23 feet (chord bears N32°21'15"E, 35.94 feet);
Along a reversing curve to the left with a central angle of 45°00'20", a radius of 80.00 feet, and a length of 62.84 feet (chord bears N22°24'31"E, 61.24 feet);
N 00°05'39"W a distance of 140.69 feet to the Point of Beginning;
said described vacation having an area of 0.126 acres (5,487 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #6:

Beginning at a point which is the southeast corner of Lot 2, Block 4 of The Village Subdivision; said point also being the southwest corner of Ann Ross Park; thence, from said Point of Beginning, along the south line of said Ann Ross Park, N 89°54'21" E a distance of 82.56 feet; thence, leaving said south line, along a non-tangent curve to the right with a central angle of 31°00'21", a radius of 27.50 feet, and a length of 14.88 feet (chord bears S19°57'24"W, 14.70 feet); thence S 89°53'53" W a distance of 262.72 feet; thence along a tangent curve to the right with a central angle of 74°29'01", a radius of 80.00 feet, and a length of 104.00 feet (chord bears N52°51'37"W, 96.83 feet) to a point on the south line of said Lot 2; thence along said south line the following courses and distances:

Along a non-tangent curve to the left with a central angle of $63^{\circ}51'02''$, a radius of 80.00 feet, and a length of 89.15 feet (chord bears $S58^{\circ}10'08''E$, 84.61 feet); $N 89^{\circ}54'21'' E$ a distance of 190.48 feet to the Point of Beginning; said described vacation having an area of 0.103 acres (4,479 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #7:

Beginning at a point which is the easterly corner of Lot 4, Block 3 of The Village Subdivision; thence, from said Point of Beginning, along the southeasterly line of said Lot 4 and Lot 5 of said Block 3, $N 45^{\circ}08'09'' E$ a distance of 50.00 feet to a point on the south line of Lot 6 of said Block 3; thence along the south and east lines of said Lot 6 the following courses and distances:

Along a non-tangent curve to the left with a central angle of $90^{\circ}00'00''$, a radius of 100.00 feet, and a length of 157.08 feet (chord bears $S89^{\circ}51'51''E$, 141.42 feet); $N 45^{\circ}08'09'' E$ a distance of 40.25 feet; Along a tangent curve to the left with a central angle of $45^{\circ}13'49''$, a radius of 145.00 feet, and a length of 114.47 feet (chord bears $N22^{\circ}31'15''E$, 111.52 feet); $N 00^{\circ}05'39'' W$ a distance of 178.43 feet; thence leaving said east line of Lot 6, along a non-tangent curve to the right with a central angle of $14^{\circ}36'29''$, a radius of 80.00 feet, and a length of 20.40 feet (chord bears $S11^{\circ}24'16''E$, 20.34 feet); thence along a reversing curve to the left with a central angle of $3^{\circ}48'39''$, a radius of 1,635.00 feet, and a length of 108.75 feet (chord bears $S06^{\circ}00'21''E$, 108.73 feet); thence along a reversing curve to the right with a central angle of $27^{\circ}28'40''$, a radius of 430.00 feet, and a length of 206.22 feet (chord bears $S05^{\circ}49'40''W$, 204.25 feet); thence along a reversing curve to the left with a central angle of $2^{\circ}18'41''$, a radius of 470.00 feet, and a length of 18.96 feet (chord bears $S18^{\circ}24'39''W$, 18.96 feet); thence $S 45^{\circ}08'09'' W$ a distance of 24.45 feet; thence along a tangent curve to the left with a central angle of $86^{\circ}26'50''$, a radius of 80.00 feet, and a length of 120.70 feet (chord bears $S01^{\circ}54'44''W$, 109.58 feet); thence along a non-tangent curve to the left with a central angle of $14^{\circ}14'18''$, a radius of 470.00 feet, and a length of 116.80 feet ($S05^{\circ}34'34''E$, 116.50 feet) to a point on the northeast corner of Lot 1 of said Block 3; thence along the northeast lines of said Lot 1 and said Lot 4 the following courses and distances:

Along a non-tangent curve to the left with a central angle of $12^{\circ}49'13''$, a radius of 145.00 feet, and a length of 32.44 feet (chord bears $N38^{\circ}27'14''W$, 32.38 feet); $N 44^{\circ}51'51'' W$ a distance of 53.01 feet:

Along a tangent curve to the left with a central angle of $45^{\circ}28'33''$, a radius of 80.00 feet, and a length of 63.50 feet (chord bears $N67^{\circ}36'07''W$, 61.84 feet);

Along a reversing curve to the right with a central angle of $92^{\circ}41'48''$, a radius of 82.65 feet, and a length of 133.72 feet (chord bears $N43^{\circ}59'30''W$, 119.60 feet);

Along a reversing curve to the left with a central angle of $47^{\circ}13'14''$, a radius of 100.00 feet, and a length of 82.42 feet (chord bears $N21^{\circ}15'13''W$, 80.10 feet) to the Point of Beginning; said described vacation having an area of 0.979 acres (42,638 square feet) and being further described on Exhibit B, attached.

R.O.W. VACATION #8:

Beginning at a point which bears $N 00^{\circ}05'39'' W$ along the west line of Lot 4, Block 1 of The Village Subdivision a distance of 89.23 feet from the southwest corner

of said Lot 4; thence, from said Point of Beginning, along a non-tangent curve to the left with a central angle of 16°54'30", a radius of 370.00 feet, and a length of 109.19 feet (chord bears N08°32'54"W, 108.79 feet); thence along a reversing curve to the right with a central angle of 5°46'42", a radius of 400.00 feet, and a length of 40.34 feet (chord bears N14°06'49"W, 40.32 feet) to a point on the west line of said Lot 4; thence along said west line along a non-tangent curve to the right with a central angle of 28°20'12", a radius of 215.00 feet, and a length of 106.33 feet (chord bears S14°15'46"E, 105.25 feet) to the Point of Beginning; said described vacation having an area of 0.013 acres (545 square feet) and being further described on Exhibit B, attached.

Is hereby discontinued, abandoned and vacated and shall revert to adjacent property owners of The Village Subdivision.

2. PUBLIC INTEREST. The discontinuance, vacation and abandonment of the above described **portions of Right of Way within The Village Subdivision** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 24th day of January

2011.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

EXHIBIT B

RIGHT-OF-WAY VACATIONS WITHIN THE VILLAGE SUBDIVISION, SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : ST. VINCENT HEALTHCARE FOUNDATION, INC.

DECEMBER, 2010

BILLINGS, MONTANA

NOT TO SCALE

CERTIFICATE OF SURVEY No. 2828 TR. 1
SHELBY DRAIN R/W

CERTIFICATE OF SURVEY No. 1648 TR. 5-4-3
JRD AMENDMENT OF AMENDED TRACT 5-4

CERTIFICATE OF SURVEY No. 1648 TR. 5-4-2
JRD AMENDMENT OF AMENDED TRACT 5-4

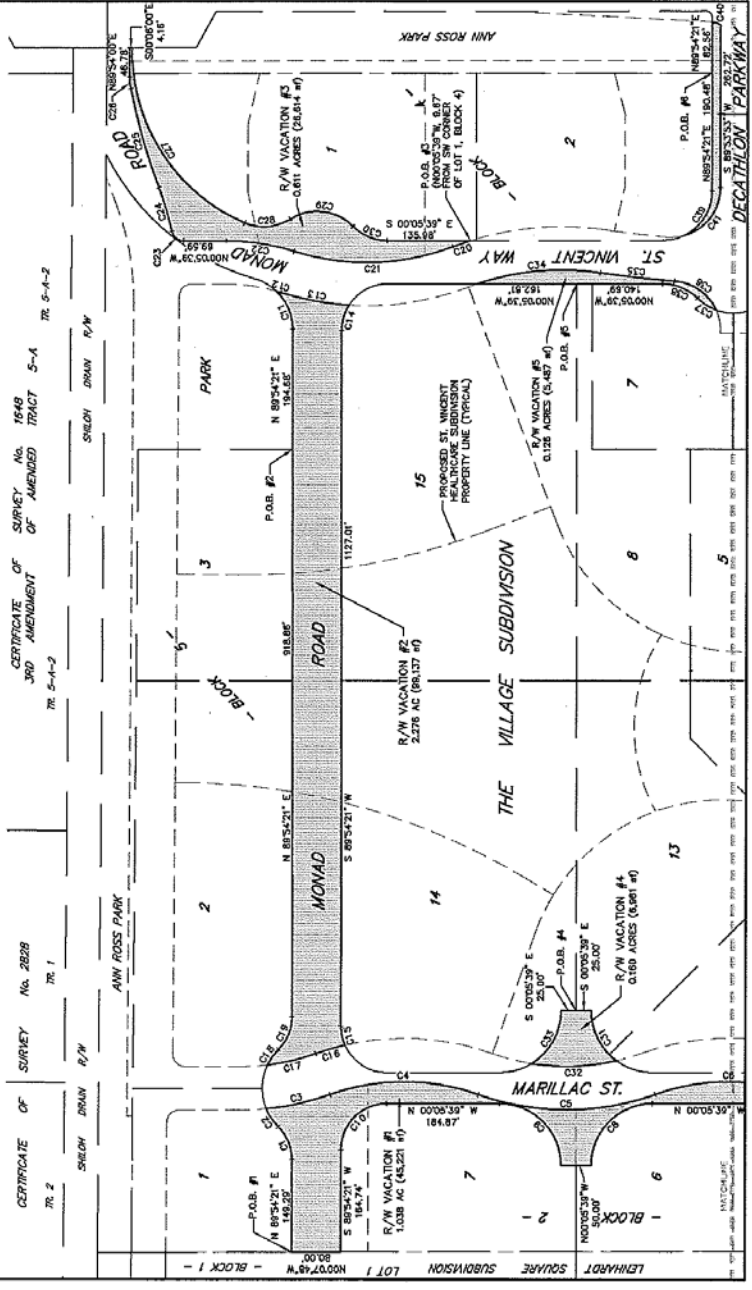


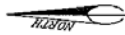
EXHIBIT B

RIGHT-OF-WAY VACATIONS WITHIN THE VILLAGE SUBDIVISION, SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA.

DECEMBER, 2010
BILLINGS, MONTANA

PREPARED FOR : ST. VINCENT HEALTHCARE FOUNDATION, INC.

PREPARED BY : SANDERSON STEWART



NOT TO SCALE

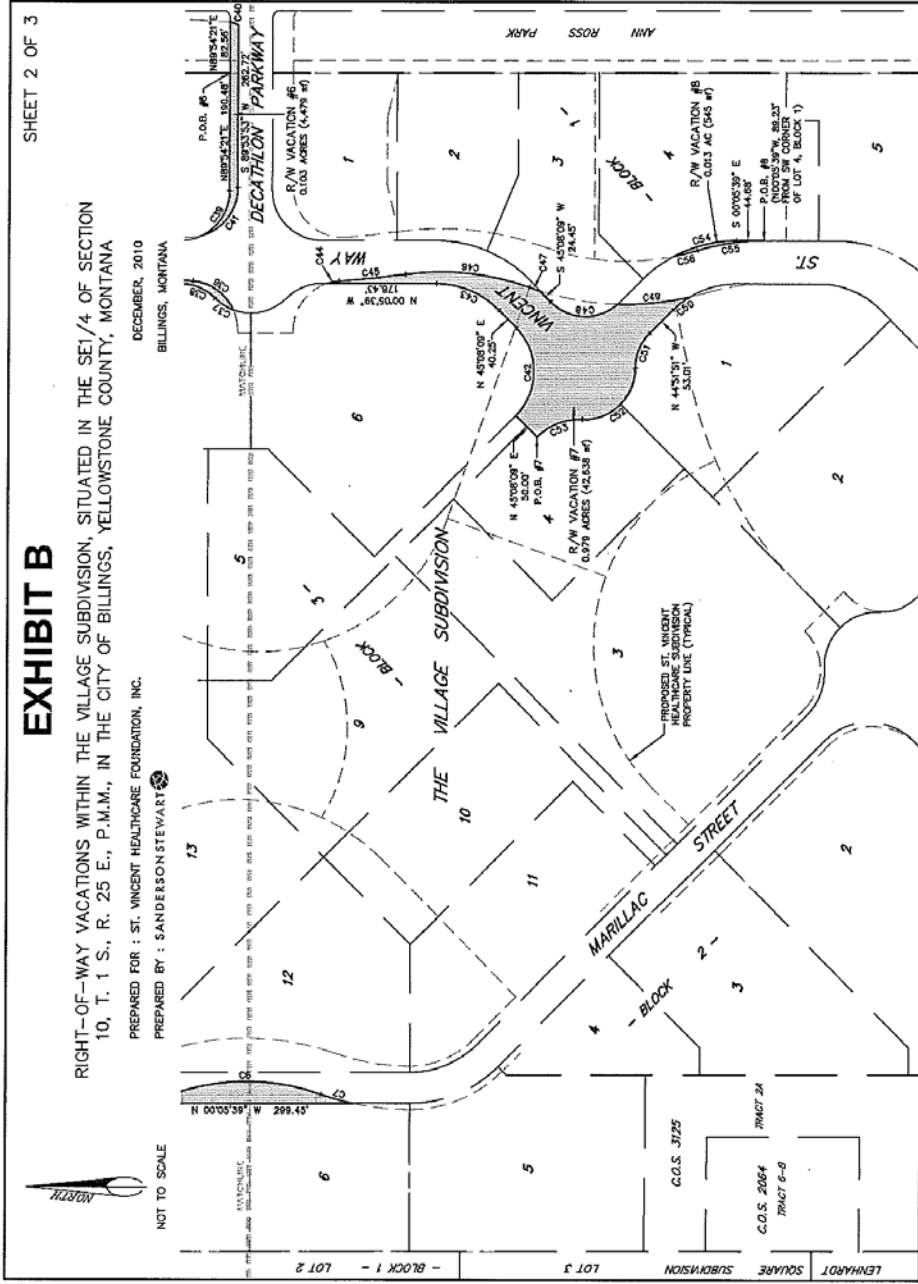


EXHIBIT B

SHEET 3 OF 3

RIGHT-OF-WAY VACATIONS WITHIN THE VILLAGE SUBDIVISION, SITUATED IN THE SE1/4 OF SECTION 10, T. 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : ST. VINCENT HEALTHCARE FOUNDATION, INC.

DECEMBER, 2010

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA

CURVE DATA					
CURVE	DELTA	RADIUS	LENGTH	BEARING	DISTANCE
C1	45°07'10"	75.00'	59.06'	N67°20'46"E	57.55'
C2	23°01'45"	88.00'	35.37'	N56°18'03"E	35.13'
C3	14°03'35"	435.00'	108.74'	S12°29'24"E	106.48'
C4	38°51'04"	365.00'	247.50'	S00°05'39"E	242.78'
C5	38°51'04"	435.00'	294.96'	S00°05'39"E	289.35'
C6	38°51'04"	365.00'	247.50'	S00°05'39"E	242.78'
C7	7°06'59"	435.00'	54.03'	S15°46'23"W	53.99'
C8	90°00'00"	100.00'	157.08'	N45°05'39"W	141.42'
C9	90°00'00"	100.00'	157.08'	N44°54'21"E	141.42'
C10	90°00'00"	75.00'	117.81'	N45°05'39"W	108.07'
C11	48°18'39"	85.00'	68.70'	N66°45'01"E	66.85'
C12	1°29'59"	300.00'	7.85'	S18°34'43"W	7.85'
C13	13°45'46"	470.00'	112.90'	S10°26'50"W	112.62'
C14	32°48'12"	75.00'	42.94'	N73°41'33"W	42.36'
C15	23°59'44"	75.00'	31.41'	S77°54'28"W	31.18'
C16	6°29'21"	435.00'	49.27'	N16°16'31"W	49.24'
C17	12°43'19"	365.00'	81.04'	N13°09'32"W	80.88'
C18	19°54'00"	88.00'	30.56'	S54°55'30"E	30.41'
C19	45°07'10"	75.00'	59.06'	S67°32'05"E	57.55'
C20	3°22'27"	500.00'	29.45'	N19°04'40"W	29.44'
C21	38°05'36"	400.00'	265.94'	N01°43'05"W	261.07'
C22	17°25'22"	370.00'	112.51'	N08°37'02"E	112.08'
C23	77°27'40"	20.00'	27.04'	N38°38'10"E	25.03'
C24	8°15'38"	513.00'	73.96'	N73°14'11"E	73.90'
C25	9°38'56"	987.00'	166.22'	N73°55'50"E	166.02'
C26	11°08'41"	100.00'	19.45'	N84°19'39"E	19.42'
C27	67°57'25"	302.37'	358.63'	S56°50'13"W	337.98'
C28	55°10'17"	80.00'	77.03'	S04°43'38"E	74.09'
C29	77°13'28"	82.65'	111.40'	S06°17'57"W	103.16'
C30	45°00'20"	80.00'	62.84'	S22°24'31"W	61.24'
C31	53°58'14"	100.00'	94.20'	S62°55'13"W	90.75'
C32	21°58'50"	365.00'	140.03'	N01°56'42"W	139.17'
C33	58°36'43"	100.00'	102.30'	S60°47'18"E	97.89'
C34	27°08'55"	430.00'	203.75'	S05°10'58"E	201.85'
C35	4°18'31"	1635.00'	122.95'	S06°14'14"W	122.92'
C36	61°40'47"	80.00'	86.12'	S34°55'22"W	82.02'
C37	25°06'51"	82.65'	36.23'	N32°21'15"E	35.94'
C38	45°00'20"	80.00'	62.84'	N22°24'31"E	61.24'
C39	63°51'02"	80.00'	89.15'	S58°10'08"E	84.61'
C40	31°00'21"	27.50'	14.88'	S19°57'24"W	14.70'
C41	74°29'01"	80.00'	104.00'	N52°51'37"W	96.83'
C42	90°00'00"	100.00'	157.08'	S89°51'51"E	141.42'
C43	45°13'49"	145.00'	114.47'	N22°31'15"E	111.52'
C44	14°36'29"	80.00'	20.40'	S11°24'16"E	20.34'
C45	3°48'39"	1635.00'	108.75'	S06°00'21"E	108.73'
C46	27°28'40"	430.00'	206.22'	S05°49'40"W	204.26'
C47	2°18'41"	470.00'	18.96'	S18°24'39"W	18.96'
C48	86°26'50"	80.00'	120.70'	S01°54'44"W	109.58'
C49	14°14'18"	470.00'	116.80'	S05°34'34"E	116.50'
C50	12°49'13"	145.00'	32.44'	N38°27'14"W	32.38'
C51	45°28'33"	80.00'	63.50'	N67°36'07"W	61.84'
C52	92°41'48"	82.65'	133.72'	N43°59'30"W	119.60'
C53	47°13'14"	100.00'	82.42'	N21°15'13"W	80.10'
C54	28°20'12"	215.00'	106.33'	S14°15'46"E	105.25'
C55	16°54'30"	370.00'	109.19'	N08°32'54"W	108.79'
C56	5°46'42"	400.00'	40.34'	N14°06'49"W	40.32'

Regular City Council Meeting

Date: 01/24/2011

TITLE: St. Vincent Healthcare Subdivision -- Preliminary Major Plat

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

On November 1, 2010, owner, Sisters of Charity of Leavenworth Health System, Inc., and subdivider, St. Vincent Healthcare Foundation, Inc., applied for preliminary major plat approval for St. Vincent Healthcare Subdivision. The proposed subdivision re-plats 34 lots originally platted in the Village Subdivision, into 30 lots. The subject property is located on the west side of Shiloh Road between Monad Road and King Avenue West. The property is zoned Planned Unit Development (medical and commercial uses). The property is currently going through amendments to the original PUD zoning and the zone change application will go before the City Council at the same time as the preliminary plat. The proposal would create 19 lots for medical related uses, six lots for commercial uses, and four private park areas.

