

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

April 25, 2011

6:30 P.M.

CALL TO ORDER – Mayor Hanel

PLEDGE OF ALLEGIANCE – Mayor Hanel

INVOCATION – Councilmember Pitman

ROLL CALL: Councilmembers present on roll call were:

MINUTES: April 11, 2011

COURTESIES

PROCLAMATIONS:

- **National Day of Prayer, May 5, 2011**

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and #9 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. Mayor Hanel recommends that Council confirm the following appointments:

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	No Applications	Board of Adjustments	04/25/11	12/31/13

2	No Applications	Board of Adjustments	04/25/11	12/31/13
3	No Applications	Board of Appeals - Architect	04/25/11	12/31/14
4	No Applications	Board of Appeals - Electrical	04/25/11	12/31/14
5	No Applications	Board of Appeals	04/25/11	12/31/14
6	No Applications	Board of Appeals - At Large	04/25/11	12/31/14
7	Matthew McMullen	Board of Ethics	04/25/11	12/31/14
8	No Applications	Community Development -Low Mod	04/25/11	12/31/14
9	Thomas Grimm	Community Development - At Large	04/25/11	12/31/12
10	Michael Glancy	EMS Board	04/25/11	12/31/13
11	No Applications	Housing Authority Resident Comm	04/25/11	12/31/13
12	Kelli Bartholomew	Human Relations Commission	04/25/11	12/31/14
13	No Applications	Mayor's Committee on Homelessness - Lending Industry	04/25/11	12/31/14
14	Robert Carr	Parking Advisory Board	04/25/11	12/31/14
15	William Gilbert	Parking Advisory Board	04/25/11	12/31/14
16	No Applications	City/County Planning - Ward V	04/25/11	12/31/12

1. Unexpired term of LaVern Bass
2. Unexpired term of Terry Madtson
9. Unexpired term of Sandy Weiss
10. Unexpired term of Skip Godfrey

B. Bid Awards:

1. **W.O. 05-13, Jackson Street Sidewalks, Phase II;** (Opened 4/12/11) Recommend H.L. Ostermiller; \$335,279.30 pending CTEP approval.
2. **W.O. 11-02 Miscellaneous/Developer-Related Improvements.** (Opened 4/12/11) Recommend J & J Concrete; \$519,275.

3. **W.O. 10-12, Water Treatment Facility Low Service Pump Station #1 Upgrade;** (Opened 4/12/11); Recommend COP Construction; \$1,760,610.
 4. **Taxiway G Relocation and Runway Overlay Project;** (Opened 3/29/11) (Postponed from 4/11/2011); Recommend Riverside Sand and Gravel; \$2,269,873.
 5. **Pre-Demolition Abatement of Old Naval Reserve Center.** (Opened 4/12/2011) Recommend Pacific Technologies, Inc.; \$44,375.
 6. **Demolition of Old Naval Reserve Center.** (Opened 4/12/2011) Recommend LM Excavating; \$133,163.
 7. **Park II Structural Improvements.** (Opened 4/5/2011) Recommend Langlas & Associates; \$86,900.
- C. **Agreement** with The Billings Times to provide City of Billings legal advertising, 5/1/2011-4/30/14 with three, 1-year renewal options, at a cost of approximately \$30,000 per year.
- D. **Memorandum of Understanding** between the City of Billings and the Little League Baseball Association for construction of a scoreboard and advertising sign at Centennial Park.
- E. **Approval** of modifications to homeWORD's Development Agreement to ensure project compliance
- F. **Reallocation** of available infrastructure funds from the Kings Green Project, Phase III, to the Kings Green Project, Phase IV; \$39,043.
- G. **Approval of Modification #P00005** to the Law Enforcement Officer (LEO) Reimbursement Agreement with TSA, and subsequent reimbursement modifications for LEO services provided for the TSA; reimbursement amount - up to \$68,036.00 for 10/1/2010-2/28/2011.
- H. **Approval** of the Billings Industrial Revitalization District's (BIRD) request to allocate East Billings TIFD funds towards development of the Exposition Gateway Master Plan; \$25,000.
- I. **Acceptance of Donation** to Parks and Recreation Department to purchase trees; The Sons of Norway; \$500.
- J. **Resolution** authorizing purchase of proposed Lot 5A, Block 1 of Amended Lot 5, Block 1, Long Subdivision from Yellowstone County for design of storm water treatment area west of Shiloh Road and South of King Avenue; \$512,797.50.
- K. **Street Closures:**
1. **Walk MS Billings** ; April 30, 2011, 7:00 a.m. to 1:00 p.m.; South side of Wicks Lane starting at the LDS Church (1000 Wicks Lane) heading east to the bike path; continuing on the bike path, and finishing at the LDS Church.

2. **Montana Women's Run** ; May 7, 2011, from 6:00 a.m. to noon; 2nd and 3rd Avenues North from North 10th to Division, Clark and Yellowstone Avenues from Division to 7th Street West, 2nd Avenue North from North 27th to North 29th, and Broadway from 1st Avenue North to 3rd Avenue North.
3. **Ryan's Run for SIDS** ; May 15, 2011, 7:00 a.m. to 10:00 a.m.; starting at Rimrock West Park, east on a multi-use trail to 38th Street West using the pedestrian underpass/trail, continuing north on 38th Street West to Rimrock Road, west to Shiloh, south to Poly Drive, west to 46th Street West, and south back to Rimrock West Park.
4. **Community Fun Run** ; May 21, 2011, 8:30 a.m. to 10:30 a.m.; May 22, 2010, 8:30 a.m. to 10:30 a.m., commencing at 120 Lexington Drive, proceeding west on Eldorado Drive, south on Pueblo Drive, east on Alamo Drive, north on Lexington Drive, east on Eldorado Drive, north on S. Santa Fe Drive, east on Concord Drive, south on Birchwood Drive, west on Beloit Drive, northwest on Fair Park Drive, southeast on S. Santa Fe Drive, south on Berthoud Drive, west on Pueblo Drive, north on Pueblo Drive, east on Beloit Drive, northwest on Lexington Drive, west on Dallas Drive, north on Pueblo Drive, east on Eldorado Drive, and south on Lexington Drive.

L. Bills and Payroll:

1. March 25, 2011
2. April 1, 2011

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** vacating portions of street right-of-way in Grand Peaks Subdivision; J & S Development Company, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
3. **PUBLIC HEARING FOR VARIANCE #OP-11-01:** A variance from the Site Development Ordinance, Section 6-1203, regarding off-street parking requirements for property located at 3212 1st Avenue South. Yellowstone Boys and Girls Ranch, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING** to gather public input on Budget Allocations and the drafted Consolidated Plans; approval of the allocation of CDBG and HOME Funding for FY2011-2012 as recommended by the Community Development Board; and approval of the drafted FY2011-2012 Action Plan. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND RESOLUTION CREATING SID 1392, RESOLUTION CREATING PMD 4040, AND APPROVAL OF PROFESSIONAL SERVICES CONTRACT WITH LAND DESIGN** for development of Yellowstone Family Park to include landscaping, trees, shrubs, turfgrass, native vegetation, trails, sidewalks, irrigation system, playground and equipment. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #874:** A zone change request from Community Commercial (CC) to Highway Commercial (HC) on two parcels of land described as Lots 1 through 17, Block 14 of Suburban Subdivision located at 327 Cook Avenue and 3919 Montana Avenue. Mike Dimich, property owner of 327 Cook Avenue. Gene and April Staudiner, property owners, and Mike Dimich, contract purchaser, of 3919 Montana Avenue. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #875:** A zone change from Community Commercial (CC), Public (P), Residential 6,000 (R-60) and Residential Multi-Family (RMF) to Residential 9,600 (R-96) and Residential 6,000 Restricted (R-60-R) on Lots 10 through 12, Block 16; Lot 15, Block 17; Lots 1 through 4, Block 18; Lots 1 through 4 and 7 & 8, Block 19; Lots 25 through 27, Block 45; Lots 12A, 12B, 13A and 14 through 17, Block 46; Lots 8 through 13, Block 47; and proposed new Lots A through G to be created from golf course land, for a total of 12.651 acres. All lots are currently vacant. Ron Hill, owner; Marshall Phil of Blueline Engineering, representative. Zoning Commission recommends approval with the exception of proposed Lots B, C and G, and adoption of the determinations of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
8. **PUBLIC HEARING AND SPECIAL REVIEW #889:** A special review to allow the modification of a previously approved site plan for Special Review #885 to allow the addition of a 2-story office building to accommodate the assisted living management and administrative offices and the re-orientation of the parking and one of the assisted living structures on the Shiloh Road frontage on property at 4040 Parkhill Drive generally located on the southwest corner of the intersection of Shiloh Road and Parkhill Drive. Randy Swenson, RK Development, applicant; Quentin Eggart, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)
9. **APPROVAL OF AGREEMENTS** satisfying conditions of the property purchase agreements with Alley Cat Investments, LLC for Lots 1-7, Block 109, Original Town of Billings. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Please sign up on the clipboard located at the 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: 04/25/2011

TITLE: Boards & Commissions Appointments

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Mayor is requesting that the City Council confirm appointments for Board and Commission positions that are vacant due to resignations and positions not filled at term end.

ALTERNATIVES ANALYZED

Council may:

- Confirm the proposed appointments; or
- Not confirm the appointments. Positions that are not filled will be readvertised.

FINANCIAL IMPACT

The proposed action has no financial impact.

RECOMMENDATION

Mayor Hanel recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1	No Applications	Board of Adjustments	04/25/11	12/31/13
2	No Applications	Board of Adjustments	04/25/11	12/31/13
3	No Applications	Board of Appeals - Architect	04/25/11	12/31/14
4	No Applications	Board of Appeals - Electrical	04/25/11	12/31/14
5	No Applications	Board of Appeals	04/25/11	12/31/14
6	No Applications	Board of Appeals - At Large	04/25/11	12/31/14
7	Matthew McMullen	Board of Ethics	04/25/11	12/31/14
8	No Applications	Community Development -Low Mod	04/25/11	12/31/14
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10	Michael Glancy	EMS Board	04/25/11	12/31/13
11	No Applications	Housing Authority Resident Comm	04/25/11	12/31/13
12	Kelli Bartholomew	Human Relations Commission	04/25/11	12/31/14
13	No Applications	Mayor's Committee on Homelessness - Lending Industry	04/25/11	12/31/14
14	Robert Carr	Parking Advisory Board	04/25/11	12/31/14
15	William Gilbert	Parking Advisory Board	04/25/11	12/31/14
16	No Applications	City/County Planning - Ward V	04/25/11	12/31/12

1. Unexpired term of LaVern Bass
2. Unexpired term of Terry Madtson
9. Unexpired term of Sandy Weiss
10. Unexpired term of Skip Godfrey

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: W.O. 05-13 Jackson Street Sidewalks Phase II Contract Award

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Bids were received for W.O. 05-13 Jackson Street Sidewalks Phase II on April 12, 2011. The project was identified in the Safe Routes to School Plan and includes installation of curb/gutter, sidewalk, drive approaches, storm drain, and street restoration work from Frances to Ryan.

ALTERNATIVES ANALYZED

The Council may:

- Award the contract for W.O. 05-13 to H.L. Ostermiller Construction for \$335,229.30; or
- Reject all bids and do not award contract for W.O. 05-13

FINANCIAL IMPACT

The City received 5 bids for this project. CMG Construction was considered non-responsive because they did not sign the mandatory CTEP documents for bidding. The bids were as follows:

Engineer's Estimate \$406,616.00

Contractor	Total Construction Bid
H.L. Ostermiller Construction	\$335,279.30
Knife River - Billings	\$394,936.60
Winkler Excavating Inc.	\$431,082.50
Hardrives Construction, Inc.	\$483,555.29
CMG Construction, Inc.	\$328,774.00

The proposed project is funded through direct property assessments, CTEP, and Gas Tax as follows:

Estimated Assessed Costs \$75,000.00

Estimated CTEP/Gas Tax \$336,980.00

RECOMMENDATION

Staff recommends that Council award the contract for Work Order 05-13 Jackson Street Sidewalks Phase II, to H.L. Ostermiller Construction in the amount of \$335,279.30 pending CTEP approval.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: W.O. 11-02 Miscellaneous/Developer Related Contract Award

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Bids were received for W.O. 11-02 Miscellaneous/Developer Related project on April 12, 2011. The project consists of curb, gutter, sidewalk, and storm drain improvements at various locations around the city. It consists of unfulfilled building permit obligations and the continuation of annual improvements that deal with tripping hazards, drainage problems, property owner requests, complaints, and other miscellaneous concrete work brought to the attention of the City Engineer's Office.

ALTERNATIVES ANALYZED

The Council may:

- Award the contract for W.O. 11-02 to J&J Concrete, Inc in the amount of \$519,275.00; or
- Reject all bids and do not award a contract for W.O. 11-02. If bids are rejected, builders' obligations will be unfulfilled and damaged or missing concrete would remain instead of being replaced.

FINANCIAL IMPACT

The City received three bids for this project as follows:

Engineer's Estimate \$576,061.00

Contractor	Base Bid
J&J Concrete, Inc.	\$519,275.00
CMG Construction, Inc.	\$546,268.00
H.L. Ostermiller Construction	\$679,405.45

The following is a breakdown of the project funding sources:

Estimated Assessed Costs	\$351,000
Storm Drain Funds	\$52,500
Gas Tax Funds	\$260,000
Water and Sewer Funds	\$5,000
Total Estimated Funding Available	\$668,500.00

Remaining funds will be used for change orders, materials testing, and other administrative costs.

RECOMMENDATION

Staff recommends that Council award the contract for Work Order 11-02 Miscellaneous/Developer Related project to J&J Concrete, Inc. in the amount of \$519,275.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Contract Award for W.O. 10-12 Water Treatment Facility Low Service Pump Station #1 Upgrade

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The City received bids on April 12 for W.O. 10-12 Water Treatment Facility Low Service Pump Station #1 Upgrade. The purpose of this project is to increase the pumping capacity of the Low Service Pump Station #1 (LSPS1) to match the rest of the pretreatment facilities. Currently, if one of the large pumps is out of service in the summer, maximum daily demands cannot be met. In order to increase the pumping capacity, an additional pump and wetwell will be installed. The existing LSPS1 building will need to be expanded to accommodate the additional pump and wetwell.

ALTERNATIVES ANALYZED

The Council may:

- Award the contract for W.O. 10-12 to COP Construction in the amount of \$1,760,610.00; or
- Reject all bids and do not award the contract for W.O. 10-12

FINANCIAL IMPACT

Funding for this project is from water revenues. The City received 5 bids for this project as follows:

<u>Bidders</u>	<u>Total Bid</u>
Engineers Estimate	\$2,081,300.00
COP Construction	\$1,760,610.00
Dick Anderson Construction	\$2,265,373.00
Williams Brother Consturction	\$2,480,948.00
Ahanu	\$2,337,000.00
Star Service	\$2,723,500.00

A breakdown of the project funds per the CIP is listed below:

W.O. 10-12 Water Treatment Facility Low Service Pump Station #1 Upgrade

2010 Water Revenues	\$2,335,700.00
HDR Engineering	\$ 329,100.00
Contract Amount (This Memo)	\$1,760,610.00
Remaining Funds	\$ 245,990.00

RECOMMENDATION

Staff recommends that Council award the contract for Work Order 10-12 Water Treatment Facility Low Service Pump Station #1 Upgrade to COP Construction in the amount of \$1,760,610.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Award Contract for Airport Improvement Program (AIP) Project Taxiway G Relocation and Runway 10L Overlay Project

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

The Airport's approved Capital Improvement Program includes projects for the Relocation of Taxiway G and the replacement of 2,000 feet of runway surface at the end of Runway 10L. The existing Taxiway G is actually a portion of the decommissioned Runway 16/34 and is not perpendicular to the main Runway 10L/28R, which makes exiting the runway onto existing Taxiway G difficult for aircraft landing from the east. Additionally, the south end of this taxiway is part of an intersection formed by Taxiway G, Taxiway A, and Runway 7/25. This intersection has been noted by the Federal Aviation Administration's (FAA) Runway Safety Action Team as a dangerous intersection and has recommended that Taxiway G be relocated. The new Taxiway G will be constructed to the west of existing Taxiway G, out of the intersection of Taxiway A and Runway 7/25, and will be perpendicular to Runway 10L/28R. The project will also include repaving the west 2,000 feet of Runway 10L and the installation of the FAA required surface painted Hold Sign markings for the asphalt taxiways. This project was advertised in the *Billings Times* on March 10, 17, and 24, and posted on the City's Web site. On March 29, 2011, the following bids for this project were received:

CONTRACTOR	BID
Riverside Sand and Gravel	\$2,269,873
Knife River-Billings	\$2,658,891
Estimate	\$3,130,988

ALTERNATIVES ANALYZED

The City Council may:

- Approve the award of the contract for Taxiway G Relocation and Runway 10L Overlay projects; or
- Decline to approve the award of a contract for the Taxiway G Relocation and 10L Runway Overlay projects and reject all bids.

FINANCIAL IMPACT

The total cost of this project is \$2,269,873, and will be funded with a couple of 95% FAA AIP entitlement grants and with a 5% local match. The FAA portion is \$2,156,379, and the City's match is \$113,494. Local match funds are budgeted and available in the Airport's Capital account.

RECOMMENDATION

Staff recommends that the City Council approve the contract award for the FAA AIP grant funded Taxiway G Relocation and Runway10L Overlay projects to the low bidder, Riverside Sand and Gravel, for the amount of \$2,269,873.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Award Contract for Pre-Demolition Abatement of the Former Naval Reserve Center

PRESENTED BY: Bruce McCandless

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City of Billings issued an Invitation for Bid for the Pre-Demolition Environmental Hazard Abatement of the former Naval Reserve Center located on the North Park property at 8th Ave North and North 22nd Streets. A Federal appropriation will cover the cost of abatement and demolition of the buildings. The bid opening was April 12, 2011. Staff is requesting Council award the contract to Pacific Technologies, Inc. of Boise, ID. The bid amount is Forty-Four Thousand, Three Hundred and Seventy-Five Dollars (\$44,375.00) and is within the federal appropriation budget amount for the work. There were five (5) qualified bids on this project and the recommended contractor is the lowest bidder.

ALTERNATIVES ANALYZED

Council may:

- Award the contract to Pacific Technologies, Inc. or
- Do not award a contract and reject all bids.

FINANCIAL IMPACT

The City received a 2009 US Dept of Housing and Urban Development Economic Development Incentive Grant of \$475,000 for demolition of the former Naval Reserve Center. The grant is budgeted in FY 2011 and will cover the cost of this work.

RECOMMENDATION

Staff recommends that the City Council award the contract for Pre-Demolition Abatement of the former Naval Reserve Center to Pacific Technologies, Inc. in the amount of \$44,375.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Award Contract for Demolition of Former Naval Reserve Center

PRESENTED BY: Bruce McCandless

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City of Billings invited bids for demolition of the former Naval Reserve Center located on the North Park Property at the corner of 8th Avenue North and North 22nd Street. The City received a federal grant to cover both the cost of environmental hazard abatement and demolition. The bids were opened on April 12, 2011. Staff is requesting that City Council award this contract for demolition of the former Naval Reserve Center to LM Excavating of Columbia Falls, MT. The base bid of One-Hundred Thirty Three Thousand, One Hundred and Sixty-three Dollars (\$133,163.00) is within the grant limit. The contractor will remove the structures from the site and recycle or reuse some of the building material. The contract includes removing all footings and foundations, backfilling, hydroseeding and irrigation system repair and extension. Staff does not recommend Alternate 1, which would have retained a small storage building, asphalt and fencing on the site. Some of the site lighting will be retained but that is included in the base bid. There were a total of eight (8) qualified bids on this project and the recommended contractor is the lowest bidder.

ALTERNATIVES ANALYZED

Council may:

- Award the contract to LM Excavating; or
- Do not award a contract and reject all bids.

FINANCIAL IMPACT

The City received a 2009 US Dept. of Housing and Urban Development Economic Development Incentive grant for \$475,000 to demolish the former Naval Reserve Center. The recommended low bid is below the grant limit.

RECOMMENDATION

Staff recommends that the City Council award a contract for Demolition of the former Naval Reserve Center to LM Excavating in the amount of \$133,163.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Contract Award for Park 2 Structural Improvements

PRESENTED BY: Chris Mallow -- Parking Supervisor

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

In February 2011, the Parking Division witnessed concrete and metal failing in the three stairwells at the Park 2 Garage located at 2651 1st Ave North. Staff contracted with CTA Architects to put together a condition audit and identify how these areas needed to be repaired. This repair is deemed necessary to insure against total failure of stair supports which could lead to injury of garage patrons. The repair will prevent similar problems in the future. The project was advertised in the Billings Times on March 3, March 10, and March 17, 2011, and on the City of Billings website. On April 5, 2011, the following bids on this project were received:

Edward T. Capps Construction	\$ 87,643.00
Fisher Construction	\$ 94,000.00
General Contractors	\$118,909.00
Hardy Construction	\$170,200.00
Langlas & Associates	\$ 86,900.00

ALTERNATIVES ANALYZED

- Approve a contract to complete the Park 2 Structural Repairs.
- Reject all bids and re-advertise the invitation to bid. An extended delay could jeopardize public safety.

FINANCIAL IMPACT

The Engineer's estimate for this project is \$70,000.00. The project will be funded through Parking Division reserve funds. This project was not budgeted in FY 2011, but Parking will absorb the cost of this project by deferring other maintenance projects.

RECOMMENDATION

Staff recommends that City Council approve the award of the Park 2 Structural Improvements contract to the low responsive bidder Langlas & Associates for the amount of \$86,900.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Legal Advertising Agreement

PRESENTED BY: Cari Martin, City Clerk

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City must publish notices of meetings, public hearings, resolutions and ordinances, requests for bids, and other ads. The present legal advertising agreement with The Billings Times expires April 30, 2011. Staff requested proposals for legal advertising and received responses from The Billings Outpost, The Billings Gazette and The Billings Times. Liz Kampa, Purchasing Agent for the City of Billings; Debi Meling, City Engineer; and Cari Martin, City Clerk, carefully reviewed each proposal and unanimously chose The Billings Times, the paper of record for the legal and contracting community, for the City's legal advertising needs.

ALTERNATIVES ANALYZED

Council may:

- Approve the Agreement for legal advertising with The Billings Times; or
- Not approve the Agreement for legal advertising with The Billings Times.

FINANCIAL IMPACT

The City spends an average of \$30,000 per year for legal advertising.

RECOMMENDATION

Staff recommends Council approve the Agreement for legal advertising with The Billings Times for the period of May 1, 2011, through April 30, 2014, with three, one-year options to renew by mutual agreement.

APPROVED BY CITY ADMINISTRATOR

Attachments

Contract



LEGAL ADVERTISING AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of May, 2011, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “City,” and _____ of (insert address) hereinafter referred to as “Contractor.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. Purpose: City agrees to hire Contractor as an independent contractor to perform the services of publishing legal advertisements, more thoroughly described in the Scope of Work attached hereto as Exhibit “A” and by this reference made a part hereof.

2. Effective Date: This Agreement is effective upon the date of its execution and will terminate on April 30, 2014. The parties may extend this agreement for an additional three 1-year terms, in writing prior to its termination.

3. Scope of Work: The Contractor shall perform the services outlined below. In performing these services, the Contractor shall at all times comply with all federal, state and local statutes, rules and ordinances applicable. These services and all duties incidental or necessary therefor, shall be performed diligently and completely and in accordance with professional standards of conduct and performance.

A. PICKUP AND DELIVERY OF ALL LEGAL ADVERTISEMENTS – One account representative assigned to handle the City account and to work closely with the City Clerk. Account representative will pick up (at the City Clerk’s Office) ad copy from the City Clerk between 9:00 a.m. and 10:00 a.m. each Wednesday for publication in the Thursday TIMES, or City Clerk to e-mail to _____ ad copy by 10:00 a.m. each Wednesday prior to publication.

B. AFFIDAVIT OF PUBLICATION – Affidavit will be delivered (not mailed) to the City Clerk the same day as final ad publication, except Saturday and Sunday for which affidavits will be due to the City Clerk by 4:00 p.m., Monday. The Affidavit of Publication will be on pink computer paper or the City’s choice of color on commonly available computer paper. Affidavit of Publication will have an exact copy of the ad attached and will be notarized.



C. TEAR SHEETS (copies of legal ad) – These are to be delivered (not mailed) to the City Clerk the morning of the same day as first publication, up to 100 copies included at no cost for ad copies. The tear sheet should not be the page where the publication is printed, but a reproduced and timed copy of the actual publication.

D. BILLING FOR LEGAL ADVERTISEMENTS will be on a weekly basis. Each department or division of the City will have an account number. A statement is provided weekly for each ad specifying the department or division. The run dates and a brief description of the ad (for identification purposes) will be listed for each legal ad on the statement. The bill(s) will be mailed to the Finance Department of the City of Billings.

E. THE CITY OF BILLINGS MAKES NO GUARANTEE as to the amount of legal advertisement that will be done in the thirty-six (36) month period.

F. THE CITY POLICY FOR THE LEGAL ADVERTISEMENTS will be:

- (1) CHANGES TO AD: By 11:00 a.m. the day prior to publication
- (2) STOPPING ADS: By 11:00 a.m. the day prior to publication
- (3) COPY DEADLINE: As outlined in Item A.

4. **Payment:** City agrees to pay Contractor the fees outlined by contractor in Exhibit A for the work described in the Scope of Services. Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

5. **Independent Contractor Status:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation insurance coverage for all members and employees of Contractor's business, except for those members who are exempted as independent contractors under the provisions of §39-71-401, MCA.



Contractor shall furnish City with copies showing one of the following: (1) proof of registration as a registered contractor under Title 39, Chapter 9, MCA; (2) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (3) proof of exemption from workers' compensation granted by law for independent contractors.

6. **Indemnity and Insurance:** Contractor agrees to indemnify, defend and save City, its officers, agents and employees harmless from any and all losses, damage and liability occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Contractor or its agents or employees. **For this purpose, Contractor shall provide City with proof of Commercial General liability insurance issued by a reliable company or companies for personal injury and property damage, in an amount not less than \$750,000 per claim, and in an amount not less than \$1.5 million per occurrence and naming the City as an additional insured. The insurance must be in a form suitable to City.**

7. **Warranty:** Contractor warrants that all services and work will be performed in a good workman-like manner. Contractor acknowledges that it will be liable for any breach of this warranty for the lesser for a period of one (1) year from the time services are completed or any warranty described in the Scope of Services.

8. **Compliance with Laws:** Contractor agrees to comply with all federal, state, and local laws, ordinances, rules and regulations. Contractor agrees to purchase a City business license.

9. **Contractors' Gross Receipts Tax:** Contractor understands that all contractors or subcontractors working on a publicly funded construction project are required to pay or have withheld from earnings one percent (1%) of the gross contract price if the gross contract price is Five Thousand Dollars (\$5,000) or more.

10. **Nondiscrimination:** Contractor agrees that all hiring by Contractor of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

11. **Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within ten (10) calendar days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one



remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

12. **Liaison:** City's designated liaison with Contractor is Cari Martin, City Clerk, and Contractor's designated liaison with City is [REDACTED].

13. **Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

14. **Severability:** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Contractor, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

15. **Successors and Assigns:** Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without the written consent of the other.

16. **Ownership of Documents:** All documents, data, drawings, specifications, software applications and other products or materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. All such documents, products and materials shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if the documents, products and materials prepared by the Contractor are used for purposes other than those intended by the Agreement, the City does so at its sole risk and agrees to hold the Contractor harmless for such use. All or any portions of materials, products and documents produced under this Agreement may be used by the Contractor upon confirmation from the City that they are subject to disclosure under the Public Disclosure Act. All services performed under this Agreement will be conducted solely for the benefit of the City and will not be used for any other purpose without written consent of the City. Any information relating to the services will not be released without the written permission of the City. The Contractor shall preserve the confidentiality of all City documents and data accessed for use in Contractor's work product.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.



CITY OF BILLINGS, MONTANA

By _____
Thomas W. Hanel, Mayor

CONTRACTOR (Print Name Above)

By _____

Print Name _____

Print Title _____

APPROVED AS TO FORM:

By _____
BRENT BROOKS, City Attorney

Regular City Council Meeting

Date: 04/25/2011

TITLE: Little League MOU for Centennial Scoreboard

PRESENTED BY: Tina Volek

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Little League Baseball Association has agreed to accept a \$5,000 donation from Stockman Bank to construct a scoreboard and advertising sign at the League's new field in Centennial Park. Their agreement commits the scoreboard and sign to Stockman Bank for a 15-year period, with a first right of refusal to fund any replacement sign or at the end of 15 years, whichever comes last. A copy of the sign is attached.

Because the sign is on City property, a memorandum of understanding (MOU) is proposed between the City and the League. This MOU is under review by the parties and will be provided to the Council in the Friday packet. Its terms require the League to maintain the scoreboard and sign and to indemnify the City against any property or liability claims. The sign's ownership will revert to the City if something happens that the League no longer can maintain it.

ALTERNATIVES ANALYZED

The Council may:

- Approve the MOU, resulting in the scoreboard and sign being installed by the League at Centennial Park
- Instruct the staff to negotiate a different MOU with the League; or
- Decline to approve the MOU, leaving the League field at Centennial Park without a scoreboard.

A vote by a simple majority of the Council present is required for approval.

FINANCIAL IMPACT

The City will neither receive nor expend money as a result of the MOU being approved.

RECOMMENDATION

Staff recommends that the Council approve the MOU so the League ball field at Centennial Park will have a scoreboard.

APPROVED BY CITY ADMINISTRATOR

Attachments

Scoreboard

Stockman Bank

Member FDIC

BALL

1

STRIKE

2

OUT

0

PITCH COUNT

17

GUEST

2

INNING

7

HOME

7



BUFFALO WILD WINGS



- Overall Dimensions
9'0" high x 14'0" wide

- Sponsor panel (Non-Backlit)
1'6" high x 14'0" wide
(above Scoreboard)

- Baseball Scoreboard
BA-2017-11 (Pitch Count)
6'0" high x 14'0" wide

- Sponsor panel (Non-Backlit)
1'6" high x 14'0" wide
(below Scoreboard)

District 1 Little League Billings, MT

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DAKTRONICS

Regular City Council Meeting

Date: 04/25/2011

TITLE: homeWORD Development Agreement Modification

PRESENTED BY: Brenda Beckett

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The Community Development Division staff has received training on monitoring HOME funded projects to increase compliance with the U.S. Department of Housing and Urban Development (HUD) and to increase effectiveness in long-term monitoring. After completing this training, staff has begun to examine the legal documents of completed projects.

The City may only proceed with alterations to the Development Agreement with prior HUD approval. The issue is under review. In reviewing homeWORD's High Sierra Development Agreement and homeowner agreements for the three remaining original homes in the project, staff has identified the following issues:

- Resale / Recapture: A "resale" provision was used in the Development Agreement and a "recapture" provision has been used in the homeowner agreements. HUD requires all HOME subsidies utilized for the development of a housing project either use the resale or recapture provision.
- Net Proceeds: Language on "net proceeds" should be included in the Development Agreement, which ensures the City would receive net proceeds post a foreclosure and would not be required to pay the full HOME investment back to HUD.
- Period of Affordability: The period of affordability identified in the Development Agreement for the amount of HOME funding invested in each of the units exceeds HUD's minimum period of affordability. Each of the three homes has approximately \$25,000 HOME investment, warranting an affordability period of 10 years (which has already passed), and the Development Agreement states a 20-year affordability period. Altering the affordability period does not impact repayment provisions to the City, as recapture provisions can remain active on a property following the completion of an affordability period.

homeWORD is a qualified Community Housing Development Organization (CHDO). The City is required to work with CHDOs to develop new affordable housing opportunities.

ALTERNATIVES ANALYZED

Council may:

- Approve modifying homeWORD's Development Agreement to bring the project into compliance; or
- Not approve modifying homeWORD's Development Agreement.

FINANCIAL IMPACT

- 1) Modifying the Development Agreement to include a recapture provision would result in \$60,000 repayment (up to \$20,000 per home) when the remaining units are sold or refinanced, based on net proceeds from the transaction.
- 2) Including language on “net proceeds” in the Development Agreement would allow the City to recoup and reuse any remaining funding following a foreclosure.
- 3) Altering the affordability period can increase the amount of funding that can be included in HOME administration caps. Funding repaid to the City prior to the end of an affordability period is considered “recaptured” funding and cannot be used to calculate the 10% HOME administration cap. Funding repaid to the City after the end of an affordability period is considered “program income”, and 10% of this type of funding can be used for HOME administration.

BACKGROUND

Community Development staff is conducting a review of HOME funded, completed projects in order to further develop an effective monitoring plan subsequent to receiving additional training from HUD. The City of Billings staff and homeWORD have continued to work together since the inception of this project to improve compliance with this project for the remaining three homes. A work out plan was established and approved by HUD for homes that did not meet the affordability period.

Resale / Recapture: In reviewing homeWORD’s High Sierra Development Agreement, staff has found that both “resale” and “recapture” provisions were used on the same project.

- Resale: The home must be sold to another qualified, low-income homeowner for the duration of the affordability period. The new owner would then assume the HOME requirements for the remaining years of affordability.
- Recapture: The full HOME investment is repaid to the City when the unit is sold, refinanced or when the original homeowner no longer occupies the unit.

For all projects, only one provision is to be used. Modifying the Development Agreement with homeWORD to include the recapture provision would make it possible for the City to recoup the funds used to assist each project upon sale.

Net Proceeds: Language on “net proceeds” is also missing from the Development Agreement. This clause ensures, in the event of a foreclosure, the City will receive any net proceeds remaining from the transaction. Failure to include this language in agreements can result in non-compliance with affordability restrictions set forth by federal regulation. HUD requires full repayment of the HOME investment if a property does not comply fully with the minimum period of affordability. Therefore, the City may be at risk for losing approximately \$25,000 on each of these homes.

Affordability Period: The period of affordability included in the Development Agreement was set at 20 years. However, the minimum period of affordability for a project with \$25,000 of HOME funding invested per unit is only 10 years, which expired in January 2010. “Right-sizing” the period of affordability in agreements reduces long-term monitoring requirements for staff. As projects get funded, monitoring burden increases over time for decades.

The City is required to perform monitoring inspections for the entire period of affordability including: on-site housing quality standards inspections; resident file audits, and income source documentation reviews. HUD training personnel recommend careful consideration of the assignment of long-term periods of affordability over and above HOME requirements due to the increased burden on staff to continually monitor projects past minimum standards.

Seventeen total affordable housing projects have been funded through the HOME program since 1994. Of these, nine awards (53%) have been made to new rental construction projects which must be assigned a 20-year period of affordability. Lessening affordability periods for other projects to minimum standards eases the monitoring burden for a very limited staff. Altering the affordability period does not impact repayment requirements established with recapture provisions. Projects with recapture provisions can be required to repay the City initial investments in perpetuity.

PROCEDURAL HISTORY

- April 1999 - City of Billings received an application for HOME funds for the “Billings Heights Venture” application from Montana People’s Action / homeWORD. Project staff identified in the application had experience with several HOME-funded affordable housing projects including rent-to-own, rental and single family projects. Local staff support for the project would be provided by homeWORD, and personnel had been trained in construction management and homeownership outreach.
- October 1999 - The funding application was reviewed by Community Development staff and was awarded 575 evaluation points out of a possible 600 points. Staff ratings were based on: planning process and housing needs; community efforts; implementation strategy; and program management / organizational capacity. Following evaluation, the application was forwarded to the Community Development Board and the Billings City Council. The project was fully funded through CHDO reserve funds for \$160,000.
- October 2000 - homeWORD began to sell completed homes to income-eligible first time homebuyers. Eight homes were constructed and the \$160,000 was utilized as direct assistance, secured via trust indenture, each house receiving an allocation of \$20,000 for development. Payments were made directly to homeWORD as the Developer, and the period of affordability exceeded HUD’s guidelines at 20 years rather than the required 10 years.

The funding provided assisted with development costs and the cost to develop the units did not exceed the market value of the property. Therefore, recapture provisions can be invoked to assist a CHDO develop units and sell them at a price just under market value.

Repayment terms were included in homeWORD’s Development Agreement with the City and were linked to maintaining the affordability period for 20 years. Additional funding was allocated to the project through the City’s First Time Homebuyer program (up to \$5,000 per home). The homes were sold at appraised value; therefore, the amount subject to recapture will be limited to the actual HOME funding invested in the project (approximately \$25,000 per home).

• May 2006 - Several homeowners brought forth complaints regarding items which were covered under the construction warranty. Although homeWORD provided remedies to all homeowners, one homeowner refused homeWORD access to the home to make needed repairs. It is the City's belief that homeWORD acted in good faith to address construction issues present in the homes. A lawsuit was eventually filed by four homeowners against the contractor and homeWORD among other defendants. After a long and costly process, the case was settled out of court by homeWORD without City participation in the settlement. The original homeowners were offered a settlement which included selling the homes to a for-profit developer for resale, and affordability was not a consideration in the sale.

• July 2008 – The City of Billings and homeWORD executed a HUD approved work out plan for the homes that did not meet the affordability period. homeWORD is repaying the City a total of \$46,094, which represents the total loss of affordability. HUD has approved utilizing the repayment funding for HOME-eligible uses.

HOME REQUIREMENTS REVIEW

All projects with a HOME investment are required to choose either the resale or recapture provision. HOME projects are to never to have both provisions in them. HOME assisted projects are required to meet a minimum number of years in affordability depending on the amount of HOME funding invested in the project. HOME assistance amounts between \$15,000 and \$40,000 must meet a 10 year affordability period. homeWORD's allocation per house is \$20,000 and first time homebuyer assistance was utilized in amounts up to \$5,000, establishing a total maximum assistance per unit of \$25,000.

STAKEHOLDERS

- homeWORD, Inc.
- City Community Development Division
- U.S. Department of Housing & Urban Development

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The change to the agreement is consistent with the City's Consolidated Plan for the use of federal funding. The Community Development Board reviewed the modification and approved the changes on March 1, 2011.

RECOMMENDATION

Community Development Board and Staff recommends approval of modifications to homeWORD's Development Agreement to include recapture, net proceeds and period of affordability language changes.

APPROVED BY CITY ADMINISTRATOR

Attachments

Original Agreement

Amendment

City of Billings
FY 1999 HOME PROGRAM
SUBRECIPIENT AGREEMENT

This Agreement is entered into by homeWORD/MONTANA PEOPLE'S ACTION, Montana, herein referred to as "the Grantee," and the City of Billings, herein referred to as "the City."

WITNESSETH THAT the Grantee and the City mutually agree as follows:

A. PURPOSE

The purpose of this Agreement is to provide funding for project activities approved by the City under its FY 1999 Home Investment Partnerships Program (HOME); and to achieve the purposes of Title II of the *Cranston-Gonzalez National Affordable Housing Act* (Title II, Public Law 101-625, approved November 1990, 104 Stat. 4079, 42 U.S.C. 12701-12839), as amended.

B. DOCUMENTS INCORPORATED INTO THIS AGREEMENT BY REFERENCE BUT NOT ATTACHED HERETO:

The Grantee agrees to comply with all appropriate federal, state, and local laws applicable to activities required by this agreement, including:

Program requirements under the HOME Investment Partnership Program 24 CFR Part 92, and the regulations issued thereunder, now or hereafter, including but not limited to 24 CFR, and the regulations, policies, guidelines, and requirements of Office of Management and Budget circulars A-110, A-122, A-87, and A-133 as they relate to the application, acceptance, and use of federal funds for this program as well as the Uniform Relocation Act and Section 104(d). Incorporated by reference are Title VI of the Civil Rights Act of 1964, Executive Order 11246, Section 3, Federal Labor Standards set forth in 24 CFR 570-605 and the American Disabilities Act.

The City agrees to upon request assist the Grantee to comply with requirements of the U.S. Department of Housing and Urban Development (HUD), and if the need arises, the City will provide technical assistance to assure compliance with requirements applicable to the project.

C. ACCEPTANCE OF HOME PROGRAM REQUIREMENTS

The Grantee will comply with all applicable parts and requirements of the *National Affordable Housing Act of 1990* (as amended), as now in effect or as they may be amended during the term of this Agreement; all requirements established by the City; applicable state and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.

The Grantee agrees that all contracts entered into by the Grantee for the completion of the

activities described in Section E of this Agreement will contain special provisions requiring contractors to comply with all applicable HOME Program requirements for construction projects.

The Grantee expressly agrees to repay to the City any funds advanced to the Grantee under this Agreement which the Grantee, its subcontractors or SUBRECIPIENT entities, or any public or private agent or agency to which it delegates authority to carry out portions of this Agreement, expends in violation of the terms of this Agreement or the federal statutes and regulations governing the HOME Program.

The Grantee agrees that 100% of HOME funds will be used to benefit the low and very low income persons as required by HOME Program regulations. Documentation of this requirement is specified in Section J.

D. EFFECTIVE DATE AND TIME OF PERFORMANCE

This Agreement takes effect on January 19, 2000 and will be in effect for the "period of affordability" defined below. The activities to be performed by the Grantee will be completed according to the Implementation Schedule included as Attachment A to this Agreement, which by this reference is made a part of the Agreement.

For purposes of this Agreement, the period of affordability is as follows:

1. Period Of Affordability For New Construction Activities:

New Construction of Owner Occupied Housing: 20 years

E. SCOPE OF ACTIVITIES

The Grantee will carry out the activities as set forth below.

The major components of the project include: the construction of 8 new units of housing intended for ownership by low-income households on vacant lots currently owned by homeWORD/Montana Peoples Action located in what is known as the Billings Heights High Sierra subdivision Block 26, Lots 2-7 & Block 17, Lots 15-16. All 8 units are to be considered HOME assisted units and will meet HUD's definition as affordable housing for low-income home buyers according to HOME Program regulations governing the value of property at time of purchase and must adhere to resale provisions for the affordability period as outlined in the City's HOME Program description. Construction will at minimum meet the Uniform Building Code, all applicable local and state building codes and standards, the model Energy Code and conform to area covenants.

F. BUDGET

1. The total amount to be awarded to the Grantee under this Agreement will not exceed \$160,000.00.

2. A copy of the program budget is included as Attachment B to this Agreement and by this reference is made a part of this Agreement and is binding upon the Grantee. The Grantee may modify this budget only after having requested and received the City's written approval of the adjustment.
3. It is not anticipated that program income will be generated by the activities described in Section E of the Agreement, "Scope of Activities." Program income received before the program is closed out must be expended on HOME eligible activities approved in advance by the City before any additional HOME funds are requested by the Grantee. The receipt and expenditure of program income will be treated as additional HOME funds subject to all applicable requirements governing the use of HOME funds. The Grantee will record the receipt and expenditure of program income as part of the financial transactions of the grant program.

G. METHOD OF PAYMENT

1. The Grantee will not request disbursement of funds until the funds are needed for payment of eligible costs. The amount of each request will be limited to the amount needed.
2. If the actual total cost of completing the project is less than that projected by the Grantee in the preliminary budget (Attachment B), the City may, at its discretion, reduce the amount of HOME funds to be provided under this Agreement in proportion to the overall savings.

H. LIAISON AND NOTICE

Joe Burst, HOME Program Coordinator, is the City's liaison with the Grantee.

Sarah McNamara, Billings Housing Specialist is the Grantee's liaison with the Department.

Notice will be sufficient if given in writing and mailed to the parties' liaison.

I. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by any subcontractor pursuant to this Agreement are to be the property of the Grantee and the City, which each have the nonexclusive and unrestricted authority to release, publish or otherwise use, in whole or in part, information relating to it. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written permission of the Grantee and the City.

J. ACCESS TO RECORDS

The Grantee will maintain reasonable records of its performance under this Agreement and will allow access to these records at any time during normal business hours by the City, the U.S. Department of Housing and Urban Development, the Comptroller General. These records will be kept in the Grantee's offices at 541 Avenue E., Billings, Montana.

1. Program Records Required:

Documentation that the income of HOME beneficiaries is within the HOME Program guidelines for low income homeowner projects.

2. Project Records Required:

- a. Documentation that the project meets applicable property standards for HOME new construction activities;
- b. Documentation that the rent level conforms to HOME Program requirements;
- c. On a quarterly basis: Total number of and percent of total number of, Sub-recipient clients who benefit from Sub-recipients use of HOME funds who are low and moderate income, white (not Hispanic), Black (not Hispanic), American Indian/ Alaskan Native, Hispanic, Asian/Pacific Islander.