A variance has been requested from Section 23-406.B.(6) of the City Subdivision Regulations to allow a 56-foot right-of-way dedication for Monad Road, west of Marillac Street, in lieu of the required 74-foot right-of-way dedication requirement for a collector street. The applicants request and staff analysis can be found in Attachment C.

Yellowstone County Board of Planning reviewed the plat at its December 14, 2010 meeting, and conducted a public hearing and made a recommendation to City Council at its January 11, 2011 meeting.

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 January 27, 2011. 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

The proposed subdivision re-plats 34 lots originally platted in the Village Subdivision into 30 lots. The subject property is located on the northwest corner of Shiloh Road and King Avenue West. The property is zoned Planned Unit Development (medical and commercial uses). The proposal would create 19 lots for medical-related uses, six lots for commercial uses, and four private park areas. The subject property is bordered on the north across Monad Road by Emmanuel Baptist Church and irrigated agriculture land, on the south across King Ave. West by commercial development within Montana Sapphire Subdivision, on the east across Shiloh Road by Olympic Village apartments and condominiums, and on the west by multi-family apartments and irrigated agricultural land in Lenhardt Square Subdivision.

General location: West side of Shiloh Road, between Monad Road and King Ave. West

Legal Description: Blocks 1 through 5, The Village Subdivision located in the SE ¼, Section 10, T1S, R25E

Owner: Sisters of Charity of Leavenworth Health System, Inc.

Subdivider: St. Vincent Healthcare Foundation, Inc.; David Irion, Executive Director

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: PUD (medical uses and commercial uses)

Existing land use: Irrigated farm land with platted vacant lots

Proposed land use: Medical campus with commercial uses

Gross and Net area: 111.91 acres; 91.42 acres

Proposed number of lots: 30

Lot size: Max: 8.74 acres Min.: 0.44 acres

Parkland requirements: No parkland dedication required for commercial subdivisions

STAKEHOLDERS

A public hearing was held on January 11, 2011, to provide adjacent property owners and other interested parties an opportunity to comment on the proposal. In addition, a letter of support was received on December 27, 2010, from adjacent neighbor, Beartooth Bank (see Attachment D).

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 City Council approve the variance request from Section 23-406.B.(6), BMCC, and conditionally approve the preliminary plat of St. Vincent Healthcare Subdivision, and adopt 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 USPS shall be provided for verification.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of 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

Variance Request and Analysis

Mayor's Letter

Park Realignment Exhibit

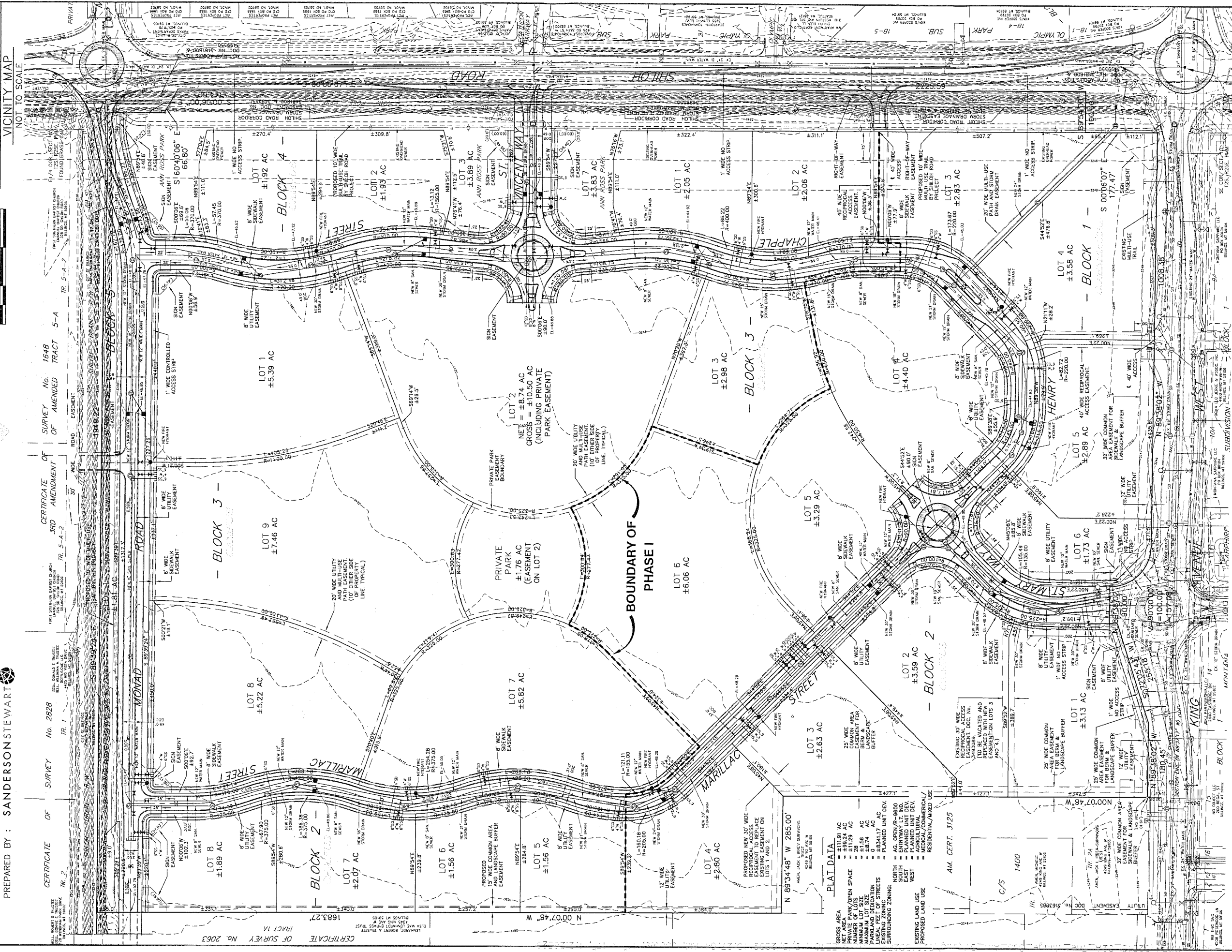
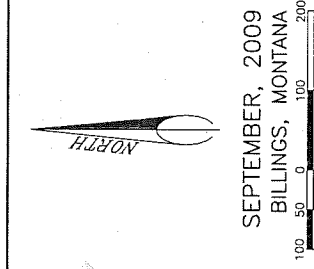
Letter of Support

ST. VINCENT HEALTHCARE SUBDIVISION

BEING ALL OF BLOCKS 1, 2, 3, 4 AND 5 OF THE VILLAGE SUBDIVISION INCLUDING RIGHTS-OF-WAY FOR MONAD ROAD, MARILLAC STREET, ST. VINCENT WAY, ST. MARY WAY AND DECATHLON PARKWAY SITUATED IN THE SE1/4 OF SECTION 10, T 1 S., R. 25 E., P.M.M., IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : ST. VINCENT HEALTHCARE FOUNDATION, INC.

PREPARED BY : SANDERSON STEWART



PLAT DATA

GROSS AREA	1,400 AC
NET AREA	1,399.24 AC
PRIVATE PARK/OPEN SPACE	211.29 AC
MINIMUM LOT SIZE	29.56 AC
MAXIMUM LOT SIZE	48.74 AC
PARKLAND DEDICATION	0 AC
EXISTING ZONING	0 AC
SURROUNDING ZONING	0 AC

SOUTH
 SOUTH
 EAST
 WEST
 EAST
 WEST
 AGRICULTURAL DEV.
 MEDICAL/COMMERCIAL
 RESIDENTIAL/UNIMPL. USE

ATTACHMENT B
Findings of Fact

The Yellowstone County Board of Planning recommends for adoption the Findings of Fact for the preliminary plat of St. Vincent Healthcare Subdivision, 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 2004. With this reconfiguration of the plat and subsequent development that will follow, the property will be removed from crop production. The subdivider is proposing to maintain the irrigation water rights for continued agricultural purposes until development occurs, and then for future landscaping irrigation. 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, a 24-inch main in Shiloh Road and a 24-inch main in King Ave. West, to which the development can connect. The developer will install new 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 main in King Ave. West. The subdivider will install new lateral sanitary sewer lines 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 the existing storm drain in King Ave. West, and to the Shiloh Drain. Individual lot owners will be responsible for their on-site storm water storage. 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 Public Works 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** –The proposed subdivision fronts King Ave. West and Shiloh Road, both major arterial streets, and Monad Road, a collector street. The proper amount of street right-of-way for King Ave. West and Shiloh Road was previously provided with the platting of The Village Subdivision in 2004. Additionally, improvements to both King Ave. West and Shiloh Road have already been completed with the required pavement, curb, gutter, sidewalk/trail. Also, accesses from the property onto King and Shiloh were pre-determined at the time of their construction through an access management plan developed by the Montana Department of Transportation. Those access points are shown on the plat.

Monad Road is not currently built in this location. In fact, the subdivider is proposing to realign the Monad Road right-of-way with this plat and vacate the existing platted corridor created when The Village Subdivision was originally platted. City Engineering is agreeable to this vacation and realignment, as it matches up with the Monad corridor within the Lenhardt Square Subdivision directly to the west. Another request by the developer is to reduce the right-of-way dedication for Monad Road west of its intersection with Marillac Street to 56 feet. This request requires a variance from the subdivision regulations since 74 feet is standard for collector streets. City Engineering is also in favor of this request, and their analysis is found in Attachment C. As this subdivision will be developed in phases, Monad Road will be constructed to City standards, when the corresponding phase of development occurs.

All of the interior public streets such as St. Mary Way, Henry Chapple Street, St. Vincent Way, and Marillac Street shall be constructed to the current commercial local street standard, including 44-foot width of hard surface, curbs, gutters, and boulevard-style sidewalks. There will also likely be a network of private interior streets that will be constructed as lots are developed. The specifications of these private streets will be reviewed at the time of site development. All of the interior streets will also be completed in phases.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire stations are located at 604 S. 24th St. West. (Station #4) and at Grand Ave. and 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 students at this location. However, it is anticipated that this subdivision will create lots for commercial uses with the possibility of some potential residential uses tied to medical uses on the property, and is not expected to have a direct impact on the schools. Indirectly, development of the site will eventually provide a great deal of property taxes, benefiting the schools.

- g. **Parks and Recreation** – With the original The Village Subdivision several park areas were platted, totaling 9.62 acres. This included 7.96 acres of the Shiloh Drain corridor in what was known as Ann Ross Park. With this plat, the developer is proposing a slightly different park and open space setup. The new proposal includes a combination of private parkland (4.66 acres) owned and maintained by St. Vincent Healthcare Foundation, and public right-of-way/open space (9.0 acres), owned by City Public Works. Although City staff agreed that the new proposal includes more park/open space than the original plat, there are still a couple of issues to be worked through.

The previously platted parkland areas are currently owned by the City Parks Department (PRPL) and the subdivider has proposed to reconfigure the park areas in several ways (See Attachment E). First, the subdivider has proposed to dedicate ownership of the parkland strips (Ann Ross Park) along the Shiloh Road and Monad Road frontages (areas in dark cross-hatch on the exhibit) to City Public Works for street/storm water management/open space purposes. Given that this area contains the Shiloh Drain and is not useable by PRPL for active parkland, both Public Works and PRPL are supportive of this shift in public ownership.

Second, the applicant is proposing to vacate or abandon a 1.12-acre previously dedicated park parcel (shown in light cross-hatch on the exhibit) and revert ownership back to St. Vincent Healthcare for its use as developable, conveyable land within the new subdivision. In order to justify this vacation, the applicant was asked to provide evidence that the current proposal will benefit the City and offset the cost of the abandoned 1.12 acres. The analysis provided by the applicant indicated that a multi-use path was constructed at its expense along the north side of King Ave. West from Shiloh Road to their west boundary (at a cost of \$33,231), and another path will be constructed at their expense on the south side of Monad Road from Shiloh Road to their west boundary (at an expense of approximately \$42,000 in 2010 dollars). Both of these improvements will benefit the community as a whole as the trail network continues to expand and connect.

Another benefit to the City proposed by the applicant is the provision, improvement and maintenance of 4.66 acres of privately-owned parkland (shown in grey on the exhibit). These park parcels are located at the entrances to the development off of Shiloh Road at Monad Road and St. Vincent Way, and also as a centralized 1.75-acre park area. While these park areas are privately held property, they will be open to the public as parks at the discretion of the property owner(s) in the subdivision. The applicant has estimated the construction costs for the irrigation and landscaping of these private parks and the areas within the public right-of-ways along Shiloh Road and Monad Road at approximately \$50,000 per acre, and maintenance costs at \$10,000 per acre, per year.

City Legal and PRPL staff have accepted the justification of City benefit for vacating the 1.12-acre previously platted park area and are supportive of the proposed plan.

- 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 2004. The property appears to be outside of the 100-year flood plain and is bounded on the north and east by the Shiloh Drain for stormwater management assistance. Ground water levels were identified in the initial geotechnical review in 2008 at 11 to 12 feet below the surface. These groundwater levels may necessitate dewatering at the time of utility installation.

The soil analysis provided indicated clay and sand mix to a depth of 10.5 feet, with gravel and sand below. No site specific recommendations for building of structures were made at this time. Due to the uncertain nature of construction possibilities on the site, each building permit will require a site-specific geotechnical review with mitigation recommendations. This requirement is noted in the Conditions that Run with the Land Section of the SIA.

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

Fire hydrants will be constructed to meet fire department requirements. Street designs and access locations will be reviewed at the time of design and private contract. The nature of the development proposed on the site will provide convenient access to medical facilities for this growing area of Billings. All of these factors should mitigate any effects on public health and safety.

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 Transportation Plan 2009 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: Coordinated economic development efforts that target business recruitment, retention, and expansion. (p. 7)
- b. Goal: Increase the median income of households and individuals. (p. 7)

- c. Goal: Attractive and accessible communities. (p.7)
- d. Goal: Improved public services and facilities. (p. 7)
- e. Goal: A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservations, resource conservation and cost effectiveness. (p. 10)

2. Urban Area Transportation Plan 2009 Update

The proposed subdivision adheres to the goals and objectives of the 2009 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. However, trail segments along the property boundary with Shiloh Road, King Avenue West and Monad Road have been or will be constructed as part of this development.

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 St. Vincent Healthcare Planned Unit Development which is being reviewed concurrent with this plat. All development shall comply with the standards set forth in Section 27-308, BMCC and the approved Planned Development Agreement.

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 Shiloh Road, Monad Road, St. Vincent Way, Henry Chapple Street, Marillac Street, and St. Mary Way. Slight adjustments are being proposed to Monad Road, Henry Chapelle Street, St. Vincent Way, and Marillac Street. A street vacation application is being processed concurrently by City Engineering to accomplish these adjustments.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of St. Vincent Healthcare Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy 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.

Approved by the Billings City Council, January 24, 2011.

Thomas W. Hanel, Mayor

ATTACHMENT C

Variance Request/Analysis and Staff Response

FINDINGS OF FACT:

Variance Request: 23-406B(6) to allow 56-foot right-of-way dedication for Monad Road west of Marillac Street in lieu of the required 74-foot right-of-way requirement for a collector.

- 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 would not be detrimental to the public health, safety, or general welfare of the public or be injurious to other properties. It has been determined that a 39-foot wide roadway surface (measured from back-of-curb to back-of-curb) would be constructed and would have the capacity to accommodate the anticipated traffic volumes. The 56-foot right-of-way width would be consistent with what was approved for the Monad right-of-way width to the west of the subdivision.

By creating less open space along the street, speeding should be kept to a minimum. In addition, the creation of the 56-foot right-of-way would in fact help adjoining properties by creating more developable area.

- 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 regulations was enforced.**

By enforcing the 74-foot right-of-way requirement on Monad Road west of Marillac Street, the right-of-way width would be variable between this property and the property to the west (Lenhardt Square Subdivision). Variable right-of-way widths make it difficult to have consistent roadway and boulevard widths between the two subdivisions, which could potentially make the transition between the properties undesirable.

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

By allowing a 56-foot right-of-way, the City of Billings would actually be creating more developable area within the St. Vincent Healthcare Subdivision, thus creating a higher tax base for the City of Billings.

- 4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy.**

Allowing a 56-foot right-of-way would not place the subdivision in nonconformance with the adopted City of Billings Zoning regulations. In

addition, this variance would still allow the subdivision to be in compliance with the Growth Policy and the West Billings Plan.

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

A 56-foot right-of-way would still accommodate a 39-foot street (measured from back-of-curb to back-of-curb). This street width would be adequate to meet the projected traffic demands for Monad Road. In addition, this right-of-way width is consistent with property to the west, thus providing a seamless transition between the two properties.

Staff Analysis: Variance from Section 23-406.B.(6)

Based on the five subdivision variance review criteria Planning and Public Works staff are supportive of the granting of this variance. The applicant is requesting a reduction in right-of-way dedication for Monad Drive, west from Marillac Street. This reduction down to 56 feet makes a logical, consistent connection to Monad Road as it is immediately west within the Lenhardt Square Subdivision. The right of way amount proposed is sufficient to contain the proposed 39-foot wide street. Also, the adjacent land to the north is being dedicated to the City with this plat, so any needed street, sidewalk or trail expansion could be located within that area. Granting of this variance will not increase taxpayer burden or be in any way contradictory to the City Zoning Ordinance or Growth Policy. Staff is recommending approval of this variance request.

ATTACHMENT D
Mayor's Approval Letter

January 25, 2011

Sisters of Charity of Leavenworth Health System, Inc.
P.O. Box 35200
Billings, MT 59107-5200

St. Vincent Healthcare Foundation, Inc.
Dave Irion, Executive Director
P.O. Box 35200
Billings, MT 59107-5200

Dear Sirs:

On January 24, 2011, the Billings City Council conditionally approved the preliminary plat of St. Vincent Healthcare Subdivision, subject to the following conditions of approval:

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 USPS shall be provided for verification.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

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

Sincerely,

Thomas W. Hanel, Mayor

Pc: Will Ralph, PE, Sanderson Stewart
Doug James, Moulton Bellingham

PARK ACQUISITION EXHIBIT

ST. VINCENT HEALTHCARE SUBDIVISION

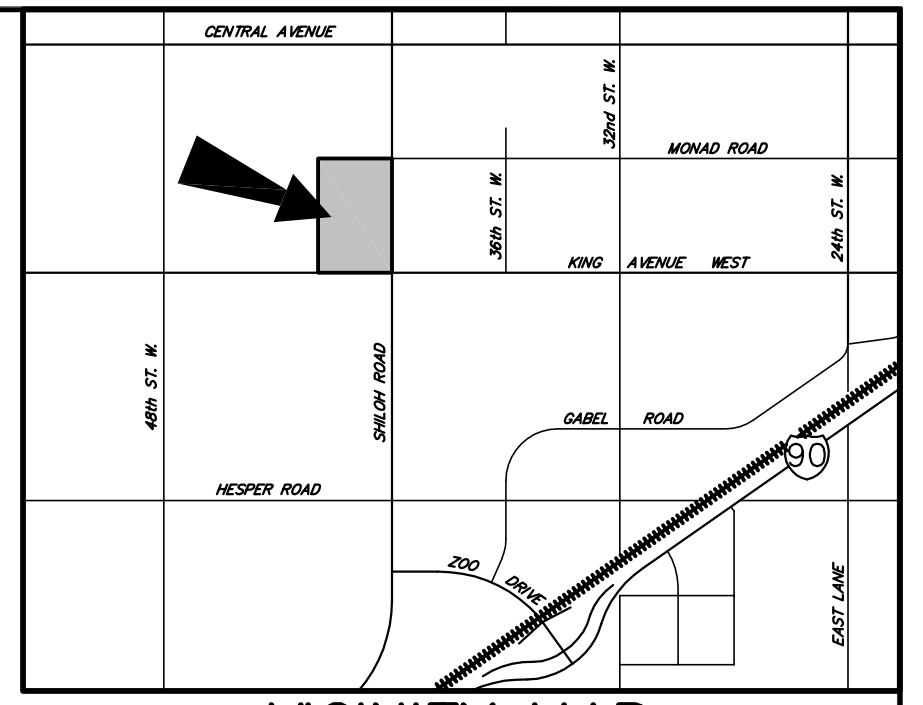
BEING ALL OF BLOCKS 1, 2, 3, 4 AND 5 OF THE VILLAGE SUBDIVISION
 INCLUDING RIGHTS-OF-WAY FOR MONAD ROAD, MARILLAC STREET,
 ST. VINCENT WAY, ST. MARY WAY AND DECATHLON PARKWAY
 SITUATED IN THE SE1/4 OF SECTION 10, T 1 S., R. 25 E., P.M.M.,
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : ST. VINCENT HEALTHCARE FOUNDATION, INC.

PREPARED BY : SANDERSON STEWART



SEPTEMBER, 2009
 BILLINGS, MONTANA
 SCALE: 1"=100'

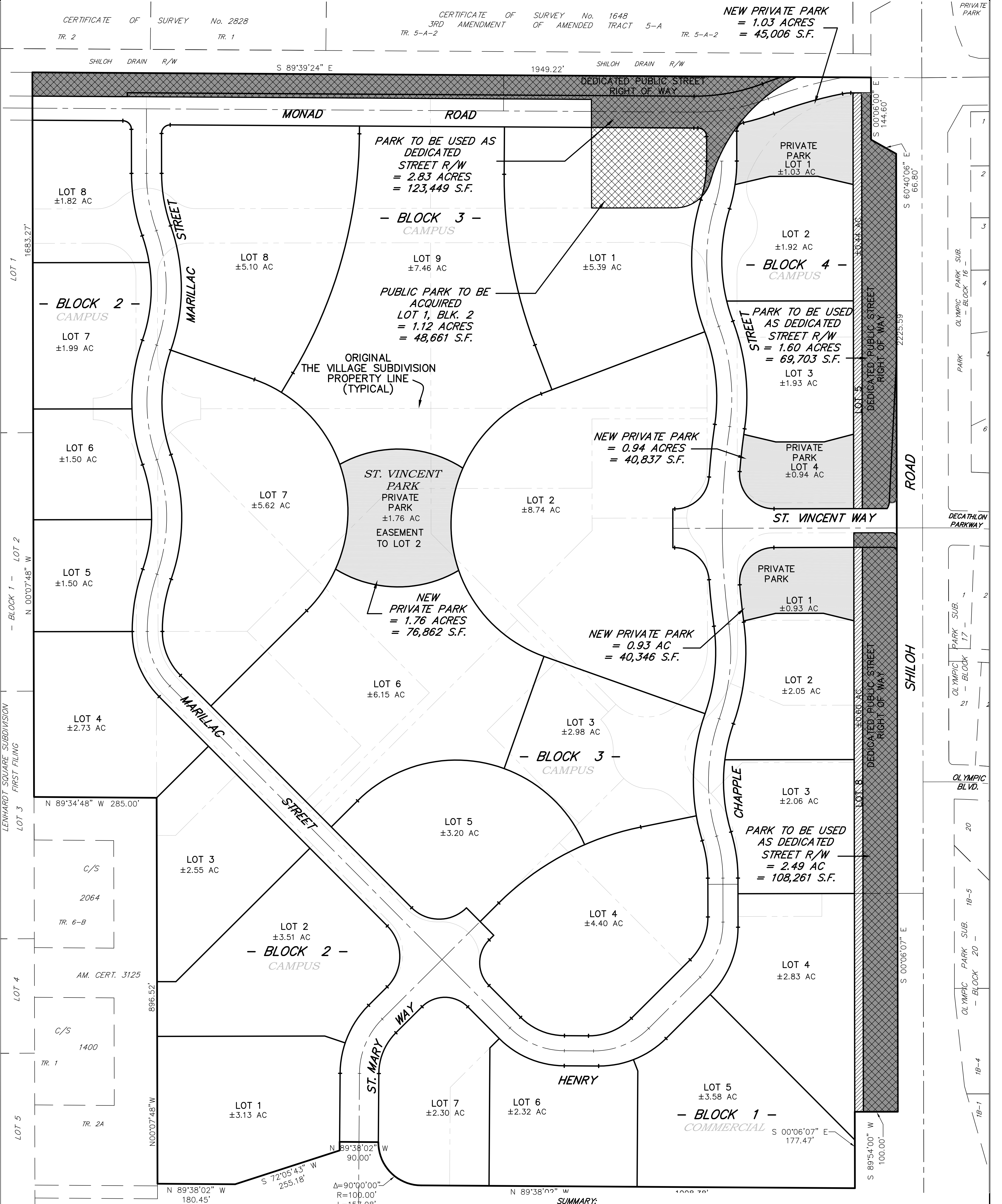


VICINITY MAP
 NOT TO SCALE

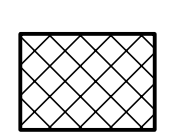
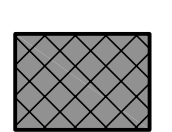
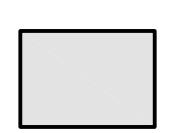
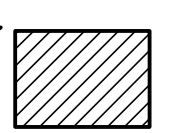
CERTIFICATE OF SURVEY No. 2828
 TR. 2 TR. 1

CERTIFICATE OF SURVEY No. 1648
 3RD AMENDMENT OF AMENDED TRACT 5-A
 TR. 5-A-2

NEW PRIVATE PARK
 = 1.03 ACRES
 = 45,006 S.F.



SUMMARY:

-  1. PUBLIC PARK TO BE ACQUIRED 1.12 AC
-  2. PARK TO BE DEDICATED AS NEW STREET R/W 6.92 AC
-  3. NEW PRIVATE PARK 4.66 ACRES
-  4. LOTS TO BE DEDICATED FOR OPEN SPACE USE 1.04 AC





Where Your Money Needs to Be - **GROWING**

December 27, 2010

Ms. Candi Beaudry
Planning Director
Planning Division
510 N. Broadway, 4th Floor
Billings, MT 59101

Re: St. Vincent's proposed Health Care Subdivision

Dear Ms Beaudry,

On behalf of the Board of Directors of Beartooth Bank we wish to express our whole hearted support of the proposed Health Care Subdivision located on corner of Shiloh and King Avenue. We believe that the facility will enhance health care availability in the area as well as all of Montana and Northern Wyoming. The development will create new jobs during the development and construction phase as well as many long term stable jobs which will enhance the economic base of Billings and the surrounding area. In addition, the new development will reduce the stress on the over crowded medical corridor in the downtown Billings area.

The development is well done esthetically, will add to the viability of existing local businesses and will enhance the entire West Billings area including housing. In addition, the facility will allow for the use of the newly developed and enhanced road system in West Billings. This development will result in additional commercial development in the area as support services business will build new facilities to support those employed by development as well as those who will be using the facilities.

We strongly urge you to approve the development plan as proposed.

Sincerely,

Thomas D. Pelatt
Board Chair

Regular City Council Meeting

Date: 01/24/2011

TITLE: Zone Change #870 Public Hearing and 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request to allow a mixture of commercial, cultural, medical, clinical and residential uses in a Planned Development on a 111.91 acre parcel of land described as Blocks 1 through 5, The Village Subdivision. The property is located on the northwest corner of the intersection of Shiloh Road and King Avenue West. A concurrent subdivision has been filed to re-align the right of ways and lots and will be named St. Vincent Healthcare Subdivision. The property has an existing Planned Development approved in 2004 that allows primarily commercial, medical and residential uses with specific design standards for each area. The proposed changes would eliminate most residential uses and allow commercial and medical uses in an underlying zoning of Entryway Light Industrial (ELI). The owners propose to apply the existing Shiloh Corridor Overlay District site development standards to all lots within the Planned Development in addition to site specific standards. The property is owned by the Sisters of Charity of Leavenworth Health Systems (St. Vincent's Healthcare) and is represented by Will Ralph of Sanderson Stewart and Doug James of Moulton Bellingham PC. The owners and agents conducted a pre-application neighborhood meeting on July 20, 2010, and a preliminary meeting with city staff and surrounding property owners was held on December 8, 2010. The Zoning Commission conducted a public hearing on January 4, 2011, and is forwarding a recommendation of approval 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 make substantial revisions to the existing Planned Development zone first adopted by the City in 2004. The current agreement allows medical, residential and mixed use development and has extensive design standards that in some cases are contrary to the surrounding zoning and Shiloh Corridor Overlay District. The property has not been developed and St. Vincent Healthcare has no immediate plans to construct a project on the site. The proposed zoning will remain intact with the exception of residential uses. The applicant intends to allow residential uses only by special approval of the owner.

The property occupies 111.91 acres on the northwest corner of the intersection of King Ave West and Shiloh Road. Improvements to both streets have been recently completed and the owner intends to make further improvements when development occurs. Those improvements will include park area and campus signage. King Ave West and Shiloh Road are both principal arterial streets and carry substantial traffic in all directions. Traffic counts in early 2010 for Shiloh Road at this intersection were 8,980 vehicle trips per day and King Ave West handled 7,760 trips. Both these roads were under construction at the time. The improvements will likely lead to higher daily traffic counts during 2011. Both streets are able to handle a large traffic volume without requiring additional improvements. The standard design capacity of principal arterial streets is 25,000 vehicle trips per day. The 2010 Transportation Plan indicates that congestion near this intersection with the traffic roundabout is not anticipated until 2035 or later.

The applicant conducted a pre-application neighborhood meeting on July 20, 2010 and several surrounding property owners attended the meeting. The owners discussed the anticipated uses in the commercial lots at the intersection and whether additional truck traffic would be generated. The meeting roster and minutes are included in Attachment D. No surrounding property owners contacted the Planning Division staff prior to the Zoning Commission public hearing.

The changes to the PD propose an underlying zoning of Entryway Light Industrial (ELI). The district is described in Section 27-1004(d) as an area “to provide large lots located directly accessible to arterial and other transportation systems for warehousing and light manufacturing and allow for limited commercial facilities for the adjacent community and interstate travelers.” While the area is accessible to arterial streets and provides large lots, warehousing and light manufacturing are not allowed uses in the proposed PD agreement. The ELI zone allows many uses that will be prohibited in the PD zone for this property. The owner prefers this zoning district to allow the greatest range of potential uses. Setbacks are specified based on lot location, but the standard building height of 40 feet in the ELI zone will apply. In addition, the owner has applied the Shiloh Corridor Overlay District site design standards to all parcels within the PD. Normally the Shiloh Corridor Overlay district would only apply to lots within 500 feet of the centerline of Shiloh Road. The Shiloh Corridor Overlay specifies building design, materials, signage and landscaping standards. Each development in the district will need to meet absolute criteria and earn a certain number of points for relative site design criteria. For example, a developer can earn points for shared parking, provisions for transit, bicycles and pedestrians or for exceeding the minimum requirements for building architecture.

The proposed ELI zone is compatible with the zoning south and southeast of the subject property. Property north and west of the property is developed for a church and for multifamily residential uses. Property across Shiloh Road is the Olympic Park Subdivision and is developed for residential uses. There are vacant commercial lots in Olympic Park Subdivision on the northeast corner of King Ave West and Shiloh Road. The West Billings Neighborhood recognized the suitability of property on arterial streets for professional offices, limited commercial uses and higher density residential uses. The West Billings Plan anticipated this intersection would be a major community commercial node that would include a variety of amenities and services. The challenge with any arterial street pattern and land use plan is to ensure the adopted policy is implemented in a careful manner. The West Billings Plan indicated the “strip” commercial zoning along Grand and the monolithic commercial development at King Ave West and 24th St West was not a desirable land use plan for West Billings. Two of the 4 corners of this community commercial node have begun development – Montana Sapphire to the south and Shiloh Crossing to the southeast. The vacant commercial lots in Olympic Village and the St Vincent Healthcare property are not yet developed. The proposed zoning and

development plan do meet the goals of the West Billings Neighborhood Plan.

The Planning Division reviewed this application and recommended approval based on the attached twelve (12) criteria for zone changes. The subject property is adjacent to PD zoning, ELI and CI zoning. The property is at an intersection where commercial and medical service development fits with the intent of the West Billings Plan to avoid strip commercial development all along arterial streets. The proposed re-subdivision will create 19 lots for medical related uses, six lots for commercial uses, and four private park areas. The uses allowed within the proposed PD zoning are compatible with the surrounding zoning and neighborhood character. Any development of the property requires compliance with site development standards specified in the PD, the Shiloh Corridor Overlay zone and the ELI zone. This will ensure protection to adjacent properties to the north and west. The 2008 Growth Policy encourages predictable land use decisions that are consistent with neighborhood character and land use patterns. The proposed zoning is consistent with this neighborhood and land use pattern.

The Zoning Commission conducted a public hearing on January 4, 2011, and 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 January 4, 2011, and received testimony in favor of the project from Rick Leuthold of Sanderson Stewart, Doug James of Moulton Bellingham, PC and Ed Hudson of Emmanuel Baptist Church. There was no testimony in opposition to the zone change. Thomas Pelatt, Board Chair for Beartooth Bank, submitted a letter of support to the Zoning Commission.

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 Planned Development to be consistent with surrounding new developments and increase compatibility with new and existing residential development.

- Contiguous development focused in and around existing population centers. (Land Use Element Goal, page 6)

The proposed zoning would allow the development of the property in an area with existing services – promoting efficient use of city resources and providing services to the growing population of West Billings.

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

There should be no effect on traffic congestion. The recent improvements to King Ave West and Shiloh Road were designed for the predicted traffic generation from this existing Planned Development zone. The 2010 Transportation Plan predicts existing road capacity would not begin to experience congestion until 2035 or later. If a new use generates 500 or more new trips per day a traffic accessibility study or traffic impact analysis may be required prior to development of a particular lot within the subdivision. The subdivision has completed a traffic impact study that may require review when each parcel is developed.

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 development would change the type of service needed at the property. There should be no effect on public safety given the proximity to 2 fire stations and existing services provided to the adjacent commercial businesses in Montana Sapphire Subdivision and Shiloh Crossing.

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

The proposed zoning would permit new medical services and ancillary uses within the new subdivision. Other service businesses, professional offices, limited retail and residential uses may be allowed. The surrounding property values should not be affected by the development.

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 lot coverage is 60% of the total lot area and minimum lot area in the agreement is 1 acre. This could allow a structure with a foot print of about 26,000 square feet. This should prevent overcrowding of property.

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

The new zoning does avoid undue concentration of population. The changes in the development agreement would restrict residential uses by requiring special permission from the owner prior to development. St Vincent Healthcare anticipates very few proposals for residential development given the proximity to available residential zoning to the west, east and north. There is no set dwelling density or configuration requirements within the development agreement.

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 will provide 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 re-development of the property for medical uses, commercial uses and limited residential uses in a unified development pattern. There are existing commercial uses to the south and southeast. There are higher density residences to the west in the new Lenhardt Square development. Across Shiloh Road is a planned neighborhood development consisting of single family dwellings and multi-family dwellings. The character of the area is a community commercial node at the intersection of two principal arterial streets. The changes to the existing planned development zone would allow the future development to better fit in with the planned and existing character of 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 a larger parcel of vacant land on a corner lot of a rapidly developing area of West Billings. The property is suitable for the allowed uses within the planned development zone of Entryway Light Industrial.

11. Was the new zoning adopted with a view to conserving the value of buildings?
Surrounding residential property to the east should not be affected by the proposed zoning.
There are no existing buildings on the subject property.