3. Other Federally Required Records - Data must be gathered to document compliance with the following:

- a. Equal opportunity and fair housing laws, Section 3 of the *Housing Development Act*, attempts to utilize minority and female-owned business; and affirmative fair housing actions;
- b. Affirmative marketing procedures;
- c. Relocation requirements;
- d. Labor standards (Davis-Bacon does not apply for this project);
- e. Lead-based paint;
- f. Conflict of interest;
- g. Debarment and suspension; and

4. Other records as may be required by state or federal law:

The records described above must be retained for a period of three years after project closeout. The records demonstrating compliance with project requirements

that apply for the period of affordability must be retained for at least three years after the required period of affordability. If any litigation, claim negotiation, audit or other action has been commenced before the expiration of the regular three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular period, whichever is later.

Access to the records described above and all other documentation relating to the program is governed by all applicable state and federal laws as they pertain to disclosure of information to the public and to the individual's right of privacy.

K. PERFORMANCE REPORTING

The Grantee will submit status reports on project performance and a year to date budget when submitting a payment request form in the format prescribed by the City.

L. AVOIDANCE OF CONFLICT OF INTEREST

The Grantee will comply with the provisions of 24 CFR part 92.356; and with parts 2-2-125, 2-2-201, 7-3-4367, 7-5-2106, and 7-5-4109, MCA, as applicable, regarding the avoidance of conflict of interest.

M. MODIFICATION AND ASSIGNABILITY OF AGREEMENT

This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in or authorized by this written Agreement, are valid or binding. This Agreement may not be enlarged, modified, or altered except upon written agreement. This Agreement does not imply any continuing commitment by the City of Billings beyond the termination date noted herein. The Grantee accepts responsibility for adherence to the terms of this Agreement by subcontractor or subrecipient entities and by its agents, if any, to which it delegates authority to carry out portions hereof.

N. SPECIAL CONDITIONS

1. The Grantee will maintain the new units in compliance with applicable Housing Quality Standards and local housing code requirements, in accordance to 24 CFR part 92.251, for the duration of the period of affordability.
2. The units assisted with FY 1999 HOME funds must meet affordability requirements set forth in 24 CFR part 92.252 or 24 CFR part 92.254, as applicable; HOME funds disbursed for a project will be repaid to the City if the assisted housing unit is sold within the specified time period;
3. The Grantee will comply with the project requirements found in 24 CFR, Part 92, subpart F, as applicable, in accordance with the type of project assisted;

4. The Grantee will carry out each activity in compliance with all federal laws and regulations described in 24 CFR, Part 92, subpart H, except that the Grantee does not assume the City's responsibility for the environmental review. Commitment of HOME funds to the activities described in Section E. is subject to the successful completion of the environmental review of the project. HOME project funds cannot be committed until receipt of a "Release of Funds" for this project from HUD.
5. When applicable, the Grantee will follow the provisions governing the use of HOME funds by religious organizations, as contained in 24 CFR part 92.257.
6. The Grantee certifies that it will provide a drug-free work place.

O. CONSTRUCTION AND VENUE

This Agreement will be construed under and governed by the laws of the State of Montana. In the event of litigation concerning it, venue is in the District Court of the First Judicial District in and for the County of Yellowstone, State of Montana.

P. INDEMNIFICATION

1. The Grantee waives any and all claims and recourse against the City, including the right of contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Grantee's or any subrecipient's performance of this Agreement.
2. Further, the Grantee will indemnify, hold harmless, and defend the City against any and all claims, demands, damages, costs, expenses, or liability arising out of the Grantee's or any subrecipient's performance of this Agreement. In the event that the City is named as a co-defendant in any action relating to activities to be performed by the Grantee or subrecipient under this Agreement, the Grantee will notify the City of such fact and will represent the City in such legal action unless the City undertakes to represent itself as a co-defendant in such legal action, in which case the City will bear its own litigation costs, expenses, and attorneys' fees.

Q. CONSTRUCTION CONTRACTS

The Grantee agrees to deny participation in construction contracts by ineligible, debarred or suspended persons or entities at 24CFR Part 24. The grantee will provide the City with the names of contractors and subcontractors prior to entering into contracts. The City, within five (5) working days, will provide the grantee a written notice if the contractors are ineligible.

R. TERMINATION OF AGREEMENT

This Agreement may be terminated as follows:

Termination Due to Noncompliance with Agreement Terms. If the City determines that the Grantee has failed to comply with the general terms and conditions of this Agreement, the project schedule, or any special conditions, and if upon notification of the defect the Grantee does not remedy the deficiency within a reasonable period of time to be specified in the notice, the City may terminate this Agreement in whole or in part at any time before the date of completion. The City will promptly notify the Grantee in writing of the decision to terminate, the reasons for the termination, and the effective date of the termination.

S. REPAYMENT OF FUNDS

If the housing assisted with HOME funds fails to meet the HOME affordability requirements for the periods set forth in Section D of this Agreement, the Grantee will repay to the City all HOME funds expended on this project.

T. TRANSFER OF OWNERSHIP


The Grantee will develop, own, and manage the project to be constructed. The Grantee may elect to assign all of its right, title, and interest in said project. If Grantee elects to make such an assignment, the City will review and determine consent to the assignment and release Grantee from any further liability hereunder. The City's consent to the assignment would be contingent upon acceptance of the terms and conditions of this agreement.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed.

SUBRECIPIENT
GRANTEE:
homeWord


Ren Essene
Executive Director

ACCEPTED BY
CITY OF BILLINGS
COMMUNITY DEVELOPMENT
DIVISION


Joe Burst
HOME Program Coordinator

CITY OF BILLINGS
FY 1999 HOME PROGRAM
SUBRECIPIENT DEVELOPMENT AGREEMENT

Amendment #1

The Agreement entered into by homeWORD / MONTANA PEOPLE'S ACTION, Montana, herein referred to as "the Grantee" and the City of Billings, herein referred to as "the City", executed on **January 19, 2000**, is subject to the following modifications.

WITNESSETH THAT:

WHEREAS, the City provided \$160,000 in HOME Investment Partnership funding (HOME) for an affordable housing development project, High Sierra. homeWORD is a certified Community Housing Development Organization (CHDO) that acted in the Developer role for this project and utilized HOME Set-Aside CHDO Reserve funding assistance for the development of affordable housing to offer single-family housing to households to promote homeownership opportunities.

In order to bring the project into compliance with HOME regulations, the following amendment is hereby modified, by mutual agreement of the Grantee and the City:

D. EFFECTIVE DATE AND TIME OF PERFORMANCE

1. Period Of Affordability for New Construction Activities:

New Construction of Owner Occupied Housing: **20 Years** **10 Years**

Which expired on January 19, 2010

E. SCOPE OF ACTIVITIES

The Grantee will carry out the activities as set forth below.

The major components of the project include: the construction of 8 new units of housing intended for ownership by low-income households on vacant lots currently owned by homeWORD / Montana Peoples Action located in what is known as the Billings Heights High Sierra subdivision Block 26, Lots 2-7 and Block 17, Lots 15-16. All 8 units are considered HOME-assisted units and will meet HUD's definition as affordable housing for low-income home buyers according to HOME Program regulations governing the value of property at time of purchase and must adhere to **resale recapture** provisions for the affordability period as outlined in the City's HOME Program description. Construction will at minimum meet the Uniform Building Code, all applicable local and state building codes and standards, the model Energy Code and conform to area covenants.

Funding returned to homeWORD via recapture provision shall be returned to the City in full. This clause will expire only when all original homeowners have transferred ownership and repaid the \$20,000 HOME investment to homeWORD.

H. LIAISON AND NOTICE

~~Joe Burst, HOME Program Coordinator,~~ **Dina Billington, Program Coordinator** is the City's liaison with the Grantee.

~~Sarah McNamara, Billings Housing Specialist,~~ **Andrea Davis, Executive Director,** is the Grantee's liaison with the ~~Department~~ **City.**

Including the following new section:

U. REPAYMENT BASED ON NET PROCEEDS & FAIR RETURN TO SELLER

Fair return to the seller will be accomplished by recapturing the net proceeds from the sale of the property up to the amount of HOME assistance provided. Net proceeds will be defined by the City of Billings as the sales price minus repayment, closing costs, and any acquisition loan made at the time of the HOME assistance. Any loans or improvements made to the property after the time of the HOME assistance will be paid after the City is repaid the amount it is owed under its recapture provisions.

If the net proceeds are not sufficient to recapture the full HOME investment, the City will accept the available net proceeds as full payment. The homeowner's down payment, principal payments, and any capital improvement investment made in the property after the HOME assistance has been provided will be returned to the home buyer at closing after the City's HOME assistance has been recaptured from the net proceeds as described above. The homeowner also will retain the value of the appreciation in the property after the City's HOME assistance has been recaptured.

All other sections of the agreement will remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

Acceptance by Grantee:

Acceptance by City:

Grantee's Signature

Christina F. Volek, City Administrator

Address of Grantee

PO Box 1178, Billings, MT 59103

Date of Acceptance

Date of Acceptance

APPROVED AS TO FORM: _____
Brent Brooks, City Attorney

Regular City Council Meeting

Date: 04/25/2011

TITLE: King's Green Phase IV Funding Reallocation

PRESENTED BY: Brenda Beckett

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The final home in King's Green Phase III was completed and purchased in July 2010. The Community Development Division has \$39,043 of HOME left over from the completion of infrastructure development in Phase III. In order to get Phase IV started in July 2011, staff would like to reallocate the left over funds to this final phase of the project. The funds would be used for preliminary engineering costs and to facilitate the request for proposals (RFP) process so that construction can begin soon after July 1, 2011. Upon the completion of the infrastructure of Phase IV, staff will begin securing a developer for the construction of the final 10 homes in this phase via a Request for Proposals process. The Community Development Board reviewed and approved the funding reallocation on Tuesday, March 1, 2011.

ALTERNATIVES ANALYZED

Council may:

- Reallocate the \$39,043 left over from Phase III of the King's Green project to Phase IV, which would allow staff to start the beginning stages of this last phase; or
- Not reallocate the \$39,043 from Phase III of the King's Green project to Phase IV, delaying the start of the project by several months.

FINANCIAL IMPACT

The HOME funds were already allocated to the King's Green project. Reallocating the \$39,043 from Phase III to Phase IV will allow staff to begin the ground work for Phase IV on schedule.

RECOMMENDATION

Staff recommends that the City Council approve reallocating \$39,043 from Phase III of the King's Green infrastructure development to Phase IV of the King's Green project. Funds will be used to begin design engineering and the developer RFP process.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Approval of Modification #5 and Subsequent Modifications to Law Enforcement Officer Reimbursement Agreement with the TSA

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

Since September 2002, the City has entered into a Personnel Agreement with the Transportation Security Administration (TSA) to reimburse the Airport for the labor costs associated with providing Law Enforcement Officer (LEO) coverage at the TSA's security screening area. The Department of Homeland Security (DHS) renewed the reimbursement opportunity for a new five-year program period that began October 1, 2007, through September 30, 2012. To participate in this new program, airports were required to apply via a Federal grant process. Billings Logan International Airport submitted an application for participation in the LEO reimbursement program and was granted an Assistance Award. The City Council approved the LEO Agreement on September 10, 2007.

The program completed its third year on September 30, 2010, and Congress has approved partial funding for the fourth year of the program. The Airport recently received Modification #P00005 granting partial funding for the fourth year of the program. Modification #P00005 also revises the Statement of Joint Objectives (SOJO), changes several financial reporting requirements, and requires approval and signature by the City. In the past, the annual modifications provided funding for a full year's worth of reimbursement activities. This time, however, due to the short term funding of Federal government activities through Congressional Continuing Resolutions, full funding is not available and funds are dispersed, if and when they become available. Staff anticipates that numerous modifications granting additional partial funding for this Agreement will follow, and therefore recommends that the Mayor be authorized to sign Modification #P00005 and any future modifications as they are granted by the DHS for the balance of the 2007 Agreement, which expires September 30, 2012.

ALTERNATIVES ANALYZED

The City Council may:

- Approve Modification #P00005 to the LEO Agreement approved on September 10, 2007, allowing the Airport to be partially reimbursed for allowable LEO costs incurred from October 1, 2010 through February 28, 2011, and authorizing the Mayor to sign Modification #P00005 and subsequent modifications for reimbursement as Congressional funding is allocated for the balance of the main Agreement, which expires September 30, 2012; or
- Not approve Modification #P00005 to the LEO Agreement approved on September 10, 2007, allowing the Airport to be partially reimbursed for allowable LEO costs incurred from October 1, 2010 through February 28, 2011, and not authorize the Mayor to sign Modification #P00005 and subsequent modifications for reimbursement. Failure to approve this Modification or any subsequent modifications would forfeit any remaining reimbursement funds from the DHS granted through the 2007 Agreement.

FINANCIAL IMPACT

Under the terms of this Agreement, the City is authorized to receive reimbursement of the Airport law enforcement officers' actual wage and benefit costs (at a not to exceed amount) for the time the officers are available at screening and checkpoint areas. The fourth year's fully burdened costs have been estimated at \$169,900. Under Modification #P00005, the Airport will be reimbursed up to \$68,036.00 for the period October 1, 2010 through February 28, 2011.

RECOMMENDATION

Staff recommends that Council approve and authorize the Mayor to sign Modification #P00005 to the Law Enforcement Officer Reimbursement Agreement with the TSA, and any subsequent modifications that offer reimbursement for LEO services provided for the TSA.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Request for Tax Increment Funds Allocation, Exposition Gateway Master Plan

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The area immediately east of the East Billings Urban Renewal District (EBURD), also known as the Exposition Gateway, lies outside the City limits and is therefore not eligible to be included in the District. However, the area is recognized as having high redevelopment potential and would be a logical expansion of the EBURD. According to the EBURD Master Plan (Sec. 03-9, 10), the eastern end of the EBURD is a major opportunity for full-scale redevelopment. A coordinated, comprehensive, planned development can create a pleasant, pedestrian-oriented collection of hotels, restaurants, and other hospitality businesses serving MetraPark and the rest of the community as a welcoming gateway from Interstate-90, the Heights, and the rest of Billings. The area would be ideal for incorporation into the EBURD but would need to be first annexed into the City. Due to the substandard condition of road, sewer and water infrastructure, haphazard street access and the unpredictable future land use, the cost of annexation and needed public improvements are unknown. A master plan that analyzes future land use alternatives and infrastructure needs would help property owners and the City evaluate the cost of annexation. The expenditure of tax increment funds for this purpose is authorized by MCA, 7-15-4233 (1) (c) and 7-15-4288 (5) which permits tax increment to be used for costs incurred to prepare recommended modifications to an urban renewal project plan. The Exposition Gateway Master Plan would determine if the East Billings Urban Renewal Plan should be modified to include the properties in the new study area. The Billings Industrial Revitalization District (BIRD) is requesting an allocation of \$25,000 of tax increment funds for the purpose of developing a master plan for the Exposition Gateway to evaluate the cost and feasibility of expanding the EBURD. The funds would be used to match a \$52,500 Big Sky Economic Development Trust Fund Planning Grant from the Montana Department of Commerce.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the BIRD's request to allocate \$25,000 of EBTIFD funds towards the development of the Exposition Gateway Master Plan
- Deny the BIRD's request to allocate \$25,000 of EBTIFD funds towards the development of the Exposition Gateway Master Plan

FINANCIAL IMPACT

The East Billings Urban Renewal and Tax Increment Finance District received \$194,111 in tax year 2009/FY2010. Combined with the carryover of \$102,930 from the previous year, less funds obligated to First Interstate Bank; \$202,009 is available for project costs. The Council has approved FY11 expenditures totaling \$55,655, leaving a total of \$146,354 for additional projects.

RECOMMENDATION

Staff recommends that City Council approve the BIRD's request to allocate \$25,000 of EBTIFD funds towards the development of the Exposition Gateway Master Plan.

APPROVED BY CITY ADMINISTRATOR

Attachments

TIF funds request



March 22, 2011

MAR 23 2011 RL

City of Billings Building Division
Candi Beaudry, AICP Planning Director
PO Box 1178
Billings, MT 59103

RE: Use of TIFD Funds

Dear Candi,

The Board of Directors has unanimously voted to use \$25,000.00 of the TIFD funds for funding the Exposition Gateway Master Plan being developed by Big Sky Economic Development (BSEDA).

Please prepare the necessary documents for presentation to the City Council. Please give us advance notice of when it will be presented to the City Council and we have members come testify on its behalf.

Sincerely,



Martin R. Connell
President

cc: Sara Hudson, BSEDA Community Development Specialist

Board

Regular City Council Meeting

Date: 04/25/2011

TITLE: Sons of Norway Donation for Trees

PRESENTED BY: Mike Whitaker

Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

For many years, The Sons of Norway service organization has donated money to the Parks and Recreation Department to purchase and plant trees in parks. Last year they partnered with Burlington Elementary and the Parks and Recreation Department to plant 8 trees next to the school in Burlington Park as part of Earth Day. The school hosted a program and the students helped to plant the trees. The Sons of Norway want to make this an annual Earth Day event.

This year The Sons of Norway have donated \$500.00 and are partnering with Big Sky Elementary to plant 8 trees in an adjacent park. The school will host a program and the children will have an opportunity to plant a tree. This is an excellent opportunity for children to learn about trees and their beneficial aspects in the environment.

ALTERNATIVES ANALYZED

Council may:

- Accept the \$500.00 donation from The Sons of Norway, or
- Not accept the donation

FINANCIAL IMPACT

There will be no financial impact to the City.

RECOMMENDATION

Staff Recommends Council accept the \$500.00 donation from The Sons of Norway.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Date: 04/25/2011

TITLE: Shiloh Conservation Area Land Purchase

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Council approved the FY 2012 - FY 2016 Capital Improvement Plan that includes funding for the design of a storm water treatment project west of Shiloh Road and south of King Avenue. The project will be located at the confluence of Hogan's Slough and the Shiloh Drain on land currently owned by Yellowstone County. This land must be purchased by the city for this project. The project concept was presented to council at the July 19, 2010 work session. The project will help treat storm water from the two waterways by creating a wetlands detention and sedimentation/clarification basin to help clean the water while it is detained.

The Public Works Director and Deputy Director met with the County Commissioners and they expressed interest in selling this property to the City for a total cost of \$512,797.50. An appraisal by Rutherford and Assoc., Inc sets a value for the land of \$10,700 per acre, or a total of \$695,500. The size of the property will be 65.925 acres after replatting is complete, which is expected by the end of April. After platting, the land will be described as Lot 5A, Block 1 of Amended Lot 5, Block 1, Long Subdivision. Yellowstone County will retain the remainder of the lot for its junk vehicle storage area.

A comparative market analysis was also completed for this parcel by Yellowstone Group Realtors showing a value of \$15,000 per acre for the non-flood zone areas. No value was given for the flood zone acreage. The county GIS department has estimated that there are 18 acres of flood zone areas in this parcel. This results in an estimated value of \$718,075 for the non-flood zone acreage on this parcel. The County Commissioners have indicated they support this project since it will treat storm water flowing from county land as well as land from the city and the flood zone areas are a critical piece for that treatment.

ALTERNATIVES ANALYZED

The City Council may :

- Approve the resolution authorizing the City to purchase this land and for the Mayor to execute necessary documents.
- Do not approve the resolution authorizing the City to purchase this land and the project will not be constructed. If the project is not constructed staff will be required to find different mechanisms for treating the storm water from the Shiloh Drain and Hogan's Slough.

FINANCIAL IMPACT

Funding for the purchase of this land will be from Storm Drain Funds. The land purchase is the first step for this project. The approved Fiscal Year 2012 CIP includes \$250,000 for the design and to develop cost estimates for this project. Once costs are known, the Public Works department will add construction for this project into a future year for the CIP. Costs for design and ultimately construction will use storm sewer funds.

RECOMMENDATION

Staff recommends that Council approve the resolution authorizing the purchase of this land from Yellowstone County for \$512,797.50.

APPROVED BY CITY ADMINISTRATOR

Attachments

land purchase resolution

cons area master plan

cons area plat

RESOLUTION 11-

A RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY FROM YELLOWSTONE COUNTY, DESCRIBING THE PROPERTY TO BE PURCHASED, AND AUTHORIZING CITY OFFICIALS TO PROCEED.

WHEREAS, the City of Billings finds it necessary or desirable to purchase property now owned by the County of Yellowstone, located on Shiloh Road, which has not yet been formally replatted for this sale, but which is presently described by the City and County as proposed Lot 5A, Block 1 of Amended Lot 5, Block 1, of the Long Subdivision, Yellowstone County, Montana.

WHEREAS, the County of Yellowstone has indicated its willingness to sell the land for a total sale price of \$512,797.50; and

WHEREAS, Resolution No. 93-16740 was passed by this Council in 1993 establishing a policy of requiring that two long form appraisals be completed by Montana Certified Appraisers with a minimum of two years experience, and that a third qualified appraiser should complete a review appraisal of those two appraisals for any purchases for a purchase price in excess of \$200,000;

WHEREAS, a significant period of time has passed since Resolution No. 93-16740 was first passed and some of the terms employed in describing the policy are no longer in common use;

WHEREAS, the City has no plans to develop this land further and only one appraisal and one comparative market analysis have been completed for the City on this property, both of which reflect a market value in excess of the County of Yellowstone's offering price to the City.

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

That the City staff is authorized to proceed with purchase of the property described above as proposed Lot 5A, Block 1 of Amended Lot 5, Block 1 of the Long Subdivision, Yellowstone County, Montana; and

The requirements of Resolution No. 93-16740 shall not be applied to this transaction.

APPROVED AND PASSED by the City Council of the City of Billings this ____ day of April, 2011.

THE CITY OF BILLINGS:

By: _____
THOMAS W. HANEL, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk



SHILOH CONSERVATION AREA

Master Plan



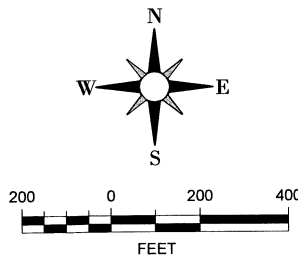
05-03-10

PLAT OF AMENDED LOT 5, BLOCK 1 LONG SUBDIVISION

SITUATED IN THE NE1/4 AND SE1/4 SECTION 15, T.1S., R.25E., P.M.M.,
YELLOWSTONE COUNTY, MONTANA

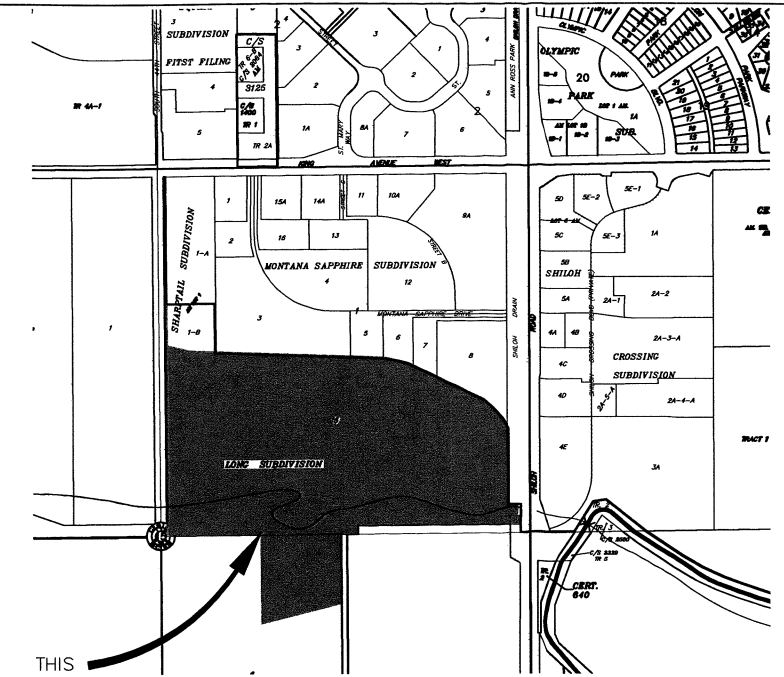
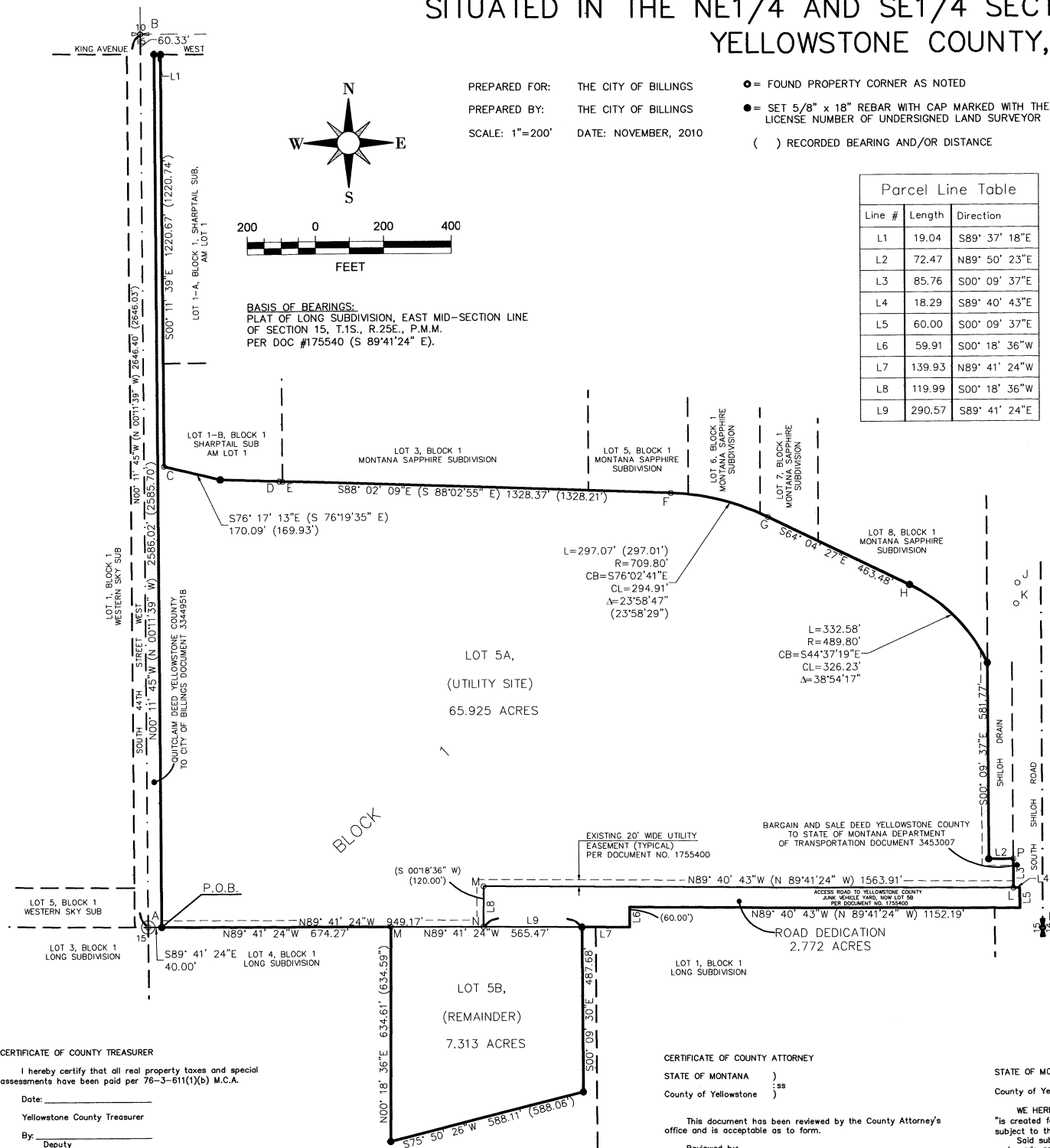
PREPARED FOR: THE CITY OF BILLINGS
 PREPARED BY: THE CITY OF BILLINGS
 SCALE: 1"=200' DATE: NOVEMBER, 2010

● = FOUND PROPERTY CORNER AS NOTED
 ● = SET 5/8" x 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF UNDERSIGNED LAND SURVEYOR
 () RECORDED BEARING AND/OR DISTANCE



BASIS OF BEARINGS:
 PLAT OF LONG SUBDIVISION, EAST MID-SECTION LINE
 OF SECTION 15, T.1S., R.25E., P.M.M.
 PER DOC #175540 (S 89°41'24" E).

Line #	Length	Direction
L1	19.04	S89° 37' 18"E
L2	72.47	N89° 50' 23"E
L3	85.76	S00° 09' 37"E
L4	18.29	S89° 40' 43"E
L5	60.00	S00° 09' 37"E
L6	59.91	S00° 18' 36"W
L7	139.93	N89° 41' 24"W
L8	119.99	S00° 18' 36"W
L9	290.57	S89° 41' 24"E



THIS SURVEY
 VICINITY MAP
 NOT TO SCALE

- MONUMENT LEGEND**
- A FOUND BRASS CAP CENTER 1/4 CORNER SECTION 15, T.1S., R.25E. P.M.M., 0.5± ABOVE GROUND
 - B FOUND 5/8" REBAR IN ASPHALT IN KING AVENUE WEST
 - C FOUND 5/8" REBAR BENT
 - D FOUND 5/8" REBAR WITH ALUMINUM CAP "ENGINEERING INC ESMNT" LAYING NEXT TO REBAR
 - E FOUND 5/8" REBAR
 - F FOUND 5/8" REBAR WITH RPC "ENGINEERING INC, 8377LS" BURIED 1.5±
 - G FOUND 5/8" REBAR WITH BROKEN RPC "ENGINEERING INC.", BURIED 1.5±
 - H FOUND SPIKE NAIL WITH PINK TASSEL WITH LATH LAYING NEXT TO NAIL LABELED "TEM COR PROP COR"
 - J FOUND 5/8" REBAR M.D.O.T. WITH ALUMINUM CAP "MONTANA DEPT OF TRANS, R/W, 565, 8377LS, 2006.
 - K FOUND 5/8" REBAR M.D.O.T., WITH GUARD STAKE LABELED R/W, P O T, 22.00, 26+36.0.
 - L FOUND 5/8" REBAR M.D.O.T., WITH GUARD STAKE LABELED R/W, POT, 26.00, 23+79.46
 - M FOUND 5/8" REBAR WITH ALUMINUM CAP "ENG INC BLS MT"
 - N FOUND 5/8" REBAR WITH YPC "ENG INC BLS MT" BEARING N 07°16'27" W AND 0.54 FEET FROM CALCULATED CORNER. MONUMENT IS ON A HILL SIDE IT APPEARS TO HAVE MOVED
 - P NOTHING FOUND OR SET, M.D.O.T. IS TO SET MONUMENTS IN THE WINTER OF 2010 OR SPRING OF 2011

CERTIFICATE OF SURVEYOR
 STATE OF MONTANA)
 County of Yellowstone) ss

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of November, 2010, a survey was performed under my supervision of a tract of land to be known as "PLAT OF AMENDED LOT 5, BLOCK 1, LONG SUBDIVISION, situated in the NE1/4 and the SE1/4 of Section 15, T. 1 S., R. 25 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows:

Commencing at the Center 1/4 corner of Section 15, T. 1 S., R. 25 E., P.M.M., Yellowstone County, Montana; thence S 89°41'24" E for a distance of 40.00 feet to the True Point of Beginning, point also being a point on the east right-of-way of South 44th Street West; thence N 00°11'45" W along the said east right-of-way line for a distance of 2586.02 feet to a point on the south right-of-way line of King Avenue West; thence S 89°37'18" E along said King Avenue West right-of-way for a distance of 19.04 feet to the northwest corner of Lot 1-A, Block 1, of the Plat of Amended Lot 1, Block 1, Sharptail Subdivision; thence along said King Avenue West right-of-way S 00°11'39" E along the west boundary of said Plat of Amended Lot 1, Block 1, Sharptail Subdivision for a distance of 1220.67 feet to the southwest corner of Lot 1-B of said Plat of Amended Lot 1, Block 1, Sharptail Subdivision; thence along the south boundary of said Plat of Amended Lot 1, Block 1, Sharptail Subdivision and the south boundary of Montana Sapphire Subdivision the following course, S 76°17'13" E for a distance of 170.09 feet; S 88°02'09" E for a distance of 1328.37 feet; thence along a curve to right with a radius of 709.80 feet and an arc length of 297.07 feet (chord bearing S 76°02'41" E chord length of 294.91 feet); thence S 64°04'27" E for a distance of 463.48 feet; thence along a curve to right with a radius of 489.80 feet and an arc length of 332.58 feet (chord bearing S 44°37'19" E chord length of 326.23 feet) to a point on the west line of the Shiloh Drain; thence leaving the south boundary of said Montana Sapphire Subdivision and along the west and south boundary of the said Shiloh Drain S 00°09'37" E for a distance of 581.77 feet; thence N 89°50'23" E for a distance of 72.47 feet to a point on the west right-of-way of Shiloh Road; thence S 00°09'37" E along the said west right-of-way of Shiloh Road for a distance of 85.76 feet; thence S 89°40'43" E for a distance of 18.29 feet; thence S 00°09'37" E for a distance of 60.00 feet; thence leaving said Shiloh Road right-of-way N 89°40'43" W for a distance of 1152.19 feet and along the south boundary of the access road to Yellowstone County junk vehicle yard; thence S 00°18'36" W for a distance of 59.91 feet; thence N 89°41'24" W for a distance of 139.93 feet; thence S 00°09'30" E for a distance of 487.68 feet; thence S 75°50'26" W for a distance of 588.11 feet; thence N 00°18'36" E for a distance of 634.61 feet; thence N 89°41'24" W for a distance of 674.27 feet to the Point Of Beginning.

In conformance with Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with and as shown on the annexed plat, that the monuments found and set are of the character and occupy the positions shown thereon and that the gross area is 76.010 acres and net area is 73.238 acres.

CITY OF BILLINGS
 By: _____
 Montana Registration No. 17513 LS
 Date: _____

On this _____ day of _____, 20____, before me the undersigned Notary Public for the State of Montana, personally appeared Timothy A Grant, known to me to be the person who signed the foregoing Certificate of Surveyor and acknowledged to me that he executed the same. Witness my hand and seal the day and year herein above written.

CERTIFICATE OF COUNTY TREASURER
 I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b) M.C.A.
 Date: _____
 Yellowstone County Treasurer
 By: Deputy _____

CERTIFICATE OF COUNTY ATTORNEY
 STATE OF MONTANA)
 County of Yellowstone) ss
 This document has been reviewed by the County Attorney's office and is acceptable as to form.
 Reviewed by: _____
 DATE: _____

CERTIFICATE OF EXEMPTION AND DEDICATION
 STATE OF MONTANA)
 County of Yellowstone) ss
 WE HEREBY CERTIFY That the attached plat is exempt from review under the Montana Subdivision and Platting Act per 76-3-201(1)(h) "Is created for rights-of-way or utility sites, A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter."
 Said subdivision is to be known as Plat of Amended Lot 5, Block 1, Long Subdivision and the lands shown and included in all streets and roads as shown on the annexed plat are hereby granted and designated to the use of the public forever.
 DATED THIS _____ DAY OF _____, 20____

John Ostlund, Chairman
 Commissioner
 Bill Kennedy, Member
 Commissioner
 Attest:
 James E. Reno, Member
 Commissioner
 Tony Nave
 Clerk & Recorder

On this _____ day of _____, 20____, before me the undersigned Notary Public for the State of Montana, personally appeared John Ostlund, Bill Kennedy, and James E. Reno, members of the Board of County Commissioner of Yellowstone County and Tony Nave, Yellowstone County Clerk and Recorder, known to me to be the persons who signed the foregoing Subdivision Plat on behalf of Yellowstone County in their official capacity as Board Members, and Clerk and Recorder respectively. Witness my hand and seal the day and year herein above written.

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

CERTIFICATE OF APPROVAL AND ACCEPTANCE
 STATE OF MONTANA)
 County of Yellowstone) ss
 WE HEREBY CERTIFY That we have examined the the attached plat to be known as the "PLAT OF AMENDED LOT 5, BLOCK 1 LONG SUBDIVISION" and find that said plat conforms with the laws of the State of Montana. This plat is therefore approved and all lands for public use as shown on this plat as being dedicated to such use are hereby accepted for the use of the public forever.
 DATED THIS _____ DAY OF _____, 20____
 John Ostlund, Chairman
 Commissioner
 Bill Kennedy, Member
 Commissioner
 Attest:
 James E. Reno, Member
 Commissioner
 Tony Nave
 Clerk & Recorder

HEALTH DEPARTMENT
 Health office/Authorized Representative
 Yellowstone City/County Health Department
 d/b/a Riverstone Health
 Reviewed by: _____

Regular City Council Meeting

Date: 04/25/2011

TITLE: Approve Route and Partial Street Closure for Walk MS Billings

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The National MS Society is requesting a partial street closure on Saturday, April 30th, on Wicks Lane (south side) starting at the LDS Church at 1000 Wicks Lane, heading east to the bike path, turning south (right) on the Kiwanis Trail and bike path, continuing to Coulson Park and returning on the same route to the finish at the LDS Church. Assembly time will be 7:00 a.m., and the walk will start at 9:00 a.m. and finish at 1:00 p.m.

Recommended conditions of approval include that the organizers of the National MS Walk:

1. Provide a certificate of insurance naming the City of Billings as additional insured
2. Provide and install adequate traffic barricades and signs directing motorists around closure
3. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles
4. Coordinate with Police Department to ensure proper assistance is provided for traffic control
5. Clean area to be used following the event

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the temporary, partial closure of the street named above.

APPROVED BY CITY ADMINISTRATOR

Attachments

MS Walk Billings



City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Molly Johnston

ORGANIZATION MAKING APPLICATION National MS Society

PHONE (206) 284-9254 x 40224

ADDRESS 192 Nickerson St. #100 Seattle WA 98109

EMAIL ADDRESS Molly.^{CITY}Johnston@^{STATE}nmss.^{ZIP}org

APPROXIMATE TIME EVENT WILL:

Assemble 7am Start 9am Disband 1pm

DATE OF EVENT April 30, 2011

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

Walk MS is a fundraising event for people living with multiple sclerosis.

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

LDS Church is the start & finish. Two rest stops: at Two Moon Park & Coulsen Park. (map attached)

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

none

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

We have volunteers & staff on site to clean up after event.

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

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

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

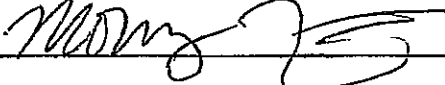
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE  DATE 12/29/10
APPLICATION APPROVED _____ DATE _____
APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

FEE: _____
APPLICANT NOTIFIED BY: _____
DATE: _____

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



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
01/04/2011

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

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

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office 199 Water Street New York NY 10038-3551 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (847) 953-5390		
	E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: 570000021731		
INSURED National Multiple sclerosis Society Montana Office 1629 Avenue D, Ste 2-C Billings MT 59102 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A:	Great Northern Insurance Co.	20303
	INSURER B:	ACE Property & Casualty Insurance Co.	20699
	INSURER C:	Employers Insurance Company of Wausau	21458
	INSURER D:	Federal Insurance Company	20281
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: 570041291334 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
D	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			35833349	12/31/2010	12/31/2011	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$1,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON OWNED AUTOS <input checked="" type="checkbox"/> Comp/Collision Ded: \$1,000			7353 0237	12/31/2010	12/31/2011	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10,000			M00539375002 SIR applies per policy terms & conditions	12/31/2010	12/31/2011	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N	WCC291451053010	12/31/2010	12/31/2011	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The Certificate Holder is added as Additional Insured excluding workers' compensation and Employer's Liability policy as required by written contract but limited to the operations of the Insured under said contract and always subject to the policy terms, conditions and exclusions.

CERTIFICATE HOLDER City of Billings PO Box 1178 Billings MT 59103 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast Inc.</i>

Holder Identifier :

Certificate No : 570041291334



Regular City Council Meeting

Date: 04/25/2011

TITLE: Route Approval and Street Closures for the Montana Womens Run

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Yellowstone Rimrunners request temporary street closures on Saturday, May 7, 2011, from 6:00 am to 12:00 noon, for their annual Montana Women's Run. Closures are as follows: 2nd and 3rd Avenues from N.10th to Division St. (8:25-10:00 am only); Clark and Yellowstone Avenues from Division to 7th Street West (8:25-10:00 am only); 2nd Ave. N. from N. 27th St. to N. 29th St.; and Broadway from 1st Ave. N. to 3rd Ave. N.

Recommended conditions of approval include that the Yellowstone Rimrunners:

1. Provide a certificate of insurance naming City of Billings as additional insured
2. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles
3. Provide and install adequate signs warning motorists of event
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Clean the area to be used and provide and empty waste cans

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the temporary closure of the streets named above.

APPROVED BY CITY ADMINISTRATOR

Attachments

Montana Women's Run



City of Billings
RIGHT - OF - WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Exel "Ekkie" Wedul
ORGANIZATION MAKING APPLICATION Montana Women's Run
ADDRESS 3112 Ben Hogan Ln. City Billings State MT Zip 59106
EMAIL ADDRESS wedul@bresnan.net

APPROXIMATE TIME EVENT WILL:

Assemble 6am Start 8:30am Disband NOON

DATE OF EVENT Saturday May 7, 2011

PURPOSE OF EVENT: (Description and detail of plans)

30th Annual run & walk; fundraiser for women's programs in the Billings area; promotes health & fitness among women. Participants will run or walk either 2 miles or 5 miles, timed. Post-race Party with Awards Ceremony under Skypoint. With officer ASSISTANCE AT
EVENT ROUTE DESIRED (IF APPLICABLE) - Please attach map Intersections

See map.

BLOCK PARTY STREET LOCATION (IF APPLICABLE)

2nd Ave. N. from N. 27th (alley) to N. 29th
Broadway from 1st Ave. N. to 3rd Ave. N.

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

2 Purple People

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

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

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

IF USING THE ESTABLISHED EVEN ROUTE (PARADE), THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE3 EVENT, AND A STREET SWEEPER (IF NECESSARY AND WEATHER PERMITTING) TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE Edell Wheeler DATE 2-28-11

APPLICANT APPROVED _____ DATE _____

APPLICANT DENIED _____ DATE _____

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

FOR CITY USE ONLY

FEE: _____

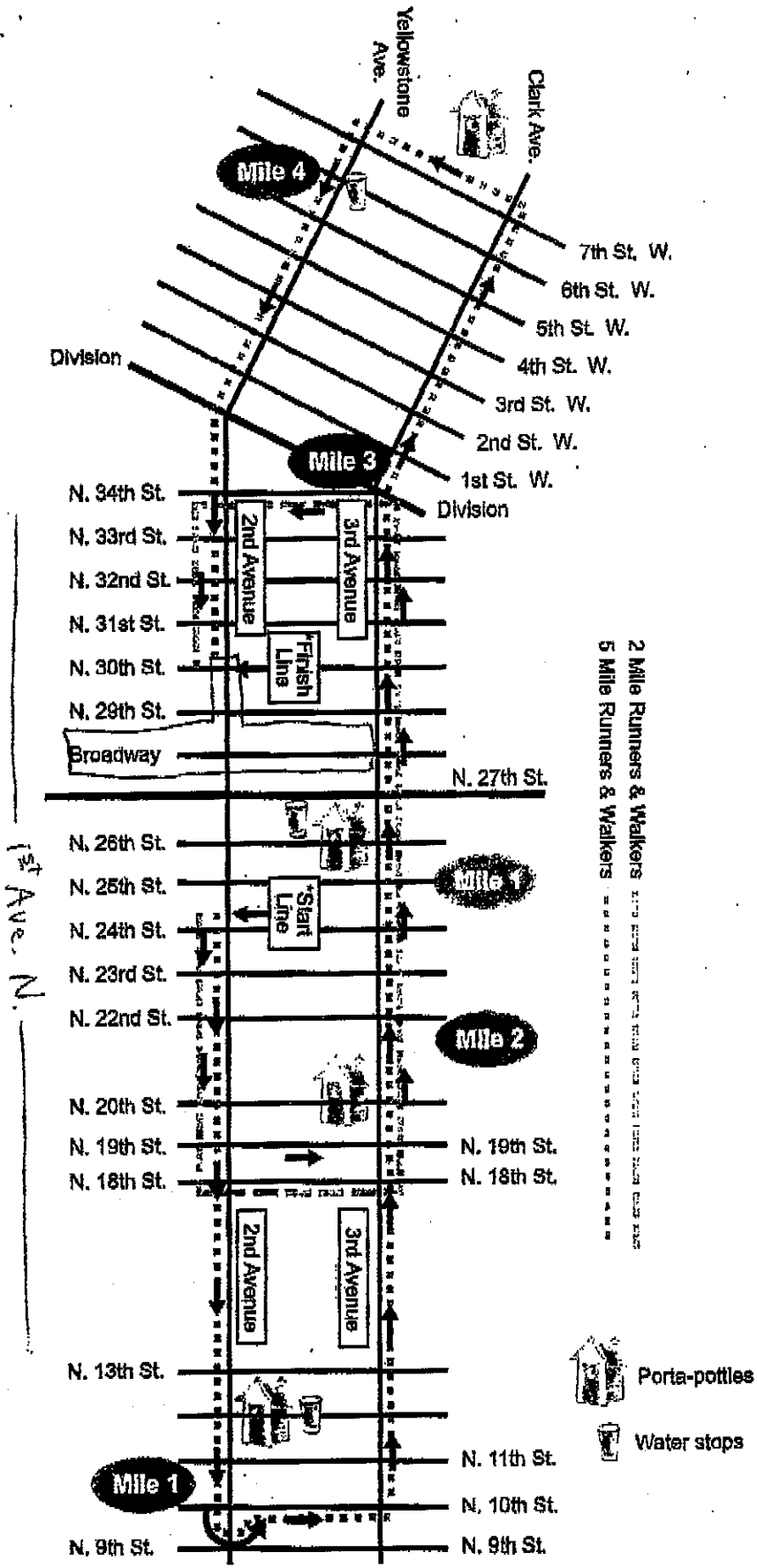
APPLICANT NOTIFIED BY: _____

DATE: _____



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



COURSE MAP updated 5/1/2009



2 Mile Runners & Walkers
 5 Mile Runners & Walkers

-  Porta-potties
-  Water stops

1st Ave. N.