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

The proposed zoning will permit the compatible development of this parcel and the changes to the planned development zone are appropriate for this location.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval and adoption of the 12 criteria for Zone Change #870 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Attachment A - Zoning maps

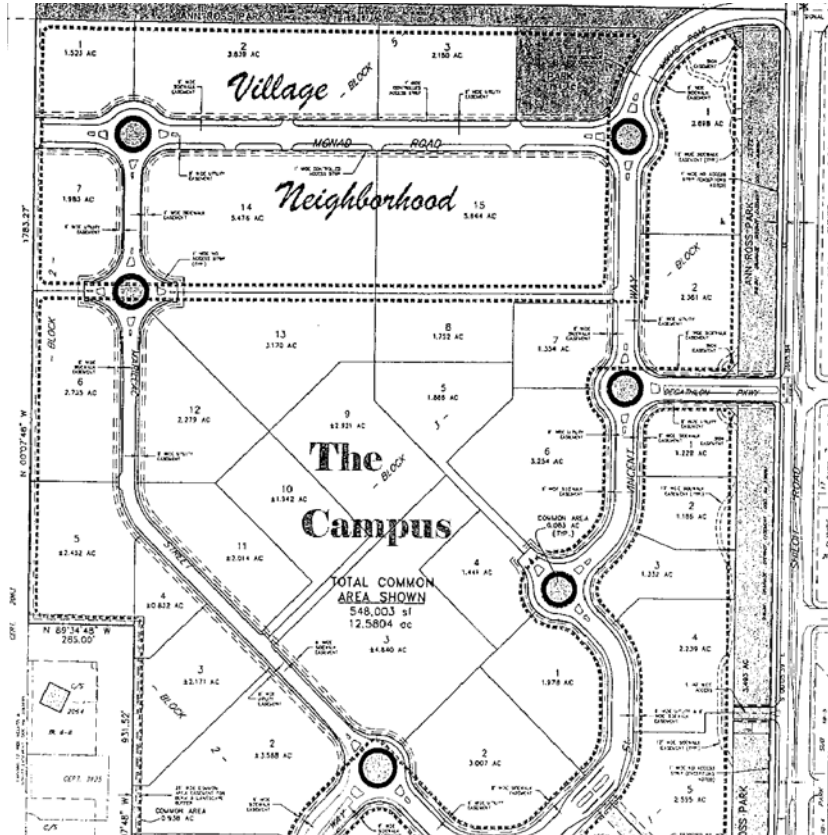
Attachment B - Site photos

Attachment C - Applicant Letter

Attachment D - Pre-app meeting notes

Attachment E - Ordinance and Planned Development Agreement

Existing Planned Development Zoning Master Plan

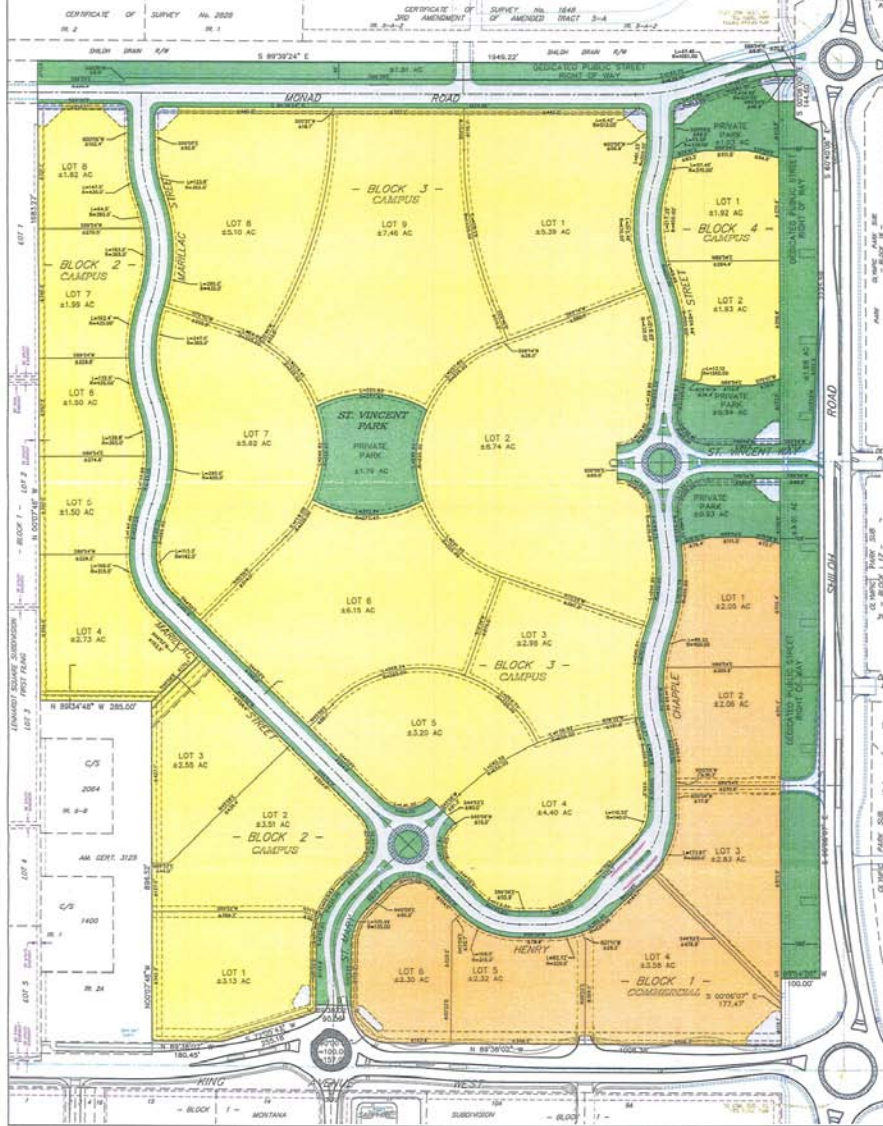


Proposed Planned Development Zoning Master Plan

LAND USE AREAS OF
ST. VINCENT HEALTHCARE SUBDIVISION

BEING ALL OF BLOCKS 1, 2, 3, 4 AND 5 OF THE VILLAGE SUBDIVISION
 INCLUDING RIGHTS-OF-WAY FOR MONAD ROAD, MARILLAC STREET,
 ST. VINCENT WAY, ST. MARY WAY AND DECATHLON PARKWAY,
 SITUATED IN THE SE1/4 OF SECTION 10, T 1 S., R. 25 E., P.M.M.,
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : ST. VINCENT HEALTHCARE FOUNDATION, INC.
 PREPARED BY : SANDERSONSTEWART



CERTIFICATE OF SURVEY No. 2828
 RE. 2

CERTIFICATE OF SURVEY No. 1648
 2ND AMENDMENT
 OF AMENDED TRACT 3-4
 RE. 2-4-12

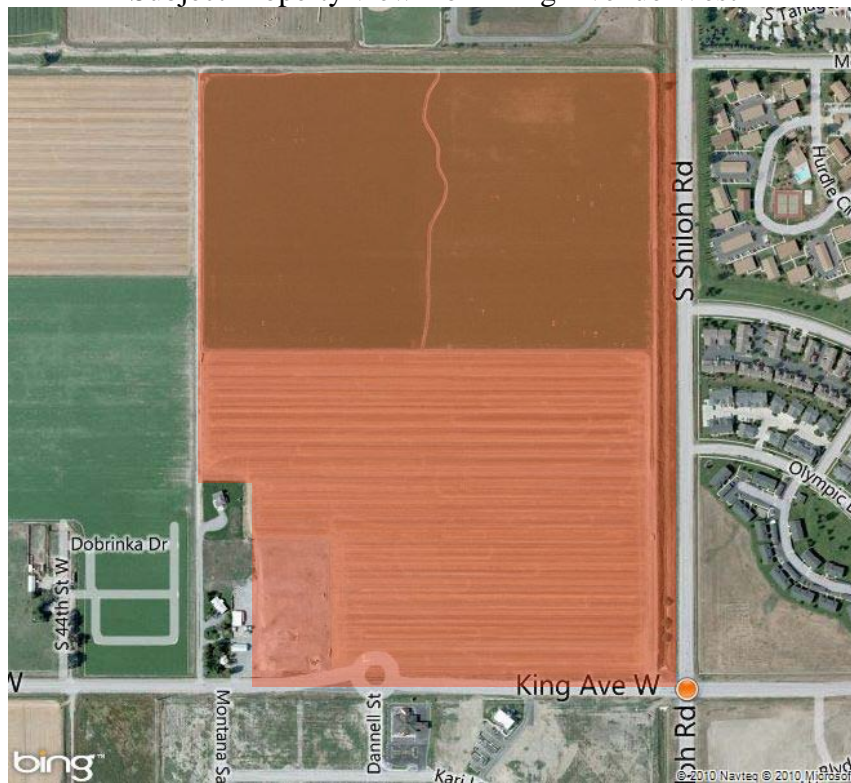
VICINITY MAP
 NOT TO SCALE

MONAD ROAD, MARILLAC STREET, ST. VINCENT WAY, ST. MARY WAY, DECATHLON PARKWAY, KING, WEST, MONTANA SUBDIVISION, BLOCK 1

Attachment B
Site Photographs
Zone Change #870 – The Village – St Vincent Healthcare Subdivision



Subject Property view from King Avenue West



Aerial Map

Attachment B, continued

Site Photographs

Zone Change #870 – The Village – St Vincent Healthcare Subdivision



View east along multi-use trail on King Avenue West



View south across King Avenue West

Attachment B, continued

Site Photographs

Zone Change #870 – The Village – St Vincent Healthcare Subdivision



View west along King Avenue West



View north across subject property from King Avenue West

Attachment C
Applicant's Letter

MOULTONBELLINGHAM PC

Doug James
Doug.James@moultonbellingham.com

Suite 1900, Crowne Plaza
27 North 27th Street
P. O. Box 2559
Billings, Montana 59103-2559
Phone (406) 248-7731
Fax (406) 248-7889

November 19, 2010

GERALD B. MURPHY
GREGORY G. MURPHY
W. A. FORSYTHE
DOUG JAMES
BRAD H. ANDERSON
THOMAS E. SMITH
JOHN T. JONES
DUNCAN A. PEETE
GERRY P. FAGAN
MICHELE L. BRAUKMANN
MICHAEL E. BEGLEY*
JEFF G. SORENSON
KATHRYN J. BELL
CHRISTINE M. FRILL ***
EMILY JONES
CHRISTOPHER T. SWEENEY **
ROSS W. McLINDEN **
BRANDON JT HOSKINS
BRIAN O. MARTY

Brent R. Cromley
Of Counsel

K. Kent Koolen
Of Counsel

Bernard E. Longo
Retired Counsel

FREDRIC D. MOULTON
(1912-1989)

W.S. MATHER
(1922-1998)

WM. H. BELLINGHAM
(1920-2002)

ADMITTED TO PRACTICE IN
WYOMING*
NORTH DAKOTA**
NEBRASKA***

Candi Beaudry
Planning Director
City of Billings Planning Division
510 North Broadway, 4th Floor
Billings, MT 59101



Re: Our Client: St. Vincent Healthcare Foundation, Inc.
City Zone Change Application No. 870
St. Vincent Healthcare Subdivision Preliminary Plat Application

Dear Candi:

We represent St. Vincent Healthcare Foundation, Inc. in connection with the Zone Change Application and Preliminary Plat Application referenced above. This letter is intended simply to provide the Commission and City Council with some additional background information regarding these applications.

History. St. Vincent Healthcare obtained the subjected property in 2002. After the property was acquired, it was annexed into the City and was re-zoned Planned Unit Development. The existing Planned Development Agreement between the City of Billings and St. Vincent Healthcare Foundation, Inc. was recorded on June 25, 2004, as Document No. 3293717. The Planned Development Agreement is 98 pages long.

In 2009, St. Vincent Healthcare Foundation, Inc. worked with the City of Billings and neighboring property owners to rebuild King Avenue West. The improvements to King Avenue West were paid for by St. Vincent Healthcare Foundation and other property owners.

The 2010 Applications. A number of things have happened since the original Planned Development Agreement was approved. Those developments have prompted the current applications to amend the plat and to amend the zoning agreement. The developments include:

1. The North Shiloh Corridor Overlay Zoning. St. Vincent Healthcare Foundation was an early advocate for the overlay zoning that was eventually adopted for the Shiloh Road corridor. When the Planned Development Agreement was finalized, it incorporated an

A Professional Corporation ~ Attorneys at Law ~ SINCE 1894

WWW.MOULTONBELLINGHAM.COM

early draft of the proposed corridor regulations. The proposed corridor regulations were revised over time and were eventually adopted by the City of Billings. Since adoption, the regulations have undergone further amendment. As a result of this process, the corridor regulations that are incorporated in to the current Planned Development Agreement are inconsistent with the rest of the corridor regulations along Shiloh Road. The proposed Zone Change Application (the Planned Development Agreement) addresses this development by eliminating the verbatim inclusion of the Shiloh Corridor Overlay Zoning regulations and simply provides that those regulations will be applicable to the subdivision. The existing Overlay Regulations are incorporated by reference. This change not only promotes uniformity, but substantially reduces the length of the Planned Development Agreement. Note: the proposed Planned Development Agreement provides that the existing Shiloh corridor overlay zoning will apply to the entire subdivision. The zoning regulations themselves, apply only to that portion of the subdivision that is located within 500 feet of the center line of Shiloh Road. This one change will provide for great uniformity of landscaping throughout the subdivision and will help to insure a high quality of development.

2. The Size of the Medical Campus. Consultants have recommended that St. Vincent Healthcare reserve a larger portion of the subdivision for future medical uses than was originally planned. The existing Planned Development Agreement contemplated a residential neighborhood along Monad Road on the northern end of the subdivision. This residential component has been totally eliminated in order to create a larger medical campus. The elimination of the residential component of the subdivision also eliminates the requirement for Park Dedication. Nevertheless, the subdivision will have substantial green spaces along the Shiloh drain both along Shiloh Road and Monad Road as well as St. Vincent Park, a private park in the center of the subdivision.
3. The Bike Path. When the subdivision was initially zoned, the plan was for St. Vincent Healthcare to construct a cement bike path along Shiloh Road from King Avenue West to Monad Road. When Shiloh Road was rebuilt recently, an asphalt bike path was constructed as a part of that highway project. Unfortunately, the existing agreements continue to obligate St. Vincent Healthcare Foundation to build another bike path in a slightly different location. Accordingly, the proposed changes eliminate a duplicative bike path and will result in substantial cost savings for the development.
4. Monad Road. St. Vincent Healthcare Foundation seeks to amend the plat in order to move the location of Monad Road slightly to the north. This change is intended to provide for great connectivity, particularly with respect to Emanuel Baptist Church. When Shiloh Road was reconstructed Emanuel Baptist Church

November 19, 2010
Page 3

lost one of its access points to Shiloh Road. The proposed plat will make it easier for the Church to access Monad Road which will provide it with another access point to Shiloh Road.

St. Vincent Healthcare Foundation remains committed to developing a first class healthcare subdivision with appropriate ancillary commercial uses. We believe that the revised plat and the revised Plan Development Agreement will help to insure a quality development.

Sincerely,

MOULTON BELLINGHAM PC

By: 

DOUG JAMES

DJ/rjh

Attachment D
Pre-application neighborhood meeting notes



July 8, 2010

Michele Amen, Trustee
Jack L Amen Irrevocable Survivors Trust
4249 King Avenue West
Billings, MT 59106-2943

COPY

Reference: St. Vincent Healthcare Subdivision
Project No. 02015.02

Dear Michele Amen:

You are invited to a neighborhood informational meeting and discussion regarding the proposed plat and a proposed update to the planned unit development zoning for St. Vincent Healthcare Subdivision. The property is legally described as follows:

Being all of Blocks 1 through 5 of the Village Subdivision, including rights-of-way for Monad Road, Marillac Street, St. Vincent Way, St. Mary Way and Decathlon Parkway, situated in the SE ¼ of Section 10, T.1S., R.25E., P.M.M., in the City of Billings, Yellowstone County, Montana

The property is owned by the following entity:

St. Vincent Healthcare Foundation, Inc.
P.O. Box 35200
Billings, MT 59107-5200

The owners are proposing an updated plat and updates to the planned unit development zoning designation for the 111.91-acre property.

The property is generally located on the northwest corner of the intersection of Shiloh Road and King Avenue. An exhibit with dimensions, acreage, property locations, and proposed land uses within the planned unit development has been included with this letter for your reference.

The developers of the property, along with representatives of Sanderson Stewart, will be presenting the proposed subdivision and will be available for any questions during the meeting. The meeting will be Tuesday, July 20, 2010, at 6:30 PM at the activities center at Emmanuel Baptist Church. Emmanuel Baptist Church is located at 328 Shiloh Road is generally located north of the St. Vincent Healthcare Subdivision property.

Your presence is requested and we look forward to meeting with all of you.

Sincerely,



Will Ralph, PE
Associate/Project Manager

WR/tsc
Enc.
P:02015.02_Neighborhood_Ltr_070810

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

ST. VINCENT HEALTHCARE SUBDIVISION
 NEIGHBORHOOD MEETING
 JULY 20, 2010
 6:30 P.M.

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE NUMBER</u>
Bob & Bonnie Bell	2128 Wyndham Park Dr.	534-2847
Clara M. Peque Haman	626 S 30 th St. W #2	655-4310
Blanche Blum	626 S. 38 th # 49 -	655-9185
Kelsey (Crampton)	626 S. 38 th St. W. #31	262.4122
Jeff Lee	3933 Temple Pl	861-5271
CHUCK BLACKBURN	3955 OLYMPIC BLVD #18	652-8733
Peggy Magher	87 Mountain View	559-2926
Kirk LEWTHOLD	1300 N. TRANSTELM	869-3319
Jan Phillips	4401 Hwy 3	690-7735
Luc Jones	6259 Bls	538-1583
David Iron	4314 Pine Cove	237-3601
Michael + Deborah Terrell	814 Howard Ave	651-8602
Kate Reed	3955 Olympic Blvd #31	690-2978
Judy Hughes (work @ Emmanuel)	3440 Strangen Cove So #32	655-3440
Will RACH	1300 N. Transtel Way	656-5255
CHARLIE YECEN	211 N. 30 th St.	252-0163

**St. Vincent Healthcare Subdivision
Neighborhood Meeting Minutes
July 20, 2010
6:30 PM**

Meeting was called to order to 6:30 PM

- Dave Irion introduced himself and gave a brief history of the project. He noted that St. Vincent's donated land to the Shiloh Road Project. After thanking everyone for being there he introduced Rick Leuthold from Sanderson Stewart.
- Rick Leuthold gave a history of the project with the following points:
 - o Original project started in 2004 – The Village Subdivision
 - o Previously there was residential slated for the north end of the project
 - o Project uses Shiloh Drain as amenity
 - o Project has morphed into a new plat
 - o There will be a campus type layout
 - o Will have pedestrian access on the lot lines
 - o Have now eliminated the residential component of the project
 - o Noted that more green space/park will be located at the entrances
 - o Parks will be privately held and maintained
 - o Project will still contain commercial lots in the southeast corner
 - o Discussed church and accesses on Shiloh Road and how they will function
 - o Noted there may possibly be a future access to the church on the north end of the project. It is still up in the air at this point
 - o PUD document now references the Shiloh Overlay District
 - o Noted that project would be moving forward with plat and concurrent zone change
- Rick Leuthold opened the floor for questions:
- Blanche Bloom asked what types of developments would be located in the southeast corner and if that would create more truck traffic on Shiloh Road adjacent to the site. Rick responded that the southeast corner could include motels, restaurants, and medical service type uses. Rick also mentioned that truck traffic would not be able to access the lots directly from Shiloh Road because of the Shiloh Drain.
- Peggy Hamilton noted she had been to several meeting on the Shiloh Road project and the authorities noted that there would not be any accesses on Shiloh Road to this site. She also wanted to know when the trucks would be servicing the site. Rick mentioned that there were always accesses on Shiloh Road and discussed the ¾ turn at St. Vincent Way. Rick noted that no access would be available directly to Decathlon Parkway. Rick said trucks could potentially service restaurant developments occasionally and that strip mall developments wouldn't be likely.

- Charlie Yegen asked if Marillac Road would ever be extended to the north and if the infrastructure designed for the subdivision would be handle drainage to the north. Rick responded that Marillac could be extended in the future, but there were no plans to do that right now. He also noted that storm drain would likely have to go into the Shiloh Drain on the north end of the project and that water and sewer capacity would have to be analyzed if development to the north every occurred.
- Peggy Hamilton mentioned that the area is built on a gravel bed and asked if the Shiloh Drain would be put in culvert. She also wondered about mosquito control. Rick responded that there would be culvert at the accesses and that the City would be responsible for mosquito control.
- Chuck Blackburn asked what would happen with Blocks 2, 3, and 4. Rick responded that those areas were slated to be a high quality medical campus.
- A lady in the front asked what construction traffic will be like and if roads will be closed as a result of construction activity. She also wondered if the public would have input on the types of buildings in the development. Rick responded that everyone has been frustrated with the amount of construction traffic, but that the new Shiloh Road will be a vast improvement over the existing section. Rick noted that zoning will dictate the types of buildings that can be constructed within the development. He noted that the buildings could be larger in size, but the long term goal would to make the development have a soft feel like the MSUB or Rocky campus. He also noted that St. Vincent's wants to be a good neighbor. In response, Peggy Gaghan noted that a 10-story building would not be likely.
- Doug James made a presentation with regards to the zoning. He noted that this will be a land bank for St. Vincent Healthcare for the next several years and that high rise buildings would be too expensive to construct. Doug also mentioned that the Shiloh Overlay District will encompass the entire project and that CCR's for the project will prohibit many uses.
- Rick Leuthold showed the vision for the subdivision on several exhibits that were at the front of the room.
- Peggy Hamilton asked what type of signing will be allowed. Doug James responded that the signing will be restricted by the provisions of the Shiloh Overlay district.
- Peggy Hamilton mentioned that she went to a meeting for Shiloh Road area property owners at MSUB. She also mentioned that she was worried about property values going down. Rick responded that it was his professional opinion that the types of developments that this property would have would do nothing but increase property values, although certain types of land development projects can certainly have a negative impact.
- Chuck Blackburn noted he was very excited that St. Vincent's was developing this property.

- A lady near the front noted she was concerned that a trauma center may attract the wrong types of people. She wondered if police patrols would increase. Rick noted that police patrols would increase when development occurred in the area. He also noted there would be security at the hospitals and that more people and traffic inherently increase security.
- Jeff Lee wondered when Monad Road would be built. Rick noted the timing would be totally open and that it would be built when development occurs. Rick also described how Monad Road would tie with the Lenhardt Square development to the west.
- Blanch Bloom asked if farming operations will continue. Rick said farming operations will continue until development occurs.
- Dave Irion thanked everyone for coming and the meeting was adjourned at approximately 8:00 PM.

Attachment E

Ordinance and Planned Development Agreement
AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR
All Blocks and Lots of The Village Subdivision containing
approximately 111.91 acres

Formatted: Top: 0.75", Bottom: 0.69"

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

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

2. DESCRIPTION. A tract of land known as The Village Subdivision , all Blocks and Lots, containing approximately 111.91 acres and is presently zoned Planned Development and is shown on the official zoning maps within these zones.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Planned Development** to **Planned Development as described in Exhibit A attached hereto** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Planned Development** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading January 24, 2011.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2011.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin

City Clerk

ZC #870 – St Vincent Healthcare Planned Development

EXHIBIT A

Formatted: Centered

Formatted: Font: Bold

EXHIBIT A
**PLANNED DEVELOPMENT AGREEMENT
FOR
ST. VINCENT HEALTHCARE SUBDIVISION**

By and Between:

ST. VINCENT HEALTHCARE FOUNDATION, INC.
and
THE CITY OF BILLINGS, MONTANA

**PLANNED DEVELOPMENT AGREEMENT FOR
THE ST. VINCENT HEALTHCARE SUBDIVISION**

This **PLANNED DEVELOPMENT AGREEMENT** is made and entered into this ____ day of _____, 2010, by and between **ST. VINCENT HEALTHCARE FOUNDATION, INC.**, as agent for the SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC., of 1106 North 30th Street, Billings, Montana 59107-5200 ("**SVH**") and the **CITY OF BILLINGS**, a Montana municipality ("**the City**"), of 210 North 27th Street, Billings, Montana 59101.

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

RECITALS

NOW WHEREAS:

1. SVH owns approximately 113 acres of real property in Billings, Montana, more particularly described as:

Formatted: Font: (Default) Arial

St. Vincent Healthcare Subdivision in the City of Billings, Yellowstone County, Montana, as shown by the records of the Clerk and Recorder of Yellowstone County, Montana under Document No. _____.

The foregoing property shall be known as "The St. Vincent Healthcare Subdivision," hereinafter "The Subdivision." SVH intends to develop The Subdivision primarily as a Healthcare Campus. The focus will be healthcare and other uses that are consistent with and not adverse to a healthcare campus including commercial and limited residential uses in a pedestrian-oriented development. The Subdivision will be divided into two separate zones: The Commercial Neighborhood and The Campus.

NOW THEREFORE, the undersigned hereby establish and declare the following plan for The Subdivision, including such restrictions and protective covenants as set forth herein, which shall apply to all of the Subdivision and all Lots therein, shall bind all of the present and future Lot owners, and shall run with the land.

AGREEMENT

Formatted: Font: (Default) Arial

PURPOSES

A. The zoning for The Subdivision shall be Planned Unit Development pursuant to this Planned Development Agreement ("PDA"). This PDA is intended to create a healthcare campus with appropriate associated commercial uses with the possibility of limited residential uses. Well-being and health care will be the essence of The Subdivision's character to provide a healthy work environment to meet the health and medical needs of the community, to assemble affiliated businesses and services complimentary to the activities and mission of health care, and to incorporate a well-landscaped environment throughout The

Formatted: Font: Arial

Subdivision. Circulation patterns will encourage easy pedestrian access and limit vehicular congestion and pedestrian/vehicular conflicts. This PDA will promote smart building development in terms of orientation, access, energy consumption and efficiency.

- B. This PDA is designed and intended to afford SVH maximum flexibility for future development within a framework that will ensure sound development.
- C. The parties enter into this Agreement in order to accomplish the purposes set forth herein, and in order to further the following additional objectives:
 - 1. To create a rich architectural arrangement of buildings and spaces through the use of relational massing of materials and forms, generous landscaping elements and contemporary and traditional architectural styles;
 - 2. To create a notable Billings, Montana landmark;
 - 3. To create generous and ample parking, arranged to be hidden or screened from roadways and view corridors;
 - 4. To create well-configured squares, plazas, greens/commons, landscaped streets and parks, woven into the pattern of the entire Development and dedicated to collective social activity, recreation, and visual enjoyment;
 - 5. To provide abundant landscaping requirements;
 - 6. To create a pedestrian-friendly environment and uses;
 - 7. To facilitate and foster complimentary uses serving the health care community, including clinics, medical office buildings, laboratories, hospitals, and related or supporting uses;
 - 8. To promote and assist in the orderly development of The Subdivision;
 - 9. To encourage creativity and continuity in design, quality, and character of new development; and
 - 10. To minimize adverse aesthetic impacts associated with excessive lighting, signage, and other design features.

DEFINITIONS

All terms used herein shall have the same definition and meaning as specified in Chapter 27 of the City of Billings Municipal Code, unless otherwise defined herein. The following definitions shall apply to this PDA:

Formatted: Font: (Default) Arial

Ann Ross Green Space. The Ann Ross Green Space is a green space of approximately 10.86 acres located along the Shiloh Drain and Monad Road. The Ann Ross Green Space shall be developed (as the subdivision develops over time) and maintained by SVH at no cost to the City. The Ann Ross Green Space shall include:

- i. Approximately 5.11 acres located in the City of Billings Public Utilities Department Right-of-Way for Shiloh Road, as shown on the Plat, Exhibit "A" hereto;
- ii. Approximately 1.04 acres located upon Lot 8, Block 1 and Lot 5, Block 4, which will be deeded to the City;
- iii. Lot 1, Block 1 of St. Vincent Healthcare Subdivision of approximately .93 acres, which shall be owned by SVH;
- iv. Lot 4, Block 4, of St. Vincent Healthcare Subdivision of approximately .94 acres which shall be owned by SVH;
- v. Lot 1, Block 4 of St. Vincent Healthcare Subdivision of approximately 1.03 acres, which shall be owned by SVH; and
- vi. Dedicated public street right-of-way along Monad Road of approximately 1.81 acres.

Ann Ross Green Space shall be fully developed with trees, irrigated lawn, and other landscaping features which may include shrubs, boulders, flower beds, water retention features, ponds, bike and pedestrian paths, pedestrian bridges, pedestrian overlooks, benches, lighting, and activity areas. The Ann Ross Green Space shall be maintained by the Subdivision Maintenance Director. SVH will enter into a Development and Maintenance Agreement with the City of Billings Public Works Department in order to provide for the development and maintenance of the Ann Ross Green Space. The Ann Ross Green Space shall be developed and maintained at no cost to the City of Billings. The City grants SVH an easement, including for ingress and egress, over, across, onto, through, and upon those portions of the Ann Ross Green Space owned or controlled by the City in order to allow SVH and its agents the ability to install, maintain, service, use, replace, repair, and enjoy the landscaping and improvements in the Ann Ross Green Space. SVH reserves an easement, including ingress and egress, to access, service, install, repair, replace, and maintain signs within the Sign Easement Areas shown on the Plat attached hereto as Exhibit "A".

The Campus. "The Campus" means Block 2, Lots 1-8; Block 3, Lots 1-9; and Block 4, Lots 2 and 3. The Campus is intended to be a collegiate-like arrangement of buildings, open space, parking areas and landscaping in which the buildings are interconnected with walkways and open, landscaped space, and surface parking

is screened at its perimeter by landscaping or an arrangement of buildings. The Campus is intended to be a juxtaposition of buildings of many different functions which encourages and facilitates easy pedestrian circulation, develops an identifying style, and creates a sense of place as a neighborhood environment. There shall be paved access to all structures, through public and/or private rights-of-way in order to insure access, including but not limited to Fire Department access.

The Commercial Neighborhood. “The Commercial Neighborhood” means Block 1, Lots 2-7.

Conditions, Covenants, and Restrictions of Record. “The Conditions, Covenants, and Restrictions” (also referred to as the “CCRs”) means those conditions, covenants, and restrictions to be recorded against all of the real property in The St. Vincent Healthcare Subdivision by SVH as the Declarant.

Lot. “Lot” means a piece, parcel, plot, tract, or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required, and having its principal lot frontage on a street.

Medical Uses. The term “Medical Uses” shall be defined to its broadest extent to include, but not be limited to: hospitals and hospital-related services; medical and dental professional clinics and/or offices; medical laboratories; pharmacies; physical therapy facilities; research and testing facilities related to the practice of health and medicine; health and fitness-related businesses; and ancillary healthcare services.

St. Vincent Park. “St. Vincent Park” shall be a private park space developed and maintained by the Maintenance Director, at no cost to the City of Billings. St. Vincent Park shall be an area of approximately 1.76 acres located in Lot 2, Block 3, of St. Vincent Healthcare Subdivision.

The Review Committee. “The Review Committee” (also referred to as “The Committee”) shall mean that committee appointed by SVH. The Review Committee shall have all of the duties and responsibilities identified in this PDA and the CCRs, including but not limited to being responsible for reviewing and approving or denying the design of all projects proposed for any lot within The Subdivision.

The Maintenance Director. “Maintenance Director” means the person or firm appointed by SVH in accordance with the terms and conditions of this PDA and the CCRs to maintain Ann Ross Green Space and the other Common Areas within The Subdivision.

BINDING EFFECT

Persons Bound by this Agreement. All individuals, corporations, or other entities who presently have or shall hereafter acquire any interest in and to any of the real property within The Subdivision shall be held to agree to all of the terms of this Agreement and all such individuals, corporations, and other entities, their heirs, devisees, successors, assigns, tenants, and trustees shall be bound by this Agreement.

The 2004 Agreement. The PDA for the Subdivision recorded June 25, 2004 as Document No. 3293717 is replaced by this Agreement. The June 2004 Agreement is hereby terminated and shall be of no force or effect.

REGULATION OF USES

Land Use Classifications and Permitted Uses.

Classifications of Lots. Lots in The Subdivision shall be located and classified within either The Commercial Neighborhood or The Campus.

- (b) ***The Commercial Neighborhood.*** The Commercial Neighborhood is located at the intersection of King Avenue and Shiloh Road, as shown on Exhibit "A" hereto. The Commercial Neighborhood is intended primarily to accommodate retail services and office facilities, but Medical Uses would also be allowed.

- (c) ***The Campus.*** The Campus shall be all of the Subdivision, except for the Commercial Neighborhood, as shown on Exhibit "A." The primary use of the lots in The Campus shall be Medical Uses, although other commercial and professional uses and residential uses may also be permitted. The Campus is intended primarily for Medical Uses, but may also be used as a commercial or cultural center with retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population.

The Commercial Neighborhood: Permitted Uses of Lots. Lots in the Commercial Neighborhood, unless otherwise prohibited herein, may be used for any use permitted in Entryway Light Industrial [Zoning pursuant](#) to Chapter 27 of the Billings, Montana City Code in effect on the date of this Agreement.

The Campus – Permitted Uses of Lots. Lots in The Campus, unless otherwise prohibited herein, may be used for any of the following uses: Medical Uses; any use permitted in the Commercial Neighborhood; administrative and research facilities; open spaces, park areas, gardens, athletic fields,

bike trails, playgrounds, and walking paths; public library; office and retail uses. The following additional uses will be permitted in The Campus with the prior express written consent of SVH, which consent may be granted or withheld in the exclusive discretion of SVH:

- (d) assisted living retirement housing;
- (e) churches, synagogues, and places of worship (Provide, however, that a chapel or other place of worship that is located within a building used primarily for medical or Healthcare Purposes shall be permitted and shall not require additional consent;
- (f) helicopter takeoffs and landings for medical and healthcare-related purposes on any lot within Block 3;
- (g) hotels and motels;
- (h) multi-family and assisted care housing;
- (i) residential uses;
- (j) supportive housing services;
- (k) veterinary clinic and animal hospitals, (this permits only the indoor treatment and no overnight kennels.
- (l) Parks.

Continued Farming Operations. SVH may, in its sole and exclusive discretion, permit farming operations (but not livestock) within The Subdivision. No Lot shall be farmed or flood-irrigated without the prior express written consent of SVH. Written consent to farm and to irrigate must be obtained on an annual basis. SVH may prohibit farming and/or flood irrigation in The Subdivision, in the sole and exclusive discretion of SVH.

Prohibited Uses. The following operations and uses shall not be permitted on any Lot in The Subdivision, regardless of where the Lot is located:

Alcoholic Beverages. Any establishment that sells alcoholic beverages or liquor, including liquor stores and bars. Provided, however, that a restaurant shall be allowed limited sales of beer and wine pursuant to a Restaurant Beer and Wine License pursuant to §16-4-420, Montana Code Annotated. Alcoholic Beverages may be sold at special events within the Subdivision with the prior express written consent of SVH, which consent may be withheld or granted in the exclusive discretion of SVH.

Billboard signs:

Casinos. Any establishment engaged in gaming or gambling activities, including casinos and bingo parlors;

Clubs & Fraternal Organizations. Any clubs or fraternal organizations which serve alcoholic beverages or liquor;

Pornographic Materials. Any establishment selling or exhibiting pornographic materials or drug-related paraphernalia, except that such prohibition shall not limit the sale of books, periodicals, music products, and video products by a bookstore and/or music store carrying a full line of adult and/or children's titles, such as, by way of example, but not limited to, Borders or Barnes and Noble bookstores;

Sexually-Oriented Businesses. Sexually-oriented businesses as defined by Section 27-611 of the Billings, Montana City Code;

Tobacco Sales. Sale of cigarettes, cigars, and tobacco products, except incidental to the operation of a general retail store such as a grocery store or supermarket;

Automobile & Truck Repair, Sales & Service Businesses, auto parts supply, auto & truck leasing and rental, RV sales & service, heavy truck/tractor sales & service;

Brewery (except as incidental to a restaurant, such as a brew pub. Microbrews shall not be permitted unless incidental to a restaurant);

Gas stations & Service Stations for Automobiles, Trucks, Trailers, or Recreational vehicles;

Gun and archery ranges and the sale of guns and ammunition, unless incidental to a general retail store;

Equipment rental shops, unless related to Medical Uses;

Manufactured homes;

Pawn shops and Tattoo Parlors;

Pool or billiard hall;

Propane sales.

Industrial Uses that are inconsistent with commercial zoning or a commercial/medical development, including, but not limited to: warehouses, packing plants, grain mills, sawmills, petroleum refining, cement plants, bulk processing or storage of stone, clay,

gravel, and/or glass, metal fabrication, recycling center, cemeteries, mining, and general contractor operations;

Manufacturing Uses, unless related to Healthcare Purposes;

Second Hand Stores, Flea Markets & Junk Shops. This prohibits the sale of used household furniture and clothing, appliances, and equipment.

Car & Truck Washes.

Fireworks. The sale or manufacture of fireworks.

Title Loan Businesses.

Commercial Storage Facilities & Mini Storage Facilities. This prohibits all storage rental facilities.

Tire Sales, except as incidental to the operation of a general retail store.

Animal Kennels or Animal Raising Facility.