SUSAN-

Fax 237-6291



The Montana Women's Run brings women of all ages together to run or walk through the streets of downtown Billings on the day before Mother's Day. The event is really two timed races (5 Miles and 2 Miles), with medals for the first 5 finishers in each age group as well as special awards for the first three overall finishers, the first Masters and first Super Masters finishers in each race. We are also the RRCA State Championship Races for both the 5 Mile and 2 Mile races. However, most of the participants walk, many pushing strollers or wheelchairs. Women come from all over the country to join their friends and family. The 2011 edition is the 30th year for our event and will be held May 7th.

The Montana Women's Run promotes health and fitness among women, and also raises money donated to programs for local women's services. Last year we gave over \$60,000 divided among the Billings YWCA, Billings Clinic Women's Wellness Fund, Billings Family YMCA, MSU-B Cross Country scholarship fund, Rocky Mountain College scholarship fund, and the Yellowstone Rim Runners for equipment to stage the races.

On May 7, 2011, we request closure of the streets as shown on the attached map and sheet of explanation basically from 6am- noon: 2nd and 3rd Avenues N. from N. 10th to Division; Clark and Yellowstone Avenues from 8:25-10 am. Roads can open up as the last walkers pass. We request to close 2nd Ave. N. from N. 27th St. to N. 29th St. and Broadway from 1st Ave. N. to 3rd Ave. N. for our Post-race Party and Awards Ceremony from 6 am to noon.

Exel "Ekkie" Wedul
2011 Montana Women's Run Coordinator
656-6973









CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/1/2011

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

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PRODUCER STAR Insurance - Fort Wayne Office 2130 East DuPont Road Fort Wayne IN 46825	CONTACT NAME: Janice Routt	
	PHONE (A/C No. Ext): (260) 467-5690 FAX (A/C No.): (260) 467-5691 E-MAIL ADDRESS: janice.routt@starfinancial.com PRODUCER CUSTOMER ID #: 00050950	
INSURED ROAD RUNNERS CLUB OF AMERICA/2011 & ITS MEMBER CLUBS 7410 SKYLINE DRIVE FREDERICK MD 21702-3652	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: NATIONAL CASUALTY COMPANY	11991
	INSURER B: NATIONWIDE LIFE INSURANCE CO.	66869
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: 2010 MEMBER CLUB REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		KRO 0000001300700	12/31/2010	12/31/2011	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 5,000
	<input checked="" type="checkbox"/> LEGAL LIAB. TO PARTIC.					PERSONAL & ADV INJURY \$ 2,000,000
	\$2,000,000					GENERAL AGGREGATE \$ NONE
	GEN'L AGGREGATE LIMIT APPLIES PER:		A&M AGGREGATE \$5,000,000			PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC					ABUSE & MOLESTATION \$ 500,000
A	AUTOMOBILE LIABILITY		KRO 0000001300700	12/31/2010	12/31/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS					BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS					PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS					\$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS					\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$
	DEDUCTIBLE					\$
	RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	<input type="checkbox"/> Y/N	N/A			WC STATUTORY LIMITS OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/>				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$
B	EXCESS MEDICAL & ACCIDENT (\$250 DEDUCTIBLE/CLAIM)		SPX 00000039016-00	12/31/2010	12/31/2011	EXCESS MEDICAL \$10,000
				12:01 A.M.	12:01 A.M.	AD & SPECIFIC LOSS \$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED.

DATE & EVENT: 05/07/11 Montana Women's Run - 2 Mile and 5 Mile Road Races INSURED CLUB: Yellowstone Rim Runners, Attn: Ekkie Wedul; P.O. Box 2424, Billings, MT 59103

CERTIFICATE HOLDER 05/07/11 City of Billings Attn: Susan Wellbrook 390 N. 23rd Street Billings, MT 59101	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE John Lefever/JWE

Regular City Council Meeting

Date: 04/25/2011

TITLE: Route Approval and Street Closures for Ryan's 5K Run/Walk

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

Ryan's Run is a new 5K Run/Walk event on May 15, 2011, to benefit the SIDS Foundation. The run starts at Rimrock West Park, heads east on a multi-use trail to 38th Street West using the pedestrian underpass/trail. The run continues on 38th Street West north to Rimrock Road, then turns west to Shiloh, south to Poly Drive, west to 46th Street West, and south back to the Rimrock West Park.

Recommended conditions of approval include Ryan's Run organizers:

1. Provide a certificate of insurance with required liability amounts naming the City of Billings as additional insured
2. Coordinate with Police Department to ensure proper assistance is provided for traffic control.
3. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles
4. Provide and install adequate signs and barricades warning motorists of the event
5. Contact any businesses on the route and make them aware of the event

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

There are no costs to the City of Billings for this event other than administrative time to process the permit. Police, traffic control and litter removal are to be paid for by the Ryan's Run organizers.

RECOMMENDATION

Staff recommends that Council approve the route and street closures named above for the Ryan's 5K Run/Walk for SIDS.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ryans Run/Walk



CITY OF BILLINGS
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION KORI Keller

ORGANIZATION MAKING APPLICATION Ryan's Run for SIDS

PHONE 670-8504

ADDRESS 4456 Laredo Pl Bldg MT 59104

EMAIL ADDRESS rznboys@bresnan.net

APPROXIMATE TIME EVENT WILL:

Assemble 7am Start 8am Disband 10am

DATE OF EVENT Sunday May 15th

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

5K RUN/WALK to benefit the SIDS Foundation in honor of my nephew, Ryan Walter.

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

See enclosed map

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

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

We will clean up all water tables & Rimrock West Park.

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

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

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

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

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

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

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

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

APPLICANT SIGNATURE K. Klein DATE 1/13/11

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

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

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

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

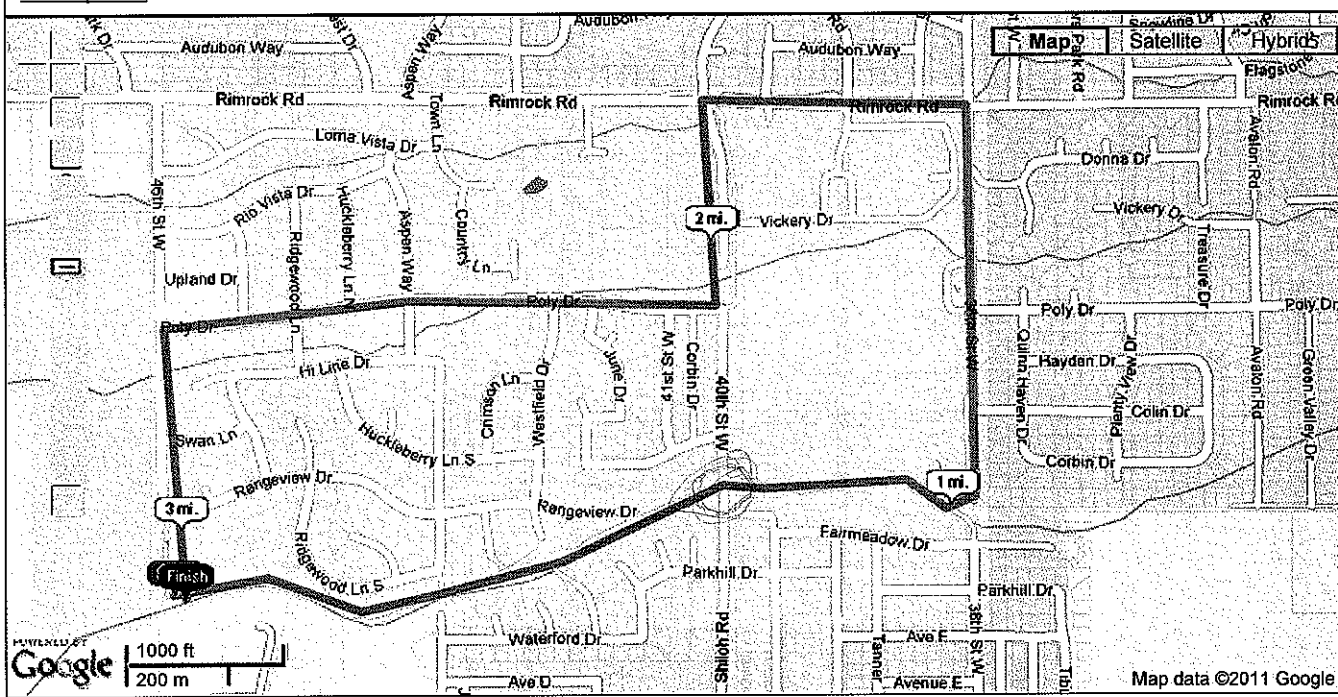
New MAP



LOGIN | Become a member

View Route

Name: Ryan's Run 3
Rating: unrated
Distance: 3.08 miles / 4.96 km
Location: Start: Rimrock West Park - Billings, MT, US
Attributes: loop, mostly flat, paved path
Description:



Elevation Profile



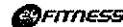
Click to view elevation profile

Total climb: 0 feet / 0 m

Total elevation change: 0 feet / 0 m

Added by Kori on 2/2/2011

DISCLAIMER: USATF and the author of this route make no warranties as to the conditions, safety, distance accuracy, or suitability for running of this route. Run at your own risk!



Regular City Council Meeting

Date: 04/25/2011

TITLE: Approve Route and Partial Street Closures for Central Heights Elementary School Community Fun Run

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Central Heights PTA requests temporary street closures for a fun run. The run will start at Central Heights Elementary and go through the neighborhood streets from Lexington Drive to Birchwood Drive, south of Central and north of Monad (see attached map). The fun run is Saturday, May 21, 2011, from 8:30 am to 10:30 am.

Recommended conditions of approval include that the Central Heights PTA:

1. Provide a certificate of insurance naming the City of Billings as additional insured
2. All course guards (flaggers) shall wear safety apparel and use approved STOP/SLOW paddles
3. Provide and install adequate traffic barricades and signs directing motorists around closure
4. Clean area to be used and provide and empty waste cans
5. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the route and partial street closures for the Central Heights Elementary School Community Fun Run.

APPROVED BY CITY ADMINISTRATOR

Attachments

Community Fun Run

Kristopher Cummings
1200 30th Street West
Billings, MT 59106
406-281-6100
cummingsk@billingsschools.org

RECEIVED
MAR 17 2011

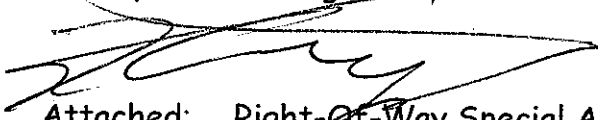
City of Billings
Engineering Division
Attn: Susan Wellbrook
2224 Montana Ave.
Billings, MT 59101

To Whom it May Concern:

On behalf of the Central Heights Elementary PTA I am requesting a Right-Of-Way Special Activity Permit for a *Community Fun Run*, in and around Central Heights Elementary, located at 120 Lexington Drive, Billings, Montana. The race will be held on Saturday May 21st 2011 and will assemble at 8:30 am, commence at 9:00 am and disband at 10:30 am. Road guard attendants will be stationed at 22 different street intersections along the race route (see attached map). The road guards will stop traffic in order to allow runners to pass safely through the intersections, traffic will be able to safely pass through the intersections in between groups of runners. We will have a certified flagger in charge of our road guard volunteers. All road guard attendants will be relieved at 10:30 am Saturday, May 21st 2011. The roads will not be blocked during the race. The attached brochure and map detail exact locations of road closures, race route, and an event description. Thank you for your consideration.

Sincerely,

Kristopher Cummings



Attached: Right-Of-Way Special Activity Permit Checklist, Map with detailed barricades, Event Brochure, Completed Right-Of-Way Special Activity Permit application, and certificate of insurance form.

- On the way



City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT

Please check the type of activity you are applying for:

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

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

PERSON MAKING APPLICATION Kris Cummings

ORGANIZATION MAKING APPLICATION Central Heights PTA

PHONE 406-281-6111

ADDRESS 120 Lexington Dr. Billings, MT 59102

EMAIL ADDRESS Cummingsk@billingschools.org

APPROXIMATE TIME EVENT WILL:

Assemble 8:30 am Start 9:00 am Disband 10:30 am

DATE OF EVENT 5/21/2011

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

Community Fun Run to promote health & fitness.

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

Attached

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

NA

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

Central Heights PTA Volunteers

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

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

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

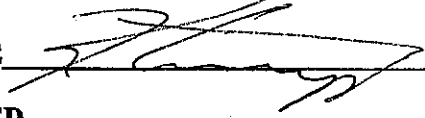
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

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

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

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

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

APPLICANT SIGNATURE  DATE 3/15/2011
APPLICATION APPROVED _____ DATE _____
APPLICATION DENIED _____ DATE _____

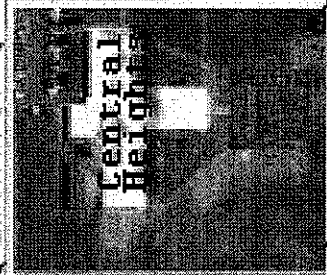
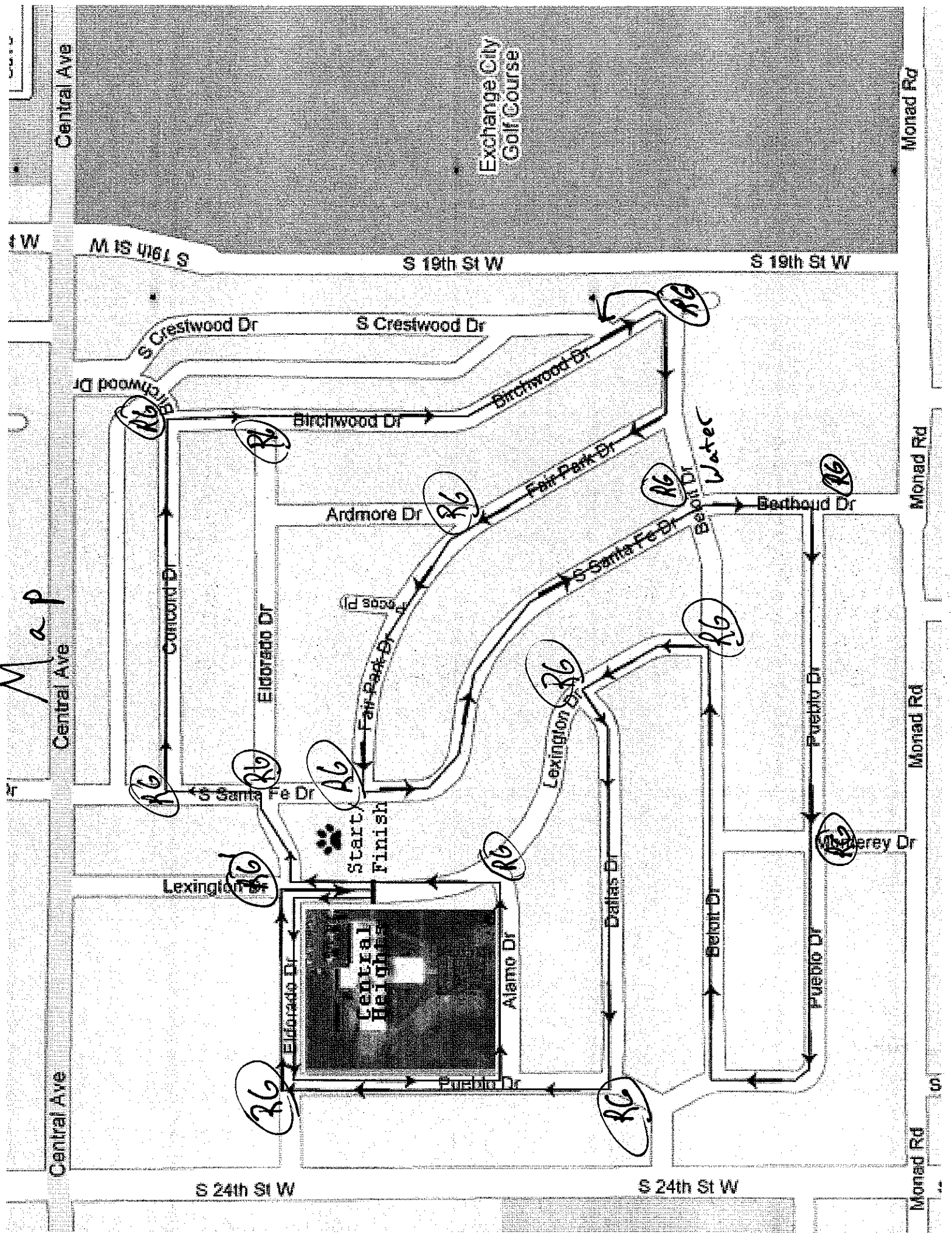
ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES [] NO []
(IF YES, ATTACH COPY)

FOR CITY USE ONLY

FEE: \$100.00
APPLICANT NOTIFIED BY: pd check #3134
DATE: 3/17/11

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

Map



Start/Finish

Exchange City
Golf Course

Central
Heights

Central Ave
S 19th St W
S 24th St W
Monad Rd
S Crestwood Dr
S Crestwood Dr
Birchwood Dr
Birchwood Dr
Fair Park Dr
Fair Park Dr
S Santa Fe Dr
S Santa Fe Dr
Lexington Dr
Lexington Dr
Alamo Dr
Alamo Dr
Pueblo Dr
Pueblo Dr
Dallas Dr
Dallas Dr
Belmont Dr
Belmont Dr
Pueblo Dr
Pueblo Dr
Berthoud Dr
Berthoud Dr
Waterc
Waterc

Regular City Council Meeting

Date: 04/25/2011

TITLE: Payment of Claims March 25, 2011.

PRESENTED BY: Pat M. Weber, Financial Services Manager

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,231,048.42 have been audited and are presented for your approval for payment. A complete listing of the claims dated March 25, 2011, 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	
03/25/2011	742819	A & I DISTRIBUTORS	16			12,852.65	
561-7113-711.23-10	02/08/2011	NONSTOCKING ITEMS-P.U.D.	2007327	280492	08/2011	549.45	
541-3123-435.23-10	02/09/2011	OIL	2009764	280492	08/2011	1,678.05	
601-0000-141.00-00	02/15/2011	MP	2011547		08/2011	1,783.43	
601-0000-141.00-00	02/15/2011	MP	2011547		08/2011	51.48	
561-7113-711.23-10	02/15/2011	NONSTOCKING ITEMS-P.U.D.	2008282	280492	08/2011	398.95	
601-1553-481.26-50	02/15/2011	MP	2011547	280492	08/2011	.22	
601-0000-141.71-41	02/22/2011	MP	2011515		08/2011	2,307.60	
601-0000-141.71-41	02/22/2011	MP	2012837		08/2011	566.50	
571-7144-713.23-20	02/22/2011	MP	2011515	280492	08/2011	.61	
561-7113-711.23-10	02/22/2011	NONSTOCKING ITEMS-P.U.D.	2011541	280492	08/2011	467.50	
541-3123-435.23-20	02/22/2011	SAM ROTARY PUMP	2012910	280492	08/2011	43.60	
601-0000-141.00-00	02/24/2011	MP	2013190-AA		08/2011	147.62	
211-3130-433.23-20	02/24/2011	MP	2013188	280492	08/2011	475.81	
541-3122-435.23-20	02/24/2011	MP	2013189	280492	08/2011	475.81	
601-1552-481.21-20	02/24/2011	MP	2013190	280492	08/2011	475.81	
601-1552-481.21-20	02/24/2011	MP	2013190-A	280492	08/2011	475.81	
601-1552-481.21-20	02/24/2011	MP	2013190-AA	280492	08/2011	328.19	
601-0000-141.00-00	03/01/2011	MP	2015377		09/2011	1,247.18	
502-7500-609.23-10	03/01/2011	NONSTOCKING ITEMS-P.U.D.	2013186	280492	09/2011	255.40	
512-8500-625.23-10	03/01/2011	NONSTOCKING ITEMS-P.U.D.	2013186	280492	09/2011	255.41	
601-1553-481.26-50	03/01/2011	MP	2015377	280492	09/2011	.22	
541-3123-435.23-10	03/01/2011	4 REGULATORS LF	2016340	280492	09/2011	129.68	
601-0000-141.00-00	03/17/2011	MP	2008539		09/2011	1,928.00	
601-0000-141.00-00	03/17/2011	MP	2008539		09/2011	72.46	
601-0000-141.00-00	03/17/2011	MP	2015377-A		09/2011	467.50	
150-2112-421.23-20	03/17/2011	MP	2008539	280492	09/2011	28.32	
211-3130-433.23-20	03/17/2011	MP	2008539	280492	09/2011	28.32	
541-3122-435.23-20	03/17/2011	MP	2008539	280492	09/2011	28.31	
541-3122-435.23-20	03/17/2011	MP	2008539	280492	09/2011	71.64	
601-1553-481.26-50	03/17/2011	MP	2008539	280492	09/2011	.39	
03/25/2011	742821	ACE ELECTRIC INC	40			49,859.13	
202-1503-466.79-73	03/23/2011	WO0925 DOWTOWN SIGNAL	3/24701	276288	09/2011	49,859.13	
03/25/2011	742823	ACUITY BRANDS LIGHTING INC	20345			3,498.95	
211-0000-141.31-83	03/23/2011	STREET LIGHTS	16073870		09/2011	3,498.95	
03/25/2011	742839	BILLINGS OVERHEAD DOOR CO	433			3,837.00	
502-7314-602.24-50	03/23/2011	NONSTOCKING ITEMS-P.U.D.	70272	282548	09/2011	1,918.50	
512-8314-622.24-50	03/23/2011	NONSTOCKING ITEMS-P.U.D.	70272	282548	09/2011	1,918.50	
03/25/2011	742846	BROWN AND CALDWELL	18626			10,906.48	
503-0000-201.10-00	03/23/2011	WO0825 ZONE 3 RESERVOIR	RET RELEASE	264675	09/2011	10,396.81	
503-7591-609.93-40	03/23/2011	WO0825 ZONE 3 RESERVOIR	23/137413	264675	09/2011	509.67	
03/25/2011	742848	BUSINESS TAX SECTION	2449			2,932.01	
490-5161-452.93-70	03/23/2011	WO0307 ALKALI CR MULTI	FUND TRANSFER	274414	09/2011	146.02	
490-5161-452.93-70	03/23/2011	WO0307 ALKALI CR MULTI	FUND TRANSFER	274414	09/2011	146.02	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
210-5151-452.93-90	03/23/2011	WO0307 ALKALI CR MULTI	5	274414	09/2011	120.75	
513-8591-625.93-40	03/23/2011	WO0307 ALKALI CR MULTI	5	274414	09/2011	17.97	
202-1503-466.79-73	03/23/2011	WO0925 DOWNTOWN SIGNAL	3/24186	276289	09/2011	503.63	
406-7119-711.92-90	03/23/2011	MISC SERVICES	278674-5	278674	09/2011	2,071.55	
10-5111-452.93-70	03/23/2011	MISC SERVICES	1191	282592	09/2011	218.11	
03/25/2011	742850	CAMP DRESSER & MCKEE INC.	17330			3,610.00	
502-7211-601.35-90	03/23/2011	SYSTEM DEV FEE/WTR RESALE	3/80368755	279879	09/2011	2,312.12	
512-8211-621.35-90	03/23/2011	SYSTEM DEV FEE/WTR RESALE	3/80368755	279879	09/2011	1,297.88	
03/25/2011	742853	CARQUEST AUTO PARTS	3890			2,861.52	
512-8500-625.23-20	02/02/2011	NONSTOCKING ITEMS-P.U.D.	1935189575	280495	08/2011	7.94	
512-8400-623.23-20	02/02/2011	NONSTOCKING ITEMS-P.U.D.	1935189653	280495	08/2011	31.98	
502-7500-609.24-10	02/02/2011	NONSTOCKING ITEMS-P.U.D.	1935189720	280495	08/2011	49.32	
211-3134-433.23-20	02/04/2011	MP	1910-202508	280495	08/2011	8.72	
601-0000-141.00-00	02/08/2011	MP	1910-202639		08/2011	20.80	
601-0000-141.00-00	02/08/2011	MP	1910-202639		08/2011	108.00	
211-3130-433.23-20	02/08/2011	MP	1910-202221	280495	08/2011	2.88	
211-3134-433.23-20	02/08/2011	MP	1910-202515	280495	08/2011	11.04	
211-3130-433.23-20	02/08/2011	MP	1910-202639	280495	08/2011	25.43	
150-2226-422.23-20	02/08/2011	FIRE1/TIRE CHAIN ACC/STRP	1935-190417 FR1	280495	08/2011	110.80	
512-8500-625.23-20	02/08/2011	NONSTOCKING ITEMS-P.U.D.	1935189768	280495	08/2011	44.40	
512-8500-625.23-20	02/08/2011	NONSTOCKING ITEMS-P.U.D.	1935190350	280495	08/2011	54.56	
502-7700-611.23-20	02/08/2011	NONSTOCKING ITEMS-P.U.D.	1935190362	280495	08/2011	51.84	
541-3123-435.23-20	02/09/2011	MP	1910-202478	280495	08/2011	137.65	
502-7311-602.23-20	02/10/2011	NONSTOCKING ITEMS-P.U.D.	1935190648	280495	08/2011	9.88	
502-0000-141.00-00	02/11/2011	WATER PARTS AND SUPPLIES	1935190807		08/2011	72.55	
502-7500-609.23-20	02/11/2011	NONSTOCKING ITEMS-P.U.D.	1935190851	280495	08/2011	1.78	
150-2226-422.23-20	02/14/2011	MP	1910-202474	280495	08/2011	120.90	
502-7500-609.23-40	02/14/2011	NONSTOCKING ITEMS-P.U.D.	1935190748	280495	08/2011	24.22	
601-0000-141.00-00	02/16/2011	MP	1910-203388		08/2011	40.50	
10-5112-452.23-20	02/16/2011	MP	1910-202840	280495	08/2011	13.68	
211-3134-433.23-20	02/16/2011	MP	1910-202952	280495	08/2011	42.24	
601-1553-481.26-50	02/16/2011	MP	1910-203112	280495	08/2011	27.66	
150-2226-422.23-20	02/16/2011	MP	1910-203157	280495	08/2011	10.96	
541-3123-435.23-20	02/16/2011	MP	1910-203197	280495	08/2011	149.94	
211-3132-433.23-20	02/16/2011	MP	1910-203388	280495	08/2011	27.96	
512-8400-623.24-50	02/16/2011	NONSTOCKING ITEMS-P.U.D.	1935191207	280495	08/2011	5.64	
512-8400-623.23-20	02/16/2011	NONSTOCKING ITEMS-P.U.D.	1935191211	280495	08/2011	5.73	
512-8500-625.23-20	02/16/2011	NONSTOCKING ITEMS-P.U.D.	1935191516	280495	08/2011	4.45	
601-0000-141.00-00	02/17/2011	MP	1910-202900		08/2011	38.95	
601-0000-141.00-00	02/17/2011	MP	1910-203173		08/2011	65.47	
601-0000-141.00-00	02/17/2011	MP	1910-203203		08/2011	26.72	
601-0000-141.00-00	02/17/2011	MP	280495		08/2011	17.00	
150-2226-422.23-20	02/17/2011	MP	1910-203173	280495	08/2011	35.56	
601-1553-481.26-50	02/17/2011	MP	1910-203203	280495	08/2011	9.41	
502-0000-141.00-00	02/18/2011	WATER PARTS AND SUPPLIES	1935191489		08/2011	313.40	
502-7312-602.23-20	02/18/2011	NONSTOCKING ITEMS-P.U.D.	1935191731	280495	08/2011	157.91	
601-0000-141.00-00	02/25/2011	MP	1910-203734		08/2011	11.80	
601-0000-141.00-00	02/25/2011	MP	1910-203782		08/2011	60.59	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO # PER/YEAR TRN AMOUNT
150-2112-421.23-20	02/25/2011	MP	1910-203550	280495 08/2011 60.96
541-3123-435.23-20	02/25/2011	MP	1910-203677	280495 08/2011 26.73
150-2112-421.23-20	02/25/2011	MP	1910-203734	280495 08/2011 48.27
502-7500-609.23-40	02/27/2011	NONSTOCKING ITEMS-P.U.D.	1935190693	280495 08/2011 12.11
502-7312-602.23-20	02/27/2011	NONSTOCKING ITEMS-P.U.D.	1935192645	280495 08/2011 39.75
150-2112-421.23-20	02/28/2011	MP	1910-203626	280495 08/2011 10.97
150-2112-421.23-20	02/28/2011	MP	1910-203816	280495 08/2011 173.42
601-1553-481.26-50	02/28/2011	MP	1910-203816	280495 08/2011 65.44
541-3122-435.23-20	02/28/2011	MP	1910-204383	280495 08/2011 34.16
512-8400-623.24-50	03/03/2011	NONSTOCKING ITEMS-P.U.D.	1935192741	280495 09/2011 54.88
150-2112-421.23-20	03/05/2011	MP	1910-204715	280495 09/2011 22.39
150-2112-421.23-20	03/21/2011	MP	275243	280495 09/2011 128.24
541-3123-435.23-20	03/21/2011	MP	275284	280495 09/2011 171.88
150-2112-421.23-20	03/21/2011	MP	275378	280495 09/2011 37.62
650-1565-487.23-20	03/21/2011	MP	275378	280495 09/2011 4.47
650-1565-487.23-20	03/21/2011	MP	275378	280495 09/2011 1.17
601-1553-481.26-50	03/21/2011	MP	278447	280495 09/2011 8.80
03/25/2011 742856	CIRCUIT ELECTRIC CO	10635		11,575.00
10-5111-452.93-70	03/23/2011	MISC SERVICES	110312	282494 09/2011 4,775.00
225-2232-422.21-20	03/23/2011	UPS/BATTERIES/REPLD 3/16	110315 UPS/BAT	282534 09/2011 6,100.00
225-2232-422.21-20	03/23/2011	UPS/BATTERIES/REPLD 3/16	110315 UPS/BAT	282534 09/2011 700.00
03/25/2011 742864	DESMAN ASSOCIATES	21403		5,775.00
521-1521-493.35-90	03/22/2011	TECHNOLOGY AUDIT	D11009	279185 09/2011 5,775.00
03/25/2011 742866	DOWNTOWN BILLINGS PARTNERSHIP	13457		62,481.50
203-1513-466.79-46	03/23/2011	PRIOR YEAR ENCUMBRANCES	FINAL	276394 09/2011 43,000.00
203-1513-466.35-47	03/23/2011	MISC SERVICES	FUND203	282577 09/2011 19,481.50
03/25/2011 742881	FIRST INTERSTATE BANK	1303		5,602.80
723-6595-465.62-00	03/23/2011	MISC SERVICES	1100216095	282581 09/2011 5,602.80
03/25/2011 742883	FLINT TRADING INC	11436		4,152.36
211-3132-433.23-41	03/23/2011	MISC SERVICES	128209	282318 09/2011 4,152.36
03/25/2011 742884	FOUR BEERS INC	20892		13,733.42
490-5161-452.93-70	03/23/2011	WO0307 ALKALI CR MULTI	FUND TRANSFER	274413 09/2011 14,456.23-
490-5161-452.93-70	03/23/2011	WO0307 ALKALI CR MULTI	FUND TRANSFER	274413 09/2011 14,456.23
210-5151-452.93-90	03/23/2011	WO0307 ALKALI CR MULTI	5	274413 09/2011 11,953.76
513-8591-625.93-40	03/23/2011	WO0307 ALKALI CR MULTI	5	274413 09/2011 1,779.66
03/25/2011 742885	FRANK & WETCH TRUCK BODY INC	4662		2,585.80
630-1753-485.73-10	03/23/2011	MISC SERVICES	98841	282571 09/2011 2,585.80
03/25/2011 742888	GILLIG CORPORATION	18154		6,579.27
601-0000-141.71-41	03/17/2011	MP	4701607	09/2011 2,638.43
601-0000-141.71-41	03/20/2011	MP	4699314	09/2011 3,797.56
601-0000-141.71-41	03/20/2011	MP	4701608	09/2011 143.28
03/25/2011 742891	GREAT WEST ENGINEERING	18016		10,583.54
544-0000-201.10-00	03/23/2011	WO0827 LANDFILL EXPANSION	RET RELEASE	263194 09/2011 2,511.76

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
544-3123-435.93-90	03/23/2011	WO0827 LANDFILL EXPANSION	20	263194	09/2011	8,071.78	
03/25/2011	742897	HDR INC	1544			129,203.27	
416-7493-603.92-20	03/23/2011	WO0426 ZONE 4/5 RESERVOIR	48/268417-H	247294	09/2011	16,897.79	
416-7493-603.92-20	03/23/2011	WO0426 ZONE 4/5 RESRVR	49/277826-H	247294	09/2011	16,767.70	
502-7211-601.35-40	03/23/2011	DRINKING WTR SOURCE STUDY	31/277884-H	258046	09/2011	14,231.91	
421-8493-623.93-40	03/23/2011	WO0822 WWTP DISINFEC SYS	24/268425-H	263835	09/2011	21,687.96	
421-8493-623.93-40	03/23/2011	WO0822 WWTP DISINFECT SYS	25/277883-H	263835	09/2011	27,522.84	
502-7211-601.35-40	03/23/2011	WO0923 ELECTRICAL MSTR	14/277834-H	269621	09/2011	190.21	
512-8211-621.35-40	03/23/2011	WO0923 ELECTRICAL MSTR	14/277834-H	269621	09/2011	190.21	
502-7211-601.35-40	03/23/2011	INTEGRATED WATER PLAN	10	270373	09/2011	1,667.98	
512-8211-621.35-40	03/23/2011	INTEGRATED WATER PLAN	10	270373	09/2011	1,336.24	
840-3184-431.35-90	03/23/2011	INTEGRATED WATER PLAN	10	270373	09/2011	1,667.98	
503-7491-603.93-90	03/23/2011	WO1011 WTP HIGH SRVC	12	273326	09/2011	1,925.03	
503-7591-609.93-40	03/23/2011	WO1012 BLGS LOW SRVC	8	276189	09/2011	12,353.15	
845-3186-431.93-10	03/23/2011	WO1023 ZIM/RIMROCK/HWY3	8/275337-H	276513	09/2011	10,537.87	
513-8491-623.93-90	03/23/2011	WO1029 WWTP WEST MECH MCC	3/277827-H	280428	09/2011	2,226.40	
03/25/2011	742901	HUPPERT CONSTRUCTION	16447			21,592.39	
10-5111-452.93-70	03/23/2011	MISC SERVICES	1191	282591	09/2011	21,592.39	
03/25/2011	742902	IAFF	20196			4,267.35	
900-0000-209.99-20	03/25/2011	PAYROLL SUMMARY	20110325		09/2011	4,267.35	
03/25/2011	742910	INTERSTATE POWERSYSTEMS	17926			5,534.56	
601-0000-141.71-41	03/20/2011	MP	17141.01		09/2011	35.33	
571-7144-713.23-20	03/20/2011	MP	7017062.01	282477	09/2011	3,749.96	
571-7144-713.23-20	03/21/2011	MP	17058.01	282490	09/2011	616.15	
571-7144-713.23-20	03/22/2011	MP	17195.01	282559	09/2011	1,133.12	
03/25/2011	742912	JACKSON CONTRACTOR GROUP INC	21359			205,083.39	
406-7119-711.92-90	03/23/2011	MISC SERVICES	278672-5	278672	09/2011	205,083.39	
03/25/2011	742913	JACOBS CONSULTANCY INC	19805			10,742.50	
563-7122-711.93-10	03/22/2011	MISC SERVICES	37BIL300-031105	273607	09/2011	10,742.50	
03/25/2011	742916	JTL GROUP INC DBA KNIFE RIVER	2417			5,554.11	
211-3132-433.45-20	03/23/2011	ROAD/HIGHWAY MATERIAL	236849	282506	09/2011	2,665.72	
211-3132-433.45-20	03/23/2011	ROAD/HIGHWAY MATERIAL	236873	282506	09/2011	2,711.24	
211-3132-433.45-20	03/23/2011	ROAD/HIGHWAY MATERIAL	237084	282506	09/2011	177.15	
03/25/2011	742917	JWC ENVIRONMENTAL	5460			7,320.79	
502-0000-141.00-00	03/22/2011	WASTEWATER PARTS & SUPPLY	39727		09/2011	7,320.79	
03/25/2011	742925	L N CURTIS & SONS	10392			3,529.89	
150-2226-422.23-20	03/21/2011	MP	3109710-00	282501	09/2011	72.38	
150-2226-422.23-20	03/23/2011	FOCUS/FLOODLITE/QRV	3109171-00 QRV	281189	09/2011	851.00	
150-2226-422.23-20	03/23/2011	FOCUS/FLOODLITE/QRV	3109171-00 QRV	281189	09/2011	16.33	
150-2226-422.23-20	03/23/2011	FOCUS/FLOODLITES/FIRE/QRV	3109389-00 QRV	281189	09/2011	2,553.00	
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211-3138-433.23-20	03/22/2011	MP	1-95364	282518	09/2011	60.00	
502-7500-609.23-90	03/24/2011	NONSTOCKING ITEMS-P.U.D.	1GS96481	282556	09/2011	5,580.44	
03/25/2011	742930	LOCAL 521	7898			5,550.00	
150-2223-422.22-60	03/24/2011	FY11/CLOTHING/RETRO PAY	CLOTHING11-RTRO	282608	09/2011	250.00	
150-2224-422.22-60	03/24/2011	FY11/CLOTHING/RETRO PAY	CLOTHING11-RTRO	282608	09/2011	50.00	
150-2229-422.22-60	03/24/2011	FY11/CLOTHING/RETRO PAY	CLOTHING11-RTRO	282608	09/2011	5,250.00	
03/25/2011	742947	MONTANA STATE FIREMAN'S ASSOC	20195			2,764.73	
900-0000-209.99-24	03/25/2011	PAYROLL SUMMARY	20110325		09/2011	2,764.73	
03/25/2011	742949	MORRISON MAIERLE INC	2572			105,592.79	
503-0000-201.10-00	03/23/2011	WO1001 2010 WTR/SWR REPLC	RET RELEASE	268044	09/2011	28,090.17	
513-0000-201.10-00	03/23/2011	WO1001 2010 WTR/SWR REPLC	RET RELEASE	268044	09/2011	16,909.83	
503-7591-609.93-40	03/23/2011	WO1001 2010 WTR & SWR	17/110279	268044	09/2011	4,663.43	
513-8591-625.93-40	03/23/2011	WO1001 2010 WTR & SWR	17/110279	268044	09/2011	2,511.09	
513-8491-623.93-90	03/23/2011	WO0926 WTPP CLARIFIERS	7	274059	09/2011	9,204.97	
503-7591-609.93-40	03/23/2011	WO1008 WTP CLEARWELL CT	6/110128	274702	09/2011	8,010.38	
406-7119-711.92-90	03/23/2011	MISC SERVICES	110282-110283	277318	09/2011	18,377.26	
503-7591-609.93-40	03/23/2011	WO1105 CHAPPLE WTR MAIN	3/110280	279882	09/2011	17,825.66	
03/25/2011	742953	MPPA	20198			2,505.73	
900-0000-209.99-23	03/25/2011	PAYROLL SUMMARY	20110325		09/2011	2,505.73	
03/25/2011	742958	NAPA AUTO PARTS	2632			3,789.25	
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601-0000-141.00-00	03/18/2011	MP	180936		09/2011	18.31	
150-2112-421.23-20	03/18/2011	MP	178532	282466	09/2011	13.95	
620-1911-482.23-20	03/18/2011	MP	178938	282466	09/2011	223.53	
211-3133-433.23-20	03/18/2011	MP	179925	282466	09/2011	74.95	
601-1553-481.26-50	03/18/2011	MP	180295	282466	09/2011	29.36	
620-1911-482.23-20	03/18/2011	MP	180419	282466	09/2011	4.02	
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541-3122-435.23-20	03/18/2011	MP	180936	282466	09/2011	4.17	
211-3139-454.23-20	03/18/2011	MP	180984	282466	09/2011	6.91	
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601-0000-141.00-00	03/20/2011	MP	180002		09/2011	35.87	
601-0000-141.71-41	03/20/2011	MP	180304		09/2011	310.33	
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150-2112-421.23-20	03/20/2011	MP	170819	282470	09/2011	17.19	
502-7312-602.23-20	03/20/2011	MP	171185	282470	09/2011	16.81	
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150-2226-422.23-20	03/20/2011	MP	171483	282470	09/2011	18.80	
541-3123-435.23-20	03/20/2011	MP	171687	282470	09/2011	28.46	
512-8400-623.23-20	03/20/2011	MP	171722	282470	09/2011	403.65	
601-1553-481.24-10	03/20/2011	MP	171812	282470	09/2011	17.34	
541-3122-435.23-20	03/20/2011	MP	171853	282470	09/2011	13.11	
541-3122-435.23-20	03/20/2011	MP	171853	282470	09/2011	5.75	
150-2226-422.23-20	03/20/2011	MP	171915	282470	09/2011	29.48	
150-2226-422.23-20	03/20/2011	MP	171915	282470	09/2011	6.06	
502-7500-609.23-20	03/20/2011	MP	171917	282470	09/2011	34.94	
541-3123-435.23-20	03/20/2011	MP	171918	282470	09/2011	47.26	
211-3133-433.23-20	03/20/2011	MP	173343	282470	09/2011	4.97	
150-2172-441.23-20	03/20/2011	MP	174366	282470	09/2011	169.80	
211-3130-433.23-20	03/20/2011	MP	174802	282470	09/2011	216.96	
150-2112-421.23-20	03/20/2011	MP	177198	282470	09/2011	49.52	
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150-2112-421.23-20	03/20/2011	MP	178371	282470	09/2011	16.66	
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571-7147-713.23-20	03/20/2011	MP	179116	282470	09/2011	4.10	
150-2112-421.23-20	03/20/2011	MP	179205	282470	09/2011	359.86	
601-1553-481.26-50	03/20/2011	MP	179291	282470	09/2011	10.98	
211-3140-433.23-20	03/20/2011	MP	176043	282473	09/2011	36.98	
571-7144-713.23-20	03/20/2011	MP	178495	282473	09/2011	32.98	
571-7144-713.23-20	03/20/2011	MP	178495	282473	09/2011	3.36	
571-7144-713.23-20	03/20/2011	MP	179301	282473	09/2011	32.98	
150-2226-422.23-20	03/20/2011	MP	180237	282473	09/2011	18.33	
211-3133-433.23-20	03/20/2011	MP	180284	282473	09/2011	3.52	
571-7144-713.23-20	03/20/2011	MP	180635	282473	09/2011	65.00	
571-7144-713.23-20	03/20/2011	MP	180929	282473	09/2011	55.45	
571-7144-713.23-20	03/20/2011	MP	180304	282474	09/2011	15.45	
571-7144-713.23-20	03/20/2011	MP	182220	282474	09/2011	89.91	
571-7144-713.23-20	03/20/2011	MP	182220	282474	09/2011	23.54	
571-7144-713.23-20	03/20/2011	MP	182992	282474	09/2011	17.30	
03/25/2011	742961	NORMONT EQUIPMENT COMPANY	2738			2,664.24	
211-3132-433.23-20	03/23/2011	MISC SERVICES	2103050	282489	09/2011	1,422.90	
211-3132-433.23-20	03/23/2011	MISC SERVICES	2103088	282489	09/2011	1,241.34	
03/25/2011	742964	NORTHWESTERN ENERGY	15771			23,235.66	
561-7117-711.34-10	03/21/2011	1264299-7	032111	F12527	09/2011	621.88	
561-7117-711.34-10	03/21/2011	1341288-7	032111	F12527	09/2011	252.44	
561-7117-711.34-10	03/21/2011	1341289-5	032111	F12527	09/2011	48.92	
561-7117-711.34-10	03/21/2011	1341291-1	032111	F12527	09/2011	350.13	
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650-1567-487.34-10	03/24/2011	FACILITIES MANAGEMENT	01005073			09/2011	7,270.80
561-7117-711.34-10	03/24/2011	NW AVIATION/TRAN	07127921			09/2011	470.87
561-7117-711.34-10	03/24/2011	NW AVIATION/TRAN	07127996			09/2011	16.99
561-7117-711.34-10	03/24/2011	NW AVIATION/TRAN	07128002			09/2011	1,256.63
561-7113-711.34-10	03/24/2011	NW AVIATION/TRAN	07128093			09/2011	7.10
561-7117-711.34-10	03/24/2011	NW AVIATION/TRAN	07128176			09/2011	305.10
561-7113-711.34-10	03/24/2011	NW AVIATION/TRAN	07196165			09/2011	57.15
521-1592-493.34-10	03/24/2011	NW FINANCE	07208341			09/2011	5,397.32
607-2235-486.34-10	03/24/2011	NW FIRE	07215809			09/2011	225.66
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222375			09/2011	190.91
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222474			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222557			09/2011	88.61
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222573			09/2011	31.58
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222607			09/2011	69.03
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222664			09/2011	12.20
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222698			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222920			09/2011	11.36
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07222938			09/2011	18.46
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07229057			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07229339			09/2011	7.10
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10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230360			09/2011	9.02
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230378			09/2011	169.85
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230428			09/2011	158.24
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230444			09/2011	18.21
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230543			09/2011	17.06
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230550			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230568			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230576			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230584			09/2011	17.85
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07230907			09/2011	8.90
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07231624			09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07231707			09/2011	8.90
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10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07236458			09/2011	7.10
260-5512-455.34-10	03/24/2011	NW LIBRARY	07244643			09/2011	90.14
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	07894371			09/2011	7.10
872-5198-452.34-10	03/24/2011	NW PARK/REC/PL	10590933			09/2011	139.60
10-5112-452.34-10	03/24/2011	NW	15220957			09/2011	218.06
521-1592-493.34-10	03/24/2011	PARK 2 GARAGE	15942824			09/2011	2,083.59
571-7148-713.34-10	03/24/2011	MET DOWNTOWN TRANS CENTER	17847567			09/2011	300.80
03/25/2011	742975	PUBLIC UTILITIES	5022				127,277.51
266-6773-465.72-91	03/22/2011	1039 CUSTER AVENUE	97315=10331500`	282525	09/2011		28.91
805-1570-425.53-50	03/24/2011	4430 HI-LINE DR	6712510003200		09/2011		125,885.21
512-8500-625.34-20	03/24/2011	4430 HI-LINE DR	671274846		09/2011		57.93
512-8400-623.34-20	03/24/2011	PUD - WATER BILLS	187212152		09/2011		1,305.46
03/25/2011	742977	QWEST COMMUNICATIONS	6319				8,600.57
225-2232-422.34-50	03/17/2011	QWEST MARCH 2011 3RD PAY	252-1190		09/2011		8,407.46