Building Contractor or Subcontractor Operations.

Livestock and Farm Equipment. Any establishment engaged in the sale of livestock, ranch or farm equipment.

Massage Parlors (excluding therapeutic massage).

Mortuary or funeral home or crematorium.

Truck Stops and Truck Terminals as defined by 27-201 of the Billings, Montana City Code.

Warehouses (unless incidental to medical, dental, or clinical uses).

Adult Book Store, Adult Video Store, Adult Movie Theater or other establishment selling, renting or exhibiting pornographic materials or drug-related paraphernalia (except that this provision shall not prohibit the operation of a bookstore or video store which carries a broad inventory of books or videos and other materials directed towards the interest of the general public (as opposed to a specific segment thereof)).

Amusement Park or Arcade.

Condition of Lots and Buildings.

Formatted: Indent: Left: 0.5", First line: 0"

Maintenance of Lots. The owner of any Lot shall at all times keep and maintain the owner's Lot and buildings, improvements, and appurtenances thereon in a safe and clean condition and comply, at the Lot owner's sole expense, with all applicable governmental, health, fire, and safety ordinances, regulations, requirements, directives, and the CCRs. The Lot owner shall at regular and frequent intervals remove, at the Lot owner's sole expense, any garbage or rubbish that may accumulate upon the owner's Lot.

Maintenance of Unimproved Sites. Any Lot that is not improved or built upon shall be maintained in a good and clean appearance by the Lot owner. Weeds, brush, trash, and rubbish must be removed at least every three (3) months or when directed to do so by the City or SVH. SVH and the Maintenance Director may perform any maintenance and clean-up on any Lot that is not maintained as set forth herein and may charge the Lot owner for all costs incurred in doing so.

Sewer and Water Facilities. All new development shall be served by public sewer facilities and public water service.

Weed Management. All noxious weeds on the latest Yellowstone County Noxious Weed List must be controlled on all properties in The St. Vincent Healthcare Subdivision. All costs associated with noxious weed control shall be the responsibility of the Lot owners of record.

Outside Storage. Outside storage shall not be permitted in The Subdivision except for limited, short-term outside storage during construction. No trailer (horse, boat, snowmobile, etc.), boat, camper, motor home, recreational vehicle, snowmobile, vehicle or other equipment generally associated with recreation and leisure time activity shall be situated or parked on any lot or street in The Subdivision for more than five (5) days in any calendar year, unless it is enclosed by a garage meeting the design requirements of this PDA and, at a minimum, the Shiloh Corridor Overlay District Zoning regulations.

The Shiloh Drain. Lot owners shall at all times conduct their use and activities in a manner that will preserve the integrity of the Shiloh Drain, including the prevention of any degradation of water quality, any reduction in the flow of water, and any damage to the bed or banks of the Shiloh Drain. The Lot owner shall not conduct or permit the conduct of the following activities:

- (m) The discharge of any liquid (except storm water runoff as directed by the details of an engineered storm drainage management plan), solid, or gas into the Shiloh Drain;
- (n) Planting or dropping any non-native fish, animal, reptile, or plant into the Shiloh Drain area;

- (o) The dumping of grass clippings or landscaping material or debris into the Shiloh Drain;
- (p) Any refuse dumping-encouraging activities;
- (q) The polluting of the water in the Shiloh Drain;
- (r) The discharge of any Hazardous Materials. The term "Hazardous Materials" shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials, and all other dangerous, toxic, or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law. The term "Environmental Law" shall mean all federal, state, county, city, local, and other statutes, laws, ordinances, and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

PARKS AND GREEN SPACES

St. Vincent Park and The Ann Ross Green Space shall be developed and landscaped to promote the character of a well-landscaped campus environment and to comply with the requirements of this PDA and the CCRs. St. Vincent Park and Ann Ross Green Space shall be private park spaces and shall not be dedicated as public parks. St. Vincent Park shall be developed and maintained as provided in the CCR's. The Ann Ross Green Space shall be developed and maintained by the Maintenance Director pursuant to an Agreement between SVH and the City of Billings Public Works Department. In the event that a portion of the Subdivision is used for Residential Purposes in the future, the park dedication requirements shall be waived pursuant to Section 23-1009 of the Billings, Montana City Code and shall be met through the provision of private park space, including St. Vincent Park and Ann Ross Park.

Formatted: Font: (Default) Arial

ARTICLE VI - SITE DEVELOPMENT, ARCHITECTURE AND DESIGN

Development Design Standards. These standards are provided to establish minimum guidelines for the development of facilities in The Subdivision, including site work, landscaping, buildings and accessory structures, parking areas, and signage. These guidelines will not define specific styles of architectural character for the various uses possible in The Subdivision. They are intended to establish a level of quality for the physical settings within The Subdivision and for the architectural design of the structures within those settings while allowing the flexibility to adjust and evolve with changes in technology and architectural evolution. These guidelines will specifically control the treatment of the public areas, streetscape, pedestrian areas, landscaping and signage to create a setting in which a wide variety of individual buildings of high quality can exist in harmony. They will provide developers with a guide which will define the aesthetic quality of The Subdivision's architecture yet allow flexibility for a unique

but individual expression of the architectural requirements and image of each building development. These standards are in addition to the Shiloh Overlay District Zoning requirements.

General Development.

- (s) The Shiloh Corridor Overlay District Zoning Section 27-1401, et. seq., Billings Montana Municipal Code, shall be the minimum standards for The Subdivision.
- (t) All site development shall be designed to encourage reciprocal access and parking between adjacent properties.
- (u) **Lot Size:** No Lot shall be smaller than one acre unless approved in writing by SVH and the Review Committee as defined herein.
- (v) All utilities shall be underground with any surface elements screened by structural or landforms and landscaping elements.
- (w) All antenna and satellite receiver dishes shall be hidden from street view and otherwise screened from view by structures or landscaping elements.

Lot Coverage. The total combined lot coverage for all structures on any lot shall not exceed sixty (60) percent of the total square footage of the lot. However, the Owner of a Lot may request a variance for Lot coverage up to eighty percent (80%) with the prior express written consent of SVH. Approval of any Lot coverage variance will be through the City Board of Adjustments.

Set-Back Buffers.

Front Yard Setback: Minimum of twenty-five (25) feet from the Lot Line

Side Yard Setback: Minimum of thirty (30) feet from the Property Line.

Rear Yard Setback: Minimum of thirty (30) feet from the Property Line.

The clear vision triangle must be maintained as required by the Billings, Montana City Code Section 27-604, 615, and 618.

Lots 4, 5, 6, 7, & 8, Block 2. There shall be a 15 foot landscaped area within a 20 foot setback along the western edge of the Subdivision for Lots 4 (except for the easement area), 5, 6, 7, & 8, Block 2, west of Marillac Street.

If two or more lots are developed as a single parcel as allowed herein, then the side yard setback requirements shall not apply to the lot lines within the interior of the developed parcel. All arterial setbacks as outlined in Billings, Montana City Code Section 27-602 must also be maintained. Setback areas not occupied by required buffer yards may be used for driveways and non-required parking. However, driveways and non-required parking may not exceed 20% of any setback area, based upon square feet. All developments are required to place landscaped buffer yards adjacent to and along the length of all public rights-of-way and private rights-of-way, excluding driveways. Rights-of-way include the following: ditches adjacent to streets, principal arterial streets, minor arterial streets, collector streets, and local streets. All landscaped buffer yards shall meet or exceed the Shiloh Corridor Overlay District Zoning requirements. A Lot owner may request a variance of up to minus 10% of the set-back requirements specified herein, with the prior express consent of the Review Committee. Approval of any set-back variance shall be by the City Board of Adjustments. In order for a variance to be granted, both the Review Committee and the City Board of Adjustments must give their written approval.

Green Belt Buffers Along Perimeter Arterials. All Lots adjoining King Avenue shall maintain a 32' wide landscaped green belt inside the Lot line adjacent to King Avenue (this includes the 12' easement area). The lot owners of all lots along the arterials and other roadways shall maintain their yards as well as the landscape space in the right-of-way up to the back of the curb or edge of paving of the street.

Site Development Standards.

Access. Access to all Lots within The Subdivision shall be from internal public and private streets and by Multi-Use Paths. Shared accesses are encouraged.

Parking. Adequate off-street parking shall be provided by each Lot owner for customers, visitors, and employees. Reciprocal parking arrangements between lots and adjacent uses are encouraged. All off-street parking, access drives, and loading areas shall be paved and properly graded to ensure adequate drainage. All parking lots must be developed with proper integration of landscape and screening elements as provided herein and in the CCRs. The parking requirements for each Lot shall meet the standards of the City of Billings for each use proposed for a Lot, but shall not exceed 110% of the City's minimums. Each Lot owner shall install a permanent bike rack for each building constructed on a Lot.

Off-Site Parking:

- (x) Parking requirements may be satisfied by on-site parking, approved street parking, and off-site parking facilities, or any combination thereof. All uses must provide the required number of parking spaces designated for the use as defined by the current City of Billings Site Development Ordinance, but not more than the maximum number set forth in this PDA (110% of the City minimums). Required parking for buildings or uses located in The Subdivision shall be located within six hundred (600) feet of the building or use, which distance shall be measured along a straight line between the two (2) nearest points of the lots containing the main use and the accessory parking use.
- (y) Each off-street parking area shall be accessible by a public right-of-way and/or a private right-of-way and shall be owned or leased by the owner of the building, use, or activity served by such parking area. The term of any such lease shall be for the duration of the time that the building, use, or activity served by such parking area is in existence at such location. Each lease shall be subject to prior review by SVH and the City of Billings, and shall provided that if the right to use the designated off-site parking is for any reason terminated or forfeited prior to cessation of the use of the building, or cessation of the use or activity, SVH and the City shall be immediately advised. In case of such termination or forfeiture, the Lot Owners shall, within ninety (90) days of the termination or forfeiture, present the City and SVH with a plan to cure any parking shortage within twelve (12) months. All requirements for setbacks, landscaping, signage, and lighting shall apply to off-site parking facilities.
- (z) Handicapped accessibility requirements shall be satisfied on site.

Shared Parking:

- (aa) SVH and the City of Billings may authorize the joint use of off-street parking areas by nonresidential commercial business, medical-related, and other uses or activities, if the following conditions are met:
 - i. No more than fifty percent (50%) of the off-street parking spaces required by this PDA for primarily "nighttime uses" may be provided or supplied by a use in the other category, or of the other type (provided for a nighttime use by daytime use, and vice versa) by means of a joint parking lease or agreement.
 - ii. The building or use for which application is being made to utilize the off-street parking facilities of another building or

Formatted: Font: (Default) Arial

use shall be located within six hundred (600) feet of such parking facilities, which distance shall be measured along a straight line between the two (2) nearest points of the lots containing the building or primary use and the lot containing the accessory parking use. Safe, lighted, and convenient pedestrian access shall connect the two (2) locations.

- iii. The applicant shall show that there is and will be no substantial conflict between the principal operating hours at the two (2) buildings or uses for which joint use of off-street parking facilities is proposed, and shall show that there are and will be no conflicting demands for such parking by the respective employees, customers and clients of the two (2) buildings or uses.
 - iv. At the time a building permit is applied for, the applicant shall present to SVH and the City of Billings an appropriate and enforceable lease or reciprocal parking agreement, executed by the parties concerned, for their joint use of off-street parking facilities. The term of the lease or agreement shall be for the duration of the time that each use is in existence at its said location. Each such lease or agreement shall provide that all parties thereto shall notify SVH and the City of Billings prior to its termination or dissolution for any reason, and shall provide for developing additional required parking at the share lot or at different sites for the users of the shared parking if changes occur to the ownership, types of uses, or parking needs, or if other circumstances require parking be provided at the same time and same location for the businesses served.
 - v. No building permit shall be issued by the City of Billings until such lease or reciprocal parking agreement has first been reviewed by the City and found to meet the requirements of this PDA and to be binding and enforceable. A copy of each such agreement shall be filed with the respective building permit.
 - vi. Written approval is obtained from SVH.
- (bb) In case of termination or dissolution of any such lease or reciprocal parking agreement, the Lot Owner shall, within ninety (90) days of the termination or forfeiture, present the City and SVH with a plan to cure any parking shortage within twelve (12) months.

Loading, Storage and Service Areas. Loading and service areas shall not be permitted in the front of any Lot within The Subdivision and shall be

screened from public view from all streets. Proper integration of landscape and screening elements must be provided between loading and service areas and any street or adjoining Lot. All loading and service areas shall be designed so that vehicles may load and unload without having to back up into any public right-of-way. All loading and service areas shall be carefully planned, positioned, and screened from off-site ground-level view and streets. On-site views of loading and service areas shall be minimized as much as possible. Screening elements shall be of landscape materials and may include a landscaped berm and/or similar materials as the building materials. Storage areas shall comply with all applicable building setbacks.

Garbage Collection Areas. Garbage Collection Areas shall adhere to the following standards:

- (cc) All outdoor garbage containers and collection areas shall be screened visually with at least a six (6) foot tall enclosure so that outdoor garbage containers and collection areas are not visible from adjacent properties or common areas. No garbage containers or collection areas shall be located between a street and the front of a building, unless otherwise approved in writing by SVH;
- (dd) Garbage containers and collection areas should be appropriately designed to contain all garbage generated on site and deposited between collections. Deposited garbage should not be visible from outside the garbage container or collection area;
- (ee) Refuse collection areas should be located upon the Lot to provide clear and convenient access to refuse collection vehicles and thereby minimize wear and tear to on-site and off-site developments.

Accessory Structures, Fences, and Walls. Construction shall be according to the following standards:

- (ff) All fences shall comply with the City of Billings, Montana clear vision standards, in compliance with §27-615 of the Billings, Montana City Code;
- (gg) No fence or wall shall exceed a height of six (6) feet, except at trash enclosures or as otherwise approved in writing by SVH. Any wall over 6 feet must have a City Building Permit;
- (hh) No fence or wall shall be constructed between a street and the front of a building, unless otherwise approved in writing by SVH;
- (ii) Accessory structures, fences, and walls shall be of a character, color, and material to match the adjacent buildings and shall

coordinate with the overall architectural scheme of the adjacent buildings and shall be integrated into the landscape of the Lot;

- (jj) Lot owners within The Subdivision are required to seek SVH's written approval prior to erecting, constructing, or requesting a permit from the City for accessory structures, fences, and walls as set forth herein;
- (kk) Chain link fencing, or other wire-type fencing, shall not be permitted in The Subdivision.

Snow Storage. Areas adjacent to parking lots shall be provided for on-site snow storage. The snow storage area shall not be adjacent to the streets. Common storage areas between adjacent lots are encouraged. Landscaping shall be maintained if the storage is not done in the paved parking area. Minimum parking requirements shall not be reduced for snow storage.

Site Lighting Standards. All outdoor lighting must comply with the Shiloh Corridor Overlay District Zoning, Section 27-1401, et. seq., Billings, Montana Municipal Code.

Exterior Mechanical and Electrical Equipment and Transformers. All exterior mechanical and electrical equipment and transformers shall be screened. Screening may consist of plantings, shrubbery, or durable enclosures. Building parapets shall be designed and built so as to screen roof-mounted mechanical and electrical equipment. If a building parapet does not adequately screen roof-mounted mechanical and electrical equipment, an unobtrusive screening device shall be used. Such screening device shall coordinate with the overall architectural scheme or the equipment shall be completely enclosed within the structure of the building. Lot owners within The Subdivision are required to seek SVH's written approval prior to erecting or constructing screening devices as set forth herein.

Utilities. All exterior utilities, including but not limited to, drainage systems, sewers, gas lines, water lines, electrical, telephone, and communication wires and equipment shall be installed and maintained underground. Lot owners within The Subdivision are not required to seek SVH's written approval prior to installing utilities as set forth herein.

Landscape Design Standards. Every Lot shall be developed in accordance with the Shiloh Corridor Overlay District Zoning, Section 27-1400, et. seq., Billings, Montana Municipal Code, even if a Lot is more than 500 feet from the centerline of Shiloh Road.

Waiver or Variance (Modification) of Minimum Setbacks. The minimum setbacks prescribed in A.3 above may be waived or modified after review

of the design for the development of the lot or lots. Any Waiver or ~~Variance~~ Variance must be approved, in writing, by the Review Committee before application may be made to the City Board of Adjustments. Any Waiver or Variance approved by the Review Committee and the City Board of Adjustments must be submitted to the City along with any application for a Building Permit. The criteria for waiver, to be weighed and considered are set forth below. Not all of the following criteria must be satisfied, in the discretion of the Review Committee:

- (ll) The eight (8) foot utility easement inside the street-side Lot line shall be maintained clear without overhangs, projections, trees, signs, or other improvements obstructing access to it or placed in it;
- (mm) The design concept for development of a Lot or Lots is master planned for a streetscape urban style with building facades located close to the streets and pedestrian ways;
- (nn) Landscaping required for buffer yards is located elsewhere upon the Lots);
- (oo) Pedestrian circulation and access is maintained to interconnect to adjacent properties;
- (pp) The sightline to the fronts of existing adjacent buildings is not obstructed;
- (qq) A written approval for waiver is issued by SVH, which may be granted or withheld in the sole and exclusive discretion of SVH;
- (rr) Written approval from adjacent lot owners or users.
- (ss) A demonstration of a hardship.

Irrigation. All landscaping must be irrigated with an underground sprinkler system, designed and maintained to provide sufficient water for landscaping growth. Water conservation systems are encouraged.

Loading and Service Areas. Loading and service areas shall be enclosed either with solid screen walls not to exceed six (6) feet, or landscaping elements planted in such a manner to create a visually opaque screen when mature. The plant material screen must develop 75% of its maturity within three (3) years from the time of planting.

Financial Responsibility. The owner or lessee of any Lot shall have sole financial responsibility for the installation of all landscape improvements within the public right-of-way adjacent to their Lot. The landscaping within the remaining front yard will be installed by each owner or lessee so as to blend with the landscaping installed in the right-of-way.

Damage or Demolition. Any demolition in the right-of-way of the landscape and irrigations system installed by SVH or The Maintenance Director at vehicular access points or by other construction-related disturbances shall be repaired and restored by the Lot owner as part of the construction efforts in the development of the Lot. The Lot owner shall maintain water flow within any common area irrigation system during construction and re-establish the existing plantings, grading and irrigation system altered during the construction process. Any other existing on-site landscaping disturbed or demolished during repairs, additions, remodels, or other work to a building or site or by disasters must be restored, replanted, or revised to a condition equal to or better than the quality that existed prior to the work or disaster. Like-size trees and shrubs must be used for replacement or existing trees and shrubs shall be relocated.

Landscaping. Lots shall be landscaped and maintained in a neat, clean, orderly, and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings. Required landscaped areas shall be provided with a permanent watering or sprinkling system which shall consist of underground piped water lines terminating in an appropriate number of sprinklers to insure a sufficient amount of water for plants within the landscaped area.

Flexible Design and Development.

Determining Setbacks. The Street side of a Lot shall be deemed to be the Front for the purposes of setbacks. If a Lot fronts two streets, the Lot Owner shall select one of the streets as the front for the purpose of determining setbacks.

Building on Lot Lines. The Review Committee, in its sole and exclusive discretion, may allow construction of buildings on Lot lines. In such event, the affected Lots must be owned by the same person or entity, and may not be separately conveyed so long as the building remains. In the event that the Review Committee allows construction over a Lot line, no setbacks shall apply to the covered Lot line, and the combined Lots shall be treated as one (1) Lot. Upon the approval of the Review Committee, Restrictive Covenants shall be recorded against the affected Lots to provide that they may not be mortgaged or conveyed separately.

Reciprocal Parking and Landscaping Agreements. The owner of any Lot in The Subdivision may enter into a reciprocal parking and/or landscaping agreement with the owner of any other Lot in The Subdivision. The purpose of any such agreement shall be to ensure that the two Lots combined meet all of the landscaping and parking requirements specified herein, and in the Shiloh Overlay District Zoning Regulations. With respect to parking, no more than fifty (50) percent of the required parking

for primarily “night time uses” may be provided or supplied off-site. The off-site parking must be within six hundred (600) feet as provided herein. With respect to reciprocal landscaping, the affected Lots must be contiguous and must be developed to present a uniform appearance.

Multi-Use Path Easements. SVH hereby reserves an easement for the Multi-Use Paths along the Lot lines of The Subdivision as shown on the Plat, Exhibit “A” hereto. Multi-Use Paths will be developed over time as The Subdivision develops in order to provide pedestrian and bike access throughout The Subdivision and to St. Vincent Park. Each Lot owner shall be responsible for building the ten (10) foot wide Multi-Use Paths (in the Easement Area reflected on the plat) in the Easement Area appurtenant to each owner’s Lot as shown on the Plat, Exhibit “A” at the time of initial construction. The Multi-Use Paths shall be maintained as Common Areas by the Maintenance Director. No building shall be constructed within 20 feet of the Multi-Use Easement. Provided, however, that the Multi-Use Easement may be moved in order to facilitate the development of a Lot or Lots, with the express written consent of SVH, which consent may be granted or withheld in the sole discretion of SVH. SVH hereby grants a non-exclusive easement for ingress and egress for all Lot Owners, tenants, contractors, employees, agents, patients, customers, licensees, invitees, successors and assigns for pedestrian and bicycle traffic over the Multi-Use Paths within The Subdivision.

Campus Development. Lots may be developed as a “Campus” with a juxtaposition of buildings of many different functions which encourages and facilitates easy pedestrian circulation, develops an identifying style, and creates a sense of place as a neighborhood environment.

SIGNS

Signage. Healthcare Purposes signs, as defined by Section 27-706(d) (2) Billings Montana Municipal Code, shall be allowed in The Subdivision as though The Subdivision were a part of the Medical Corridor. All signs, other than Healthcare Purposes signs, shall comply with the Shiloh Corridor Overlay District Zoning, Section 27-1401, et. seq., Billings, Montana Municipal Code.

Hospitals. Nothing in this PDA shall prohibit or restrict a hospital or clinic from using and/or displaying the types of signage required and/or mandated by any state or federal law or regulation with respect to any Hospital Emergency Room and/or Trauma Center.

Sign Easement Areas. SVH reserves an easement for Healthcare Purposes Signs, Way Finding Signs, and Green Space Signs in the Sign Easement Areas shown on the Plat, Exhibit “A” hereto. SVH reserves an easement, including ingress and egress, to access, service, install, repair, replace, and maintain signs within the Sign Easement Areas shown on the Plat. Only Healthcare Purposes Signs, Way

Finding Signs, and Green Space Signs may be placed in the Sign Easement Areas. The Healthcare Purposes Signs, Way Finding Signs and Green Space Signs in the Sign Easement Areas may be Off Premises Signs. These signs may also provide public service information and announcements related to the community, The Subdivision, and the medical services community, and giving identity to The Subdivision in general.

Maintenance of Signs.

Any sign that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the Lot on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit and this PDA.

Any damaged sign base shall be repaired within thirty (30) days.

Any signage which has been damaged to such extent that it may pose a hazard to a passerby shall be repaired or removed immediately.

Nonconforming Signs. Nonconforming signs are not permitted. If any sign is erected or installed without proper permits or approvals, it shall be considered nonconforming and shall be removed. All signs which do not conform to these Subdivision sign standards are nonconforming and shall be removed or changed to conform to these Subdivision standards. Any sign not removed within thirty (30) days of notice of nonconformance may be removed by the Maintenance Director and the costs for removal shall be the responsibility of the owner of the sign.

Landscaping for Monument Signs. All monument signs shall be located in a landscaped area. Landscaping should be appropriately sited to ensure that signs are not blocked or obscured by trees or bushes.

Sign Illumination. Externally illuminated signs shall have low intensity lighting, confined to the sign and positioned and shielded to minimize impacts to the surrounding area(s). Internally illuminated signs shall have low intensity lighting.

Sign Approval. All signage in The Subdivision is subject to approval by the Review Committee. The Review Committee, in its sole and exclusive discretion, may further limit or condition the use of any sign in The Subdivision that it deems to be inconsistent with the objectives for The Subdivision set forth in this PDA. All signs shall require a Sign Permit from the City, except those signs exempt from City permits under Section 27-701, et. seq. of the Billings, Montana City Code.

ENFORCEMENT

Right to Enforce. The terms of this Agreement shall be enforced as provided for in Article 27-1100 of the City Code of Billings, Montana.

Enforcement. The terms of this Agreement shall run with the land and be binding upon and inure to the benefit of the parties hereto and the Lot owners. The terms of this Agreement may be enforced by the parties hereto, as well as Lot owners.

Abatement and Suit. If, at any time, SVH or any Lot owner within The Subdivision objects ("the objecting party") to any other Lot owner's performance of its obligations under this Agreement ("the defaulting party"), the objecting party shall have all of its rights and remedies at law or in equity, by statute or otherwise. All such rights and remedies shall be cumulative. The objecting party shall, in addition to and not in contravention of all other rights and remedies it may have as provided hereinabove, have the right to provide the defaulting party with thirty (30) days' written notice of its objection, specifying the particulars of its objection. If, within thirty (30) days of receipt of such notice, the defaulting party fails or refuses to take action to remedy its performance under this Agreement, the objecting party may perform whatever maintenance, repair, or operation, or other curative action, as needed to remedy the default. The defaulting party shall pay upon demand to the objecting party the costs of such maintenance, repair, or operation, or other curative action, together with interest allowed by law, from the date of disbursement of such costs until paid in full. The objecting party is not responsible for the continued maintenance, repair, or operation of the defaulting party's obligations under this Agreement. The objecting party may also prosecute a proceeding at law or in equity against the defaulting party to enjoin a violation of the terms of this Agreement, to cause said violation to be remedied, or to recover damages for said violation.

GENERAL PROVISIONS

Appointment of Agent. SVH may, in its sole and exclusive discretion, hire, appoint, or designate an individual or entity to fulfill the duties and obligations of SVH hereunder. Notice of appointment shall be made in writing and shall be recorded in the real estate records of Yellowstone County, Montana, and shall contain the legal description for Subdivision, or any portion thereof, affected by the appointment. Notice of appointment shall also be provided to the City at the address specified herein. Once the notice of appointment has been recorded in the real estate records of Yellowstone County, Montana, SVH shall have no further responsibility or liability for the future performance or non-performance of this Agreement, and the City and all Lot owners shall look exclusively to the appointed person or entity. SVH may, in its sole and exclusive discretion, withdraw an appointment or make an additional appointment by simply recording such notice in the real estate records of Yellowstone County, Montana, and providing a copy of such notice to the City.

Neutral Interpretation. SVH and the City hereby stipulate and agree that this PDA shall be construed using neutral interpretation, and that this Agreement shall not be construed in favor of any party or against any party.

The PDA Governs. In the event that there is any conflict between this Planned Development Agreement and other zoning regulations and/or ordinances, the terms and conditions of this Planned Development Agreement shall govern.

Amendment, Modification, and Termination. This Agreement may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of SVH and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the Municipal Code of Billings, Montana.

Notices. All notices or demands required to be given hereunder shall be in writing and shall be served upon the other party either personally or by registered or certified mail. Service by registered or certified mail shall be conclusively deemed made three (3) days after deposit thereof in the United States Mail, postage prepaid, addressed to the party to whom service is to be given, as hereinafter provided, and the issuance of the registry or certification receipt therefore. All notices or demands to SVH or the City shall be given at the following addresses or such other addresses as SVH or the City may from time to time designate by written notice given to the other party as hereinabove required.

If to SVH: St. Vincent Healthcare, Inc.
Attn: President/CEO
1106 North 30th Street
P.O. Box 35200
Billings, Montana 59107-5200

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

With copies to: St. Vincent Healthcare Foundation, Inc.
Attn: Executive Director
1106 North 30th Street
P.O. Box 35200
Billings, Montana 59107-5200

Formatted: Font: (Default) Arial

Formatted: Font: (Default) Arial

If to the City: City of Billings
Attn: City Clerk
P.O. Box 1178
Billings, Montana 59103

Waiver. Failure of one party to notify the other party of a default in the manner provided in this Agreement shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

Limitation on Enforcement. This Agreement is for the benefit of SVH, the City, the Lot owners within The Subdivision, and their heirs, devisees, assigns, and trustees,

and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

Force Majeure. Any prevention, delay or stoppage due to strikes, lock outs, labor disputes, Acts of God, inability to obtain labor or materials or reasonable substitute therefor, governmental restrictions, terrorist acts, governmental regulations, inclement weather, governmental controls, enemy or hostile government action, civil commotion, fire or other casualty and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage. All parties shall use reasonable efforts to overcome whatever may be impeding their performance of any obligation hereunder.

Severability. Should any provision of this Agreement be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this Agreement, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.

No Partnership. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

Captions and Headings. The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

Construction. In construing the provisions of this Agreement, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.

Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

Conflict. It is the intent of the parties to implement the Shiloh Overlay Zoning District Regulations throughout The Subdivision. In the event of any conflict between the express terms of this PDA and the Shiloh Overlay Zoning District Regulations, the express terms and conditions of the PDA shall govern.

Run with the Land. The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of SVH, the City, the Lot owners, and their heirs, successors, and assigns.

Contact Person. The Declarant shall designate a contact person who may be contacted with respect to any questions, comments, or concerns. The contact person shall be the Executive Director of St. Vincent Healthcare Foundation, Inc., or his/her designee. At the time of recording, the contact person shall be Dave Irion, Executive Director, St. Vincent Healthcare Foundation, Inc., P.O. Box 35200, Billings, MT 59107-5200 (telephone (406) 237-3601).

NOTICE.

THIS AGREEMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY WITHIN THE ST. VINCENT HEALTHCARE SUBDIVISION, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE ST. VINCENT HEALTHCARE SUBDIVISION, AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THIS AGREEMENT BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

Formatted: Font: (Default) Arial

STATE OF MONTANA)
 :ss
County of Yellowstone)

Formatted: Font: Arial
Formatted: Font: Arial

On this ____ day of _____, _____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jason L. Barker, known to me to be the President/CEO for ST. VINCENT HEALTHCARE INC., and agent of The Sisters of Charity of Leavenworth Health System, Inc., and acknowledged to me that she executed the within instrument on behalf of said corporation, as agent for the SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC., having first been authorized so to do.

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

(SEAL) _____ (signature)

Printed Name
Notary Public, State of Montana
Residing at Billings, Montana
My Commission Expires: _____
xx/xx/xxxx

Formatted: Font: Arial, 12 pt
Formatted: Font: Arial

STATE OF MONTANA)
 :ss
County of Yellowstone)

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Thomas W. Hanel and CARI MARTIN, known to me to be the Mayor and City Clerk, respectively, for the CITY OF BILLINGS, and acknowledged to me that they executed the within instrument on behalf of said municipality, having first been authorized so to do.

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

(SEAL) _____ (signature)

Printed name
Notary Public, State of Montana
Residing at Billings, Montana
My Commission Expires: _____
xx/xx/xxxx

Formatted: Font: Arial, 12 pt
Formatted: Font: Arial

Regular City Council Meeting

Date: 01/24/2011

TITLE: Public Hearing and Resolution for Annexation #11-01

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

Owner and petitioner, Almon R. Blain Jr., is requesting annexation of a property legally described as a portion of the south 310 feet of lot 24, Sugar Subdivision, into the City of Billings pursuant to Section 7-2-4600 of the Montana Code Annotated (MCA). The 1.5 acre property is located on the northwest corner of King Avenue East and Calhoun Lane. The petitioner is requesting annexation in order to obtain city services and rezone the property for future commercial development. A City zone change application for the property to rezone it from Residential-9600 to Entryway General Commercial is being processed in coordination with this petition so that the City Council will hear the requests together at the January 24 Council meeting. The Council also is receiving a quitclaim deed from Yellowstone County for a portion of Calhoun Lane as part of the annexation process. The Council should accept the deed at this meeting. The subject property currently has one single family residence on it. The Council acknowledged receipt of the petition at its January 10, 2010 meeting. The Council will hold a public hearing and take action on the annexation request at this meeting.

ALTERNATIVES ANALYZED

The City Council may approve or deny a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA). A portion of the right-of-way of Calhoun Lane also is proposed to be annexed with this property to conform with State Law. Montana Code Annotated §7-2-4211 states that when a city annexes property it “shall include the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed.” The County has quitclaim deeded its interest in a portion of Calhoun Lane right-of-way and the City Council should accept this deed as part of its action on this annexation petition.

FINANCIAL IMPACT

The City is already providing water service to the subject property and can provide all other municipal services to the subject property. If the proposed annexation is approved, the property is expected to be redeveloped in the future and will contribute additional tax revenue to the City.

BACKGROUND

The 1.5-acre subject property is located on the northwest corner of the intersection of King Avenue East and Calhoun Lane. The annexation resolution also takes in all adjacent King Avenue East and Calhoun Lane right-of-way. It is surrounded by properties within the City limits, and is within the red boundary of the limits of annexation as specified by the Annexation Map adopted by the City Council on June 8, 2009.

PROCEDURAL HISTORY

- On December 6, 2010, the annexation petition was submitted to the Planning Division.
- On January 10, 2011, the City Council acknowledged receipt of the annexation petition and set

a public hearing date for January 24.

- On January 24, 2011, the City Council will conduct the public hearing for the annexation and may take action on the request.
- On February 14, 2011, if the resolution to annex is approved by the City Council, a public hearing and first reading of an ordinance to expand the Ward I City Council boundary will be conducted.
- On February 28, 2011, the City Council will conduct the second and final reading for the ordinance expanding the ward boundary.

STAKEHOLDERS

Annexation by petition does not require notification of adjoining landowners; however, it does require the City Council conduct a public hearing. Notice of the public hearing was posted on the property on January 7, 2011, and published in the Billings Times on January 6, 2011. The Planning Division has received no public comments regarding the proposed annexation at the time this memo was prepared.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The City Council has expressed concerns regarding how annexing additional properties may affect the City's ability to provide services to new developments without diminishing the services provided to existing City residents. To address these concerns, the City Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation complies with the adopted Annexation Policy criteria as follows:

1. The area is located within the Limits of Annexation and within the Urban Planning Area.
2. The City already provides water service and is able to adequately provide all other municipal services.
3. The proposed improvements will be required to meet City standards.
4. As part of the Development Agreement, the owners will sign a Waiver of Right to Protest the creation of any Special Improvement Districts.
5. The proposed land use may conform to the goals of the City of Billings and Yellowstone County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City and County Departments were given the opportunity to comment on this annexation. All City departments responded favorably. Of the County Departments that were informed, only the County Public Works Department responded, indicating that there are no issues with this annexation request.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

- Water: The City currently provides water services to the subject property from an existing 12 inch main in Calhoun Lane.
- Sewer: The Public Works— There is no sewer to this property currently. The nearest sewer is

an 8 inch diameter main in the alley north of King Avenue East at Calhoun Lane. This main will have to be extended to the property at the property owners expense.

- **Stormwater:** There is an existing 33 inch stormwater main in Calhoun Lane that drains into the city-county drain on the south side of King Avenue East. City Engineering does not believe the subject property is connected to this drain system. When the property is redeveloped in the future, all storm water 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 Public Works Department. City Engineering staff does not see any issues with the annexation.
- **Transportation:** The subject property has frontage on King Avenue East, which is a principal arterial street, and on Calhoun Lane, which is a collector street. The lot has an established residence on it, with an existing access off of Calhoun Lane. No issues have been identified by City Engineering or Street and Traffic staffs. If the property is developed in the future for commercial uses, access and parking requirements will be reviewed by the City at the time of development.
- **Fire Stations:** The subject property is currently served by the Billings Fire Department, which will continue to service the property upon annexation. The nearest fire station is Station #2 located at 501 South 28th Street, which is approximately 1.5 miles from the subject property.
- **Parks:** This Subdivision was platted in 1909 before parkland dedication requirements were in place. There are two large City parks within one mile of the property. Amend Park to the west and Optimist Park to the east.
- **Bicycle and pedestrian facilities:** The property lies within the jurisdiction of the Heritage Trail Plan. An existing multi-use trail is located along the south side of King Avenue East in this area and King Avenue East is also able to accommodate an on-street bike lane in the future. Sidewalks exist along King Avenue East in this area and as property along Calhoun Lane develops, additional sidewalk will be added in this area.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

- **Transit:** MET transit system operators have no objections to the annexation request. MET operates a fixed route on King Avenue East along the south property line of the subject property.
- **Fire:** The Fire Department currently provides fire protection to the County parcel as it is within the BUFSA. The Department indicates that they are capable of serving this property in the future.
- **Police:** The Police Department states that the subject property is located in an established patrol area and there should be no significant impact to serving the property.
- **Public Utilities:** The Public Works-- Distribution and Collection Division had no objection with the annexation request as long as the owner agrees to fund the necessary sewer connection costs, and sign a waiver of protest for a future SID.
- **Public Works -Street and Traffic Division:** The Street and Traffic Division stated that since the

property is small and surrounded by the City it has no problems serving the property.