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10-5140-436.34-50	03/17/2011	QWEST MARCH 2011 3RD PAY	652-0269		09/2011	43.22	
10-5112-452.34-50	03/17/2011	QWEST MARCH 2011 3RD PAY	652-5507		09/2011	44.20	
211-3132-433.34-50	03/17/2011	QWEST MARCH 2011 3RD PAY	652-8104		09/2011	29.40	
10-5121-451.34-50	03/17/2011	QWEST MARCH 2011 3RD PAY	652-8403		09/2011	33.07	
03/25/2011 742986		SANDERSON STEWART	20446			51,465.57	
233-4370-419.93-90	03/14/2011	INV 32145	INV 32145	282346	09/2011	13,466.29	
840-0000-201.10-00	03/23/2011	WO0912 INNER BELT LOOP	RET RELEASE	267730	09/2011	4,236.34	
845-0000-201.10-00	03/23/2011	WO0912 INNER BELT LOOP	RET RELEASE	267730	09/2011	25,942.89	
845-0000-201.10-00	03/23/2011	WO0912 INNER BELT LOOP	RET RELEASE	267730	09/2011	2,528.61	
205-3131-433.35-90	03/23/2011	WO1013 SAFE RTES TO SCHL`	3/32235	279883	09/2011	5,291.44	
03/25/2011 742994		STATE BAR OF MONTANA	7016			3,465.00	
10-1212-412.38-24	03/18/2011	BAR DUES-KOLAR	2011-9	282465	09/2011	385.00	
10-1611-416.33-50	03/22/2011	2011 ANNUAL DUES/ATTORNEY	2011 ANNUAL DUE	282427	09/2011	3,080.00	
03/25/2011 742997		STOCKMAN BANK	15350			5,602.80	
723-6595-465.62-00	03/23/2011	MISC SERVICES	4040156102	282585	09/2011	5,602.80	
03/25/2011 743001		THOMAS & MEANS LAW FIRM	20863			2,750.00	
150-2112-421.24-40	03/23/2011	2011 MT-ID FBINAA CONFERE	16011	F12551	09/2011	2,750.00	
03/25/2011 743003		TOWN & COUNTRY SUPPLY ASSOCIAT	18295			138,460.50	
601-0000-141.00-00	01/20/2011	MP	90558		07/2011	8,267.10	
601-0000-141.00-00	01/20/2011	MP	90559		07/2011	8,267.10	
601-0000-141.71-41	03/22/2011	MP	75747		09/2011	6,285.09	
601-0000-141.71-41	03/22/2011	MP	81444		09/2011	21,981.74	
601-0000-141.00-00	03/22/2011	MP	81455		09/2011	15,920.82	
601-0000-141.00-00	03/22/2011	MP	81456		09/2011	12,419.60	
601-0000-141.00-00	03/22/2011	MP	80544		09/2011	12,788.40	
561-7118-711.23-13	03/21/2011	INVOICE #81453	81453	F12523	09/2011	16,065.00	
561-7113-711.23-10	03/21/2011	INVOICE #81437	81437	F12528	09/2011	15,609.37	
502-0000-141.00-00	03/23/2011	WATER PARTS AND SUPPLIES	75746		09/2011	19,822.80	
10-5142-436.23-10	03/24/2011	UNLEADED GASOLINE	80561	282605	09/2011	1,033.48	
03/25/2011 743005		TREASURE STATE PLUMBING	3787			4,568.76	
10-5111-452.93-70	03/23/2011	MISC SERVICES	32179	282495	09/2011	2,891.26	
10-5111-452.93-70	03/23/2011	MISC SERVICES	32194	282495	09/2011	1,677.50	
03/25/2011 743007		UNITED ROTARY BRUSH CORP	5955			9,532.56	
561-7113-711.23-20	03/22/2011	MISC SERVICES	CI115177	282096	09/2011	9,532.56	
03/25/2011 743009		US BANK-REVOLVING LOAN FUND	16715			5,602.80	
723-6595-465.62-00	03/23/2011	MISC SERVICES	537240497587	282583	09/2011	5,602.80	
03/25/2011 743017		VERIZON WIRELESS	14490			19,061.91	
571-7147-713.31-60	03/18/2011	ACCOUNT# 770599076-00001	0957254276	F12521	09/2011	174.00	
150-2170-441.34-50	03/24/2011	VERIZON WSCA MARCH 2011	AN SHELTER MDT		09/2011	215.05	
717-2166-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	CCSIU CELL/PTT		09/2011	477.78	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
717-2166-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	CCSIU AIR CARD		09/2011	43.01
717-2166-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	CCSIU RAVEN		09/2011	86.02
150-2221-422.34-50	03/24/2011	VERIZON WSCA MARCH 2011	FIRE MDT		09/2011	602.16
620-1911-482.34-50	03/24/2011	VERIZON WSCA MARCH 2011	ITD AIR CARD		09/2011	86.02
260-5517-455.34-50	03/24/2011	VERIZON WSCA MARCH 2011	LIBRARYOUTREACH		09/2011	129.03
150-2111-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	MDT TOUGHBOOK		09/2011	3,539.26
150-2111-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	POLICE AIR CARD		09/2011	43.01
150-2111-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	POLICE ICAC		09/2011	43.40
150-2111-421.34-50	03/24/2011	VERIZON WSCA MARCH 2011	POLICE USM MDT		09/2011	165.94
10-5112-452.34-50	03/24/2011	VERIZON WSCA MARCH 2011	PARKS PMD AIR		09/2011	43.01
209-4451-428.34-50	03/24/2011	VERIZON WSCA MARCH 2011	BUILDING AIR		09/2011	344.08
502-7500-609.34-50	03/24/2011	VERIZON WSCA MARCH 2011	PUD AIR CARD60%		09/2011	25.80
512-8500-625.34-50	03/24/2011	VERIZON WSCA MARCH 2011	PUD AIR CARD40%		09/2011	17.21
150-2221-422.34-50	03/24/2011	VERIZON WSCA MARCH 2011	FIRE MIFI		09/2011	58.39
561-7110-711.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	AIRPORT		09/2011	400.99
150-2170-441.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	ANIMAL SHELTER		09/2011	142.24
717-2166-421.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	CCSIU		09/2011	85.52
10-1611-416.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	LEGAL		09/2011	55.58
150-2225-422.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	COMM CENTER 911		09/2011	51.96
650-1565-487.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	FACILITIES BOC		09/2011	64.37
650-1567-487.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	FACILITIES CH		09/2011	83.54
10-1512-415.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	FINANCE PAT		09/2011	72.83
150-2221-422.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	FIRE DEPT		09/2011	756.49
10-1750-417.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	HUMAN RESOURCES		09/2011	42.76
620-1913-482.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	ITD GIS		09/2011	12.99
620-1911-482.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	ITD		09/2011	99.57
260-5517-455.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	LIBRARYOUTREACH		09/2011	25.98
260-5512-455.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	LIBRARY		09/2011	160.78
10-1100-411.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	MAYOR		09/2011	42.59
601-1550-481.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	MOTOR POOL		09/2011	50.01
10-1220-412.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	DRUG COURT		09/2011	164.10
10-1212-412.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	MUNI JUDGE		09/2011	156.53
240-4301-419.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PLANNING		09/2011	12.99
150-2111-421.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	POLICE		09/2011	3,189.43
251-2187-421.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	POLICE FORENSIC		09/2011	716.74
249-2196-421.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	698 1391 DV		09/2011	22.60
521-1521-493.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PARKING		09/2011	353.37
10-5110-453.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PRPL ADM		09/2011	62.73
10-5121-451.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PRPL-RECREATION		09/2011	92.79
10-5140-436.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	CEMETERY		09/2011	45.20
10-5112-452.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PARKS PMD		09/2011	66.06
10-5112-452.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PARKS		09/2011	291.50
10-5112-452.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PARKS IRRIGATION		09/2011	217.34
10-1543-415.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PURCHASING		09/2011	83.93
660-3110-431.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PW ADM		09/2011	131.64
209-4451-428.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	BUILDING		09/2011	226.30
670-3141-489.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	ENGINEERING		09/2011	446.48
541-3121-435.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	SOLID WASTE		09/2011	48.92
211-3132-433.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	STREET/TRAFFIC		09/2011	358.20
541-3123-435.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	SW ON CALL		09/2011	73.17

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
502-7500-609.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	DIST & COLL 60%		09/2011	644.78	
512-8500-625.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	DIST & COLL 40%		09/2011	429.86	
502-7700-611.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PUD ENVIRN 1/2		09/2011	19.19	
512-8700-628.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PUD ENVIRN 1/2		09/2011	19.19	
502-7400-603.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	WATER TREATMENT		09/2011	758.69	
502-7312-602.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PWBLKNP MTRSHOP		09/2011	472.79	
502-7311-602.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PWBLKNP OFF 60%		09/2011	69.08	
512-8311-622.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PWBLKNP OFF 40%		09/2011	46.06	
502-7314-602.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PWBLKNP STOR75%		09/2011	86.35	
512-8314-622.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	PWBLKNP STOR25%		09/2011	28.79	
512-8400-623.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	WASTEWATER TREA		09/2011	1,070.33	
606-1931-484.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	TELECOMM SYS		09/2011	127.65	
571-7142-713.31-60	03/24/2011	VERIZON WIRELESS MAR 2011	ON-CALL MET		09/2011	101.20	
571-7141-713.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	MET TRANSIT		09/2011	35.75	
10-4321-419.34-50	03/24/2011	VERIZON WIRELESS MAR 2011	CODE ENFORCEMT		09/2011	150.81	
03/25/2011 743023		WELLS FARGO BANK-LOAN PAYMENT	16716			5,602.80	
723-6595-465.62-00	03/23/2011	MISC SERVICES		1609108243	282582 09/2011	5,602.80	
03/25/2011 743024		WESTERN SECURITY BANK	16462			5,602.80	
723-6595-465.62-00	03/23/2011	MISC SERVICES		2157001592	282580 09/2011	5,602.80	
03/25/2011 743030		YELLOWSTONE COUNTY SHERIFFS	6218			10,340.10	
717-2166-421.78-65	03/18/2011	MISC SERVICES		281D-SU-62795	282459 09/2011	10,340.10	
DATE RANGE TOTAL *						1,156,011.20 *	

Regular City Council Meeting

Date: 04/25/2011

TITLE: Payment of Claims April 1, 2011.

PRESENTED BY: Pat M. Weber, Financial Services Manger

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$439,069.71 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 1, 2011, 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	
04/01/2011	743044	AMERICAN WELDING & GAS INC	21024				4,233.93
601-1552-481.21-20	03/24/2011	MP	1164984	282661	09/2011		2,778.12
601-1552-481.21-20	03/24/2011	MP	1164985	282661	09/2011		134.42
601-1553-481.26-50	03/24/2011	MP	1167100	282661	09/2011		55.42
601-1553-481.26-50	03/24/2011	MP	1170511	282661	09/2011		25.99
601-1553-481.26-50	03/24/2011	MP	1186813	282661	09/2011		130.46
502-7400-603.22-20	03/29/2011	MISC SERVICES	01204597	282773	09/2011		302.49
512-8400-623.24-50	03/29/2011	MISC SERVICES	01205647	282773	09/2011		256.28
512-8400-623.24-50	03/29/2011	MISC SERVICES	01208070	282773	09/2011		16.67
512-8400-623.24-50	03/29/2011	MISC SERVICES	01210287	282773	09/2011		90.50
502-7500-609.24-10	03/29/2011	MISC SERVICES	01211361	282773	09/2011		89.81
502-7400-603.22-20	03/29/2011	MISC SERVICES	01215234	282773	09/2011		353.77
04/01/2011	743048	ARCHIE COCHRANE	800				2,698.52
150-2112-421.23-20	03/23/2011	MP	5047031	282587	09/2011		193.92
150-2112-421.23-20	03/23/2011	MP	5047056	282587	09/2011		4.00
150-2112-421.23-20	03/28/2011	MP	5046338	282735	09/2011		383.30
150-2112-421.23-20	03/28/2011	MP	5046386	282735	09/2011		148.37
150-2112-421.23-20	03/28/2011	MP	5046602	282735	09/2011		33.90
150-2112-421.23-20	03/28/2011	MP	5046685	282735	09/2011		107.49
150-2112-421.23-20	03/28/2011	MP	5046700	282735	09/2011		228.33
150-2112-421.23-20	03/28/2011	MP	5046729	282735	09/2011		401.63
150-2112-421.23-20	03/28/2011	MP	5046737	282735	09/2011		107.49
150-2112-421.23-20	03/28/2011	MP	5046766	282735	09/2011		28.07
150-2112-421.23-20	03/28/2011	MP	5046843	282735	09/2011		8.00
150-2112-421.23-20	03/28/2011	MP	5047679	282735	09/2011		400.29
150-2112-421.23-20	03/28/2011	MP	5047872	282735	09/2011		179.16
150-2112-421.23-20	03/28/2011	MP	5048011	282735	09/2011		49.19
150-2112-421.23-20	03/28/2011	MP	5048176	282735	09/2011		11.72
541-3123-435.23-20	03/31/2011	MP	5048541	282883	09/2011		413.66
04/01/2011	743054	BEVCO INC	6842				6,300.00
563-7122-711.92-90	03/29/2011	MISC SERVICES	10679	281457	09/2011		6,300.00
04/01/2011	743063	BISON MOTOR COMPANY	12046				39,123.10
503-7591-609.94-40	03/23/2011	NONSTOCKING ITEMS-P.U.D.	031820117	278564	09/2011		39,123.10
04/01/2011	743067	BRANCH GROUP INC	21207				3,753.65
512-8400-623.23-60	03/29/2011	MISC SERVICES	S100712843.001	282744	09/2011		1,824.65
512-8400-623.23-60	03/29/2011	MISC SERVICES	S100750368.001	282744	09/2011		1,824.25
512-8400-623.23-60	03/29/2011	MISC SERVICES	S100755487.001	282744	09/2011		104.75
04/01/2011	743082	CSI SHELVING	7091				5,565.00
718-2160-421.22-90	03/18/2011	MISC SERVICES	15058	281201	09/2011		5,565.00
04/01/2011	743084	CURB BOX SPECIALISTS	5716				2,700.00
505-7515-609.36-71	03/29/2011	MISC SERVICES	4704	282779	09/2011		2,700.00
04/01/2011	743087	DELL COMPUTER L P	13426				3,304.83
571-7147-713.29-25	03/28/2011	MISC SERVICES	XF87R4JD9	282100	09/2011		804.73

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
620-1911-482.29-25	03/28/2011	MISC SERVICES	XF87R4JD9	282100	09/2011	2,500.10	
04/01/2011	743095	DVORAK RANDI	20829			3,399.41	
150-2225-422.38-10	03/28/2011	SUMR09:US HISTORY/CREDIT	TUITION SUMR09	279720	09/2011	659.34-	
150-2225-422.38-10	03/28/2011	FALL11:GRAPHIC DESIGN	TUITION:FALL11	281198	09/2011	652.50	
150-2225-422.38-10	03/28/2011	SPRNG10:ENG/COMP/I CREDIT	TUITION:CR/SP10	282434	09/2011	726.25-	
150-2225-422.38-10	03/29/2011	TUITION:WINTR/SPRNG 2011	TUITION/SPNG11	282737	09/2011	4,132.50	
04/01/2011	743111	FISHER CONSTRUCTION	1313			17,104.23	
521-1595-493.93-90	03/30/2011	DWNTWN SUBS CLOSET	11-2-003	281568	09/2011	17,104.23	
04/01/2011	743126	INTELLISYS INC	15587			11,755.00	
502-7400-603.35-53	03/29/2011	MISC SERVICES	118PU01	282780	09/2011	11,755.00	
04/01/2011	743154	MONTANA DAKOTA UTILITIES CO	2492			85,514.12	
406-7119-711.92-90	03/29/2011	MISC SERVICES	377185 01	282533	09/2011	16,581.74	
561-7117-711.34-40	03/28/2011	073869 28	032811	F12558	09/2011	198.76	
561-7117-711.34-40	03/28/2011	073858 25	032811	F12558	09/2011	405.05	
561-7113-711.34-40	03/24/2011		31454301		09/2011	582.37	
561-7113-711.34-40	03/24/2011		31454401		09/2011	356.75	
561-7113-711.34-40	03/24/2011		31454601		09/2011	847.91	
561-7113-711.34-40	03/24/2011		31454701		09/2011	1,093.53	
561-7113-711.34-40	03/24/2011		31454801		09/2011	480.94	
561-7113-711.34-40	03/24/2011		31454902		09/2011	657.49	
502-7400-603.34-40	03/24/2011	PUD	07162021		09/2011	115.10	
502-7400-603.34-40	03/24/2011	PUD	07342023		09/2011	22.05	
502-7400-603.34-40	03/24/2011	PUD	07365822	50%	09/2011	86.27	
502-7400-603.34-40	03/24/2011	PUD	07365822	50%	09/2011	86.28	
561-7113-711.34-40	03/24/2011	AIRPORT	07385922		09/2011	2,296.12	
561-7112-711.34-40	03/24/2011	AIRPORT	07387221		09/2011	9,890.36	
561-7117-711.34-40	03/24/2011	AIRPORT	07388722		09/2011	1,468.87	
561-7117-711.34-40	03/24/2011	AIRPORT	07388824		09/2011	10.40	
512-8400-623.34-40	03/24/2011	PUD	07555321	25%	09/2011	3,816.21	
512-8400-623.34-40	03/24/2011	PUD	07555321	50%	09/2011	7,632.43	
512-8400-623.34-40	03/24/2011	PUD	07555321	25%	09/2011	3,816.21	
10-5127-451.34-40	03/24/2011	REC	07586821		09/2011	560.76	
650-1567-487.34-40	03/24/2011	FACILITIES	07610421		09/2011	3,201.29	
260-5512-455.34-40	03/24/2011	LIBRARY	07617521		09/2011	2,910.17	
521-1595-493.34-40	03/24/2011	PARKING 2906 N 3RD AVE	07624629		09/2011	165.08	
521-1595-493.34-40	03/24/2011	PARKING 2910 N 3RD AVE	07624725		09/2011	106.39	
521-1595-493.34-40	03/24/2011	PARK 1 LEASE	07624823		09/2011	65.63	
571-7143-713.34-40	03/24/2011	TRANSIT	07647023		09/2011	2,845.67	
150-2221-422.34-40	03/24/2011	FIRE	07676421		09/2011	1,445.25	
150-2221-422.34-40	03/24/2011	FIRE	07935121		09/2011	579.94	
541-3123-435.34-40	03/24/2011	SW	08073321		09/2011	1,222.37	
502-7400-603.34-40	03/24/2011	PUD	08156221		09/2011	4,495.62	
502-7400-603.34-40	03/24/2011	PUD	08156621		09/2011	1,226.69	
502-7400-603.34-40	03/24/2011	PUD	08156721		09/2011	338.74	
502-7400-603.34-40	03/24/2011	PUD	08156821		09/2011	47.12	
502-7400-603.34-40	03/24/2011	PUD	08156922		09/2011	403.86	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
502-7314-602.34-40	03/24/2011	PUD	08157021	75%	09/2011	1,061.85
512-8314-622.34-40	03/24/2011	PUD	08157021	25%	09/2011	353.95
502-7314-602.34-40	03/24/2011	PUD	08157121	75%	09/2011	963.65
512-8314-622.34-40	03/24/2011	PUD	08157121	25%	09/2011	321.22
502-7400-603.34-40	03/24/2011	PUD	08157221		09/2011	92.15
502-7400-603.34-40	03/24/2011	PUD	08157322		09/2011	69.29
502-7400-603.34-40	03/24/2011	CSD	31563202		09/2011	163.49
502-7400-603.34-40	03/24/2011	CSD	31563302		09/2011	86.59
502-7400-603.34-40	03/24/2011	PUD	31753602		09/2011	94.85
150-2171-441.34-40	03/24/2011	ANIMAL SHELTER	32062801		09/2011	1,335.46
650-1566-487.34-40	03/24/2011	ADMIN BUILDING	32577402		09/2011	3,619.20
650-1566-487.34-40	03/24/2011	EVIDENCE BUILDING	32629302		09/2011	386.24
650-1566-487.34-40	03/24/2011	PD1	32708002		09/2011	1,166.88
512-8500-625.34-40	03/24/2011	PUD	32739201		09/2011	27.57
650-1566-487.34-40	03/24/2011	GARAGE	32781001		09/2011	4,447.02
512-8500-625.34-40	03/24/2011	PUD LIFT STATION	33154101		09/2011	24.81
10-5126-451.34-40	03/24/2011	PARKS & REC	34329601		09/2011	22.05
521-1592-493.34-40	03/24/2011	PARK II	34941902		09/2011	13.16
512-8500-625.34-40	03/24/2011	PUD	35059801		09/2011	24.13
150-2221-422.34-40	03/24/2011	FIRE STATION #7	35322001		09/2011	759.30
512-8500-625.34-40	03/24/2011	PUD LIFT STATION	36738301		09/2011	28.28
660-3110-431.34-40	03/24/2011	2224 MONTANA AVE	37667401	45%	09/2011	177.10
670-3141-489.34-40	03/24/2011	2224 MONTANA AVE	37667401	55%	09/2011	216.46
04/01/2011	743155	MONTANA DEPARTMENT OF	17643			5,580.00
840-3184-431.39-90	03/30/2011	MTR04 - OUTFALL CHARGE	561101316	282847	09/2011	5,580.00
04/01/2011	743162	MRM BARGAIN CENTER (HEIGHTS)	9999999			3,108.00
541-0000-115.01-00	03/30/2011	MRM BARGAIN CENTER (HEIGH	Refund OVERPMT		09/2011	837.60
541-0000-115.01-00	03/30/2011	MRM BARGAIN CENTER (HEIGH	Refund OVERPMT		09/2011	2,270.40
04/01/2011	743167	NAPA AUTO PARTS	2632			4,535.13
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571-7144-713.23-20	03/23/2011	MP	183646	282573	09/2011	4.40
541-3122-435.23-20	03/23/2011	MP	184430	282573	09/2011	63.88
571-7147-713.23-20	03/23/2011	MP	184488	282573	09/2011	11.57
571-7144-713.23-20	03/23/2011	MP	184545	282573	09/2011	20.70
571-7147-713.23-20	03/23/2011	MP	184851	282573	09/2011	56.92
150-2112-421.23-20	03/23/2011	MP	184932	282573	09/2011	232.98
541-3122-435.23-20	03/23/2011	MP	184961	282573	09/2011	9.00
150-2112-421.23-20	03/23/2011	MP	185847	282573	09/2011	147.06
670-3141-489.23-20	03/23/2011	MP	186052	282573	09/2011	34.94
601-0000-141.00-00	03/24/2011	MP	182150		09/2011	66.00
601-0000-141.00-00	03/24/2011	MP	182150		09/2011	101.50
601-0000-141.00-00	03/24/2011	MP	182675		09/2011	11.52
601-0000-141.71-41	03/24/2011	MP	183908		09/2011	36.30
150-2112-421.23-20	03/24/2011	MP	180566	282597	09/2011	27.88
150-2112-421.23-20	03/24/2011	MP	180566	282597	09/2011	5.95
150-2172-441.23-20	03/24/2011	MP	181782	282597	09/2011	45.19
601-1553-481.26-50	03/24/2011	MP	181868	282597	09/2011	11.57

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541-3122-435.23-20	03/24/2011	MP	182153	282597 09/2011 18.32
10-5112-452.23-20	03/24/2011	MP	182181	282597 09/2011 3.77
601-1550-481.23-20	03/24/2011	MP	182751	282597 09/2011 175.43
209-4452-428.23-20	03/24/2011	MP	182761	282597 09/2011 195.99
150-2112-421.23-20	03/24/2011	MP	182871	282597 09/2011 87.25
601-1553-481.26-50	03/24/2011	MP	182909	282597 09/2011 37.81
150-2112-421.23-20	03/24/2011	MP	182911	282597 09/2011 91.92
601-1550-481.23-20	03/24/2011	MP	182973	282597 09/2011 20.59
601-1550-481.23-20	03/24/2011	MP	182978	282597 09/2011 101.06
601-1553-481.26-50	03/24/2011	MP	183047	282597 09/2011 73.85
150-2112-421.23-20	03/24/2011	MP	183657	282597 09/2011 20.59
211-3134-433.23-20	03/24/2011	MP	183684	282597 09/2011 29.46
571-7144-713.23-20	03/24/2011	MP	183908	282597 09/2011 10.38
512-8500-625.23-20	03/24/2011	MP	184017	282597 09/2011 56.66
601-0000-141.00-00	03/28/2011	MP	182421	09/2011 29.50
601-0000-141.00-00	03/28/2011	MP	183887	09/2011 51.98
601-0000-141.00-00	03/28/2011	MP	183887	09/2011 60.85
601-0000-141.71-41	03/28/2011	MP	184242	09/2011 531.95
601-0000-141.00-00	03/28/2011	MP	185824	09/2011 72.00
601-0000-141.71-41	03/28/2011	MP	186262	09/2011 45.86
601-0000-141.00-00	03/28/2011	MP	186387	09/2011 59.98
601-0000-141.00-00	03/28/2011	MP	186536	09/2011 178.63
150-2112-421.23-20	03/28/2011	MP	182420	282703 09/2011 7.77
601-1550-481.23-20	03/28/2011	MP	182421	282703 09/2011 101.06
601-1550-481.23-20	03/28/2011	MP	184048	282703 09/2011 284.11
571-7144-713.23-20	03/28/2011	MP	184242	282703 09/2011 23.88
571-7147-713.23-20	03/28/2011	MP	184242	282703 09/2011 23.54
211-3140-433.23-20	03/28/2011	MP	185550	282703 09/2011 80.70
150-2112-421.23-20	03/28/2011	MP	185582	282703 09/2011 32.08
150-2112-421.23-20	03/28/2011	MP	185818	282703 09/2011 7.99
150-2112-421.23-20	03/28/2011	MP	185824	282703 09/2011 7.77
601-1553-481.26-50	03/28/2011	MP	185824	282703 09/2011 4.65
571-7144-713.23-20	03/28/2011	MP	186262	282703 09/2011 19.56
211-3132-433.23-20	03/28/2011	MP	186333	282703 09/2011 7.98
211-3140-433.23-20	03/28/2011	MP	186333	282703 09/2011 25.38
150-2172-441.23-20	03/28/2011	MP	186658	282703 09/2011 21.77
211-3132-433.23-20	03/28/2011	MP	282703	282703 09/2011 3.18
601-1553-481.26-50	03/28/2011	MP	282703	282703 09/2011 41.30
211-3140-433.23-20	03/30/2011	MP	186097	282858 09/2011 47.31
211-3139-454.23-20	03/30/2011	MP	186131	282861 09/2011 47.94
150-2112-421.23-20	03/30/2011	MP	186193	282861 09/2011 180.23
601-0000-141.00-00	03/31/2011	MP	185955	09/2011 11.60
601-0000-141.00-00	03/31/2011	MP	185955	09/2011 163.40
601-0000-141.00-00	03/31/2011	MP	185955	09/2011 25.76
601-0000-141.00-00	03/31/2011	MP	185955	09/2011 31.35
601-0000-141.00-00	03/31/2011	MP	186395	09/2011 39.96
601-0000-141.71-41	03/31/2011	MP	187868	09/2011 19.80
211-3132-433.23-20	03/31/2011	MISC SERVICES	187545	282852 09/2011 76.68

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150-2172-441.23-20	03/31/2011	MP	186463	282889	09/2011	109.89
209-4452-428.23-20	03/31/2011	MP	187966	282889	09/2011	7.99
601-1553-481.24-10	03/31/2011	MP	187984	282889	09/2011	17.99
150-2112-421.23-20	03/31/2011	MP	188022	282889	09/2011	7.84
211-3132-433.23-20	03/31/2011	MP	188069	282889	09/2011	6.38
150-2112-421.23-20	03/31/2011	MP	188076	282889	09/2011	20.59
04/01/2011	743173	NORTHWESTERN ENERGY	15771			46,000.47
561-7112-711.34-10	03/28/2011	01000482-9	032811	F12559	09/2011	33,509.99
150-2221-422.34-10	03/24/2011	NW FIRE	07125370		09/2011	683.16
10-5141-436.34-10	03/24/2011	NW PARK/REC/PL	07125396		09/2011	61.86
10-5122-451.34-10	03/24/2011	NW PARK/REC/PL	07126832		09/2011	91.21
571-7148-713.34-10	03/24/2011	NW AVIATION/TRAN	07127640		09/2011	22.99
521-1595-493.34-10	03/24/2011	NW FINANCE	07208291		09/2011	720.35
150-2221-422.34-10	03/24/2011	NW FIRE	07208408		09/2011	319.27
502-7400-603.34-10	03/24/2011	NW PUD-WATER TREAT	07222524		09/2011	274.60
502-7400-603.34-10	03/24/2011	NW PUD-WATER TREAT	07230436		09/2011	2,770.23
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	08317026		09/2011	7.10
10-5112-452.34-10	03/24/2011	NW PARK/REC/PL	09208018		09/2011	29.16
607-2235-486.34-10	03/24/2011	NW FIRE	10069151		09/2011	142.77
10-5112-452.34-10	03/24/2011	NW	12300661		09/2011	13.49
521-1595-493.34-10	03/24/2011	NW	13815279		09/2011	203.38
10-5141-436.34-10	03/24/2011	CEMETERY	16352890		09/2011	14.35
10-5127-451.34-10	03/31/2011	ELECTRIC CHARGES	0100506-MAR11	282708	09/2011	1,366.99
521-1594-493.34-10	03/31/2011	P4 ELEC. FEB/MAR 2011	1569619-8	282885	09/2011	1,920.73
521-1591-493.34-10	03/31/2011	P1 ELEC. FEB/MAR 2011	1569636-2	282885	09/2011	3,586.86
521-1595-493.34-10	03/31/2011	LEASE ELEC FEB/MAR 2011	1853486-7	282885	09/2011	111.37
521-1595-493.34-10	03/31/2011	LEASE X2 ELEC FEB/MAR '11	1853491-7	282885	09/2011	150.61
04/01/2011	743182	PIERCE RV SALES	12585			2,523.00
502-7400-603.21-20	03/28/2011	NONSTOCKING ITEMS-P.U.D.	132573	281703	09/2011	2,523.00
04/01/2011	743183	PIONEER RESEARCH CORPORATION	6779			2,965.02
10-5112-452.36-50	03/31/2011	TOTAL SOLUTIONS BARREN	222373	282712	09/2011	2,425.32
872-5198-452.36-50	03/31/2011	TOTAL SOLUTIONS BARREN	222373	282712	09/2011	539.70
04/01/2011	743189	QWEST COMMUNICATIONS	6319			4,111.78
561-7118-711.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	245-0093		09/2011	44.44
561-7110-711.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	245-1044		09/2011	28.60
571-7147-713.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	245-1789		09/2011	44.44
541-3123-435.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	245-7193		09/2011	53.22
541-3123-435.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	245-9820		09/2011	91.97
211-3132-433.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	245-9906		09/2011	28.60
561-7110-711.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	248-3068		09/2011	43.22
561-7110-711.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	252-9412		09/2011	86.44
571-7141-713.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	254-7038		09/2011	44.44
150-2225-422.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	655-0728		09/2011	43.22
10-5112-452.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	657-3014		09/2011	28.60
606-1931-484.34-50	03/24/2011	QWEST MARCH 2011 4TH PAY	657-8377		09/2011	3,574.59

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04/01/2011	743195	RIMROCK FOUNDATION	3210			6,964.22	
270-6711-464.39-90	03/29/2011	MOVING ALLOWANCE	REQUEST #3	282724	09/2011	550.00	
270-6711-464.39-90	03/29/2011	URA EXPENSES FOR TENANTS	REQUEST #3-B	282724	09/2011	3,664.22	
270-6711-464.39-90	03/29/2011	URA COMPLETE FOR TENANTS	REQUEST #4	282726	09/2011	2,200.00	
270-6711-464.39-90	03/29/2011	TENANTS MOVING ALLOWANCE	REQUEST #2	282726	09/2011	550.00	
04/01/2011	743198	SANDERSON STEWART	20446			41,458.02	
233-4370-419.93-90	03/25/2011	INV 32239	INV 32239	282576	09/2011	8,466.45	
503-7591-609.93-40	03/30/2011	W01101 2011 WTR REPLCMNT	5/INV 32270	279237	09/2011	32,991.57	
04/01/2011	743199	SECURITY BY KENCO	1985			5,471.76	
150-2226-422.92-50	03/29/2011	FIRE1:ALARM SYSTM/DWN PMT	872510 PMT1	279715	09/2011	5,471.76	
04/01/2011	743212	THYSSEN KRUPP ELEVATOR	9993			6,279.00	
521-1594-493.24-50	03/30/2011	ELEVATOR 1 RESTRICTOR	018887	282863	09/2011	3,139.50	
521-1594-493.24-50	03/30/2011	P4 ELEVATOR 2 RESTRICTOR	018894	282863	09/2011	3,139.50	
04/01/2011	743215	TORGERSON'S	19504			3,251.42	
211-3139-454.23-20	03/23/2011	MP	PO1808	282589	09/2011	1,080.09	
211-3139-454.23-20	03/23/2011	MP	PO1807	282589	09/2011	1,085.71	
211-3139-454.23-20	03/24/2011	MP	PO1717	282670	09/2011	10.86	
541-3123-435.23-20	03/25/2011	MP	PO2115	282689	09/2011	60.15	
211-3139-454.23-20	03/25/2011	MP	PO2116	282689	09/2011	827.41	
541-3123-435.23-20	03/25/2011	MP	PO1980	282702	09/2011	187.20	
04/01/2011	743216	TOWN & COUNTRY SUPPLY ASSOCIAT	18295			4,227.54	
150-2231-422.23-10	03/31/2011	FIRE6:DIESEL/100/3-29-11	74871 FIRE6	276337	09/2011	333.78	
150-2226-422.23-10	03/31/2011	FIRE1:UNLEADED/250 3/29	74872 FIRE1	276337	09/2011	801.71	
150-2226-422.23-10	03/31/2011	FIRE1:DIESEL/100/3-29-11	74873 FIRE1	276337	09/2011	333.80	
150-2226-422.23-10	03/31/2011	FIRE3:DIESEL/200/3-29-11	74874 FIRE3	276337	09/2011	667.56	
150-2231-422.23-10	03/31/2011	FIRE5:DIESEL 203/3-29-11	74875 FIRE5	276337	09/2011	677.58	
150-2226-422.23-10	03/31/2011	FIRE1/FUEL DELIVERED 3/18	80567 FIRE1	276337	09/2011	1,413.11	
04/01/2011	743232	YELLOWSTONE COUNTY SHERIFFS	6218			3,677.74	
717-2166-421.78-65	03/29/2011	031DSU65598 & 245DSU64262	ASSET FORFEITR	282837	09/2011	3,677.74	
04/01/2011	743233	YELLOWSTONE VALLEY ANIMAL SHEL	20525			20,291.05	
150-2170-441.39-90	03/29/2011	CONTRACT 2-22-11\3-21-11	09-1205	282843	09/2011	20,256.05	
150-2171-441.35-12	03/29/2011	EMERGENCY VET EXAM	09-1204	282845	09/2011	35.00	
04/01/2011	743234	YELLOWSTONE VALLEY ELEC	4174			2,588.37	
502-7400-603.34-10	03/29/2011	MISC SERVICES	4179006 MAR11	282774	09/2011	628.37	
512-8400-623.34-10	03/29/2011	MISC SERVICES	4179006 MAR11	282774	09/2011	58.97	
512-8400-623.34-10	03/29/2011	MISC SERVICES	4179008 MAR11	282774	09/2011	1,296.97	
512-8500-625.34-10	03/29/2011	MISC SERVICES	4179008 MAR11	282774	09/2011	160.79	
512-8500-625.34-10	03/29/2011	MISC SERVICES	4179010 MAR11	282774	09/2011	168.73	
512-8500-625.34-10	03/29/2011	MISC SERVICES	4179011 MAR11	282774	09/2011	19.00	
512-8500-625.34-10	03/29/2011	MISC SERVICES	4179015 MAR11	282774	09/2011	255.54	

DATE RANGE TOTAL *

348,484.31 *

Regular City Council Meeting

Date: 04/25/2011

TITLE: Public Hearing to Vacate Portions of Right of Way in Grand Peaks Subdivision

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

J & S Development Company, property owner in Grand Peaks Subdivision, is replatting the subdivision. With the new plat, which will be 3rd Filing of Grand Peaks 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. J & S Development Company is the original developer, therefore, the right of way to be vacated is done at no cost to the developer. Attached is a map showing the right of way to be vacated and the new right of way to be dedicated. The new plat for Grand Peaks Subdivision, which will dedicate new rights of way, will be presented for approval at a later meeting. If approved, the resolution vacating portions of right of way within Grand Peaks Subdivision will not be recorded until the new plat is approved.

ALTERNATIVES ANALYZED

The Council may:

- Conduct a public hearing and approve the vacation of the above mentioned right of way.
- Do not approve the vacation of the above mentioned right of way.

FINANCIAL IMPACT

Since the right of way proposed to be vacated have not been constructed and will revert to the original developer, 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 Grand Peaks Subdivision.

APPROVED BY CITY ADMINISTRATOR

Attachments

Map Depicting Area to be Vacated

Resolution to Vacate

RIGHT-OF-WAY VACATION EXHIBIT OF GRAND PEAKS SUBDIVISION, SECOND FILING

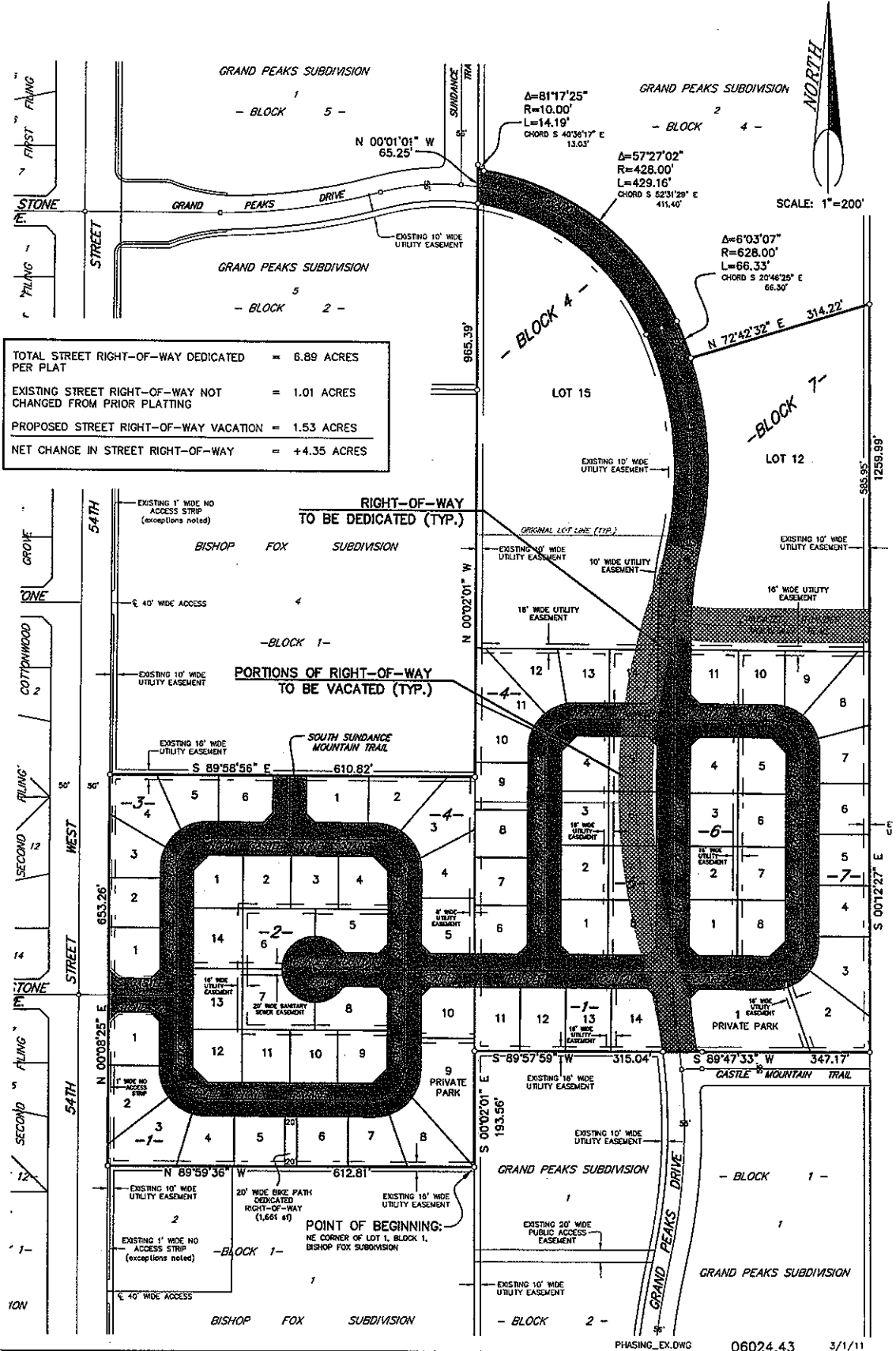
BEING LOT 3 OF BLOCK 1, BISHOP FOX SUBDIVISION AND
LOTS 2, 3, & 4 OF BLOCK 2, LOT 1 OF BLOCK 3, LOT 1 OF BLOCK 4 & VACATED PORTIONS OF
PUBLIC RIGHT-OF-WAY IN GRAND PEAKS SUBDIVISION
SITUATED IN THE SW1/4 OF SECTION 32, T. 1 N., R. 25 E., P.M.M.,
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : J&S DEVELOPMENT COMPANY

MARCH, 2011

PREPARED BY : SANDERSON STEWART 

BILLINGS, MONTANA



RESOLUTION NO. 11-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING AND VACATING **portions of Right of Way within Grand Peaks 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 Grand Peaks 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 Grand Peaks Subdivision** more particularly described as follows:

Beginning at a point on the west right-of-way line of Grand Peaks Drive, said point being the northeast corner of Lot 1 in Block 2 of Grand Peaks Subdivision; Thence, from said Point of Beginning, along said west right-of-way line, along a curve to the left with a central angle of 8°56'02" and a radius of 972.00 feet a distance of 151.56 feet (chord bearing N 12°11'43" W, chord length 151.40 feet); Thence along a reverse curve to the right with a central angle of 36°08'47" and a radius of 1028.00 feet a distance of 648.53 feet (chord bearing N 01°24'40" E, chord length 637.83 feet); Thence along a reverse curve to the left with a central angle of 7°17'14" and a radius of 572.00 feet a distance of 72.75 feet (chord bearing N 15°50'26" E, chord length 72.70 feet); Thence crossing said right-of-way S 77°48'12" E a distance of 56.00 feet; Thence along said east right-of-way line, along a non-tangent curve to the right with a central angle of 7°35'36" and a radius of 628.00 feet a distance of 83.23 feet (chord bearing S 15°59'37" W, chord length 83.17 feet); Thence along a reverse curve to the left with a central angle of 99°38'14" and a radius of 10.00 feet a

distance of 17.39 feet (chord bearing S 30°01'42" E, chord length 15.28 feet) to a point on the north right-of-way line of Thunder Mountain Trail; Thence along said right-of-way line, along a compound curve to the left with a central angle of 10°21'38" and a radius of 322.00 feet a distance of 58.23 feet (chord bearing S 85°01'38" E, chord length 58.15 feet); Thence N 89°47'33" E a distance of 243.51 feet to a point on the east right-of-way line of Thunder Mountain Trail; Thence along said east right-of-way line S 00°12'27" E a distance of 56.00 feet to a point on the south right-of-way line of Thunder Mountain Trail; Thence along said south right-of-way line S 89°47'33" W a distance of 243.51 feet; Thence along a curve to the right with a central angle of 11°42'17" and a radius of 378.00 feet a distance of 77.22 feet (chord bearing N 84°21'18" W, chord length 77.09 feet) to a point on the east right-of-way line of Grand Peaks Drive; Thence along said east right-of-way line, along a reverse curve to the left with a central angle of 86°46'11" and a radius of 10.00 feet a distance of 15.14 feet (chord bearing S 58°06'44" W, chord length 13.74 feet); Thence along a compound curve to the left with a central angle of 31°23'23" and a radius of 972.00 feet a distance of 532.51 feet (chord bearing S 00°58'03" E, chord length 525.88 feet); Thence along a reverse curve to the right with a central angle of 8°51'29" and a radius of 1028.00 feet a distance of 158.93 feet (chord bearing S 12°13'59" E, chord length 158.77 feet); Thence along a reverse curve to the left with a central angle of 82°24'12" and a radius of 10.00 feet a distance of 14.38 feet (chord bearing S 49°00'21" E, chord length 13.17 feet); Thence crossing the right-of-way of Grand Peaks Drive S 89°47'33" W a distance of 65.25 feet to the Point of Beginning.

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 Grand Peaks 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 25th day of April 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

CERTIFICATE OF SURVEY No. 1648 TR. 5-4-3

CERTIFICATE OF SURVEY No. 1648 TR. 5-4-2

CERTIFICATE OF SURVEY No. 1648 TR. 5-4-1

PREPARED BY : SANDERSON STEWART

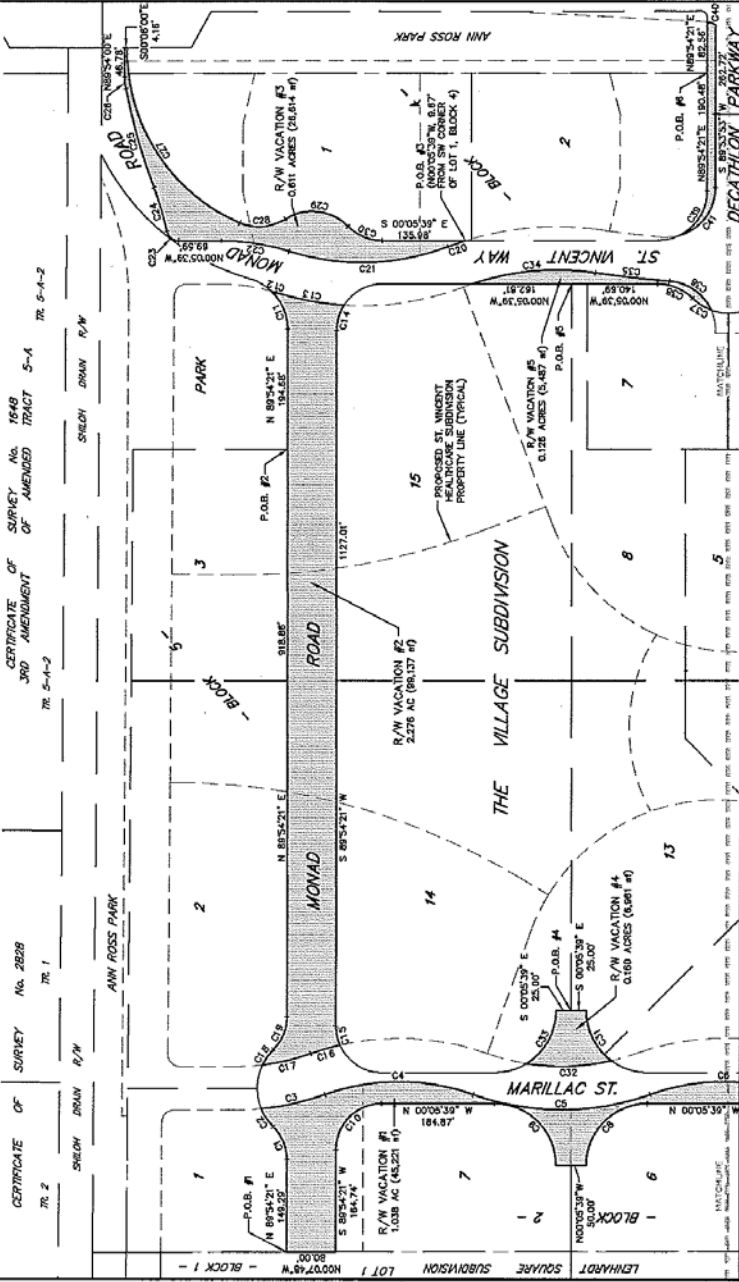


EXHIBIT B

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

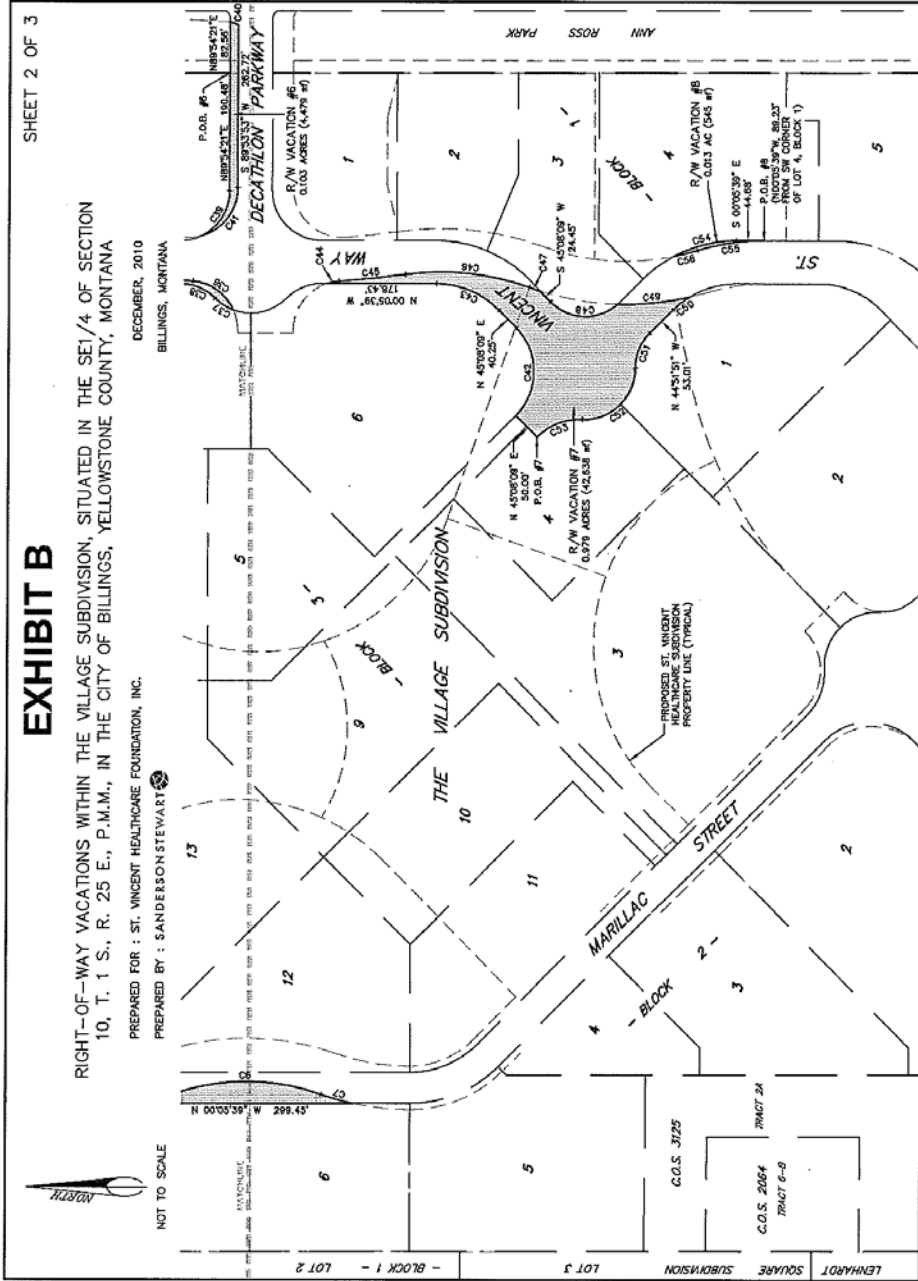


EXHIBIT B

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	106.07'
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: 04/25/2011

TITLE: Yellowstone Boys & Girls Ranch (Garfield School) - Off Street Parking
Variance Request - OP - 11 - 01

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The Yellowstone Boys and Girls Ranch (YBGR), located at 3212 1st Avenue South (the former Garfield Elementary School), is proposing a major remodel that will include site improvements. The site lacks the required off-street parking for the present and proposed use. The proposed site improvements will eliminate more off-street parking. High Plains Architects has submitted a site plan showing the proposed revisions, which are meant to better accommodate the building functions. In order to accomplish the remodel and site revisions, the owner is requesting a variance from Section 6-1203 of the city code requiring off-street parking.

The existing site has approximately 50 parking stalls. The new plan would have 10 parking stalls on site. The site development ordinance requires 128 stalls for the proposed use. Given the nature of the building and its uses, the parking will be needed at different times of the day. The portions of the building that will be used during the daytime (8:00 a.m. to 5:00 p.m.) require 77 spaces. The gym area will be used in the evenings (4:00 p.m. to 8:00 p.m.) and requires 51 stalls. Note that the parking space calculations show that there is a potential need for up to 128 spaces from 4 pm. to 5 p.m.

The owner is proposing to provide 10 on-site stalls, 20 leased stalls, and 54 on street stalls to meet the daytime parking demand. They are proposing to restripe the on-street parking to accommodate back-in angle parking (instead of existing parallel parking) to maximize the number of stalls available. YBGR has agreed to sign the attached Memorandum of Agreement which requires parking space striping maintenance.

The parking variance requested would allow all code required parking, except handicapped parking, to be provided on street. City Code requires property owners to provide all required parking on-site. For this reason, it is very difficult for the Public Works Department to support Yellowstone Boys and Girls Ranch request for the parking variance. However, Public Works believes that this proposal has mitigating circumstances that should be taken into consideration by the City Council in determining the variance request. The proposed use and reconstruction of the building and site by YBGR will greatly enhance the area and benefit the community. If the City Council were to approve the requested parking variance, the adjacent ROW is of sufficient width to accommodate the required parking without adversely affecting the neighborhood or traffic movement. Public Works would request that any variance from the required off street parking be tied to the proposed use of the site via deed restrictions. Public Works will work with YBGR to develop deed restrictions to be filed with this property that limits the impacts of the variance.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the variance. Approving the variance will allow Yellowstone Boys and Girls Ranch to make the site improvement revisions as proposed.
- Do not approve the variance. If the variance is denied, a redesign of the facility and site will be required to provide the required off-street parking.

FINANCIAL IMPACT

There is no direct financial impact to the City. Advertising costs for the public hearing are offset by the variance application fee and the applicant will pay for the street striping and maintenance.

RECOMMENDATION

Staff recommends that the City Council approve the variance from off-street parking requirements for the property at 3212 1st Avenue South and approve the proposed parking scheme described above.

APPROVED BY CITY ADMINISTRATOR

Attachments

Yellowstone Boys & Girls Ranch

Yellowstone Boys & Girls Ranch

Yellowstone Boys & Girls Ranch

Yellowstone Boys & Girls Ranch

Yellowstone Boys & Girls Ranch

Application # OP-11-01

APPLICATION FOR VARIANCE

- 1. Legal description of property: YEGEN SUB 44, S03,
T01 S, R26, E, BLOCK 002, LOT 001-024
- 2. Address (if unknown, contact the City Engineer's office) or
general location: 3212 1st Avenue South
- 3. Owner(s): Yellowstone Boys and Girls Ranch
(Recorded Owner)
3212 1st Avenue South, Billings, MT 59101
(Address)
(406) 651-2708
(Phone Number)
- 4. Agent(s): High Plains Architects, Randy Hafer, President
(Name)
2720 Minnesota Avenue, Billings, MT 59101
(Address)
(406) 896-0250
(Phone Number)
- 5. Section of the Site Development Ordinance that this request
for variance applies to: Sec. 6-12.03. Off-Street parking requirements
- 6. Reason for request: See attached.
- 7. Covenants for deed restrictions on the property: Yes ___ No X
(if you, please include a copy)

I understand that the filing fee accompanying this application is not refundable, and that the fee does not constitute a payment for variance requested. Also, that all the information presented is true and correct.

Signature: *Sean H. [Signature]* Date: 3-23-2011
(Recorded Owner)

Fee: \$ 60.00 Receipt #: _____

Hearing Date: _____

Attachment " B "

6. Reason for request:

Automobiles and parking were unnecessary considerations in 1902 when the original schoolhouse was constructed at the center of the site, an entire city block. Three major additions, built in 1920, 1934, and 1948, represent what is today known as Garfield school (the original building was razed in 1981). They, too, were constructed when dependence on automobile transportation was much less than it is in 2011 and the building remained, for many years, surrounded by grass and trees in a park-like setting, with no on-site parking.

Since that time, a majority of the site has been paved in asphalt and an ad-hoc parking system has developed that requires vehicle movement on and across sidewalks and provides only roughly 50 off-street parking spaces (see SP.E attached). This system is not only dangerous for pedestrians but is also an inefficient use of the site.

The site remodel proposes high-density, reverse-angle (as recommended by the City), on-street parking on three of the contiguous street faces, 10 on-site (six ADA, four parallel), and 20 lease/shared off-site parking spaces to meet or exceed the required number of parking spaces based on building occupancy (see CALC attached). Implementing the proposed parking scheme will allow for a largely planted site and park-like setting that more closely resembles the original conditions. Also among the proposed improvements are new tree-lined boulevards, new crosswalk striping, and new surface bulb-outs at two of the corners (see SP.R, SP.D1, SP.D2 attached).

Exhibit 1 – Proposed Improvements (attached)

SP.E: Site Plan – Existing

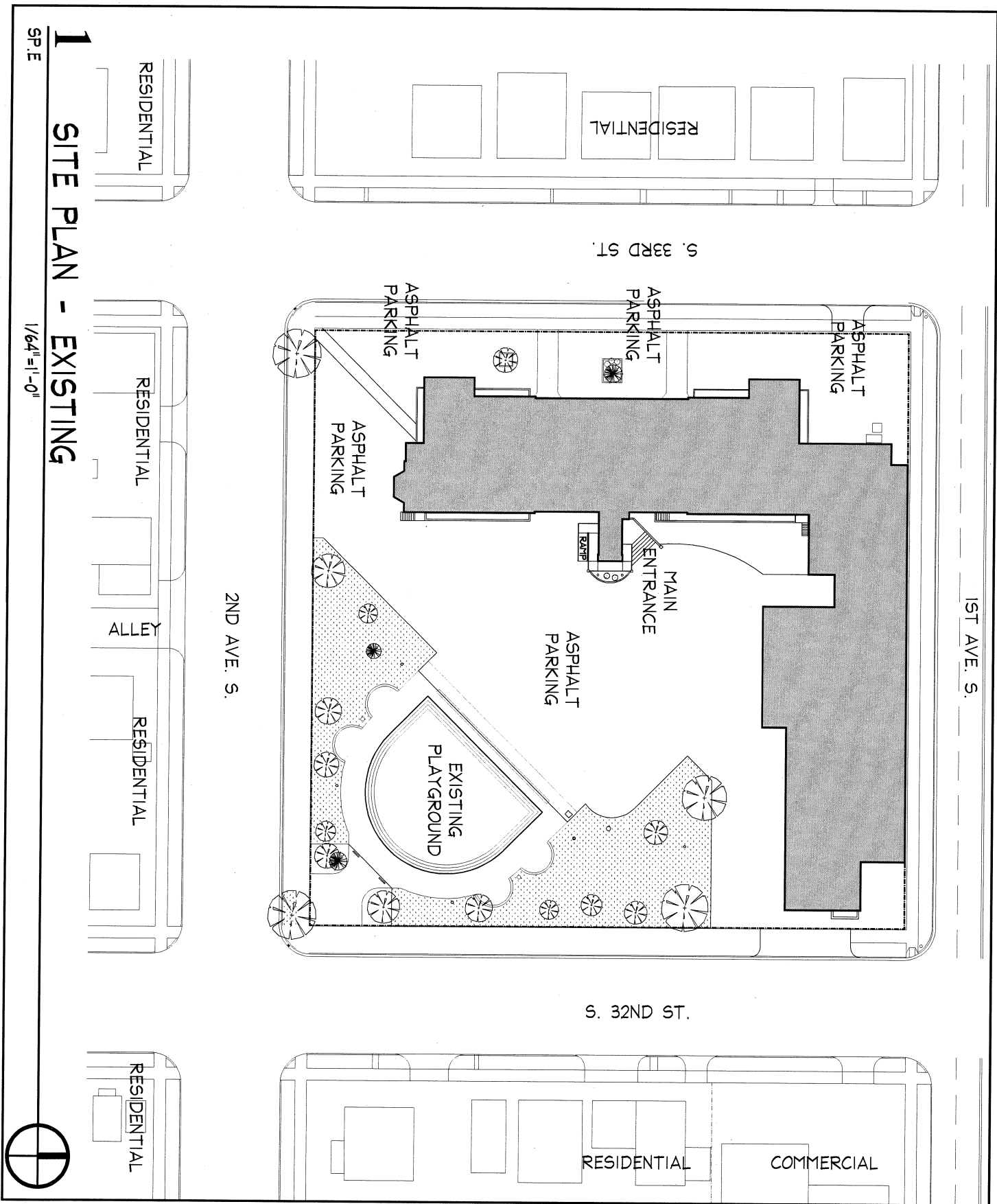
SP.R: Site Plan – Redevelopment

SP.D1, SP.D2: Site Plan -- Details

CALC: Area and Parking Calculations

Memorandum of Agreement

Attachment " C " Site Plan Sheet # 1



1 SITE PLAN - EXISTING

SP.E

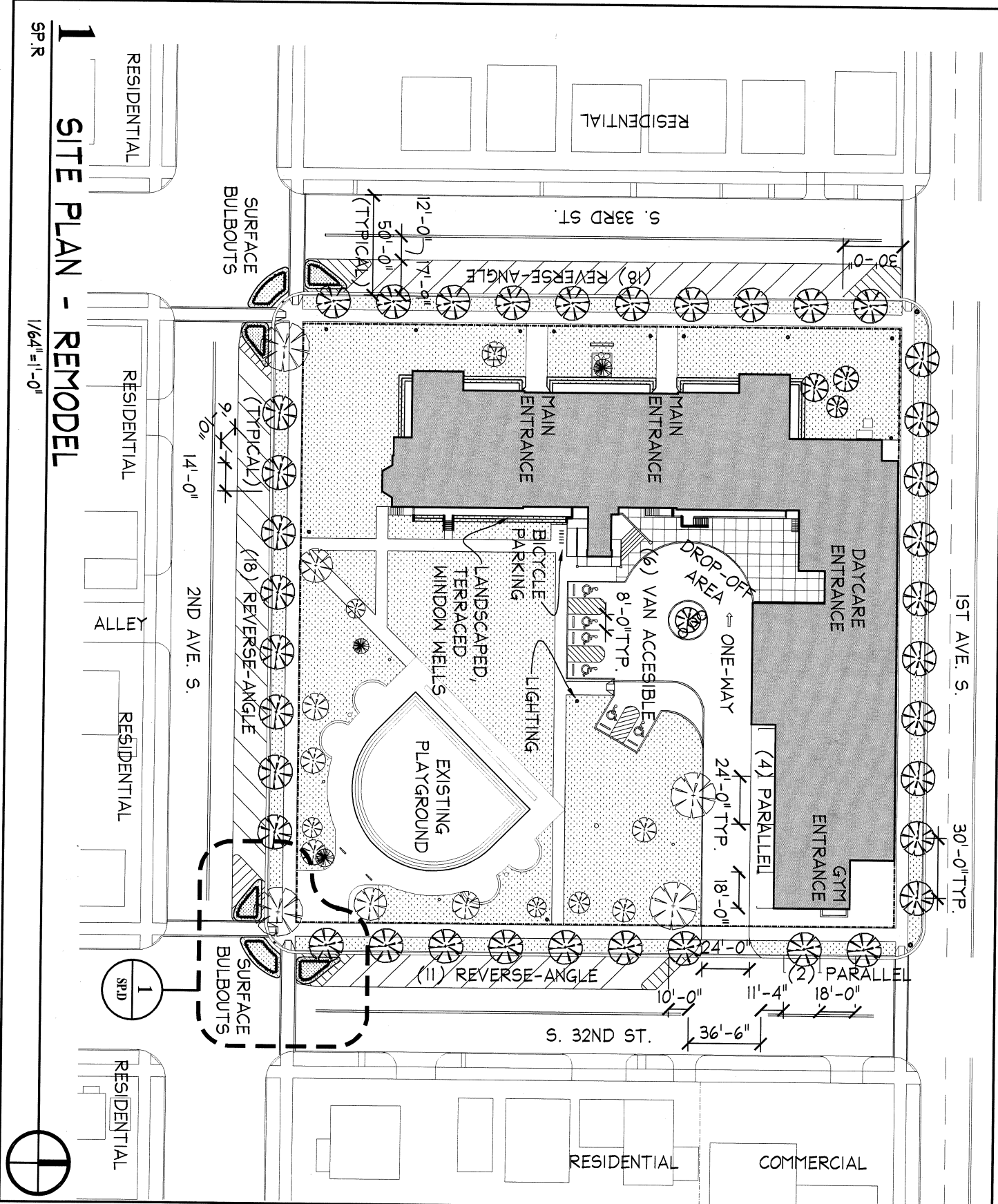
1/64" = 1'-0"

DATE: 3-23-2011
 DRAWN BY: JDS
SP.E
 ©

DRAWING: **SITE PLAN - EXISTING**
 PROJECT: **GARFIELD REMODEL / 21010.01**
 OWNER: **YELLOWSTONE BOYS AND GIRLS RANCH**



HIGH PLAINS ARCHITECTS
 Email: rhofe@highplainsarchitects.com
 Phone: (406) 896-0250 • Fax: (406) 896-0255
 3720 Yellowstone Ave. • Billings, MT 59101
 P.O. BOX 2205 • BILLINGS, MT 59103
www.highplainsarchitects.com



1 SITE PLAN - REMODEL

SP.R

1/64" = 1'-0"

DATE: 3-23-2011
 DRAWN BY: JDS
SP.R

DRAWING: **SITE PLAN - REMODEL**
 PROJECT: **GARFIELD REMODEL**
 OWNER: **YELLOWSTONE BOYS AND GIRLS RANCH**



HIGH PLAINS ARCHITECTS
 Email: info@highplainsarch.com
 Phone: (408) 688-0220 • Fax: (408) 688-0225
 2720 Minnesota Ave. • Billings, MT 59103
 P.O. Box 2203 • Billings, MT 59103
www.highplainsarch.com

Attachment " D "

MEMORANDUM OF AGREEMENT

THIS Memorandum of Agreement is made and entered into by and between the Yellowstone Boys and Girls Ranch (hereinafter YBGR) and the City of Billings (hereinafter City).

WITNESS THAT:

WHEREAS, YGBR and the City are cooperatively working to allow the establishment of reverse-angle, on-street parking on three of the contiguous street faces at the Garfield building site.

WHEREAS, the contiguous street faces are South 32nd and 33rd Streets between 1st and 2nd Avenues South and 2nd Avenue South between South 32nd and 33rd Streets.

WHEREAS, the City possesses ownership of the contiguous streets.

WHEREAS, YBGR agrees to pay for all improvements and to provide subsequent maintenance of the improvements indefinitely.

THEREFORE, in consideration of the stipulations contained herein, the parties agree as follows for all such work:

1. YBGR will protect, indemnify, and save harmless the City against and from all claims, liabilities, demands, causes of action, judgments (with any cost and fees that might be awarded), and losses to anyone as a result of errors or omissions in design and/or plans, construction, maintenance or use, including any suits, claims, actions, losses, costs or damages of any kind, including the City's legal expenses, made against YBGR by anyone arising out of, in connection with, or incidental to the streetscape improvements and its design, construction, maintenance or use.
2. YGBR shall ensure that all improvements installed for the on-street parking are maintained or caused to be maintained in good working condition. All maintenance costs associated with this shall be the responsibility of the YBGR.

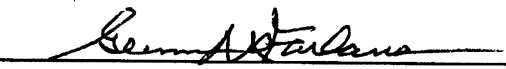
This agreement shall be binding on both parties, the heirs, successors, personal representatives or assigns or either party.

IN WITNESS WHEREOF, YGBR's authorized representatives have signed on behalf of the Yellowstone Boys and Girls Ranch, and the City Administrator, on behalf of the City of Billings, has signed and affixed hereto the seal of the City.

Signatures on Page 2

YELLOWSTONE BOYS AND GIRLS RANCH

MOA with City of Billings - Street Parking

By 
Glenn McFarlane, CEO
Yellowstone Boys and Girls Ranch

3-14-2011
Date

CITY OF BILLINGS

By _____
City Administrator

Date

Regular City Council Meeting

Date: 04/25/2011

TITLE: Public Hearing & Action on Allocations / Annual Action Plan for Community Development Block Grant (CDBG) & HOME Investment Partnership (HOME) Programs

PRESENTED BY: Brenda Beckett

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The City Council is scheduled to hold a public hearing on the allocation of the City of Billings CDBG and HOME funding and annual Action Plan for FY2011-2012. The public hearing is a mandatory condition to receive U.S. Department of Housing and Urban Development (HUD) entitlement funding. City Council action is needed to approve the FY2011-2012 Action Plan and budget recommendations in preparation for HUD's submission deadline for the annual Action Plan on May 15 (see Attachment A). This Action Plan represents the second year of the City's overall five-year Consolidated Plan covering FY2010-2014. An additional informational presentation was made during an April City Council Work Session.

ALTERNATIVES ANALYZED

Allocation recommendations conform to pre-determined spending requirements on several categories including: CDBG and HOME Administration caps (maximum of 20% and 10% of new funding prospectively); Public Service Caps (up to 15% of new CDBG funding); and Community Housing Development Organizations (at least 15% of new HOME funding).

Changes within funding requirements are allowed within certain categories. Affordable Housing and Neighborhood Project funding amounts can be exchanged. A change in the Public Services category should result in an equal change in the same category. Changes made out of compliance with federal spending requirements would place the City's entitlement for federal funds at risk.

The allocation of funding is restricted by the eligibility requirements for CDBG and HOME funding. Projects are focused on activities that promote new affordable housing or preserving the existing supply of affordable housing and neighborhoods where the affordable housing stock is located. The applications for housing and neighborhood activities are consistent with this focus. The Community Development Board reviewed the proposed projects and analyzed various alternatives for funding.

FINANCIAL IMPACT

The Congressional budget for CDBG and HOME has not been set to date for the City's 2011-2012 fiscal year. Therefore, budget projections and recommended allocations were based on a 7.5% decrease in CDBG and 10% decrease in the HOME program. In preparation for deeper budget cuts than what has been projected, the Community Development Board has prioritized each activity in order of funding preference and has offered guidance to Community Development staff for implementation.

Based on budget projections utilizing the above-mentioned decreases, the City would receive allocations of \$714,502 in new CDBG funding and \$484,307 in HOME funding. Program income and funding remaining from completed projects brings the totals projected for allocation for this fiscal year to \$798,590 for CDBG and \$646,518 for the HOME program.

Federal revenues projected for the CDBG and HOME programs are provided through HUD (see Attachment B). The Community Development Board recommendations are attached (see Attachment C) and comply with funding limitations.

BACKGROUND

INTRODUCTION

The Community Development Board has completed the recommendations and public input process for the allocation of CDBG and HOME funding for FY2011-2012. Also considered during this process is the City's FY2011-2012 Action Plan, which addresses needs identified through the Housing Needs Assessment (2010) and the Analysis of Impediments to Fair Housing Choice (2007). The drafted plans can be viewed online at www.ci.billings.mt.us/CDreports.

The five-year Consolidated Plan for FY2010-2014 is required for participation by the City of Billings in HUD programs, including: CDBG and HOME; homeless programs funded under the McKinney-Vento Act; and the Housing for Persons with AIDS (HOPWA) program. The City of Billings does not receive McKinney-Vento or HOPWA funds, therefore the City's Consolidated Plan and Action Plans are focused on CDBG and HOME activities.

The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive, coordinated fashion utilizing available federal and non-federal resources. The Consolidated Plan and Action Plan serve as planning tools for the City's CDBG and HOME programs and combines the planning and application requirements for the City's HUD-funded programs. This allows program planning and citizen participation to take place in a comprehensive context covering both programs.

PROCEDURAL HISTORY

The City of Billings has been receiving CDBG funds since the mid-1970s and HOME funds since the early 1990s. These funds are provided by the federal government and are primarily targeted in Billings to address the affordable housing and neighborhood revitalization needs of the community.

In allocating CDBG and HOME resources, the Community Development Division facilitates an extensive process to gather public input on the use of federal funds. Applications were available at the beginning of December and due at the end of January. Applications are then forwarded to the Community Development Board and recommendations are prepared for the City Council consideration. Task force input was requested in February and March on housing and neighborhood projects (see Attachment D). The Community Development Board held budget hearings on the use of the CDBG and HOME resources on March 17 and prepared preliminary recommendations on April 5.

The City Council public hearing is required by the Federal government and is part of the 30-day public comment period on the program beginning March 25 and extending to April 25. The City Council is also scheduled to act on the CDBG and HOME programs during the April 25 meeting. An application will then be submitted by HUD's May 15 deadline for review and, pending HUD

approval, the program year will begin July 1.

FUNDING ALLOCATION REQUIREMENTS

The City is required to provide no more than 20% of its CDBG funding for administration and planning type activities (\$157,305), and no more than 10% of HOME funding for administrative purposes (\$48,431). The City must also provide at least 15% of its annual HOME allocation for activities carried out by Community Housing Development Organizations (CHDOs). This year, homeWORD's CHDO allocation of \$459,000 in previous year's funding meets this requirement. The City can allocate up to 15% of CDBG resources (\$124,011) to nonprofit organizations or other projects classified as public service activities, ranging from daycare to crime prevention activities. The City received three total applications for public service funding; therefore \$90,000 has been recommended for allocation.

ALTERNATIVE FUNDING RECOMMENDATION

Should the budget allocated to CDBG and HOME be decreased below projections, the following recommendations have been made by the Community Development Board in order of priority:

1. Fund CDBG and HOME administration to the highest level possible within established caps (20% for CDBG and 10% for HOME) in order to administer funded programs.
2. If the allowable amount for CDBG administration funding exceeds \$175,000, the remaining funding would be allocated to Professional Services. This line item may be used for mandatory HUD studies, such as the Analysis of Impediments to Fair Housing Choice and AmeriCorps*VISTA project support.
3. Property Management should be funded to accommodate projected expenditures to maintain land purchased with CDBG / Neighborhood Stabilization Program funding.
4. The Affordable Housing Development program is the next highest priority for funding for specific use for infrastructure development in Kings Green - Phase IV. If funding amounts cannot cover full development of planned infrastructure, estimated at \$350,000, \$100,000 (if available) would be allocated to complete engineering, surveying, and soil disposal. Should funding remain following project completion (either full development of infrastructure or engineering / soil disposal), it will be allocated to the First Time Homebuyer Program.
5. The Housing Rehabilitation Loan program is the next highest priority for funding, as this program is the only substantial rehabilitation program in Billings and has been noted as contributing to the affordable housing stock supply in Billings.
6. The First Time Homebuyer loan program is the next highest priority, followed by the Minor Home Repair Program (minimum of \$15,000 for emergencies only is recommended), Special Assessment Grant program and Paint program.
7. The next highest priorities are, in order: Yellowstone County Council on Aging; Section 8 Deposit Assistance to the Housing Authority of Billings; Rebuilding Together Yellowstone County; and Housing Authority of Billings - Whitetail Square Park / Community Garden.
8. Public service activity priorities are, in order: Tumbleweed Runaway Program, Inc.; Southside Senior Center - Kitchen Equipment; and Tree Planting & Removal Program.

APPLICATIONS

The City received 14 applications for housing and neighborhood (bricks and mortar) activities and three applications for public service funding (social services). Application summaries for activities proposed this year are included as Attachment E. CDBG and HOME resources represent the main federal commitment to communities to address the need to preserve the existing supply of affordable housing and promote the development of new affordable housing. Few other federal, state or local resources are available to address these housing needs.

PUBLIC COMMENT

Comments of the speakers at the public hearings may relate to funding amounts awarded, activities prioritized for funding with lower federal revenue allocations, and general comments regarding the Action Plan for FY2011-2012.

STAKEHOLDERS

Stakeholders for the CDBG and HOME programs include:

Applicants for funding - The City receives applications from a variety of organizations which apply for public service funding or for housing funding, such as, Living Independently for Today and Tomorrow and Interfaith Hospitality Network. A summary of the applicants is included as Attachment D and applications are available online:

www.ci.billings.mt.us/communitydevelopment.

Neighborhood Task Forces – The task forces communicate neighborhood needs and solutions to those needs utilizing both CDBG and HOME resources. Task forces are also asked to prioritize housing and neighborhood applications. These priorities have been provided in Attachment D for your review. Funding recommendations are in alignment with Task Force priorities including emphasis on housing repair and first time homebuyer programs.

The Community Development Board - As an advisory body to the City Council, provides detailed oversight to both the CDBG and HOME programs throughout the year and facilitates an extensive process to prepare recommendations for the City Council consideration.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Projects proposed for consideration are consistent with the goals and objectives of the FY2010-2014 Consolidated Plan and the drafted FY2011-2012 Action Plan for the use of CDBG & HOME resources in Billings. The following strategies have been adopted by the City Council in the five-year Consolidated Plan to address Billings' housing and community development needs:

Strategy A. Promote the preservation of the existing supply of safe, affordable housing in the community.

Strategy B. Promote new affordable housing opportunities.

Strategy C. Work as an active partner with non-profits, neighborhood groups, and others to address housing and community development specific to lower income and special needs households.

Strategy D. Promote the preservation and revitalization of the community's older neighborhoods.

Strategy E. Provide assistance to agencies serving lower income households and special needs populations, particularly the homeless, public service activity funding to assist the homeless, the elderly, and those with disabilities.

Additional information regarding each strategy is located in Attachment A.

ESTABLISHING COMMUNITY NEED

Community needs have been primarily identified through the 2010 Billings Housing Needs Assessment completed internally by City staff and the 2007 Analysis of Impediments to Fair Housing Choice. These assessments were undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census and housing market data.

HOUSING NEEDS

Primary strategies are proposed in the Consolidated Plan to meet the diverse needs of lower-income households in the community. These needs have been identified through the Billings Housing Needs Assessment. The Assessment was undertaken utilizing focus groups, individual interviews, a community survey, and an examination of census, economic and housing market data. This work and input from neighborhood groups and community partners resulted in the identification of the following characteristics of the community that the City will attempt to address with housing and community development activities:

1. The national recession has had some affect on housing prices in Billings, specific to homeownership, as the median home sale price in 2009 was lower than in 2008. This coupled with an increase in median household income has assisted in reducing the affordability gap. However, a four-person household earning 80% of the median household income would not be able to afford a median priced home in 2009 (\$177,500).
2. Approximately 437 new housing units are needed annually in Billings to keep up with historical growth patterns. For the past four years, building permit records indicate that the need for 437 new units has been met. This finding does not consider affordability of the housing units created.
3. The preservation of existing supply of affordable housing is an important factor influencing affordability for existing home owners and potential homebuyers.
4. Supporting infill development and infrastructure would assist the City in preserving existing, older neighborhoods where the affordable housing stock is located.
5. About one-third of the people renting housing in Billings and looking to buy a home would prefer to purchase manufactured housing.
6. The national recession had a limited affect on rental housing prices in Billings. The affordability gap with rentals remains high. Rent and deposit assistance programs are crucial for low-income households, particularly for those with special needs (elderly, disabled, homeless).
7. An aging population and the associated increase in the percentage of the population with disabilities indicate a continued need for the implementation of Universal Design concepts in housing construction and rehabilitation.

HOUSING OBJECTIVES

Consolidated Plan strategies are identified following each objective:

1. Homebuyer assistance is still needed to close the affordability gap, and has been provided through the First Time Homebuyer program. The Affordable Housing Development program can also be utilized to develop affordable housing (Strategy B).
3. Support affordable housing development at the same levels. This goal is dependent on consistent levels of funding through CDBG and HOME programs (Strategy B).
4. Provide affordable financing opportunities for housing repair to maintain the affordable housing stock (Strategy A).
5. Provide CDBG / HOME financing opportunities through routine allocation processes and the Affordable Housing Development program (Strategy B).
6. Offer affordable financing through the Affordable Housing Development program (Strategy B).
7. Provide affordable financing for rental housing development / repair through the Affordable Housing Development program and deposit / rent assistance through Tenant Based Rental Assistance and Public Service grants (Strategies B and E).
8. Prioritize Universal Design in Request for Proposal processes and also through the Affordable Housing Development program (Strategy B).

FAIR HOUSING NEEDS

The Analysis of Impediments to Fair Housing Choice was completed in December 2007 by the Center for Applied Economic Research, Montana State University - Billings. The following impediments are listed in order of severity - the most critical issues are at the top of the list:

1. Many members of protected classes do not appear to understand their housing rights under fair housing regulations.
2. Some landlords, property owners, and realtors do not act consistent with knowledge of fair housing regulations.
3. Income, credit, and housing affordability issues are tied to fair housing issues.
4. Lack of funding hampers the effectiveness of local services working on behalf of fair housing protected classes.
5. The lack of hard data concerning the effectiveness of specific fair housing programs hampers the goal of improving the delivery of fair housing services.

FAIR HOUSING OBJECTIVES

Consolidated Plan strategies are identified following each objective:

1. Assist in the production and dissemination of consumer education on fair housing issues (Strategy C).
2. Re-evaluate the effectiveness of existing fair housing educational materials (Strategy C).

3. Plan for increasing significance of age-related disabilities (Strategy C).
4. Assist in the education of landlords, property owners and realtors on Fair Housing responsibilities (Strategy C).
5. Increase awareness among American Indians and other protected classes the location of available housing units (Strategy C).
6. Improve housing affordability (Strategies A, B, and E).
7. Provide credit education (Strategy E).
8. Revise existing fund model for fair housing education (Strategies C and E).
9. All fair housing outreach and education efforts should include measureable goals (Strategy E).

The FY2010-2014 Consolidated Plan, the drafted FY2011-2012 Action Plan, the 2010 Housing Needs Assessment and 2007 Analysis of Impediments to Fair Housing Choice can be found online: www.ci.billings.mt.us/CDreports.

SUMMARY

The Community Development Board has made recommendations for CDBG and HOME budget allocations for FY2011-2012. The annual Action Plan for FY2011-2012 has been drafted and is ready for Council adoption.

The City Council is asked to consider the input that is received and make a final decision on FY2011-2012 CDBG and HOME budgets and FY2011-2012 Action Plan.

RECOMMENDATION

Staff recommends that the City Council hold a public hearing and approve the allocation of CDBG and HOME funding and the Action Plan for FY2011-2012 as recommended and prioritized by the Community Development Board.

APPROVED BY CITY ADMINISTRATOR

Attachments

A: FY11-12 Annual Action Plan

B: FY11-12 Estimated Revenue

C: Community Development Board Recommendations

D: Task Force Priorities

E: Application Summaries

FY2011-2012
Year Two

*of the FY2010-2014
Consolidated Plan*

City of Billings Annual Action Plan



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K: Language Assistance Plan	

SECTION ONE - Executive Summary

Five-year Consolidated Plans and one-year action plans are required by the U.S. Department of Housing and Urban Development (HUD) for the City of Billings to participate in and receive funding through the Community Development Block Grant (CDBG) and HOME Investment Partnership Programs (HOME).

The City of Billings, acting primarily through the Community Development Division, will continue to act as the lead agency for administration of the City's CDBG and HOME Program activities targeted to meet the goals of the Consolidated Plan. The City works closely with the Housing Authority of Billings, nonprofit organizations, private developers, lending institutions, and neighborhood groups to garner feedback on proposed strategies and also to meet the goals established in this Consolidated Plan.

Consolidated planning activities are also required for homeless programs funded under the McKinney-Vento Homeless Assistance Act and the Housing Opportunities for Persons with AIDS (HOPWA) Program. The City does not receive McKinney funds or HOPWA funds directly. Separate Consolidated Plans are prepared by the City of Great Falls, the City of Missoula, and the State of Montana for non-entitlement areas of the state. The structure and content of this plan are based on specific HUD requirement for the preparation of the Consolidated Plan. Many terms used in this document are specific to the Consolidated Plan process and HUD programs. The reader may consult with the City of Billings - Community Development Division for additional information.