- **Public Works-Solid Waste:** The Solid Waste Division notes that it can serve the property with the existing residence on it, or when developed further, but noted that if a private trash collection service now serves the property, the City would be required to wait to serve the property for five years according to law.
- **Ambulance Service:** The City does not provide ambulance service, however it does dictate the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes; this annexation is within the area of acceptable response time.
- **Legal and Finance:** General Fund services, such as the Legal and Finance Departments should not be negatively impacted by this annexation. The Finance Department commented that it had no concerns with the annexation. No comments were received from the Legal Department at the time this report was prepared.
- **Other Departments:** City/County services including Library, Planning, and Environmental Health are only slightly affected by the annexation since they will continue to serve new development whether in the City or the County.

Annexation of this property would adhere to the following goals, objectives and policies of the Yellowstone County and City of Billings 2008 Growth Policy:

- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 8).
- More housing and business choices within each neighborhood (Land Use Goal, page 9).
- Improved public services and facilities (Economic Development Goal, page 10).
- Protection of groundwater, surface water, riparian areas, air quality and productive agricultural land (Natural Resources Goal, page 13).
- Sanitary and safe properties (Public Facilities and Services Goal, page 18).

RECOMMENDATION

Staff recommends that the City Council accept the quitclaim deed from Yellowstone County for its interest in a portion of Calhoun Lane right-of-way and annex the right-of-way with this annexation petition, and approve the Resolution annexing a portion of the south 310 feet of lot 24, Sugar Subdivision, subject to the following condition of approval:

- Prior to extension of sewer services to the property, a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements, and a Waiver of Right to Protest the Creation of SIDs shall be recorded.

APPROVED BY CITY ADMINISTRATOR

Attachments

Annexation #11-01 Resolution

Annexation Petition

Draft Quitclaim Deed for Calhoun ROW

RESOLUTION NO. 11-

A RESOLUTION OF THE CITY OF BILLINGS APPROVING PETITIONS FOR ANNEXATION AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the SW1/4 of Section 9, T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Being a portion of the south 310.0 feet of Lot 24, Sugar Subdivision, Recorded March 25, 1909, under Document No. 15135, Records of Yellowstone County. Beginning at the southwest corner of Lot 2, Block 5, of Pinnick Subdivision, Third Filing, Recorded June 7, 1966, under Document No. 779769, Records of Yellowstone County; thence East for a distance of 210.71 feet to a point on the west right of way line of Calhoun Lane; thence along said west right of way and South for a distance of 274.49 feet to a point on the north right of way line of King Avenue East; thence along said north right of way the following course, S 54°26'59" W for a distance of 28.39 feet, West for a distance of 187.61 feet; thence leaving said north right of way and North for a distance of 291.0 feet to the Point of Beginning. Including all adjacent right-of-way of King Avenue East and Calhoun Lane. Containing 1.563 gross acres and 1.404 net acres.

(# 11-01) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved, subject to the following condition:
- Prior to extension of sewer services to the property, a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements, and a Waiver of Right to Protest the Creation of SIDs shall be recorded.
3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 24th day of January, 2011.

THE CITY OF BILLINGS:

BY: _____

Thomas R. Hanel, MAYOR

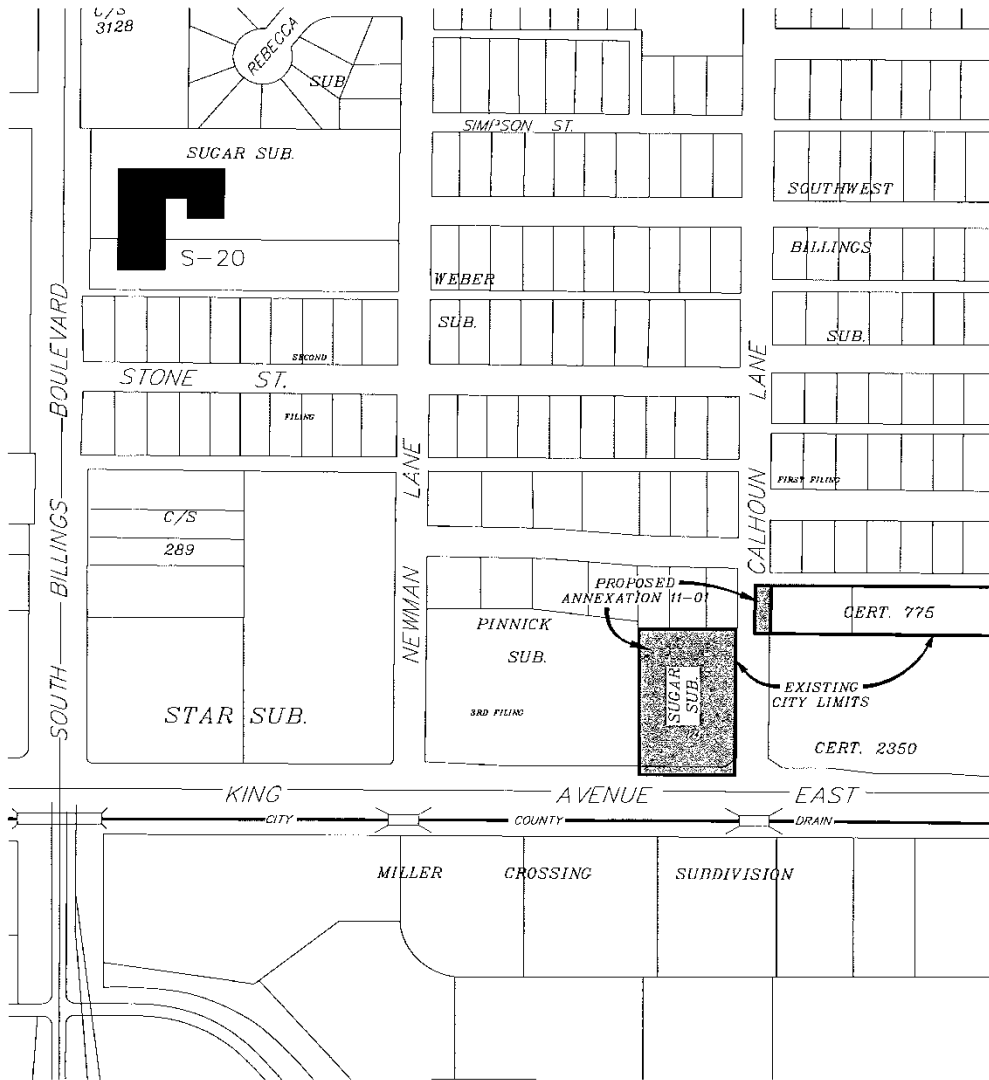
ATTEST:

BY: _____

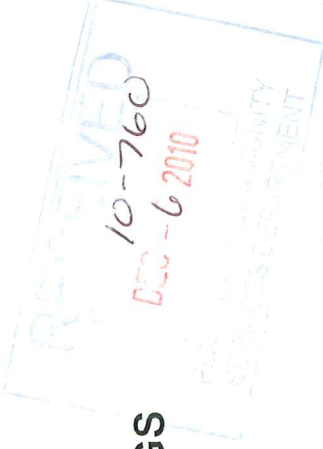
CITY CLERK

(AN# 11-01)

EXHIBIT A



**PETITION
FOR ANNEXATION
TO THE CITY OF BILLINGS**



NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

INSTRUCTIONS

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

The map must show:

- a. The present and proposed boundaries of the municipality;
 - b. The present streets, major trunk water mains and sewer mains;
 - c. The zoning of the property requesting annexation and the property immediately adjacent to it.
3. The Petition should be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Pamyly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, Parks and Recreation Department, and the Finance Department. If the departments find no problems with the Petition, the City Clerk will schedule the Petition for City Council action.
 4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.

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

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(continued on separate page)

City of Billings
Attn: City Clerk
P.O. Box 1178
Billings, Montana 59103

Quitclaim Deed

For valuable consideration, Yellowstone County, a political subdivision of the State of Montana, whose address is Post Office Box 35000, Billings, Montana 59103, through its Board of County Commissioners, conveys and quit claims to the City of Billings, a municipal corporation, whose address is Post Office Box 1178, Billings, Montana 59103, all its interest in the property described below that is located in Yellowstone County, Montana:

Tract B of Certificate of Survey No. 775 filed with the Yellowstone County Clerk and Recorder on August 6, 1957 under document number 587138 (0.0.06 acres).

The Board of County Commissioners authorized the conveyance of the property pursuant to Section 7-8-101(1) of the Montana Code Annotated (2009) at its January 18, 2011 meeting.

Dated this _____ day of _____ 2011.

John Ostlund, Chairman
Yellowstone County Commissioner

Bill Kennedy, Member
Yellowstone County Commissioner

James Reno, Member
Yellowstone County Commissioner

Attest:

Tony Nave
Yellowstone County Clerk and Recorder

Regular City Council Meeting

Date: 01/24/2011

TITLE: Zone Change #871 - Public hearing and 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request from Residential 9,600 (R-96) to Entryway General Commercial (EGC) on a 1.554 acre parcel of land described as the south 310 feet of Lot 24 Sugar Subdivision, less 4,194 square feet for King Avenue East right-of-way located at 766 Calhoun Lane. The property is owned by Almon Blain, Jr. The owner conducted a pre-application neighborhood meeting on November 29, 2010. The pre-application meeting notes are included as Attachment C. The Zoning Commission conducted a public hearing on January 4, 2011 and is forwarding a recommendation of approval 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 on the northwest corner of the intersection of Calhoun Lane and King Avenue East. The property is a county island and has been in residential use for over 100 years. Recent development in the South Billings Boulevard neighborhood includes Cabela's and Sam's Club on the south and other retail and service businesses west of this location. King Avenue East from the intersection with S. Billings Boulevard was recently re-built to accommodate additional traffic to Sam's Club and Cabela's. The owner has submitted a petition to annex the property, which is being processed in coordination with this zone change application. The parcel will not retain value as residential property when annexed to the city. The current zoning, R-96, was initially applied to the property in 1973. The property has 2 dwellings although one appears to be abandoned. In 2008, the city approved re-zoning property to the east and west to EGC. Neither of these properties has yet been converted from the existing uses to commercial uses. The property may be included in the Tax Increment Finance District for the area through a separate process after it is annexed to the city.

Calhoun Lane is a collector street and mainly carries traffic from residential neighborhoods north and south to arterial streets. King Avenue East is a minor arterial street and carries about 7,000 vehicle trips per day. In comparison, Calhoun Lane carries about 1,680 vehicle trips per day.

Any re-development of the property for commercial uses will result in a new configuration of accesses to Calhoun Lane and a traffic impact analysis to ensure future traffic does not impair the functioning of the traffic signal control at the intersection. The new zoning will increase traffic on Calhoun Lane when the property is developed for commercial uses.

Entryway zoning requires a greater amount of site improvements and building aesthetics than other commercial zoning such as Community Commercial (CC) or Highway Commercial (HC). Entryway zoning requires larger landscaped buffer yards with a minimum number of trees per 100 lineal feet of buffer yard. Entryway zoning also requires a minimum of a 10-foot wide densely planted buffer yard and a 6-foot tall solid fence along the property line that is adjacent to residential property. Building setback adjacent to a residential use is 25 feet. EGC zoning allows automobile sales, rental, and service stations, broadcasting studios (radio and television), car washes, commercial recreation uses, hotels/motels, laundry and dry cleaning, recreational vehicle sales and service, retail nurseries, signs, indoor theaters, tire sales, and wholesale uses not to exceed 3,000 square feet gross floor area. With a special review, there are additional uses that could be allowed with EGC zoning including campgrounds, commercial recreation uses, mixed use development with residential units, restaurants with alcohol sales, truck stops, veterinary clinics and wholesale uses not to exceed 10,000 square feet.

The applicant conducted a pre-application neighborhood meeting on November 29, 2010. Surrounding property owners attended the meeting. There were concerns about uses such as gas stations and casinos. No surrounding property owners contacted the Planning Division staff prior to the Zoning Commission public hearing.

The South Billings Boulevard Interchange Master Plan adopted by the City in 2002, states the purpose of the plan is to provide interstate related goods and services to the traveler and to provide goods and services on a regional and community level. The map of the master plan shows this parcel as "residential" although this would appear to reflect the previous owner's desire to maintain a residence on the property. The current owner intends to eventually sell the property for commercial development but will maintain the existing residential use until the property is developed. The current development on King Avenue East and South Billings Boulevard are not compatible or consistent with continued use of this property for residential purposes.

The proposed EGC zone is compatible with the zoning south, west and east of the subject property. The lots directly north are developed for two-family and single family residences. It is likely the landscaping and site design requirements of the Entryway zoning district will protect these residences from intrusion of light, noise and traffic. There is no platted alley so commercial traffic should not impact the residences.

The Planning Division reviewed this application and recommended approval based on the attached twelve (12) criteria for zone changes. The subject property is adjacent to EGC zoning and no changes in the character of the property are predicted in the near future. The uses allowed within the proposed EGC 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 meet site design criteria and traffic safety standards. 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 conducted a public hearing on January 4, 2011, and 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 January 4, 2011, and received testimony from Almon Blain, Sr. representing the owner, Almon Blain, Jr. There was no testimony in opposition to the zone change.

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 the property to be developed for commercial uses with increased site design standards in the entryway zoning district. Entryway zoning to the south, west and east is compatible with the proposed zoning.

- More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)

The proposed zoning will permit commercial development along the north side of King Avenue East across the street from commercial development, which will provide more business choices within the surrounding neighborhood. Mixed use development with residential uses is also allowed in the EGC zone with special review approval.

- Coordinated economic development efforts that target business recruitment, retention, and expansion. (Economic Development Goal, page 6)

The proposed zoning will encourage new businesses along the north side of King Avenue East across the street from another commercial development, which will expand the commercial development along King Avenue East.

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

There should be no immediate effect on traffic congestion. The existing dwelling likely generates between 10 and 15 vehicle trips per day and the owner is not proposing any change in the near future. Any future development for commercial purposes will require a traffic impact analysis. The fully traffic controlled intersection will need to be considered in the analysis. Improvements to Calhoun Lane will be likely if commercial development occurs.

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

The subject property is currently serviced by the Billings Urban Fire Service Area (BUFSA) and the County Sheriff. However, the property is wholly surrounded by city and when annexed city services will be provided. There should be no effect on these services.

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

The proposed zoning would permit the dwelling to continue and would allow the owner to market the property for commercial development. Increased residential use of the property is not likely given the surrounding commercial development and its frontage on an arterial street.

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 EGC zone allows 50% lot coverage and the current R-96 zone allows up to 30% lot coverage. The proposed EGC zone setback requirements greater in general than other commercial or residential zones. For example, the setback for a building in the EGC zone that is adjacent to residentially zoned property is 25 feet. The setback between the EGC zone and other commercial zones is 10 feet.

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

The new zoning does avoid undue concentration of population. The existing zoning, R-96, allows single family dwellings on lots of at least 9,600 square feet. This lot could accommodate up to 7 single family homes. The proposed zoning of EGC also allows by special review residential uses that are part of a mixed use development. If the residential use in the mixed use development is single family, then it must comply with the R-96 regulations. If the residential use is for multifamily, then it must comply with the RMF-R standards for lot area, building height and setbacks. The new zoning should avoid undue concentration of population.

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

Transportation: The proposed zoning may have some impact on the surrounding streets, and a traffic impact study will be required depending on the commercial development that is built on the property in the future

Water and Sewer: The City will be able to provide water and sewer to the property through existing lines in King Avenue East and Calhoun Lane.

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 BUFSA and County Sheriff. After the property is annexed, it will be 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 the existing single-family dwelling to remain on the property until it is redeveloped for commercial uses. The adjacent lots to the east, west, and south across King Avenue East are already zoned EGC, so 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 EGC zoning. 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 fair condition will likely need future investment to maintain the quality of the structure. The new zoning will allow the owner to consider future redevelopment of the property.

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 development for commercial uses. This is the most appropriate use of the lot.

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the 12 criteria for Zone Change #871 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

[Attachment A - Zoning map](#)

[Attachment B - Site photos](#)

[Attachment C - pre-app meeting notes](#)

[Attachment D - Ordinance](#)

Attachment B
Site Photographs, Zone Change #871– 766 Calhoun Lane



Subject Property view south west from Calhoun Lane



Aerial Map

Attachment B, continued
Site Photographs, Zone Change #871 – 766 Calhoun Lane



View south at traffic control at Calhoun Lane & King Avenue East



View north and west along Calhoun Lane

Attachment B, continued
Site Photographs, Zone Change #871 – 766 Calhoun Lane



View south and east across Calhoun Lane



View north and east across Calhoun Lane

Attachment C Applicant's Letter

AJ Blain

408 Beverly Hill Blvd

Billings, Montana 59101

Dear Neighbors

This is a notification of a Pre-application neighborhood Meeting for a potential zone change at 766 Calhoun Ave, Billings MT 59101 a 1.554 acre parcel. The zone change would run concurrent with annexing the parcel into the city of billings. The piece is currently zoned county rural residential and would be changed to city entry way commercial.

Legal Description of Property:

SUGAR SUBD 412, S09, T01 S, R26 E. Lot 024, LT 24 S310' SUGAR SUB LESS 4194' FOR KING AVE (09)

The neighborhood meeting will take place at the El Corral authentic Mexican restaurant located 4907 Southgate Drive Billings, MT 59101-4668 on November 29, 2010 at 11 am. The meeting will be held in the restaurant conference room.

Please feel free to call or e-mail with questions

AJ Blain

406-671-9088

ajblain36@hotmail.com

Pre-APP Koster

Yvonne Schmeling 4628 MURPHY 252-4881
Kevin Schmeling 4628 Murphy 245-6903
Carlin and Jackie Andersen 443 Calhoun 259-7716

AJ Blain 3150 Lapine 6984419

AJ Blain 408 Beverly 671 9088

meetings concerns/minutes

- Gas Station Special of Waste
- Casinos
- how high could neighbors fences be?

I certify that Pre APP meeting was done in accordance with zone change packet.

APR 12/5/10

ORDINANCE NO. 11-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR a parcel of land described as the South 310 feet of Lot 24, Sugar Subdivision, less 4,194 square feet for King Avenue East, a 1.554 acre parcel of land and generally located at 766 Calhoun Lane.

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

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

2. DESCRIPTION. A tract of land described as the South 310 feet of Lot 24, Sugar Subdivision, less 4,194 square feet for King Avenue East, a 1.554 acre parcel of land and is presently zoned **Residential 9,600 (R-96)** and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9,600 (R-96) to Entryway General Commercial (EGC)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Entryway General Commercial (EGC)** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading January 24, 2011.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2011.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk
Zone Change #871 – 766 Calhoun Lane