Focused on CDBG and HOME activities, the Consolidated Plan combines the planning and application requirements for the CDBG and HOME Programs. Consolidation of the submission requirements for the CDBG and HOME Programs allows program planning and citizen participation to take place in a comprehensive context covering both programs. The CDBG and HOME programs covered by the Consolidated Plan have three basic goals:

1. **To provide decent housing**, including maintaining the affordable housing stock in the community, increasing the availability of permanent housing that is affordable to lower-income households without discrimination, increasing support of housing which enables persons with special needs to live independently, and assisting homeless persons obtain affordable housing.
2. **To provide a suitable living environment**, which includes improving the safety and livability of neighborhoods, increasing access to quality facilities and services, reducing the isolation of income groups within areas by de-concentrating housing opportunities and revitalizing deteriorating neighborhoods, restoring and preserving natural and physical features of special value for historic, architectural, or aesthetic reasons, and conserving energy resources.
3. **To expand economic opportunities**, including creating jobs accessible to lower-income individuals, providing access to credit for community development activities which promote long-term economic and social viability, and empowering lower-income persons living in federally assisted and public housing to achieve self-sufficiency.

All activities undertaken by the City utilizing CDBG and HOME funding must primarily benefit low and moderate income persons. The strategies described in the Consolidated Plan outline a specific course of action for the community's housing and community development activities. The plan builds on local assets to meet the needs of the community and sets forth goals, objectives, and performance measures to ensure progress in achieving the strategies described in the plan.

Purpose of the Consolidated Plan

The purpose of the Consolidated Plan is to identify the housing and community development needs of low-income households in Billings and develop strategies for addressing those needs in a comprehensive, coordinated fashion utilizing available federal and nonfederal resources.

Consolidated plans are developed every five years and must be submitted to HUD not less than 45 days prior to the start of the grantee's program year start date (July 1 for the City). The City's five-year Consolidated Plan for FY2010-2014 identifies activities to be carried out from July 1, 2010 through June 30, 2015 to address priority needs in the community and serves as a guiding document for the use of the City's CDBG Program and HOME funding.

This document constitutes the City's one-year Annual Action Plan for FY2011-2012 which identifies goals and strategies to be undertaken from July 1, 2011 through June 30, 2012. While both documents contain similar information, a more detailed presentation of needs and overarching strategies is described in the five-year plan. The Annual Action Plan describes identified resources to be utilized during the program year, which is not identified in the five-year plan. The City must also report on the performance of activities funded via the Comprehensive Annual Performance Evaluation Report (CAPER) in September of each year.

The FY2010-2014 Consolidated Plan and the FY2011-2012 Annual Action Plan followed a development process which integrated priorities identified in the 2009 Billings Housing Needs Assessment and the Analysis of Impediments to Fair Housing Choice. The development process also included input from neighborhood groups and public hearings on housing and community development needs, relative to findings from both data studies.

The FY2010-2014 Consolidated Plan and the FY2011-2012 Annual Action Plan was open for public comment extending from March 25, 2011 through April 25, 2011. A public hearing was held on April 25, 2011 during the Billings City Council meeting to accept public comments on the Annual Action Plan, and Community Development Board recommendations for funding allocation. The plan was adopted by the Billings City Council on April 25, 2011.

HUD Objectives and Outcomes

HUD has developed specific performance measurements for each activity undertaken utilizing CDBG and / or HOME funding. The City's application process for funding through these programs includes identification of HUD objectives and outcomes to ensure compliance with activity requirements.

HUD PERFORMANCE MEASUREMENTS	
<i>Objectives</i>	<i>Outcomes</i>
Suitable Living Environment	Availability or Accessibility
Decent Housing	Affordability
Economic Opportunities	Sustainability

Past Performance

The City - Community Development Division receives comments from HUD regarding action plans and performance annually. Overall evaluations conclude the City's CDBG and HOME programs are making strides in providing affordable housing and addressing community needs. Please refer to the latest Comprehensive Annual Evaluation Report (CAPER) for an analysis of the City's performance on Consolidated Plan goals for recent years and the resources utilized to meet objectives established (www.ci.billings.mt.us).

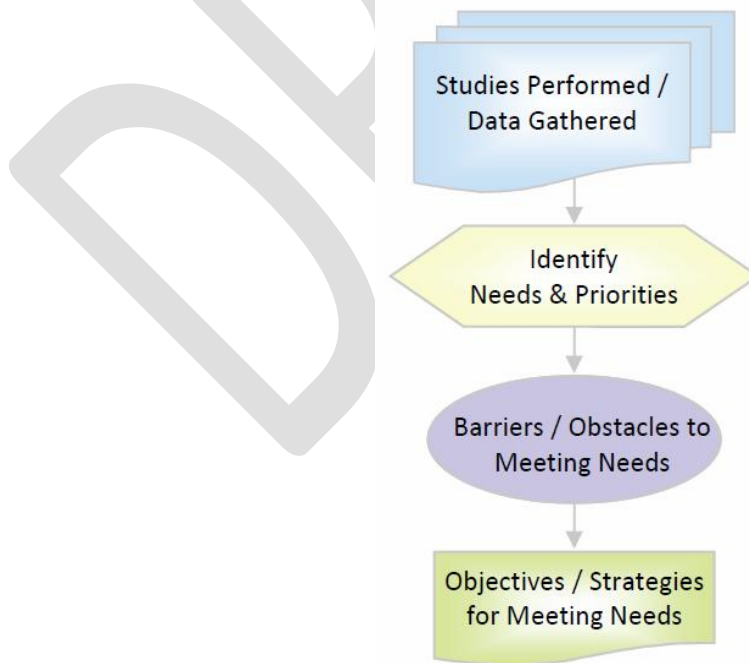
Community Development Division Vision / Mission

Vision: The Community Development Division acts as a catalyst for joining community partners with resources to increase access to housing, to create a sustainable community, and to promote neighborhood revitalization.

Mission: The Community Development Division strives to exceed the expectations of our stakeholders by supporting our housing and community partners with quality leadership, accountability, and innovative programs and services.

Report Standards

All reports generated by the Community Development Division are based on studies and data, the identification of needs and priorities, identifying obstacles and barriers to meeting those needs, and creating objectives and strategies to meet identified needs.



SECTION TWO - Consultation & Coordination

91.200 (b) & 91.215(l)

General

91.100(a)(1)

A number of organizations in the community are involved in affordable housing and community development-related activities in Billings and are asked to comment on the Consolidated Plan. The continued cooperation of these organizations in pursuing affordable housing for the community is required to meet the Consolidated Plan goals. Consultations include review of the plan with public and private agencies that provide health care, social services and fair housing education. Populations targeted for consultation include agencies that provide services for children, the elderly, the disabled, persons with HIV / AIDS and their families, and homeless individuals and families.

The Consolidated Plan is distributed widely during the public comment period and interested persons can attend a number of staff-facilitated, regularly scheduled meetings to find out more about Community Development initiatives. Routine meetings are facilitated through staff for the Community Development Board, the Adjacent Neighborhood Committee, the Billings Partners for American Indian Homeownership, the Affordable Housing Task Force, the Billings Area Resource Network and the Mayor's Committee on Homelessness. Additional information regarding these groups can be found throughout the Consolidated Plan.

The City impacts new and existing housing development and neighborhood revitalization through neighborhood planning, development standards, capital improvement programs, the Annexation Policy, and the Growth Policy.

Regulation Citations

Throughout the Consolidated Plan, staff members have identified regulatory citations for the Code of Federal Regulations (CFR), shown in italics. The code references are located in sections of the Consolidated Plan required by regulation.

Homeless Strategy & Housing Opportunities for Persons with AIDS

91.100(a)(2) & 91.100(b)

Public and private agencies have assisted the City in developing a ten-year plan to impact homelessness, *Welcome Home Billings*. Local organizations that provide housing, health services, and social services have been intricately involved in planning processes for the homeless and chronically homeless, including members of the *Mayor's Committee on Homelessness* and the *Billings Area Resource Network*. The City does not receive Housing Opportunities for Persons with AIDS (HOPWA) funding directly, but collaborates with the *Yellowstone AIDS Project* to implement goals and objectives to support HOPWA funding.

Adjacent Governments

91.100(a)(4)

Communication regarding non-housing community development needs is conducted via collaboration through homeless initiatives and agencies serving the disabled. Adjacent governments include: the State Department of Public Health and Human Services; homeless presentation regarding the City's ten-year plan to impact homelessness, *Welcome Home Billings*, to the Yellowstone County Commissioners; and communication and recommendations to the State Continuum of Care coordination group.

Collaboration regarding economic development initiatives includes communication with the Big Sky Economic Development Authority, the Native American Development Corporation and other development agencies.

Metropolitan Planning

91.100(a)(5)

The City of Billings - Community Development Division is included in the Planning and Community Services Department. The Department, overall, includes Code Enforcement, Planning / Transportation (includes the City of Billings and Yellowstone County), and the Building Division. These Divisions work internally to implement the Growth Policy, Transportation Plan and Neighborhood Plans collectively. All projects are reviewed for residential access to public transportation.

Public Housing

91.100(c)

The Housing Authority of Billings (HAB) is primarily responsible for administration of the public housing and Section 8 Programs for the community. HAB will continue to work on developing additional units of low-income housing in Billings. HAB is an independent organization established under the laws of the State of Montana. Board members for HAB are appointed by the Mayor for the City of Billings. The City enjoys a cooperative and collaborative relationship with HAB, including participation in task forces, committees, and affordable housing development.

Citizen Participation Plan

91.200(b)

The Citizen Participation Plan for the City is designed to ensure citizen involvement in the planning and reporting on the City's programs covered under the HUD Consolidated Plan requirements. The purpose of the Citizen Participation Plan is to ensure that citizens, nonprofit organizations, and other interested parties are afforded adequate opportunity to review and comment on plans, programs, activities and reports regarding the City's federally funded housing and community development programs.

Citizen Participation Plan Objectives

The primary objectives of the City's Consolidated and Citizen Participation Plans are to:

- Encourage citizen participation in the development of the Consolidated Plan and the Comprehensive Annual Performance and Evaluation Report (CAPER) with emphasis on participation from individuals and households identified as low to moderate income, residents of blighted areas, minorities, those with limited English proficiency, the disabled, and those residing in areas where funding will be utilized.
- Provide citizens with reasonable and timely access to meetings, information and records relating to the City's plan for utilizing funding in addition to allowing reasonable opportunity to comment on the Consolidated Plan, the Citizen Participation Plan and the CAPER.
- Finalize consultation with the Housing Authority of Billings (HAB) on the development and implementation of the Consolidated Plan through the Annual Action Plan, which includes input from residents of public and assisted housing.
- Provide technical assistance to neighborhood task forces which represent the low to moderate income and the highest concentrations of minority populations in Billings.
- Provide public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program. All hearings and meetings shall be provided in areas where accommodations for the disabled can be provided.

Community Development Board

The Community Development Board is a citizen's advisory board consisting of nine members who are appointed by the Mayor of Billings with the consent of the City Council. Six members are appointed from lower-income neighborhoods of the City as defined by federal regulations for the Community Development Block Grant (CDBG) program and three members represent the community at large. This board serves in an advisory capacity to the City Council for the purpose of providing citizen input on policy decisions to the City Council. The primary responsibilities of the board are to review existing and proposed City policies and to review the Community Development Division's activities to ensure policies are being implemented and carried out.

The Community Development Board makes recommendations to the City Council regarding the Consolidated Plan, the Annual Action Plan, the Citizen Participation Plan, and the Comprehensive Annual Performance and Evaluation Report (CAPER). In addition, the Community Development Board reviews applications submitted for CDBG and HOME funding in order to make funding recommendations to the City Council for approval.

Billings City Council

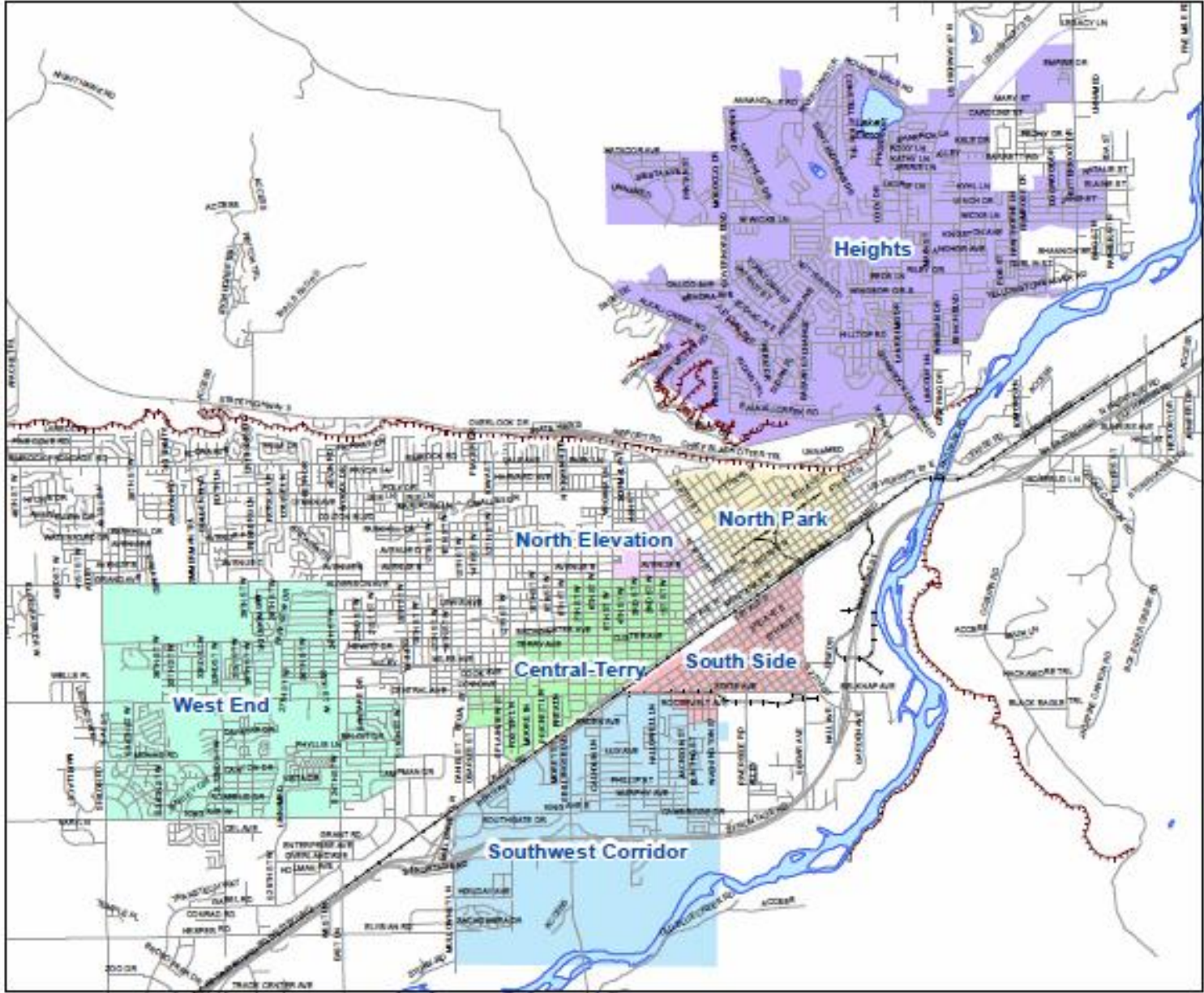
The Billings City Council is the final citizen policy body that reviews and takes action on the Annual Action Plan, including the Citizen Participation Plan. The Community Development Board presents recommendations to the City Council during a scheduled work session preceding the public hearing in April in order to deliver information on decisions made regarding recommendations. After receipt and consideration of public comments, the City Council approves the Annual Action Plan and proposed funding allocations. Following approval in May, the Annual Action Plan is forwarded to HUD.

Neighborhood Task Forces Representing Low / Moderate Income Households

In order to encourage citizen participation emphasizing the involvement of lower-income residents in areas where housing and community development funds may be spent, the City will continue to work with neighborhood organizations representing the City's lower-income areas. These areas are predominantly illustrated as established Task Force areas in Billings. A map of the City's lower-income areas is located on the following page.

The City will continue to work with neighborhood task forces that represent the community's lower-income areas to ensure input from these areas in the development and implementation of the City's community development strategies as described in the Consolidated Plan. The City will also continue to support the activities for the Adjacent Neighborhood Committee, which is comprised of Task Force Officers who meet bi-monthly to collaborate and exchange information regarding the task force areas. The Community Development Division supports task force functions through the distribution of monthly newsletters to over 1,400 recipients, by facilitating the Adjacent Neighborhood Committee, and by requesting project rankings from task force participants on housing and neighborhood activities for the annual allocation process.

The Community Development Division staff attends meetings of lower-income task force neighborhoods when requested for specific presentations. Staff also provides information regarding housing and community development programs and activities during each allocation process and garners rankings of housing / neighborhood activities preferred for funding.



Participation through Partnerships

The Community Development Division's vision is to act as a catalyst for joining community partners with resources to increase access to housing, to create a sustainable community and to promote neighborhood revitalization. The Division's mission focuses on striving to exceed the expectations of our stakeholders by supporting housing and community partners with quality leadership, accountability, and innovative programs and services. Guiding values and principles include:

- Embracing diversity and being respectful of all viewpoints.
- Utilizing creativity to develop best practices in programs, administration, and community service.
- Recognizing that our first responsibility is to low and moderate income individuals who would most benefit from programs.
- Showing integrity as public servants to thoughtfully manage and pursue resources to the benefit of the community.

Establishing and maintaining partnerships with myriad organizations that support the community vision is the keystone to the Division's planning efforts. In addition to neighborhood task forces and the Adjacent Neighborhood Committee, the Community Development Division supports the following organizations and includes their input throughout the year:

- ***Affordable Housing Task Force*** – The Affordable Housing Task Force is comprised of lenders, realtors, the Housing Authority of Billings (HAB) local housing developers, and other organizations working in housing to ensure coordination and collaboration in identifying needs, undertaking actions to meet those needs, and evaluating activity effectiveness. The vision of the group is to successfully identify the housing needs of the community and provide expertise and innovative solutions to ensure attainable housing for all. Their mission is to work as a positive voice coordinating action, and organizing and energizing efforts to promote affordable housing in the Billings area.
- ***Billings Partners for American Indian Homeownership*** – The Billings Partners for American Indian Home Ownership (BPAIH) was formed in order to provide an organized approach to outreach and education for American Indians who would like to purchase a home. This group has identified a 26% American Indian homeownership rate compared to 67% for whites and 45% for blacks and Hispanics. Their vision is to increase American Indian private homeownership in the greater Billings community. This organization is comprised of lenders, realtors, housing organizations, credit counseling organizations, Indian Health Service, Yellowstone County Extension Office, and others.
- ***Mayor's Committee on Homelessness*** - The Mayor's Committee began meeting in June 2006 following Mayor Tussing's charge to develop a 10-Year Plan to address the needs of the chronically homeless in Billings. The development of this plan was part of a national movement to change the way in which communities address homelessness and was the first of its kind in Montana. To date, over 300 cities across the nation have committed to implementing 10-Year Plans to impact chronic homelessness. The Mayor's Committee includes representation from a broad stakeholder group including housing / service providers, civic / business leaders, economic / work force agencies, faith based / philanthropy groups, and other interested parties.
- ***Fair Housing Organizations*** – The City actively partners with organizations with an interest in fair housing and has facilitated several grant applications for the Fair Housing Initiative Program (FHIP) available competitively through HUD. The City was awarded this grant in 2006 for over

\$93,000. In 2007 and 2008 grant awards were made for over \$99,000 for each year. Previous partners and sub-recipients of FHIP funding include: homeWORD, the Community Housing Resource Board, Interfaith Hospitality Network, the Billings Partners for American Indian Homeownership and Yellowstone County Council on Aging in Billings.

Racial / Minority Participation

The City's most concentrated minority populations are located in the Southside, Southwest Corridor, North Park, North Elevation, and Central – Terry Park Task Force neighborhoods. Outreach efforts include ongoing communication through task force newsletters, the Adjacent Neighborhood Committee, the Billings Partners for American Indian Homeownership, the Mayor's Committee on Homelessness, and the Billings Area Resource Network. Further details are located in Section Five - Geographic Data.

Persons with Disabilities & Reasonable Accommodation

The City will provide accommodations for individuals with disabilities in public meetings, public hearings and in written documentation regarding programs and services available from the Division. Statements are included in notices of public hearings and service brochures indicating that office and hearing locations are accessible to persons with disabilities. Accommodations can be made for other disabilities as well.

Limited English Proficiency & Language Assistance Plan

The City complies with federal regulations regarding the provision of a Language Assistance Plan in order to adequately provide for the needs of those individuals who have self-identified a primary language which is not English. Statements are included in notices of public hearings and service brochures regarding the availability of language interpretation for those requiring this accommodation.

Technical Assistance

The Community Development Division provides technical assistance as requested and as staff time allows to lower income groups to develop proposals for housing and community development activities in the City limits. The technical assistance is offered any time proposals for the use of funding are requested, and is offered routinely in January prior to application deadlines for CDBG / HOME funding allocations.

Public Involvement & Consolidated Plan Review

Citizen participation is the foundation of housing and community development programs. Reasonable efforts are made to make all citizens aware of public hearing and citywide events concerning the development of the Annual Action Plan.

City Council agendas covering housing and community development programs are made available to the public as required by Montana State Law. The City follows State Law governing advertising of public hearings required for CDBG and HOME activities. The City is required to advertise the public hearing on two consecutive Thursdays prior to the City Council Meeting on Monday or Tuesday in the event of a holiday.

Plans and reports on the City's housing and community development activities are made available for review by citizens, public agencies, and other interested parties. These documents are available at the Community Development Division and posted on its website at www.ci.billings.mt.us. All records regarding these activities are maintained according to the City Record Retention Schedule and as required by federal regulations.

Public Hearings

The City holds three public hearings each year regarding housing and community development activities. The first public hearings are held each March by the Community Development Board to gather public input on the community and housing needs of Billings and strategies to meet those needs through Budget Hearings. The second public hearing is held by the City Council in April to provide nonprofit agencies, organizations, and individuals with an opportunity to provide input on the Consolidated Plan and the allocation of CDBG and HOME funds in the community. The third public hearing is held by the City Council in September to gather public input on the City's performance and progress in meeting the strategies included in the City's Five-Year Consolidated Plan and Annual Action Plan for the previous fiscal year ending each June 30th. All public hearings are accessible to disabled individuals, publicized as required by State law and allow for accommodation of individuals with hearing, visual, or mobility impairments.

Report & Plan Availability

The availability of the reports and plans required under the Consolidated Plan is published in the local newspaper with complete copies available on the internet at www.ci.billings.mt.us and at the City's Community Development Division. The public notice describes the contents and purpose of each document including the location at which the complete plan can be examined. Subrecipients, housing partners, and neighborhood task force chairpersons are contacted regarding the availability of the information described above.

A summary of the plan development process and public comments received during this process will be included in final version of the Consolidated Plan, Annual Action Plans, and Comprehensive Annual Performance and Evaluation Report submitted to the U.S. Department of Housing and Urban Development. The Community Development Division office is located at the Parmly Billings Library, 4th Floor, 510 North Broadway, Billings, Montana 59101 and has office hours Monday through Friday, 8:00am to 5:00pm.

Public Comments

Public comments are requested at least 30 days prior to submission of reports required under HUD's Consolidated Plan process. The City will consider all written comments by citizens, public agencies and other interested parties prior to submission of its final Consolidated Plan and related reports to HUD and attach a summary of each comment to the final submission. If written comments are not accepted for inclusion in the Plan, the City will provide written explanation of why those comments were not accepted.

The City provides written responses to all written complaints and grievances related to the Consolidated Plan requirement and the City's housing and community development programs within 15 working days of receipt of the complaint or grievance where practical.

For the purposes of reviewing the Annual Action Plan, public hearings were held on the following dates:

- March 17, 2011 - 9:00am - 2:00pm (advertised March 3 & 10, 2011)
- April 26, 2011 - 6:30pm (advertised March 24, 2011 and April 7, 2011)

The public comment period was held from March 25, 2011 through April 25, 2011, and the Consolidated Plan was available online at www.ci.billings.mt.us.

Public comments submitted for the Annual Action Plan include the following as stated in the Public Hearing held on April 25 during the City Council meeting:

- **Name:** Statement...

Criteria for Amending the Consolidated Plan

24 CFR part 91.105(c) of the Final Rule requires grantees of CDBG and HOME programs make public the criteria the City will use for determining what changes in planned or actual activities constitute a substantial amendment to the Five-Year Consolidated Plan. An amendment to the approved plan will occur when the City of Billings decides:

- Not to carry out a project or activity described in the plan.
- To carry out a project not previously described.
- Substantially change the purpose or scope of a project.

Prior to the submission of any substantial change in the proposed use of federal housing and community development funds, the City of Billings will hold a public hearing to allow citizens reasonable notice of, and opportunity to comment on, proposed amendments. Public comment periods will not be less than thirty (30) days.

Substantial changes are defined as the creation of any new budget line item to be funded under the City's HOME and CDBG programs, or a budget amendment resulting in an increase or decrease in a previously approved line item of more than \$25,000.

SECTION THREE - Strategies & Compliance

Overall Strategies

This section combines overall strategies and regulatory references for Consolidated Plans in one area for ease of reference. Federal regulations accompany all federal funding allocations and all activities / projects funded through the Community Development Division's CDBG and HOME programs.

Institutional Structure

91.215(k)(l)

As previously mentioned, the City's dedication to partnerships and inclusive participation contributes to the community's ability to meet overall community development goals. The Community Development Division is committed to assisting in capacity-building efforts for local nonprofit organizations and local partners in order to build a stronger community, and will continue to act as a catalyst to bridge the gaps between resources and organizations that can meet community need through housing development, social services and economic development.

Other organizations involved with housing and community development in Billings include:

- **Neighborhood Groups:** South Side Neighborhood Task Force, North Park Task Force, Central-Terry Park Neighborhood Task Force, North Elevation Task Force, Southwest Corridor Task Force, West End Task Force, and the Heights Community Development Task Force.
- **Economic Development Organizations:** Downtown Billings Alliance, Big Sky Economic Development Authority, and Beartooth Resource Conservation and Development Council.
- **Government Agencies:** Montana Board of Housing, the Montana Department of Commerce, and Yellowstone County.
- **Nonprofits:** Montana Homeownership Network, homeWORD, Community Leadership Development, Montana Rescue Mission, Family Service, Inc., Community Housing Resource Board, Habitat for Humanity, Yellowstone AIDS Project, Living Independently for Today and Tomorrow, and Rebuilding Together.
- **Private Sector:** Local Lending Institutions, Federal Home Loan Bank, Property Managers Association, Montana Landlords Association, Eastern Montana Landlords Association, and the Realtors and Home Builders Association.
- **Advisory groups:** Affordable Housing Task Force, Adjacent Neighborhood Committee, and the Billings Partners for American Indian Home Ownership.

Economic development strategies in the community are primarily served through the Big Sky Economic Development Authority and through the City's CDBG Public Services funding. Strengths of the current delivery system, including public housing, include the immense collaboration the City facilitates in Consolidated Plan development and implementation. Gaps in the current system can be met with increased funding allocated through the entitlement processes.

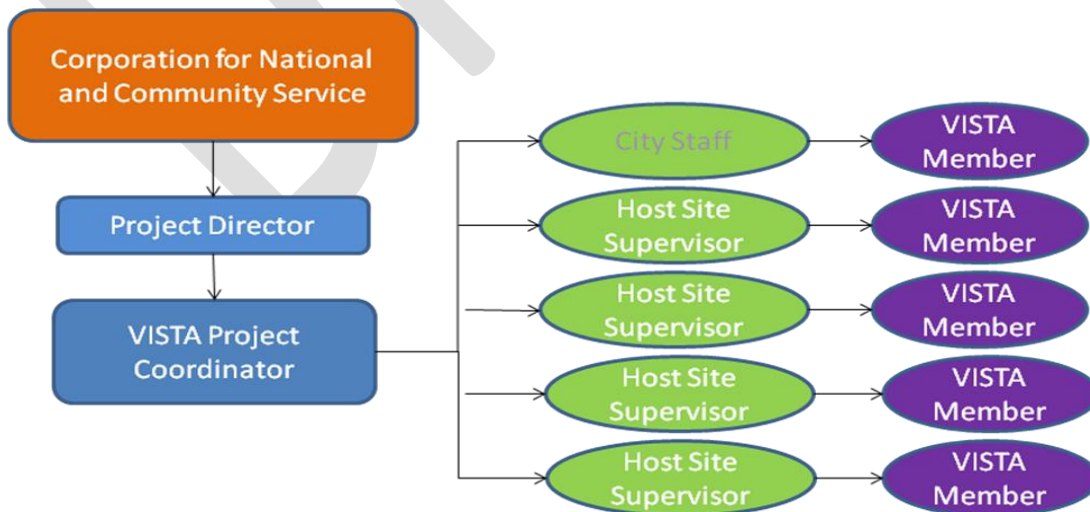
The Housing Needs Assessment contains comprehensive information on the lower income status of local households. Current findings indicate a need to address economic conditions locally and in the State of Montana in a comprehensive manner.

All of the Consolidated Plan strategies target the improvement of economic conditions of lower income households in the community, including housing development, financing home repair, continuing partnerships and funding public service activities. The City’s strategies to promote affordable housing and fair housing city-wide, and to preserve the existing housing stock and the neighborhoods where the affordable housing stock is located, will compliment economic development efforts by providing safe, decent, and affordable housing and livable neighborhoods for lower income households in our community.

The City proposes to support statewide efforts to improve economic conditions and proposes to support the following specific activities in this Consolidated Plan to address economic conditions of low and moderate-income households in Billings (specific strategies are located in Section Eleven):

- Continue to work with nonprofit organizations to help address the human service needs of lower income residents of the community in general and of our lower income neighborhoods in particular. This would be achieved primarily through funding of social service agencies as public service activities under the CDBG Program. (Strategy E)
- Continue to support the work of local economic development organizations to help create higher wage jobs for lower income persons. (Strategy C)
- Continue to apply for the **AmeriCorps*VISTA (Volunteers in Service to America)** project status in order to bring full-time volunteers to work on capacity-building for the homeless initiatives through **Welcome Home Billings**, the City’s ten-year plan to impact homelessness. The City was awarded project status and placed seven VISTA members to work on poverty issues beginning in July 2009. The structure of the **Billings Metro VISTA Project (MVP)** serves to build the capacity of nonprofit organizations to work on poverty issues. (Strategy C)

Billings Metro VISTA Project (MVP) Model



Regulatory Compliance

The following sections reference regulatory compliance issues for all projects and activities undertaken by the City with CDBG and HOME funding.

Environmental Review

The Community Development Division staff is fully trained in current Environmental Review Records procedures. The City utilizes multi-year review processes to accommodate environmental review for core programs including housing repair, planning activities, and down payment assistance programs. The City reviews each project for environmental clearance prior to securing funding.

Lead-Based Paint

91.215 (i)

The City continues to be in compliance with HUD's lead-based paint requirements as established in September of 2000. According to the 2000 Census, it is estimated that there are over 28,000 housing units built before 1979 that are at risk of containing lead-based paint, which comprises 73% of the total housing stock in Billings. Not all of the homes built prior to 1979 contain lead-based paint and lead hazards. However, projects involving structures built prior to 1978 are considered to have the potential for lead-based paint and consistent procedures have been developed to ensure compliance with federal regulations.

Participants in the City's housing programs are made aware of the requirements the City must follow when providing assistance. Education on the hazards of exposure to lead is provided for each rehabilitation project. The City currently offers risk assessments, paint inspections, clearance testing, and has access to lead-safe certified contractors to ensure compliance.

In addition, the City also promotes lead-safe work practices training whenever it is offered in Montana, which gives local contractors the opportunity to become certified in lead-safe work methods. The City will continue to maintain working relationships and partner in furthering educational efforts with lead-based paint professionals to ensure HUD requirements are effectively met.

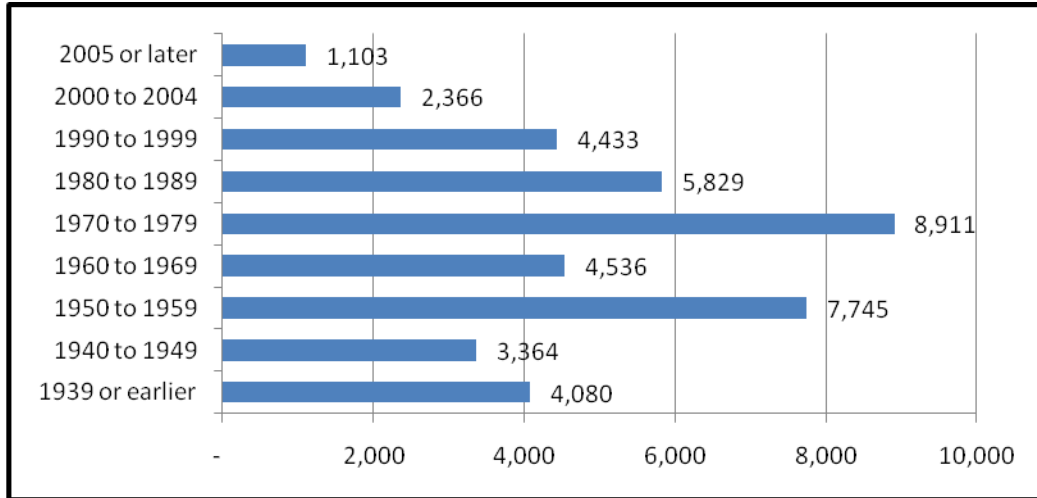
The Yellowstone County Health Department participated in the Montana Lead program from 1994 until 2000. A total of 1,703 tests were completed between May 25, 1994 and December 29, 1999 and City-County Health reported that no children under the age of six years old tested over 10 ug/dl. Twenty-nine individuals over the age of six had blood lead levels between 10 and 14 ug/dl and 17 had levels equal to or greater than 15 ug/dl. The Montana Lead program was discontinued due to lack of sustained funding and data on elevated blood levels is now reported to the Department of Health and Human Services, Public Health and Safety Division, which reported that only two children under the age of six were found to have elevated blood levels between 2000 and 2004. Both of these children had levels between 19 and 22 ug/dl. According to the Center for Disease Control, 114 children under the age of six were confirmed with elevated blood lead levels in Montana between 1997 and 2001.

Head Start, Inc. has been performing lead-testing for children participating in their programs. In 2009, three of the 360 participating children were tested and all three were found to have no elevation in lead. Overall, the incidence of high blood lead levels in Montana children is 0.27%. The State stopped sending data to the Center for Disease Control in 2006 because there was no data to be sent. The data collected to date in Billings indicates that elevated lead blood levels are not a priority concern.

Historic Review

All activities and projects undertaken by the City are reviewed for the potential for historic significance prior to implementation. Approximately 15,000 homes in the City were built prior to 1959. These homes are more than 50 years old and require historic review to ensure the historic value of the property will be maintained while undergoing housing rehabilitation utilizing federal funding.

Billings - Year Structure was Built, Shown in Numbers of Structures



Source: U.S. Census Bureau, 2006-2008 American Community Survey Three-Year Estimates

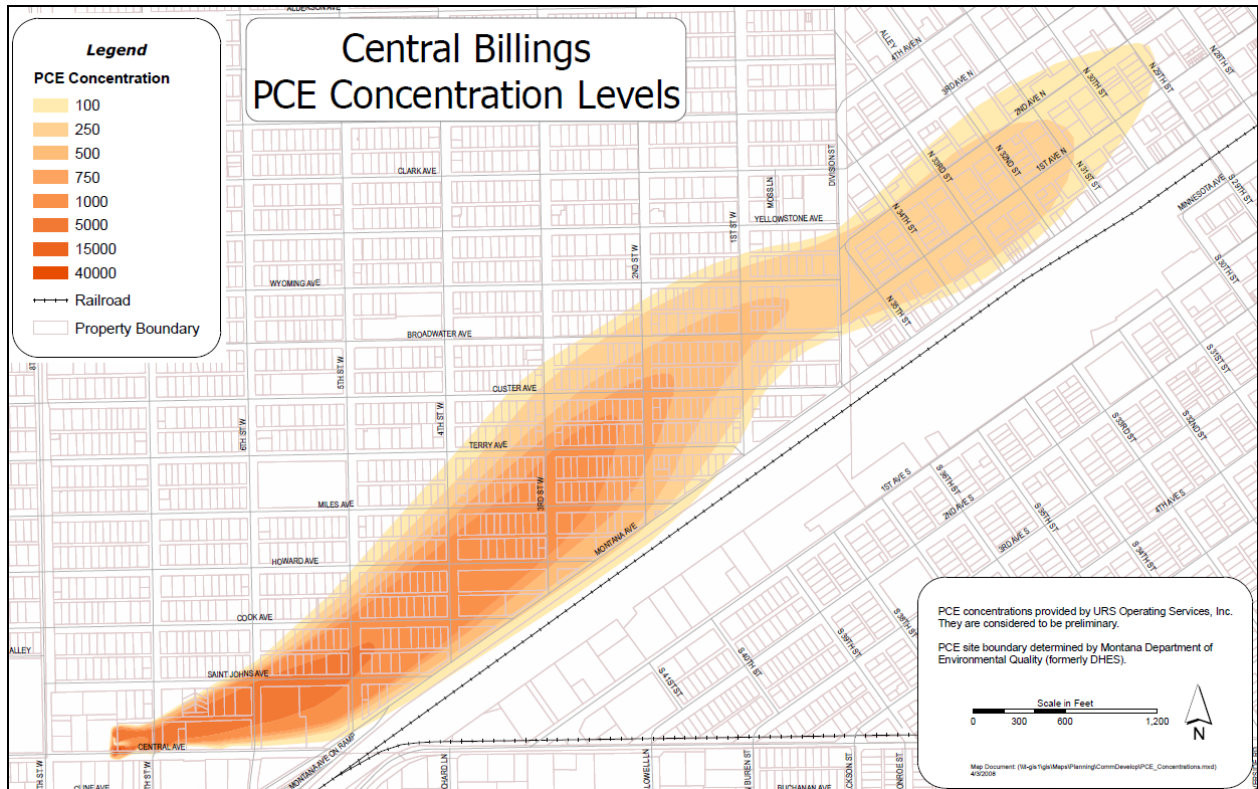
The City utilizes both the Yellowstone Historic Preservation Board and the State Historic Preservation Office to review projects for potential impacts on historic integrity prior to implementation.

PCE Groundwater Contamination Site

The Environmental Protection Agency (EPA) has identified an area in the City limits with Perchloroethylene (PCE) groundwater contamination. This is a man-made chemical used for dry cleaning and degreasing metal parts. The EPA has finalized remediation in this area and has notified, tested, and remediated the high level PCE properties in the area (see map, following page).

The groundwater in this area is not potable; however, all of the residences / businesses in the area have established access to the City water system and do not rely on groundwater for drinking. The predominant issue when reviewing properties in this area for housing rehabilitation is exposure to soils in basements, active groundwater well systems and adequate ventilation.

The City has developed site-specific environmental review procedures in collaboration with the EPA and the procedures have been reviewed and approved by HUD. Properties in this area will be reviewed for open well systems, exposure to soil and adequate ventilation. Work lists containing remedies to address these issues are a priority for all properties located in the PCE area.



Location of PCE Site in Billings

Fair Housing & Equal Opportunity

The City has completed an [Analysis of Impediments to Fair Housing Choice](#) study every five years since the 1990s. The Community Development Division staff is dedicated to supporting fair housing efforts and initiatives in Billings. This includes ensuring that activities, projects and programs funded utilizing CDBG and HOME funding are carried out without discrimination, directly or indirectly, on the basis of race, color, religion, gender, national origin, age, familial status, disability or creed. This also includes efforts to affirmatively further fair housing, such as:

- Base program development strategies on activities to ensure diversity and benefit across the city, which also assists in avoiding segregation.
 - Ensure all housing repair, development, and acquisition activities are based on program parameters allowing city-wide implementation to avoid segregation.
- Staff facilitation and administration of fair housing initiatives.
- Facilitating capacity-building efforts for local non-profit organizations.
- Facilitating specific grant-writing activities to further local educational efforts, when staff time allows.
- Promoting fair housing choice for all persons.
- Working to alleviate housing discrimination in Billings.
- Promoting housing that is accessible / usable by persons with disabilities.
- Providing opportunities for all persons to live in any given housing development.

Fair Housing Initiatives Program (FHIP): The City actively partners with organizations with an interest in fair housing and has facilitated several grant applications for the FHIP available competitively through HUD. The City was awarded this grant in 2006 for over \$93,000. In 2007 and 2008 grant awards were made for over \$99,000 for each year and in 2011, the City was awarded another \$125,000 to further fair housing education and outreach. Previous and current partners and Subrecipients of FHIP funding include: homeWORD, the Community Housing Resource Board, Interfaith Hospitality Network, the Billings Partners for American Indian Homeownership, Rimrock Foundation, Yellowstone AIDS Project and Yellowstone County Council on Aging in Billings.

This year, City staff plans to address urgent needs identified in this underserved area by partnering with several non-profit and community representation organizations to build capacity and expand the professional knowledge base regarding fair housing issues. Partnering organizations assists in building a comprehensive community-based response to pressing fair housing needs, including targeting: American Indians and other minority groups; the disabled - particularly those in recovery from addiction or individuals who have been diagnosed with HIV / AIDS; homeless families; and people experiencing poverty. Impediments these individuals face include segregation, steering, blatant discrimination, hostility, and disparate treatment when applying for housing during the rental application process and also when applying for housing financing.

Staff members also review policies, procedures and service outcomes on an annual basis through the Consolidated Plan and performance reporting processes to determine whether impediments to fair housing choice were inadvertently imposed. Plans for future actions are implemented to address concerns during the fiscal year allocation process.

Affirmative Marketing

The City adheres to an Affirmative Marketing Procedure which furthers the City's commitment to nondiscrimination and equal opportunity in housing. Proposed affordable housing development projects with more than five units are required to submit an Affirmative Marketing Plan with the application for funding. Plans include procedures for marketing units to minority / disabled populations and performing significant outreach to ensure equal housing opportunity for potential renters / owners of the housing units.

Core programs (such as housing repair, down payment assistance, and special assessment grants) are advertised in Task Force Newsletters, which are distributed in identified low income and high-minority concentration areas. Core programs are also marketed to agencies serving the elderly, disabled and those experiencing homelessness.

The Citizen Participation Plan ensures comprehensive public notices and opportunities to solicit and receive public comment and participation in the allocation process. This process includes staff attendance at local neighborhood task force meetings during the allocation process. These areas have been identified with high minority densities and are predominantly low-income.

Section 504

Minimum accessibility requirements are mandated with all affordable housing projects developed utilizing federal funding. Subrecipients of federal funding are all monitored for Section 504 accessibility requirements pursuant to ensure that non-dwelling service facilities are fully accessible to those with

disabilities. All Subrecipients are provided a copy of the Self-Evaluation and Assessment of Accessibility to ensure compliance with Section 504 requirements.

Section 3

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. The Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and / or gender.

The City has a comprehensive procedure for compliance with Section 3 requirements. This includes procedures to provide job training, employment and contract opportunities for low income residents in connection with projects and activities in their neighborhoods.

Relocation Assistance & Displacement

The City minimizes displacement of persons and assists any persons displaced during the Division's affordable housing and redevelopment activities according to the Uniform Relocation Act. The Uniform Act provides important protections and assistance for people affected by the acquisition, rehabilitation, or demolition of real property for Federal or federally-funded projects.

This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a direct result of projects receiving federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy. The Division will require developers to make relocation benefits available to displaced persons during housing initiatives funded with federal dollars.

Short Sales

The term "short sale" can be described as the sale of a property where the sale proceeds fall short of the balance owed on the loan. The City carries liens on properties as a result of owner participation in programs such as First Time Homebuyer and Housing Rehabilitation.

On occasion, the City is asked to participate in "short sales," which is a process that routinely begins with homeowner that is default on a first-position mortgage. This typically involves a request from a third-party to lower the balance of the lien owed to the City.

Foreclosure proceedings mandate owner protections that can be diluted when a third-party short sale takes place. The City will not participate in any third-party short sale when the City holds an interest in a property. This includes lowering the balance of liens placed when the owner participated in City-

financed programs. Short sales initiated by the owner without a third-party will be considered on a case-by-case basis.

Labor Standards

The Davis-Bacon Act requires, when applicable, the payment of prevailing wage rates, as determined by the US Department of Labor, to all laborers and mechanics on federally-funded construction projects. As a rule, CDBG construction contracts in excess of \$2,000 will trigger Davis-Bacon, and HOME contracts involving twelve or more HOME units will require Davis-Bacon compliance. Staff will evaluate each application to determine if Davis-Bacon applies to a specific project.

Definitions

- **Laborer or mechanic:** Anyone performing construction work on the project, including trade journeymen, apprentices, and trainees. “Laborers” and “mechanics” are the two groups of workers that must be paid not less than Davis-Bacon wage rates.
- **Employee:** Every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship that may exist between a contractor or subcontractor and such person.
- **Apprentices and trainees:** The only workers who can be paid less than the wage rate on the wage decision for their work classification are “apprentices” and “trainees” registered in approved apprenticeship or training programs. Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program. The maximum number of apprentices or trainees on the job site cannot be more than the ratio of apprentices or trainees to journeymen allowed in the approved program.
- **Prevailing wages:** Prevailing wages are listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Wage decisions may include fringe benefits such as health insurance, retirement, vacation and contributions to training funds.
- **Site of work:** The “site of work” is where the Davis-Bacon wage rates apply, usually the boundaries of the project. “Site of work” can also include other adjacent or nearby property used by a contractor or subcontractor in the construction of the project.
- **Proper designation of trade:** A work classification on the wage decision for each worker based on the actual type of work he performed must be done. In addition, each worker must be paid no less than the wage rate on the wage decision for that classification regardless of skill level. The only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.
- **Split-classification:** Employees performing work in more than one classification should be paid the wage rates specified for each classification only if accurate time records showing the time spent in each classification of work are maintained. If accurate time records are not maintained, these employees must be paid the highest wage rate of all of the classifications of work performed.

Wage Decisions

Davis-Bacon wage decisions define the minimum wage payment requirements for classifications such as carpenters, electricians, plumbers, and roofers that work on the project. The geographically specific

Davis-Bacon wage decision, provided by the Department of Labor, contains a schedule of work classifications and wage rates to be followed. Wage decisions can be found [online](#).

The prime contractor, or the party ultimately accountable for meeting Federal regulations, is responsible for several key steps in a Davis-Bacon contract. Prior to bidding a construction contract, the Davis-Bacon wage decision must be obtained and included in the bid package. Once the project is underway, a copy of the wage decision and a copy of a Department of Labor "Notice to Employees" at the job site must be posted in a place easily accessible to construction workers employed at the project.

Reporting

A certified payroll report beginning the first week a company works on the project and continuing until the firm has completed its work will be required by the project monitor. The payrolls are certified because each payroll is signed and contains language certifying that the information is true and correct. "No work" payrolls may be submitted whenever there is a temporary break in work on the project.

The prime contractor reviews each subcontractor's payroll reports for compliance prior to submitting the reports to the contract administrator. The prime contractor is responsible for the full compliance of all subcontractors and will be held accountable for any wage restitution found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations.

Every contractor (including subcontractors) must keep a complete set of payrolls and time cards for a Davis-Bacon project for three years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor for three years after completion of the project.

Compliance Reviews

The contract administrator or other inspector may visit the project site and interview workers concerning their employment on the project. The interviewer will record the interview information and will compare it to payrolls and related submissions to ensure that the labor standards requirements have been met. Additional information on this topic can be found on the Department of Housing and Urban Development [website](#).

Housing Quality Standards

All City projects involving residential construction, rehabilitation, and / or acquisition shall meet the Division's standards to provide decent, safe and sanitary housing that minimally meets or exceeds all applicable local and State codes, rehabilitation standards, ordinances, and zoning ordinances. This includes meeting or exceeding Housing Quality Standards, which will be verified by staff inspection. In addition to meeting quality standards, all housing projects undertaken by the City emphasize energy efficiency, universal design, and green building components whenever possible and feasible.

Monitoring

91.230

The goals to be achieved through the Consolidated Plan will be monitored on a yearly basis as required as part of the Comprehensive Annual Performance Evaluation Report (CAPER) submitted to HUD for the Consolidated Plan. Monitoring consists of:

- Examination of the community's use of available HUD, state, and local resources to meet the affordable housing and community development needs as outlined in the Consolidated Plan.
- Examination of the effectiveness of the programs that are in place.
- Review of public comments received on the community's performance in meeting the affordable housing and community development needs described in the City's Consolidated Plan.

The City funds a variety of sub-recipients to carry out CDBG and HOME funded activities each year. Each of these sub-recipients is required to enter into a detailed sub-recipient agreement that specifically describes funding use. Subrecipients will be monitored on-site by Community Development staff at least every other year to ensure compliance with the terms of the agreement and applicable regulations.

Projects assisted with CDBG funding to rehabilitate rental units as well as projects financed with HOME funding. Housing projects are monitored via site-visits on a schedule based on the number of units in the project:

# of Units	Frequency of On-Site Monitoring
1 - 4 Units	Every 3 years
5 - 25 Units	Every 2 years
26+ Units	Every year
Source Documentation	Every 6 years
<i>Staff inspects 15% - 20% of the total HOME units per project, minimum one unit in each building</i>	

Timeliness

The City is required to both commit and expend CDBG and HOME funding in a timely manner. The CDBG program mandates that the City carry less than 1.5 times the previous year's award in the HUD payment system at the beginning of May each year. HOME funding allocated to the City must be committed to specific projects via contract (which must be approved through City Council) within 24 months of allocation and funds must be expended within five years of initial allocation. Failure to comply with commitment and expenditure deadlines will result in funding being recaptured by HUD.

The City must draw down funds at acceptable rates to prevent funding recapture. Therefore, the City will adhere to the following procedures regarding timeliness:

- Allocating funding to grantees that can expend funding expeditiously.
- Prioritizing applications for funding based on timeline for expenditure.
- Reallocating funding from projects that have not expended funds to new projects.
- Draw funding from HUD systems at least quarterly to ensure compliance.
- Perform a timeliness review at the end of each calendar year and plan to move funding to progressive accounts / projects if timeliness will become an issue.
- Work with Community Housing Development Organizations (CHDO) to pre-allocate future mandatory CHDO reserve funding.

- Communicating the importance of timeliness to applicants, the Community Development Board and the City Council.

Performance Measures

HUD requires certain objectives and outcomes be identified for all activities funded through CDBG and HOME. These include objectives for suitable living environment, the provision of decent housing and creating economic opportunities. Outcomes include increasing availability and / or accessibility, affordability and sustainability.

HUD PERFORMANCE MEASUREMENTS	
<i>Objectives</i>	<i>Outcomes</i>
Suitable Living Environment	Availability or Accessibility
Decent Housing	Affordability
Economic Opportunities	Sustainability

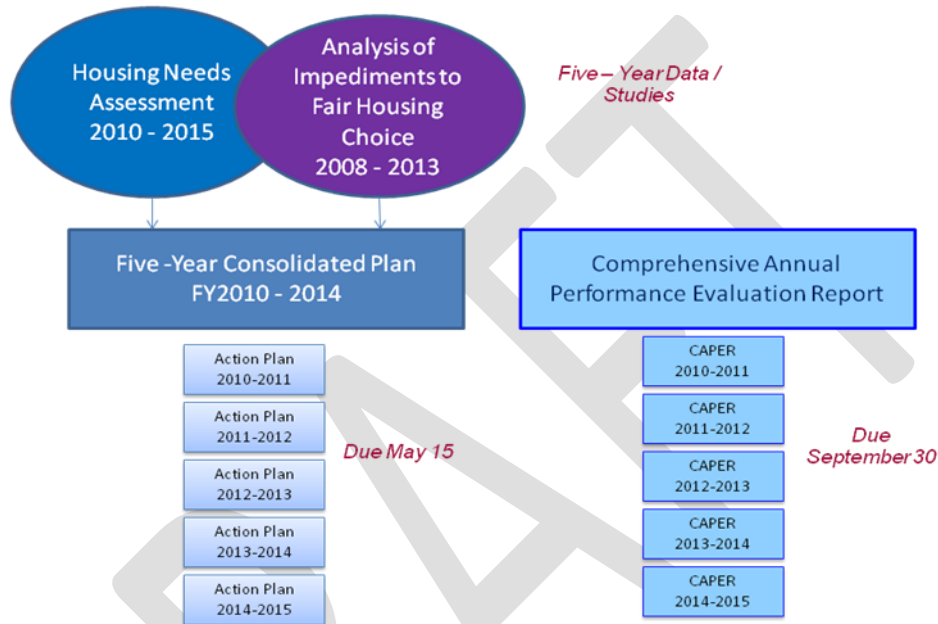
In addition to the utilization of HUD standard objectives and outcomes, the City will provide benchmark data on performance and outputs, including the following numbers:

- Housing units assisted
- Years in compliance with stated benchmarks / requirements
- Funding leveraged
- Meetings facilitated by staff
- Grant application submissions to further Consolidated Plan goals
- Strategic / Action Plans generated / implemented
- Organizations supported
- AmeriCorps*VISTA members placed

SECTION FOUR - Consolidated Plan & Budget Development

Significant Aspects of the Process

The City utilizes significant public comment processes and coordinates input from various organizations and groups in order to maximize collaborative efforts while developing and implementing the Consolidated Plan. Both the Housing Needs Assessment and the Analysis of Impediments to Fair Housing Choice are utilized by City staff as **primary planning tools** for the development and implementation of Consolidated Plan activities.



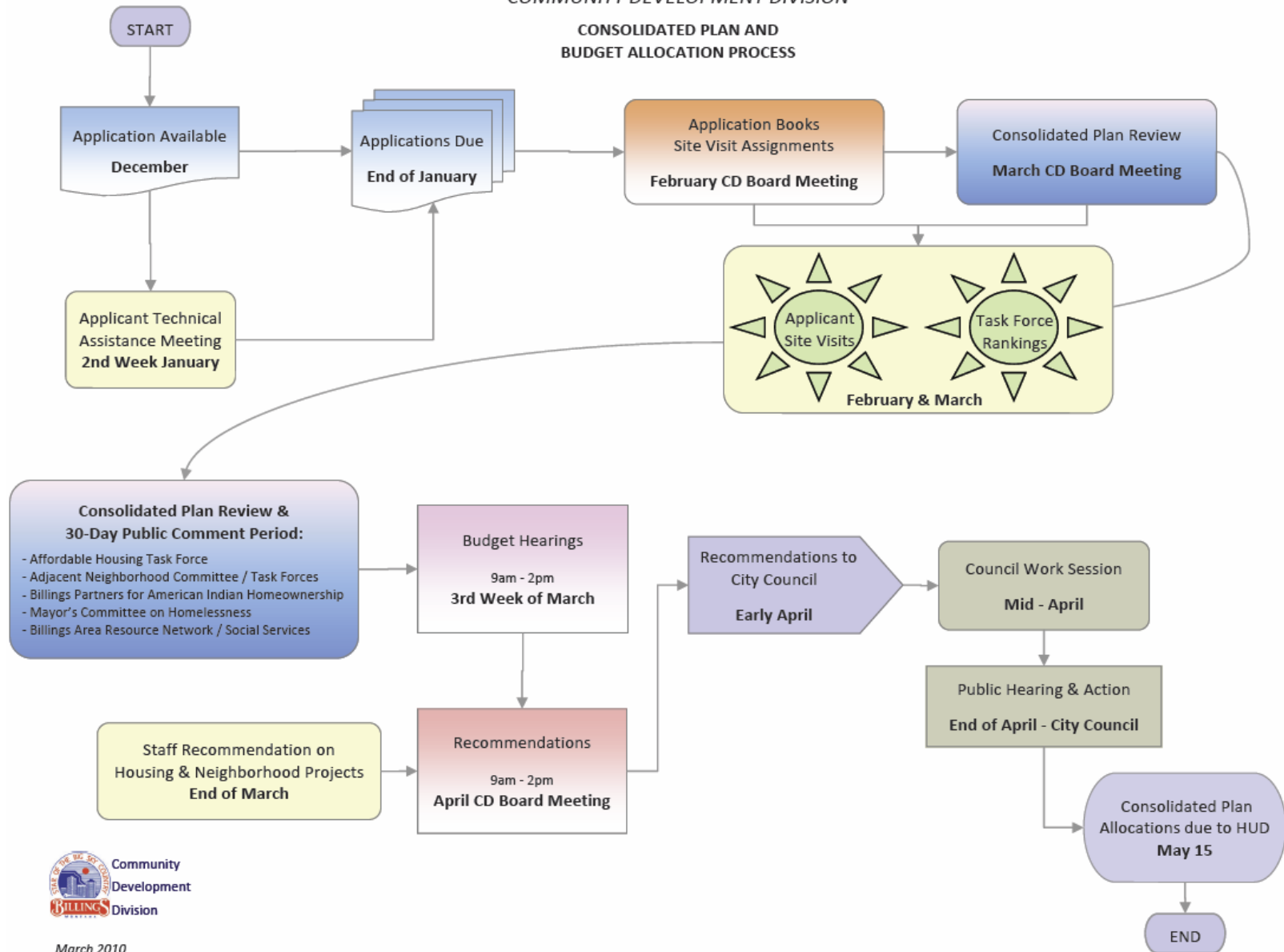
The Budget Allocation Process flowchart (following page) illustrates the significant aspects of public involvement and input processes utilized for Consolidated Plan development and implementation. The process includes a technical assistance meeting to facilitate training of CDBG / HOME applicants regarding application expectations and project requirements. All plans and studies are posted on the City’s website and emails are distributed announcing application and Consolidated Plan postings.

The Community Development Board conducts applicant site visits to review each application with the submitting organization. In addition, City staff visit each of the seven neighborhood task forces to garner housing / neighborhood activity rankings prior to the public comment period. The City also maintains extensive email distribution lists and utilizes these lists to make announcements of study results and drafted plans. Budget hearings are also held to give presentation opportunities to each applicant. Each neighborhood task force is also offered an opportunity to speak during the hearings.

A formalized public comment period is held for no less than 30 days and various community groups are visited during this time to garner feedback on studies, plans and activities. Agenda items are also scheduled for a City Council Work Session and regular City Council meeting; the latter includes an additional, specific public hearing to review the Consolidated Plan and activities. All meetings are open to the public, advertised in the regionally-distributed Billings Times newspaper and agendas offer a specific time for additional public comment.

COMMUNITY DEVELOPMENT DIVISION

CONSOLIDATED PLAN AND BUDGET ALLOCATION PROCESS



March 2010

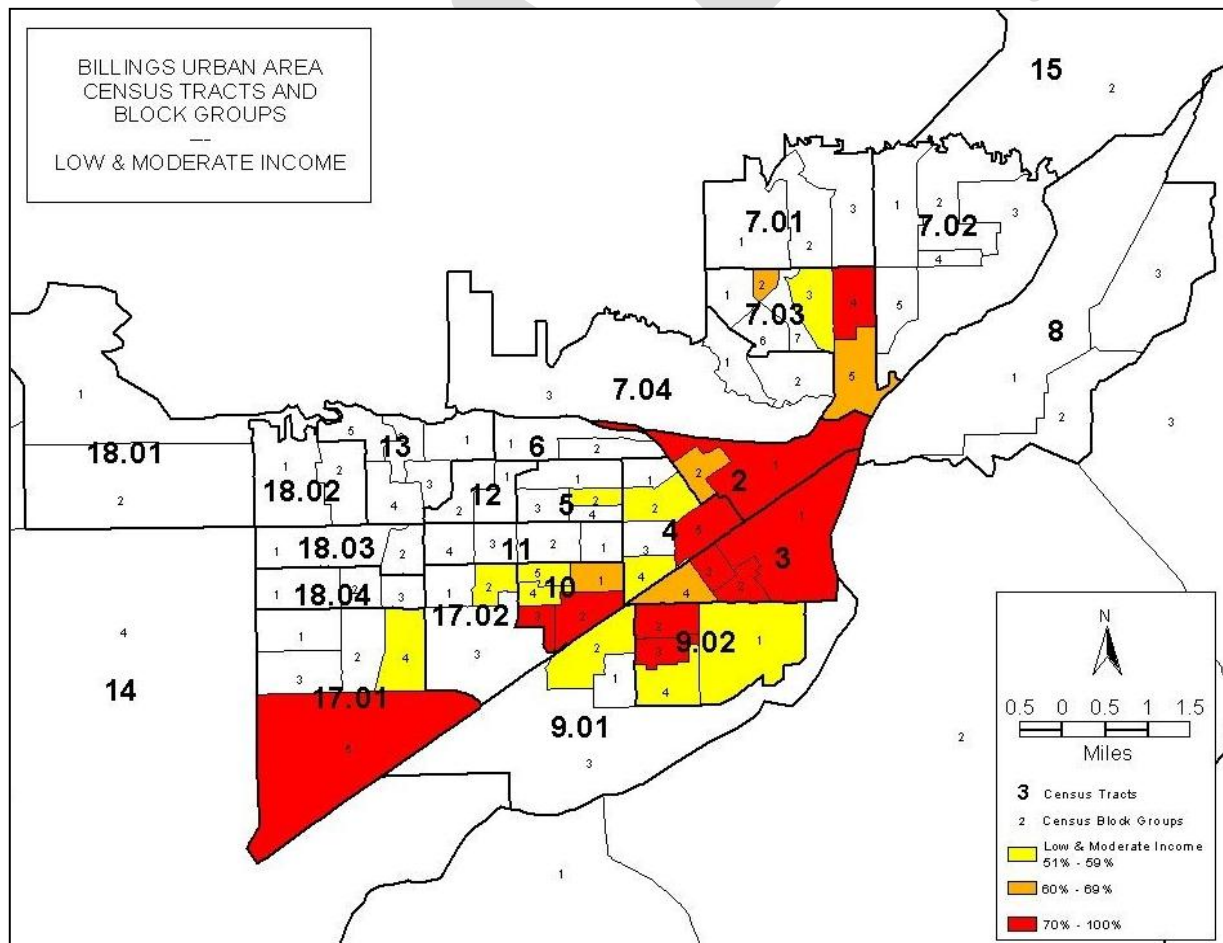
SECTION FIVE - Geographic Data

Geographic Area

The geographic area served by the Consolidated Plan is defined by the current City of Billings limits. Target areas include Census tracts and block groups with high concentrations of low to moderate income households, particularly those with higher concentrations of racial / minority households.

Lower-Income Household Concentration

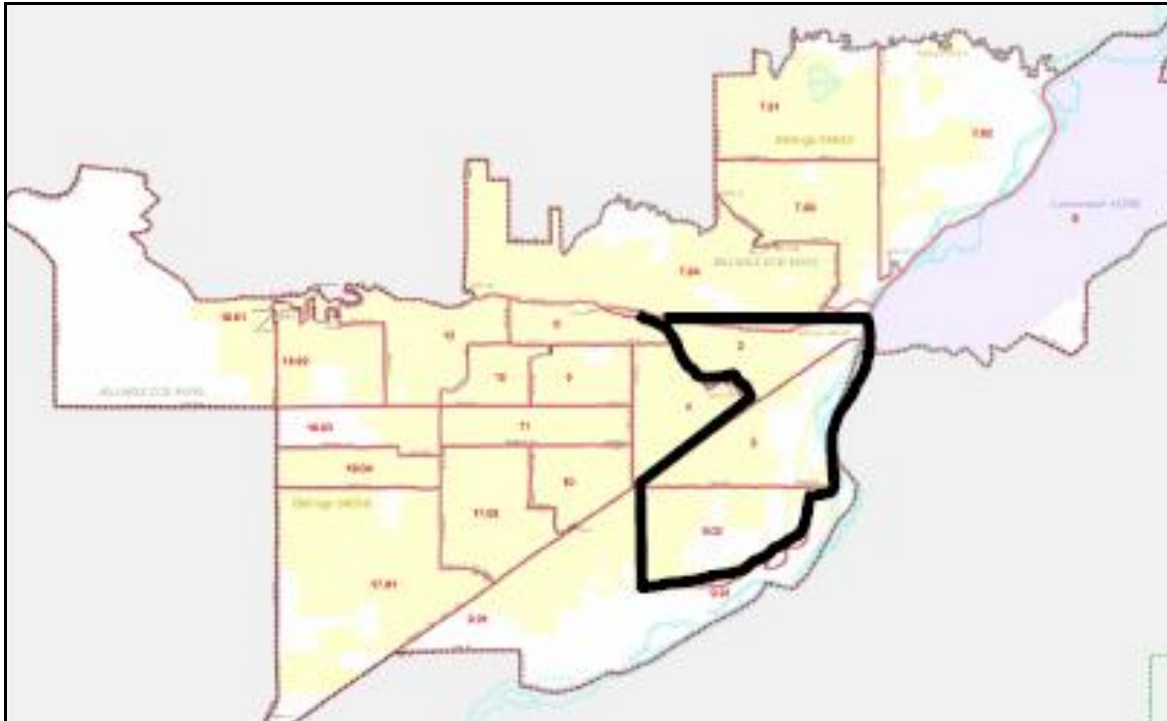
The strategies identified in the Consolidated Plan will be addressed on a citywide basis to encourage the distribution of low-income affordable housing and other assistance to lower income households throughout the community. Strategy D targets assistance provided through CDBG and related programs to lower income neighborhoods of the communities where the majority of the City's affordable housing stock is located. The map below identifies areas of the community with lower income population above 70%, between 60% and 69%, and between 51% and 59% to allow further prioritization of limited resources. The low income areas identified on the map maintain the presumption of affordability for the purposes of affordable housing development, recapture / resale and federal investment. Areas may be updated with the 2010 Census.



Lower Income Areas in Billings

Racial / Minority Concentration

The 2007 Analysis of Impediments to Fair Housing Choice identified areas of the community with a concentration of minority households. Census Tracts 2, 3, and 9.02 (known as South-Central Billings) show the highest concentration of protected class residents.



South-Central Billings - Highest Minority Population Concentrations

City-wide, there is an estimated American Indian population of 4% and a Hispanic population of 5%. Central Billings (Census Tracts 2 and 4) has a Native American population of 7% and Hispanic population of 6% while South Billings (Census Tracts 3, 9.01, and 9.02) has a Native American population of 9% and a Hispanic population of 14%. These areas are lower income areas and targeted neighborhoods for the geographic distribution of resources as described above. The 2007 Analysis of Impediments to Fair Housing Choice can be viewed [online](#).

Estimated Population Statistics for South-Central Billings

	Total	White	Black / African American	American Indian & Alaska Native	Asian	Native Hawaiian & Other Pacific Islander	Other Race	Two or More Races	Hispanic Origin
Population	11,361	8,913	164	1,145	44	9	573	513	1,485
% of City	13%	11%	33%	37%	8%	24%	44%	28%	40%

Geographic Basis for Allocation of Investments

91.215(a)(2)

The City of Billings is the largest city with the highest population in the state. However, the city only has an estimated population of nearly 104,000 in 2008, according to the 2009 Billings Housing Needs Assessment. Billings would be classified as a smaller city on a national scale. Therefore, the City will focus distribution of investments on a citywide basis in order to support diversity and mixed-income development across the community.

Basis for Assigning Priority - Overall Consolidated Plan

Priorities for funding are based on both the most recent Housing Needs Assessment and the Analysis of Impediments to Fair Housing Choice. Priorities for housing development are identified as “High” “Medium” and “Low” based on data analysis.

Obstacles to Meeting Underserved Needs - Overall Consolidated Plan

91.215(a)(3)

The primary obstacle faced by the City in undertaking the activities described in its Consolidated Plan and meeting under-served needs is the amount of available funding. The Housing Needs Assessment identified the affordable housing needs and conditions of our community. These conditions, particularly the cost burden faced by very low income renters and homeowners, is difficult to address given existing resources, and other needs of the community related to neighborhood improvement, housing preservation, and improving the economic conditions of lower income households.

In addition to funding for projects and programs, there is a need for additional funding for administration and planning costs to help design strategies and undertake projects to help meet these needs. The City attempts to leverage its CDBG and HOME resources as evidenced by past partnerships with the Montana Board of Housing, Wells Fargo, and Fannie Mae.

The City's ability to undertake such activities is limited by staffing levels. This issue has been partially addressed by establishing and supporting community partnerships to address housing and community development needs. The work of the Affordable Housing Task Force, Adjacent Neighborhood Committee, neighborhood groups, various Fair Housing organizations, and the Billings Partners for American Indian Homeownership increase local resources and capacity to address housing and community development needs.

SECTION SIX - Resources

Available Funding, Expenditure Limits & Match Requirements

91.220(c)(1&2)

CDBG administration and planning activities are budgeted at \$### which is 20% of the new CDBG allocation (\$###) in addition to eligible program income left over from the previous year and including income from the current year (\$###). The proposed budget also includes \$### in projects which have been cancelled or completed (cannot be included in administration costs). One hundred percent of available funding will be used to benefit the low to moderate income households.

The amount of funding available for Public Service Activities is \$###. This amount represents 15% of prior year income (15% of \$### is \$###) and the new CDBG allocation (15% of \$### is \$###), and no additional reprogrammed funding from Public Services from prior years.

HOME administration activities are budgeted \$### which includes 10% of estimated new HOME revenue (10% of \$### is \$###). As First Time Homebuyer funding returned to the City prior to the affordability period expiring is considered “recaptured” funding, no additional “program income” has been received and considered eligible for additional administration expenses. **Note: Federal budgets have not been determined by Congress to date.**

Expected Program Income - CDBG & HOME

Program income expected for the CDBG program includes repayments for funding loaned through the Housing Rehabilitation Loan program and other revitalization efforts. The City expects to receive approximately \$100,000 in repayments for this fiscal year which will be reprogrammed for CDBG-eligible activities for next fiscal year. The City will not receive proceeds for Section 108 loan guarantees, surplus funds from urban renewal settlements, or float-funded activities.

Program income expected for the HOME program includes repayments from homeWORD for the High Sierra project in an annual amount of \$1,500 according to the HUD-approved work out plan completed in December 2009. Other repayments include recaptured and program income funding generated by the First Time Homebuyer Loan program. The City expects to receive approximately \$100,000 in HOME funding through these venues, and the funding will be re-programmed and utilized for HOME-eligible activities next fiscal year. The City of Billings programs 100% of CDBG and HOME funding to benefit low to moderate income households and / or areas.

The City of Billings meets HOME matching requirements through low-interest financing available for First Time Homebuyer Loans issued through the Montana Board of Housing (MBOH) and matching funds provided for other affordable housing projects undertaken with HOME funds, such as private contributions and other local bank financing.

Neighborhood Stabilization Program Plan & Expected Program Income

The City of Billings approved a Substantial Amendment to the City of Billings’ Annual Action Plan for FY2008-2009 on January 26, 2009 to utilize funds provided under the Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. 110-289, 122 Stat. 2654, enacted July 30, 2008) through the HUD Neighborhood Stabilization Program (NSP). The geographic area covered in the Action Plan and

amendment is the City of Billings municipal boundaries, with priority emphasis on areas with a high foreclosure risk in low income task force areas.

The NSP provides \$19.6 million in CDBG funds to the Montana Department of Commerce (MDOC) to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. In addition, the funds can be used to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stem the decline of house values of neighboring homes.

The City of Billings intends to utilize granted funding and program income in a manner that complies with regulations established by HUD. This includes obligating funding via contract for service within 18 months of HUD's approval of the MDOC's Action Plan Amendment¹ and full expenditure of obligated funds within 48 months of HUD's approval date.

Approximately \$300,000 in program income is anticipated from the initial sale of vacant and foreclosed homes to low income households as acquisition funds are repaid to the City. Funding will be utilized to further the goals of the NSP program until July 30, 2013. Funding received thereafter is subject to the requirements of the CDBG program. As per HUD, the City will avoid the undue enrichment of entities, including individuals

All projects will be located in the City of Billings municipal limits which have been determined to be eligible for NSP project funding due to city blocks having HUD foreclosure risk scores between five and eight. Periods of affordability will be assigned in accordance with the subsidy amount committed and expended for each project. The City will not undertake activities which will trigger the Uniform Relocation Act. The City will be leveraging funding from available application sources including CDBG, HOME and partner-provided funding sources to facilitate NSP activities.

In general, the City will undertake the following activities, to be funded in part with NSP funding:

- Acquisition, rehabilitation (including infrastructure as part of redevelopment) and resale of foreclosed or abandoned homes to income-qualified homebuyers as their primary residence.
- Financial assistance to income-qualified homebuyers who are purchasing an abandoned or foreclosed home.
- Acquisition of properties and demolition of existing structures that meet the definition of blight in the community. These properties will be redeveloped in the future for use as permanent affordable housing.

As required, all NSP funding must be committed within an 18 month timeframe and must be carried out within four years. The projects will begin in early 2009 and will be continued until early 2013. The City's full Neighborhood Stabilization Program plan is available to view [online](#) and is included in the Appendices.

¹ Montana Department of Commerce Website, November 2008, http://housing.mt.gov/Includes/CP/ApplicationDocs/CP_NSP-Amendment.pdf

CDBG Stimulus Funding

The City received HUD notice of an additional \$190,430 in stimulus funding (CDBG-R) subsequent to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) signed into law by President Obama on February 17, 2009.

Staff created a new program to provide funding specifically for energy-efficiency and conservation upgrades in addition to providing funding for down payment and closing costs. Assistance levels are proposed for homeownership ranging from \$10,000 to \$15,000 according to household income. With an additional investment of up to \$15,000 for energy-efficiency upgrades, the City anticipates assisting nine low-income households to achieve homeownership with cost containment for utilities for years to come. The program is designed to ensure maximal job creation, long-term economic benefit and meets the area's most insurmountable need - affordable housing.

The Community Development Division does not anticipate receiving other stimulus funding directly.

Resources Complimenting the HOME Program

In addition to HOME funding, the City of Billings will also pursue the following resources:

- Montana Board of Housing of approximately five million dollars for first time homebuyer activities.
- Funding through financial institutions and organizations such as Fannie Mae American Communities Fund for new or rehabilitated housing.

In addition to these resources, the City of Billings will also either pursue or support applications for funding as requested for the following programs subject to the priorities established in the Consolidated Plan:

- HUD Section 202 Senior Housing
- HUD Section 811 Housing for the Physically Disabled
- HUD Supportive Housing and Shelter Plus Care Programs
- Special appropriations available through Congress for special projects
- Funding through the Federal Home Loan Bank
- Low-Income Housing Tax Credits

The City of Billings also is considered a partner in many activities that address the community's housing needs, particularly those carried out by human service agencies as public service activities in the CDBG program. The City's contribution to these projects often represents a small part of the overall funding resources to address a particular need. Furthermore, there are other local, state, and federal resources to address those needs such as FEMA funding for emergency shelters, funding received by the Housing Authority of Billings, and rental assistance provided by private non-profit assisted housing providers.

The City does not plan to use HOME funds to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds, with the exception of approval of a Community Housing Development Organization (CHDO) project. In this instance, the terms of repayment will be established in accordance with 24 CFR 92.206(b).

Periods of Affordability for Current Resale / Recapture Projects

Beginning on July 1, 2009, recapture provisions for the First Time Homebuyer program will be either five or ten years for each assisted activity beginning after the transfer of the property to the property owner as evidenced by the Mortgage Agreement.

The overall Kings Green Affordable Housing Development project will bring a total of 49 new affordable single-family units to the overall housing stock in Billings. Phases I, II and III have resulted in 39 units and Phase IV will be commencing this fiscal year to add an additional 10 units. These units will be subject to recapture provisions.

Fair Return to Seller

Fair return to the seller will be accomplished by recapturing the net proceeds from the sale of the property up to the amount of HOME assistance provided. Net proceeds will be defined by the City of Billings as the sales price minus repayment, closing costs, and any acquisition loan made at the time of the HOME assistance. Any loans or improvements made to the property after the time of the HOME assistance will be paid after the City is repaid the amount owed under its recapture provisions. If the net proceeds are not sufficient to recapture the full HOME investment, the City will accept the available net proceeds as full payment. The homeowner's down payment, principal payments, and any capital improvement investment made in the property after the HOME assistance has been provided will be returned to the homeowner at closing after the City's HOME assistance has been recaptured from the net proceeds as described above. The homeowner also will retain any value of the appreciation of the property after the City's HOME assistance has been recaptured.

Use of Recaptured Funds

Recaptured HOME funds will be used to assist other first time homebuyers to purchase property in Billings or other HOME eligible activities to be determined through the City's budget allocation process in accordance with the Citizen Participation Plan. Homebuyers must be low-income and must use the assisted property with the recaptured funds as their principal residence. Low-income and first time homebuyer status will be determined based on HOME program regulations.

The City of Billings does not propose the use of HOME funds to refinance existing debt secured by multi-family housing that is being rehabilitated with HOME funds.

Tenant-Based Rental Assistance

Tenant-Based Rental Assistance will be used to meet the priority need for rental deposit assistance as determined by the gap analysis in *Welcome Home Billings*, the City's 10-year plan to impact homelessness. This need was also identified in the Housing Needs Assessment. Additional information regarding this need can be found in the City's five-year Consolidated Plan. This investment should assist in narrowing the affordability gap for households with incomes less than 60% of the area median income.

SECTION SEVEN - Annual Objectives & Tables

Required Tables

HUD’s **Table 3A, Version One**, *Summary of Specific Annual Objectives*, is a summary of specific annual objectives which organizes objectives by type, including rental housing, owner housing, special needs, community development, public facilities, public services, and economic development. The table identifies sources of funds, performance indicators, expected numbers, actual numbers and the identification of HUD’s established outcomes / objectives.

HUD’s **Table 3A, Version Two** is a summary of specific annual objectives which organizes objectives by HUD’s established outcomes / objectives, including:

- Availability / accessibility of decent housing (DH-1)
- Affordability of decent housing (DH-2)
- Sustainability of decent housing (DH-3)
- Availability / accessibility of suitable living environment (SL-1)
- Affordability of suitable living environment (SL-2)
- Sustainability of suitable living environment (SL-3)

HUD OBJECTIVES / OUTCOMES MATRIX			
	<i>Availability / Accessibility</i>	<i>Affordability</i>	<i>Sustainability</i>
<i>Decent Housing</i>	DH-1	DH-2	DH-3
<i>Suitable Living Environment</i>	SL-1	SL-2	SL-3
<i>Economic Opportunity</i>	EO-1	EO-2	EO-3

Version Two also identifies sources of funds, performance indicators, expected number, actual number and percent completed. These figures will be located in the City’s Comprehensive Annual Performance Evaluation Report (CAPER) for each fiscal year.

The Table 3A provided in this Annual Action Plan meets the requirements of both versions (one and two, described above). Goals related to capacity-building for non-profit organizations and administrative support tasks such as newsletter distribution for low-income neighborhood task forces do not relate well to the established HUD Outcomes / Objectives matrix, and are also identified in the table as “Admin.”

Table 3B: Annual Affordable Housing Completion Goals information will be provided in the CAPER. Expected annual number of housing units and funding source is currently identified in Goals for the Consolidated Plan and Tables 3C.

Tables 3C can be found in the Appendices.

Affirmatively Furthering Fair Housing: The following chart illustrates the results of the latest AI, including identified impediments to fair housing choice and recommended strategies to impact barriers.

In order to further illustrate the City’s intent to affirmatively further fair housing, impediments and strategies identified in the AI are linked to the City’s overall Annual Action Plan activities in Table 3A.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE	
Identified Impediments	Strategies
<p>A. Many members of protected classes do not appear to understand their housing rights under the Fair Housing regulations.</p>	<p>A1: Produce and disseminate consumer education on Fair Housing issues.</p>
	<p>A2: Re-evaluate effectiveness of existing educational materials.</p>
	<p>A3: Plan for increasing significance of age-related disabilities.</p>
<p>B. Some landlords, property owners, and realtors do not act consistent with knowledge of Fair Housing regulations.</p>	<p>B1: Educate landlords, property owners and realtors on their Fair Housing Responsibilities.</p>
<p>C. Income, credit and housing affordability issues are tied to fair housing.</p>	<p>C1: Actions improving housing affordability / incomes will reduce impediments to fair housing.</p>
	<p>C2: Education on using credit and maintaining credit scores is needed.</p>
<p>D. Lack of funding hampers the effectiveness of local services working on behalf of fair housing protected classes.</p>	<p>D1: Increase funding and capacity of organizations that may assist with fair housing education / outreach activities.</p>
<p>E. The lack of hard data concerning the effectiveness of specific fair housing programs hampers the goal of improving the delivery of fair housing services.</p>	<p>E1: All Fair Housing outreach / education efforts will include measurable goals and outcomes.</p>

GOALS FOR FY2011-2012 CONSOLIDATED PLAN

Table 3A - Summary of Specific Annual Objectives & Affirmatively Furthering Fair Housing

July 1, 2011 through June 30, 2012 Goals

Strategy	Objective	Activity	Measurement Type	FY11-12 Goals	Objectives / Outcomes	Funding Source	AI Barriers Impacted	AI Strategies Implemented	
A: Promote the preservation of the existing supply of safe, affordable housing in the community.	Provide direct, affordable financing and assistance to low-income homeowners for the completion of needed repairs, citywide.	Housing Rehabilitation Loan Program	Housing Units	10	SL-2	CDBG	C	C1	
		Minor Home Repair Program	Housing Units	20	SL-2	CDBG	C	C1	
		Painting Program	Housing Units	5	SL-2	CDBG	C	C1	
	Provide financing and assistance through partnerships to facilitate needed repairs for special needs populations located citywide.	Wheelchair and accessibility ramps	Ramps - Housing Units	6	DH-1	CDBG	A, C, D	A3, C2, D1	
		Rehabilitation for special needs populations	Housing Units	3	DH-2	CDBG	A, C, D	A3, C2, D1	
	Benchmark Performance Measures	# units rehabilitated through City programs:			-	-	-	C	C1
		# units rehabilitated through partnership programs:			-	-	-	C	C1
		% of total funding allocated to enhance existing housing:			25%	-	-	C	C1
		# units resulting in energy-efficiency improvements:			-	-	-	C	C1
		# units resulting in ADA improvements:			-	-	-	C	C1
B: Promote new affordable housing opportunities.	Encourage the development of new affordable single-family, multi-family and special needs housing in the community through private developers and non-profit organizations.	Affordable Housing Development Program	Housing Units	20	SL-2	CDBG/HOME	A, C, D	A3, C2, D1	
		Complete Kings Green single-family development	Housing Units	3	SL-2	HOME	A, C, D	A3, C2, D1	
		Support the efforts of the Housing Authority of Billings	Five-Year Plan Implemented	1	DH-2	ADMIN	A, C, D	A3, C2, D1	
		Meet CHDO commitment / expenditure deadlines	Years in compliance	1	SL-2	HOME	C	C1	
	Provide affordable financing and support to promote homeownership opportunities citywide.	First Time Homebuyer Program	Households	35	SL-2	CDBG/HOME	C	C1	
			Cumulative Households	-	-	-	-	-	
		First Time Homebuyers - MBOH Set-Aside Use	Households	7	DH-2	-	C	C1	
			Leveraged Funding	\$0.8M	-	-	C	C1	
		Homebuyer Education	Households	200	EO-3	CDBG/HOME	A, C	A1, C1, C2	
	Billings Partners American Indian Homeownership	Homeownership Rate (1992 benchmark: 22%)	0.08	EO-1	ADMIN	A, B, C, D	A2, B1, C1, C2, D1		
Benchmark Performance Measures	% of total funding allocated to promote new housing opportunity citywide:			48%	-	-	C	C1	

Strategy	Objective	Activity	Measurement Type	FY11-12 Goals	Objectives / Outcomes	Funding Source	AI Barriers Impacted	AI Strategies Implemented	
C: Active partnerships with non-profits, neighborhood groups and others to address housing and community development specific to lower income and special needs households.	Support partnerships and regular meetings to facilitate community participation and collaboration.	Affordable Housing Task Force	Monthly Meetings	10	DH-2	ADMIN	B, C	B1, C1, C2	
		Adjacent Neighborhood Committee	Quarterly Meetings	4	SL-1	ADMIN	A, C	A1, C1	
		Billings Partners American Indian Homeownership	Monthly Meetings	10	EO-1	ADMIN	A, B, C, D	A2, B1, C1, C2, D1	
		Analysis of Impediments to Fair Housing Choice completed in December 2013 to implement activities for 2014-2019	Analysis / Plan completed	0.2	SL-1	ADMIN	A, B, C, D, E	A1, A2, A3, B1, C1, C2, D1, E1	
	Support task force newsletters and further capacity-building for self-sustainability.	Task Force newsletter support	Newsletters	10,000	SL-1	ADMIN	A, C, D	A1, A2, C1, D1	
	Encourage activities that promote fair housing and increase awareness of the rights of protected classes.	Continue to support organizations with an interest in fair housing to apply for FHIP, facilitate application if necessary	Annual submission of FHIP grant representing residents of Billings	1	SL-1	ADMIN	A, B, C, D, E	A1, A2, A3, B1, C1, C2, D1, E1	
	Encourage collaboration to better address needs and to respond to opportunities for special needs populations.	Mayor's Committee on Homelessness	Bi-Monthly Meetings	6	EO-3	ADMIN	C	C1	
		Assist in the implementation of Welcome Home Billings, the City's ten-year plan to impact homelessness.	Completed FY09-11 & FY11-13 Action Plans	1	SL-1	ADMIN	C	C1	
			Completed FY09-11 & FY11-13 Performance Reports	1	SL-3	ADMIN	C	C1	
		Facilitate AmeriCorps*VISTA application and pursue project status	Annual submission of VISTA grant application / VISTA member placements	1	EO-1	ADMIN	C, D	C2	
	Benchmark Performance Measures	% of total funding allocated to support partnerships:			15%	-	-	-	-
		% of total funding (or \$ amount) to support fair housing initiatives:			-	-	CDBG	A, B, C, D, E	A1, A2, A3, B1, C1, C2, D1, E1
		# fair housing complaints referred to HUD (track only if FHIP award is granted):			-	-	ADMIN/FHIP	A, B, C, D, E	A1, A2, A3, B1, C1, C2, D1, E1
D: Promote the preservation and revitalization of the community's older neighborhoods.	Preserve housing stock in older, lower-income neighborhoods.	See objectives / activities / goals outlined in Strategy A		-	SL-1	-	C	C1	
	Infill development of vacant lots and redevelopment of substandard properties.	Affordable Housing Development Program	See goals for Strategy B	-	SL-3	CDBG/HOME	C	C1	
		Redevelopment 27th Street Corridor	Redevelopment Projects	1	SL-3	ADMIN	-	-	

Strategy	Objective	Activity	Measurement Type	FY11-12 Goals	Objectives / Outcomes	Funding Source	AI Barriers Impacted	AI Strategies Implemented
D: Promote the preservation and revitalization of the community's older neighborhoods, continued.	Support activities that provide amenities, neighborhood stabilization and maintain infrastructure needs.	Tree Program	Individuals	10	SL-3	CDBG	C	C1
		Neighborhood improvements through the Capital Improvement Plan (CIP)	CIP Years Implemented	1	SL-3	-	C	C1
		Special Assessment Grants	Housing Units	4	SL-2	CDBG	C	C1
	Benchmark Performance Measures	% of total funding allocated to preserving older neighborhoods:		3%	-	-	C	C1
E: Provide assistance to agencies serving lower income and special needs populations, particularly the homeless, the elderly, minorities and those with disabilities.	Provide CDBG Public Service funding and HOME Tenant-Based Rental Assistance (TBRA) for deposits to non-profit organizations and provide assistance for supportive services, including job creation.	CDBG Public Service and HOME TBRA funding allocations for basic needs assistance and supportive services	Years Funding Committed	1	EO-1	CDBG/HOME	C	C1
			Organizations	4	EO-3	CDBG/HOME	C	C1
	Benchmark Performance Measures	% of total funding to support basic needs of special and lower-income populations:		9%	-	CDBG/HOME	A, C	C1, A3
Overall Benchmark Performance Measures	Total Budget Allocated			-	-	-	-	-
	Leveraging Ratio			-	-	-	-	-
	CDBG Timeliness Compliance			< 1.5	-	-	-	-
	# active CHDOs			-	-	-	-	-
	# of faith-based organizations funded			-	-	-	-	-
	Cumulative \$ of HOME funding used for homebuyer activities as of June 30 of each year			-	-	-	-	-
	% of previous year's HOME funding committed (for FY10-11, measure FY09-10), as of June 30			-	-	-	C	C1
	% of HOME CHDO funding reserved, two years ago (for FY10-11, measure FY08-09), as of June 30			-	-	-	C	C1
	% of completed HOME rental disbursements to all rental commitments, benchmark subject to HUD adjustment			> 72.37%	-	-	C	C1
	% of completed CHDO disbursements to all CHDO reservations, benchmark subject to HUD adjustment			> 49.28%	-	-	C	C1
	% of renters below 50% of the area median income			> 70%	-	-	C	C1
	<i>Note: 90% of rental and TBRA units must assist households less than 60% of the area median income</i>							
	% of occupied HOME rental units to all rental units, benchmark subject to HUD adjustment			> 90.81%	-	-	C	C1
Allocation years not distributed for HOME, benchmark subject to HUD adjustment			< 3.07%	-	-	-	-	
# of minority, disabled, elderly and female-headed households served			-	-	-	A, C	C1, A3	

Table 3B - Annual Affordable Housing Completion Goals

July 1, 2011 through June 30, 2012 Goals

Activity	Measurement Type	3B Type	3B Activity	FY11-12 Goals	# Completed	Funding Source
Housing Rehabilitation Loan Program	Housing Units	Homeowner	Rehab Existing Unit	10		CDBG
Minor Home Repair Program	Housing Units	Homeowner	Rehab Existing Unit	20		CDBG
Painting Program	Housing Units	Homeowner	Rehab Existing Unit	5		CDBG
Wheelchair and accessibility ramps	Ramps - Housing Units	Combined Owner / Renter	Rehab Existing Unit	6		CDBG
Rehabilitation for special needs populations	Housing Units	Homeowner	Rehab Existing Unit	3		CDBG
Affordable Housing Development Program	Housing Units	Combined Owner / Renter	Production of New Units	20		CDBG/HOME
Complete Kings Green single-family development	Housing Units	Homeowner	Production of New Units	3		HOME
First Time Homebuyer Program	Households	Homeowner	Homebuyer Assistance	35		CDBG/HOME
Special Assessment Grants	Housing Units	Homeowner	Rehab Existing Unit	4		CDBG
Assist in the implementation of Welcome Home Billings, the City's ten-year plan to impact homelessness.	Completed FY09-11 & FY11-13 Action Plans	Beneficiary	Homeless Households	See Welcome Home Billings Reports		ADMIN
	Completed FY09-11 & FY11-13 Performance Reports	Beneficiary	Homeless Households			ADMIN

CONSOLIDATED PLAN ACTIVITIES BY HUD OBJECTIVE / OUTCOME: *Table 1C*

<i>Objective</i>	<i>Activity</i>	<i>Measurement Type</i>	<i>FY11-12 Goals</i>	<i>HUD Objectives / Outcomes</i>	<i>Admin</i>
DECENT HOUSING & AVAILABILITY / ACCESSIBILITY					
Provide financing and assistance through partnerships to facilitate needed repairs for special needs populations.	Wheelchair and accessibility ramps	Ramps - Housing Units	6	DH-1	-
DECENT HOUSING & AFFORDABILITY					
Provide financing and assistance through partnerships to facilitate needed repairs for special needs populations.	Rehabilitation for special needs populations	Housing Units	3	DH-2	-
Encourage the development of new affordable single-family, multi-family and special needs housing in the community through private developers and non-profit organizations.	Support the efforts of the Housing Authority of Billings	Five-Year Plan Implemented	1	DH-2	Admin
Provide affordable financing and support to promote homeownership opportunities.	First Time Homebuyers - MBOH Set-Aside Use	Households	7	DH-2	-
Support partnerships and regular meetings to facilitate community participation and collaboration.	Affordable Housing Task Force	Monthly Meetings	10	DH-2	Admin
SUITABLE LIVING ENVIRONMENT & AVAILABILITY / ACCESSIBILITY					
Support partnerships and regular meetings to facilitate community participation and collaboration.	Adjacent Neighborhood Committee	Quarterly Meetings	4	SL-1	Admin
Support partnerships and regular meetings to facilitate community participation and collaboration.	Analysis of Impediments to Fair Housing Choice completed in December 2013 to implement activities for 2014-2019	Analysis / Plan completed	1	SL-1	Admin
Support task force newsletters and further capacity-building for self-sustainability.	Task Force newsletter support	Newsletters	10,000	SL-1	Admin
Encourage activities that promote fair housing and increase awareness of the rights of protected classes.	Continue to support organizations with an interest in fair housing to apply for FHIP, facilitate application if necessary	Annual submission of FHIP grant representing residents of Billings	1	SL-1	Admin
Encourage collaboration to better address needs and to respond to opportunities for special needs populations.	Assist in the implementation of Welcome Home Billings, the City's ten-year plan to impact homelessness.	Completed FY09-11 & FY11-13 Action Plans	1	SL-1	Admin
Preserve housing stock in older, lower-income neighborhoods.	See objectives / activities / Goals outlined in Strategy A	See objectives / activities / Goals outlined in Strategy A		SL-1	-
SUITABLE LIVING ENVIRONMENT & AFFORDABILITY					
Provide direct, affordable financing and assistance to low-income homeowners for the completion of needed repairs.	Housing Rehabilitation Loan Program	Housing Units	10	SL-2	-
	Minor Home Repair Program	Housing Units	20	SL-2	-
	Painting Program	Housing Units	5	SL-2	-

<i>Objective</i>	<i>Activity</i>	<i>Measurement Type</i>	<i>FY11-12 Goals</i>	<i>HUD Objectives / Outcomes</i>	<i>Admin</i>
Encourage the development of new affordable single-family, multi-family and special needs housing in the community through private developers and non-profit organizations.	Affordable Housing Development Program	Housing Units	20	SL-2	-
Encourage the development of new affordable single-family, multi-family and special needs housing in the community through private developers and non-profit organizations.	Complete Kings Green single-family development	Housing Units	3	SL-2	-
Encourage the development of new affordable single-family, multi-family and special needs housing in the community through private developers and non-profit organizations.	Meet CHDO commitment / expenditure deadlines	Years in compliance	1	SL-2	-
Provide affordable financing and support to promote homeownership opportunities.	First Time Homebuyer Program	Households	35	SL-2	-
Support activities that provide amenities, neighborhood stabilization and maintain infrastructure needs.	Special Assessment Grants	Housing Units	4	SL-2	-
SUITABLE LIVING ENVIRONMENT & SUSTAINABILITY					
Encourage collaboration to better address needs and to respond to opportunities for special needs populations.	Assist in the implementation of Welcome Home Billings, the City's ten-year plan to impact homelessness.	Completed FY09-11 & FY11-13 Performance Reports	1	SL-3	Admin
Infill development of vacant lots and redevelopment of substandard properties.	Affordable Housing Development Program	See goals for Strategy B	-	SL-3	-
	Redevelopment 27th Street Corridor	Redevelopment Projects	1	SL-3	-
Support activities that provide amenities, neighborhood stabilization and maintain infrastructure needs.	Tree Program	Individuals	10	SL-3	-
	Neighborhood improvements through the Capital Improvement Plan	CIP Years Implemented	1	SL-3	-
ECONOMIC OPPORTUNITY & AVAILABILITY / ACCESSIBILITY					
Provide affordable financing and support to promote homeownership opportunities.	Billings Partners American Indian Homeownership	Homeownership Rate (1992 benchmark: 22%)	40%	EO-1	Admin
Support partnerships and regular meetings to facilitate community participation and collaboration.	Billings Partners American Indian Homeownership	Monthly Meetings	10	EO-1	Admin
Encourage collaboration to better address needs and to respond to opportunities for special needs populations.	Facilitate AmeriCorps*VISTA application and pursue project status	Annual submission of VISTA grant application / VISTA member placements	1	EO-1	Admin
Provide CDBG Public Service funding and HOME Tenant-Based Rental Assistance (TBRA) for deposits to non-profit organizations.	CDBG Public Service and HOME TBRA funding allocations for basic needs assistance	Years Funding Committed	1	EO-1	-

<i>Objective</i>	<i>Activity</i>	<i>Measurement Type</i>	<i>FY11-12 Goals</i>	<i>HUD Objectives / Outcomes</i>	<i>Admin</i>
ECONOMIC OPPORTUNITY & SUSTAINABILITY					
Provide affordable financing and support to promote homeownership opportunities.	Homebuyer Education	Households	200	EO-3	-
Encourage collaboration to better address needs and to respond to opportunities for special needs populations.	Mayor's Committee on Homelessness	Monthly Meetings	10	EO-3	Admin
Provide CDBG Public Service funding and HOME Tenant-Based Rental Assistance (TBRA) for deposits to non-profit organizations.	CDBG Public Service and HOME TBRA funding allocations for basic needs assistance and supportive services	Organizations	4	EO-3	-

OBJECTIVE CATEGORIES					
Staff review includes Consolidated Plan, Welcome Home Billings, and the Neighborhood Stabilization Program.					
<input checked="" type="checkbox"/>	Decent Housing	<input checked="" type="checkbox"/>	Expanded Economic Opportunities	<input checked="" type="checkbox"/>	Expanded Economic Opportunities
<input checked="" type="checkbox"/>	Assisting homeless persons obtain affordable housing.	<input checked="" type="checkbox"/>	Improving the safety and livability of neighborhoods.	<input checked="" type="checkbox"/>	Job creation and retention.
<input checked="" type="checkbox"/>	Assisting persons at risk of becoming homeless.	<input checked="" type="checkbox"/>	Eliminating blighting influences and the deterioration of property and facilities.	<input checked="" type="checkbox"/>	Establishment, stabilization and expansion of small business (including micro-businesses).
<input checked="" type="checkbox"/>	Retaining the affordable housing stock.	<input checked="" type="checkbox"/>	Increasing the access to quality public and private facilities.	<input checked="" type="checkbox"/>	The provision of public services concerned with employment.
<input checked="" type="checkbox"/>	Increasing the availability of affordable permanent housing in standard condition to low-income and moderate-income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability.	<input checked="" type="checkbox"/>	Reducing the isolation of income groups within areas through spatial de-concentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods.	<input checked="" type="checkbox"/>	The provision of jobs to low-income persons living in areas affected by those programs and activities under programs covered by the plan.
<input checked="" type="checkbox"/>	Increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence.	<input checked="" type="checkbox"/>	Restoring and preserving properties of special historic, architectural, or aesthetic value.	<input checked="" type="checkbox"/>	Availability of mortgage financing for low income persons at reasonable rates using non-discriminatory lending practices.
<input checked="" type="checkbox"/>	Providing affordable housing that is accessible to job opportunities.	<input checked="" type="checkbox"/>	Conserving energy resources and use of renewable energy sources.	<input checked="" type="checkbox"/>	Access to capital and credit for development activities that promote the long-term economic social viability of the community.

SECTION EIGHT - Other Required Narratives

Public Housing Strategy

The HAB serves local residents who are extremely low income, very low income, and low income. The HAB plans to apply for all grants that will assist the organization in adding units to its existing programs, and any programs that complement existing services and are able to be implemented by the HAB. The HAB will continue to assess and implement modernization funds to upgrade and restore units and complete energy efficient repairs as needed.

Family Self-Sufficiency: The HAB implements the Family Self-Sufficiency program whose graduates have a 55% homeownership rate. This program links participants to community agencies to help them become self-sufficient through individual goal setting. HAB has been operating the Section 8 Homeownership program since 2006. Thirty-five households have achieved homeownership through this program to date. Resident councils and the Advisory Board are involved in providing input on program needs and assisting others to become actively involved in the process. Additional information is included in the HAB's 5-Year Plan on file at the HAB office.

Housing Authority of Billings Assistance Program Usage / Demand – October 2009

<i>Assistance Programs</i>	<i>Vouchers / Units in Use</i>	<i>Waiting List</i>
Housing Authority Section 8	579	2,463
State Section 8 (HAB manages)	480	1,642
Public HAB (Income Eligibility)	271	1,161
MOD Rehab	35	443
Homeless Veterans	35	?
Total:	1,400	5,709

Source: Housing Authority of Billings

Public Housing Partnerships

The City has provided a police officer for the HAB's Drug Elimination program since 1992. The HAB has been paying for this officer from its Operating Fund for the past several years and intends to continue to support this position as long as financially possible. The City has granted the HAB funds to build new units through the HOME and CDBG programs in neighborhoods where HAB property exists. The City has also provided funding for a variety of rehabilitation and new construction projects to neighborhoods that have Public Housing units in need of upgrading.

The City has helped rehabilitate properties, sold land for new businesses, and granted land to nonprofits to assist with neighborhood revitalization efforts in neighborhoods where HAB complexes have been built. The City has provided funding for parks and play areas for the neighborhoods where HAB families reside. In addition, the businesses that have moved into areas where HAB properties are located have contributed to the economic stability of the HAB clients. The City's HOME program assists with home ownership down payment assistance and home ownership counseling for clients considering homeownership.

The City coordinates with the HAB for environmental reviews, housing needs assessments, assists in funding new projects when appropriate, and assists with applications for supportive services when called upon for needed assistance. The HAB is a High Performer for PHAS and, therefore, a review of troubled status needs is not required as part of this Consolidated Plan.

Loss of Public / Assisted Housing Units

The HAB does not anticipate any loss in public housing units during the period of this plan. Additionally, the City does not anticipate the loss of other assisted housing units in our community that are owned by other nonprofit housing providers during the period of this plan.

Barriers to Affordable Housing

91.220(j)

Several barriers to the construction of affordable housing and maintaining residency in housing have been identified. They include:

- **Economic Conditions** – The Housing Needs Analysis reports median housing cost has exceeded median household income for certain household income levels. Lower income households have a difficult time affording and maintaining a suitable home in the current market and effects of the economic recession.
- **Cost of Development** - This includes infrastructure costs and leapfrog development.
- **Difficulty in Paying for Needed Repairs** - Many low-income households often pay the maximum percentage of their income for housing costs. Many of these households do not have the resources to pay for needed repairs to the property.
- **Few New Manufactured Housing Developments** - It is difficult for new manufactured housing developments to be approved, which raises the price of existing lots. Owners of manufactured homes have a difficult time finding an affordable place for their housing unit. While manufactured housing does have drawbacks, it also provides an affordable option for many families. The construction quality with manufactured housing continues to improve.
- **Tax Structure** - Dependence on property taxes to support local government costs, including infrastructure.

Specific Housing Objectives for the City

Consolidated Plan strategies are identified following each objective and can be found in Section Eleven.

1. Homebuyer assistance is still needed to close the affordability gap, and has been provided through the First Time Homebuyer program. The Affordable Housing Development program can also be utilized to develop affordable housing. *(Strategy B)*
2. Support affordable housing development at the same levels. This goal is dependent on consistent levels of funding through CDBG and HOME programs. *(Strategy B)*
3. Provide affordable financing opportunities for housing repair to maintain the affordable housing stock. *(Strategy A)*
4. Provide CDBG / HOME financing opportunities through routine allocation processes and the Affordable Housing Development program. *(Strategy B)*

5. Offer affordable financing through the Affordable Housing Development program. *(Strategy B)*
6. Provide affordable financing for rental housing development / repair through the Affordable Housing Development program and deposit / rent assistance through Tenant Based Rental Assistance and Public Service grants. *(Strategies B and E)*
7. Prioritize Universal Design in Request for Proposal processes and also through the Affordable Housing Development program. *(Strategy B)*

Homeless Strategic Plan

The Montana Continuum of Care (CoC) plans to facilitate increased partnership of local governments in addressing homelessness. The City supports this strategy and has become more involved with the CoC Coalition through the Mayor's Committee on Homelessness. A local Continuum of Care group has been convened through the Billings Area Resource Network. The Community Development Division works with service providers to shape outreach, referral and permanent supportive housing programs into a local continuum. Throughout this process, the City supports the Montana Continuum of Care's goals and strategies regarding homelessness, chronic homelessness, and homelessness prevention; the City also assists in the development of plans using services already in place.

Welcome Home Billings is the City's completed ten-year plan to impact homelessness. It is a comprehensive document that includes data, resources, cross-cutting strategic goals and programmatic goals. The "Strategic Framework" can be utilized as a tool and duplicated by other communities wishing to implement plans to impact homelessness. Further, the Mayor's Committee on Homelessness and the Billings Area Resource Network has committed to two-year action plans (located in the City's FY2010-2014 Consolidated Plan appendices) for implementation during FY2009-2011. These documents represent full commitments of the leadership involved in both groups, and primarily consist of fully-committed financial resources to implement the plans. Consolidated Plan Strategies are noted on the Programmatic Strategic Goals and Priorities for Housing, Prevention, Services and Assets.

WELCOME HOME BILLINGS

Strategic Framework

Ten-year Plan to Impact Homelessness

Vision: No one in Billings has to be homeless. Everyone in Billings has access to tools and opportunities for safe, appropriate and affordable housing.

Mission: The Mayor's Committee on Homelessness has partnered with local organizations and community members to develop and implement a comprehensive ten-year plan in the pursuit of ending chronic homelessness in the Billings community.

CROSS-CUTTING STRATEGIC GOALS

COLLABORATION	A: Join community partners with resources to address homelessness intervention and prevention efforts and facilitate partnerships to improve collaboration, service array, leveraging and capacity.	
	A1:	Develop resources for funding homeless initiatives and coordinate grant efforts.
	A2:	Support Project Homeless Connect as an annual event.
	A3:	Support the Billings Area Resource Network as a working homeless services / advisory body for the Mayor's Committee on Homelessness.
	A4:	Support the Business Consortium for Social Change to involve businesses in impacting the homeless / near-homeless.
	A5:	Create modes of communication between partnering organizations to facilitate coordination, avoid duplication, and increase collaboration to maximize resources.
AWARENESS	B: Increase advocacy and public knowledge on behalf of the homeless.	
	B1:	Utilize the ten-year plan to provide guidance regarding homeless policy for local, state, and federal entities.
	B2:	Increase understanding of the causes and economic realities of homelessness through targeted public awareness campaigns for homeless projects and service events.
	B3:	Promote understanding and respect for all people experiencing homelessness.
	B4:	Provide venues for those experiencing homelessness to have their ideas and concerns heard.
ACCOUNTABILITY	C: Ensure innovation, fiscal responsibility and long-term effectiveness for projects and programs.	
	C1:	Support both prevention and intervention modalities for projects and programs.
	C2:	Closely monitor trends in the needs of the homeless and near-homeless in Billings in order to respond to community need.
	C3:	Research innovation in homeless services and facilitate capacity-building with local service providers and community organizations to implement improved services.
	C4:	Support education efforts for case management, mentoring and services.
SUSTAINABILITY	D: Ensure high standards for management, accountability and performance measurement.	
	D1:	Embrace public involvement, comment and input for ten-year planning and project development efforts.
	D2:	Ensure performance measurements are implemented with each project and data is gathered and analyzed on a routine basis.
	D3:	Evaluate projects for long-term sustainability as part of the routine processes prior to endorsement or facilitation.
	D4:	Evaluate cost-effectiveness, essential services, and long-term business resource planning for all projects.
	D5:	Embrace public involvement, comment and input for ten-year planning and project development efforts.

WELCOME HOME BILLINGS

Strategic Framework

Ten-year Plan to Impact Homelessness

PROGRAMMATIC STRATEGIC GOALS & PRIORITIES

HOUSING		PREVENTION		SERVICES		ASSETS	
E: Increase the city's supply of decent, affordable housing. Con Plan Strategy B		F: Provide adequate emergency homeless prevention programs. Con Plan Strategies B, C, E		G: Expand treatment /service capacity and linkage to essential services. Con Plan Strategy C, E		H: Increase personal income levels and economic opportunities. Con Plan Strategy C, E	
E1:	Increase supportive housing units, permanent rentals, transitional housing units, veterans housing, emergency shelter beds, housing for those returning from prison and those in recovery.	F1:	Increase funding dedicated to rent, utilities and mortgage assistance.	G1:	Expand coordinated intensive case management and street outreach services for the homeless.	H1:	Increase access to social service and income benefits by ensuring assistance is provided to complete applications.
E2:	Seek federal, state and local funding sources to support affordable housing development for households with very low income (0 - 30% Area Median Income).	F2:	Support incentive programs for landlords to rent to the homeless or those at risk for homelessness, and increase service provider capacity to engage in long-term leasing and / or rental ownership.	G2:	Increase assistance to complete applications and facilitate application streamlining to access services, transportation, employment and housing.	H2:	Support asset development, education, job training, and employment opportunities serving the homeless (and those at risk of homelessness) throughout the community.
E3:	Build local service provider capacity for affordable housing development, management and housing rehabilitation.	F3:	Support pre-release / discharge planning education and intervention for all institutional services including foster care, prison, jail, and behavioral health facilities.	G3:	Increase availability and capacity of health care, mental health, substance abuse services, medication assistance and access to legal assistance to the very low income / uninsured.	H3:	Establish mentoring support systems, life skills training, and childcare assistance to the homeless (and those at risk of homelessness) currently in the workforce.
E4:	Provide Community Housing Development Organization (CHDO) capacity-building opportunities through the City's Community Development Division.	F4:	Utilize <i>housing first</i> and <i>rapid re-housing</i> philosophies in developing housing options to shorten homelessness.	G4:	Support increases in capacity for day center operations across the city.	H4:	Support the expansion of financial fitness and credit assistance programs.
E5:	Decrease barriers to obtaining existing housing units and refine housing placement services and coordination.	F5:	Support case management efforts to transition occupants from shelter care to permanent supportive housing.	G5:	Support expansion of community-based, criminal justice diversion and re-entry programs.	H5:	Promote fair wage rates and competitive bidding through the expansion of social enterprise efforts.
E6:	Facilitate collaborative grant and loan applications for affordable housing development to serve the homeless.	F6:	Support landlord-tenant intervention to prevent eviction.	G6:	Establish one-stop shop to access all services for the homeless.	H6:	Increase financial management services for those in need.

Services in Place

A complete list of service providers for the homeless can be found in the appendices. The City provides 15% of our annual CDBG allocation to Public Service activities in the community. In the past, the City has funded the YWCA Gateway Shelter, Tumbleweed Runaway and Homeless Youth Program, the District 7 Human Resources Development Council (HRDC), Family Service, Inc. and the Yellowstone Health Partnership. These programs provide services to the homeless and near-homeless and are described below.

The YWCA Gateway Shelter serves victims of domestic abuse and violence and sexual assault. CDBG funding is used to support general operating expenses of the program, which include housing, support, education, and advocacy for victims of domestic violence and sexual assault.

Tumbleweed Runaway and Homeless Youth Program is the only agency in Yellowstone County that directly addresses the needs of youth who are homeless, or at-risk of being homeless. The Tumbleweed program's goal is to divert youth from the juvenile justice system through the prevention of delinquency and other social problems. Youth are provided a positive alternative to running away / living on the streets. When youth are unable to return home, Tumbleweed provides shelter as appropriate, and also provides an alternative to jailing runaway and other status offender youth. Tumbleweed's mission and goals are all directed toward the prevention of homelessness, running away, severe family conflict, delinquency, and other social problems among youth.

HRDC receives Emergency Shelter Grants funds and provides emergency rent or mortgage assistance through those funds. They also administer the Low Income Energy Assistance Program for assistance in meeting the energy use needs of low-income families and individuals. Another program the HRDC administers is the Energy Share program, which helps low-income families remain in their homes. This program provides emergency utility assistance to low income families and individuals. The City provides funds to the HRDC for Housing Counseling, which prevents homelessness through default / foreclosure and rental counseling. Family Service, Inc. helps low-income individuals and families with emergency rent or mortgage expenses.

The City has provided funding to Yellowstone Health Partnership - Medication Assistance Program, which provides medications to low income households unable to pay for them, and also provides medications in the interim between the application and approval for SSI and Medicaid.

In addition to these activities, CDBG funding has been made available as a rehabilitation activity to build ramps for the disabled and to make accessibility improvements through the Housing Rehabilitation and Minor Home Repair programs.

HOME funding will also be available for housing for homeless and the special needs population, including Tenant-Based Rental Assistance. The City lists several goals and strategies in the Consolidated Plan which can be utilized to guide activities to assist the homeless, including promoting new affordable housing opportunities, emphasizing new / converted special needs housing, and working as an active partner with nonprofits, neighborhood groups, and others to address housing and community development needs.

Essential Services

The Office of Public Assistance provides assistance for obtaining Food Stamps and Medicaid.

Food Banks are active participants in the local continuum and provide free groceries that oftentimes free up cash resources for rent, transportation and other essential needs. The City has funded the Food Bank with CDBG Public Services funds in the past to assist them in expanding their operational storage facility to meet ongoing and growing needs in the community.

The Salvation Army, St. Vincent de Paul and other faith-based organizations and churches in Billings also offer emergency assistance. Billings has the addition of a faith-based partnership, Interfaith Hospitality Network, to assist in providing assistance to homeless families. The Interfaith Hospitality Network is a unique partnership of area churches designed to assist homeless families by utilizing existing community resources. The churches provide rooms for overnight accommodations, congregations supply volunteers and food, and social service organization assess and refer homeless families to this and various other programs. Because the program utilizes volunteers, it does not accept person with substance abuse or untreated severe mental health issues. The program includes ten host congregations and four supporting congregations. The program does not require clients to attend church services or activities of the host congregation.

Discharge Coordination Policy

The City does not receive McKinney-Vento Homeless Assistance Act funds and is not required to develop and implement a Discharge Coordination Policy. The City supports the MT CoC in their efforts to establish a Statewide Discharge Coordination Policy.

COMMUNITY DEVELOPMENT DIVISION

Preliminary Revenue FY 2011-2012 w/7.5% CUT CDBG & 10% CUT HOME

CDBG REVENUE

New Funding Sources - Eligible for use in Admin Cap

HUD CDBG Grant	\$714,502	Annual Allocation
Prior Year Program Income - Rehab Loans / Parkview Conv.	\$63,740	Program income over 50% claimed last year
Housing Rehab Loans Repayment	\$8,285	At 50% year lapsed for 10-11
Total New Funding:	\$786,527	
20% Cap on CDBG Administration:	\$157,305	

Reallocated Funding Sources - Not Eligible for use in Admin Cap

Prior Year Reprogrammed Funds / Reimbursements	\$6,577	Repayments over 50% claimed last yr
Minor Home Repair Reimbursements - Reprogram Funds	\$5,486	At 50% year lapsed for 10-11
Total Reallocated Funding:	\$12,063	

CDBG Revenue Total: \$798,590

Public Service Cap Calculation

15% of CDBG Allocation	\$107,175	
15% of previous year program income (\$112,240)	\$16,836	New sources of funding only, as reported on CAPER
15% Public Services Cap:	\$124,011	

Housing Rehabilitation Revolving Loan Fund - Minimum Allocation Calculation

Total New Program Income on CAPER:	\$112,240	Program income over 1/12 of last year's new CDBG
Maximum Program Income Allowed (1/12 of last year's grant):	\$64,370	allocation only allowed for reallocation if part of
\$ Over Maximum to be Re-Allocated to Housing Rehab:	\$47,870	revolving loan fund.

Amount Available for Housing & Neighborhood Activities

	CDBG Revenue Total:	\$798,590
	15% Public Services Cap:	\$124,011
	Housing & Neighborhood:	\$674,579
	Amount Requested for Public Service Activities:	\$90,000
	Revised Amount for Housing & Neighborhood:	\$708,590

\$90,000 is nearly 12% of total budget

HOME REVENUE

New Funding Sources - Eligible for use in Admin Cap

HUD HOME Grant	\$484,307	Annual Allocation
FTHB Loans Program Income	\$0	
Total New Funding:	\$484,307	
10% Cap on HOME Administration:	\$48,431	
15% CHDO Allocation Minimum:	\$72,646	

Reallocated Funding Sources - Not Eligible for use in Admin Cap

Prior Year Recaptured Funding	\$72,606	Recaptured \$ over 50% claimed last year
FTHB Loans Recaptured	\$88,105	At 50% year lapsed for 10-11
homeWORD High Sierra Repayment	\$1,500	Paid in Q1 for FY10-11
Total Reallocated Funding:	\$162,211	

HOME Revenue Total: \$646,518

Total Available in CDBG & HOME: \$1,445,108

**CD BOARD RECOMMENDATIONS
HOUSING & NEIGHBORHOOD ACTIVITIES
2011-2012**

CDBG/HOME GRANT HISTORY		2009-2010	2010-2011	ONE YEAR Requests		Staff Recommendations, using 7.5% CDBG cut, 10% HOME cut		CD Board Recommendations		
				CDBG	HOME	CDBG	HOME	CDBG	HOME	
Admin / Planning	HN-1	CDBG Administration	\$171,068	\$175,000	\$175,000	-	\$157,305	-	\$157,305	-
	HN-2	HOME Administration	\$53,861	\$53,812	-	\$65,000	-	\$48,431	-	\$48,431
	HN-3	Professional Services - VISTA Support	\$0	\$17,906	\$30,000	-	\$0	-	\$0	-
Affordable Housing	HN-4	Affordable Housing Development Program - reserved for Kings Green, Phase IV	\$300,000	\$0	\$350,000	\$350,000	\$0	\$350,000	\$0	\$350,000
	HN-5	Set-Aside for CHDOs	\$81,000	\$243,000	-	\$85,000	-	\$72,646	-	\$0
	HN-6	First Time Home Buyer Program	\$488,807	\$577,326	\$200,000	\$300,000	\$86,285	\$160,441	\$86,285	\$233,087
	HN-7	Minor Home Repair	\$0	\$100,000	\$60,000	-	\$60,000	-	\$60,000	-
	HN-8	Housing Rehabilitation Loan Program	\$300,000	\$300,000	\$280,000	-	\$280,000	-	\$280,000	-
	HN-9	Paint Program	\$10,000	\$10,000	\$10,000	-	\$10,000	-	\$10,000	-
Neighborhood	HN-10	Property Management	\$15,000	\$20,000	\$15,000	-	\$15,000	-	\$15,000	-
	HN-11	Special Assessment Grants	\$25,000	\$35,000	\$40,000	-	\$35,000	-	\$35,000	-
Affordable Housing	HN-12	Section 8 Deposit Assist. - Housing Authority	\$15,000	\$15,000	-	\$15,000	-	\$15,000	-	\$15,000
	HN-13	Rebuilding Together	\$10,000	\$10,000	\$10,000	-	\$10,000	-	\$10,000	-
	HN-14	YCCOA - Minor Home Repair	\$0	\$0	\$5,000	-	\$5,000	-	\$5,000	-
Neighborhood	HN-15	Housing Authority of Billings - Garden	\$0	\$0	\$50,000	-	\$50,000	-	\$50,000	-
Total Funded (includes projects not listed):			\$1,517,278	\$1,557,044	\$1,225,000	\$815,000	\$708,590	\$646,518	\$708,590	\$646,518

Total CDBG / HOME Requested: \$2,040,000
Total Available: \$708,590 \$646,518
Difference: (\$516,410) (\$168,482)

\$708,590 \$646,518 \$708,590 \$646,518 \$708,590 \$646,518
\$0 \$0 \$0 \$0

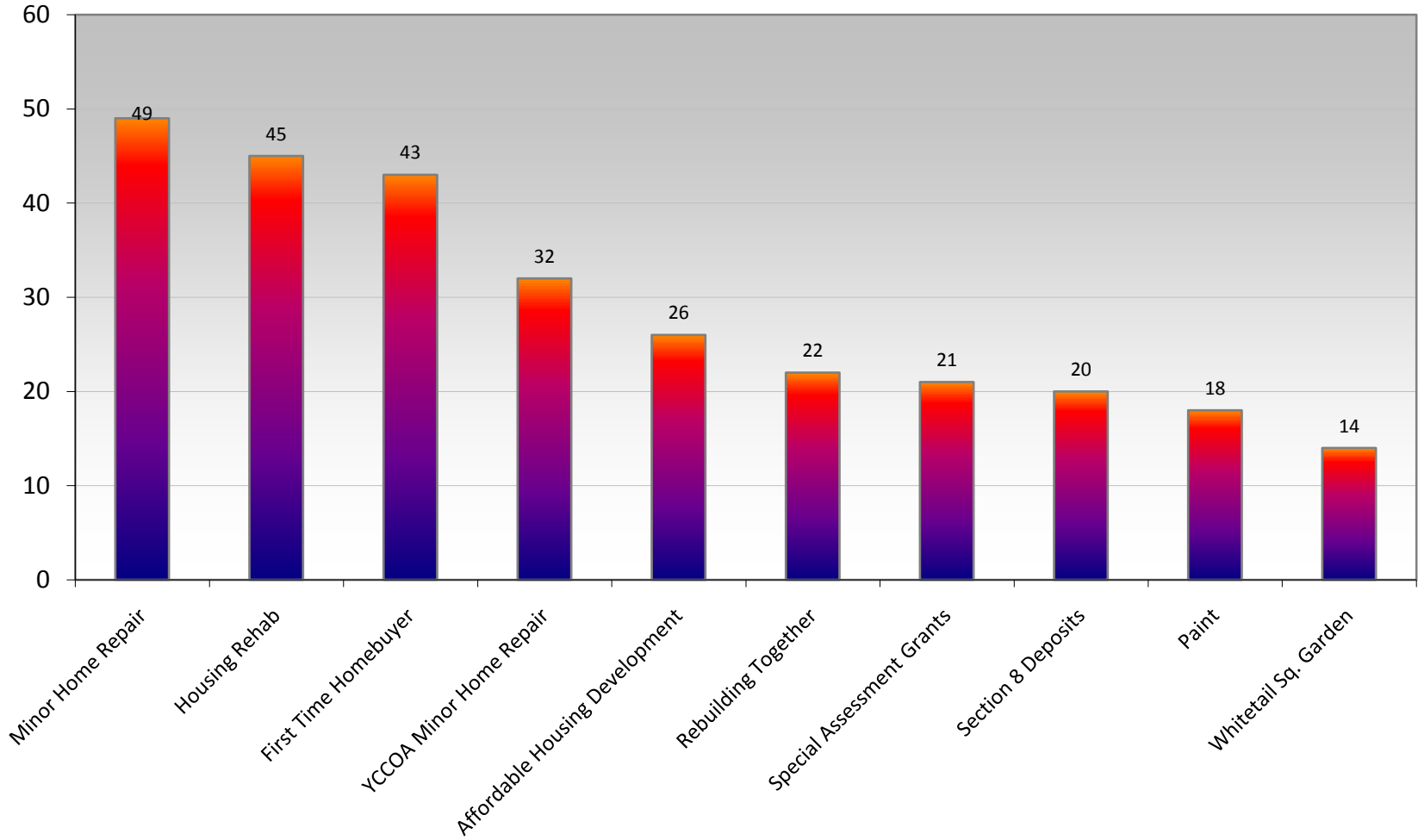
14 applications submitted last year, 15 submitted this year

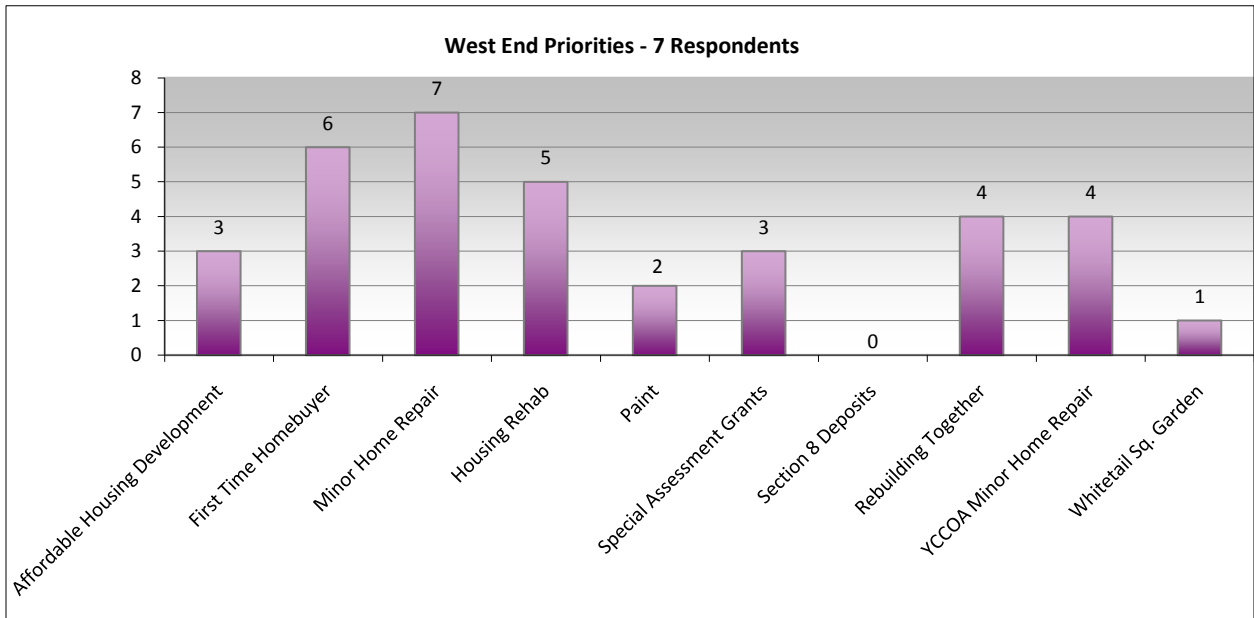
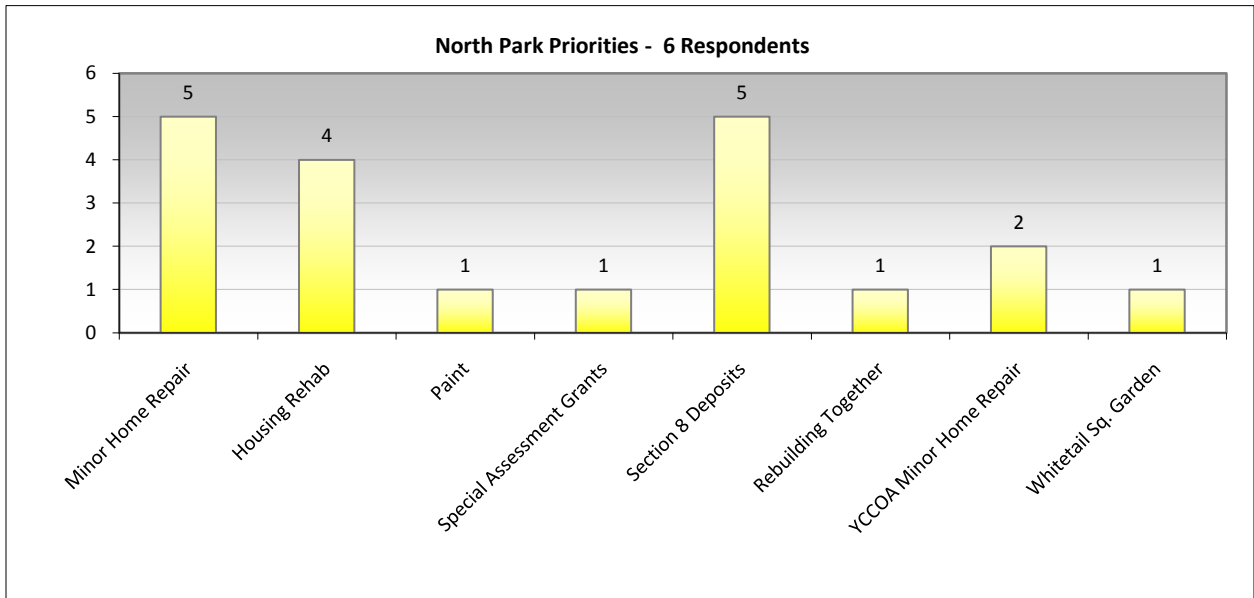
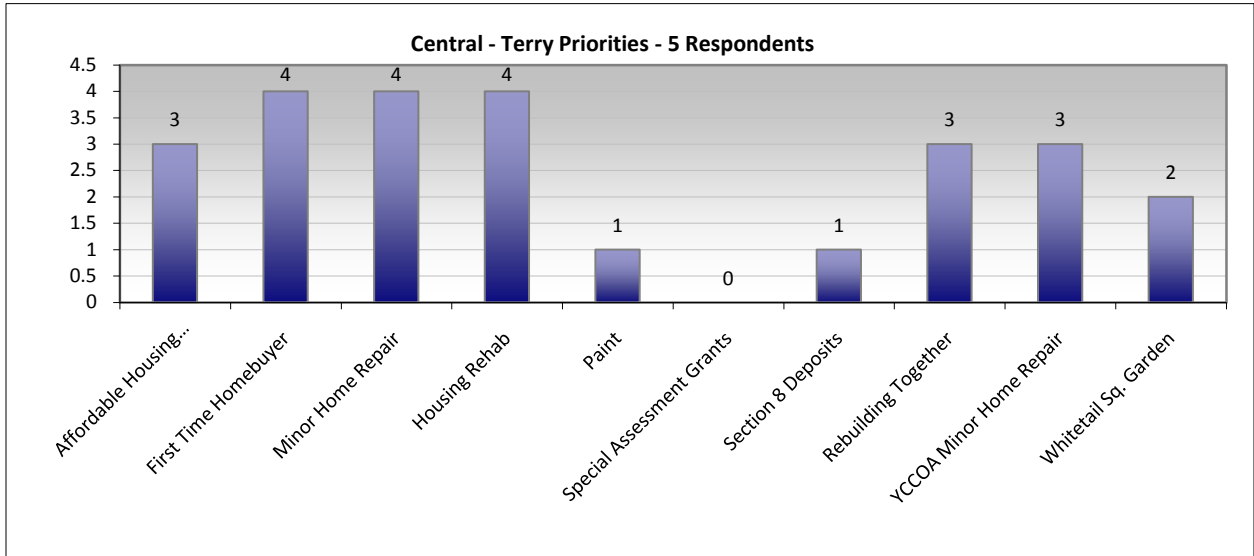
**CD BOARD RECOMMENDATIONS
PUBLIC SERVICE ACTIVITIES
2011-2012**

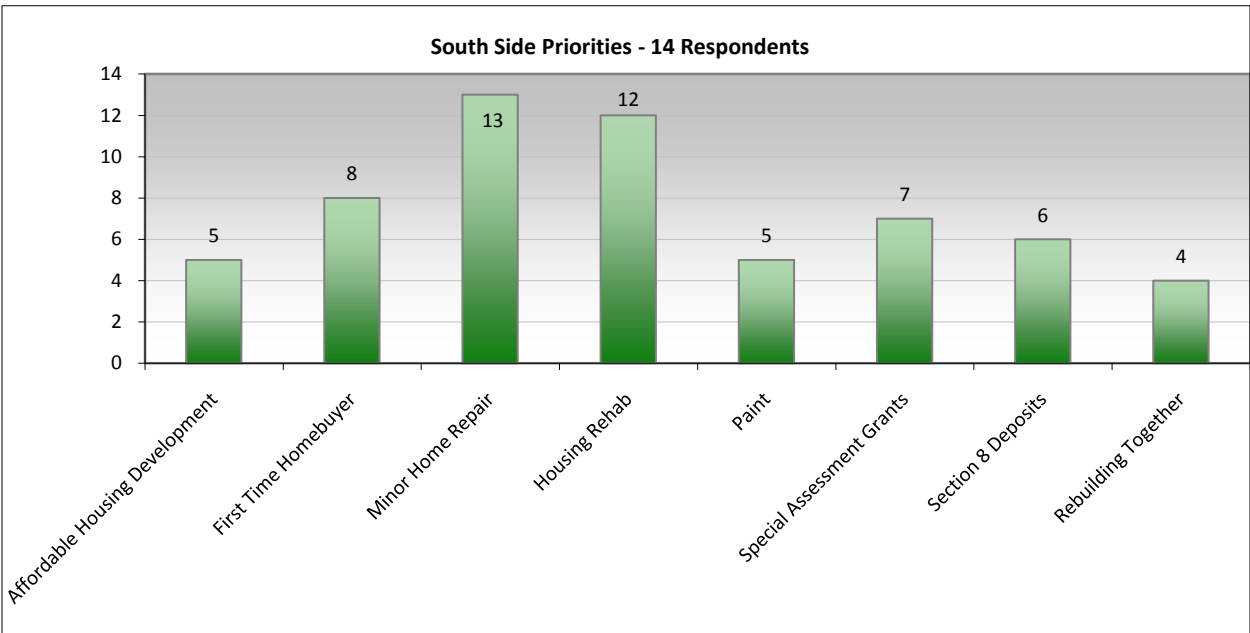
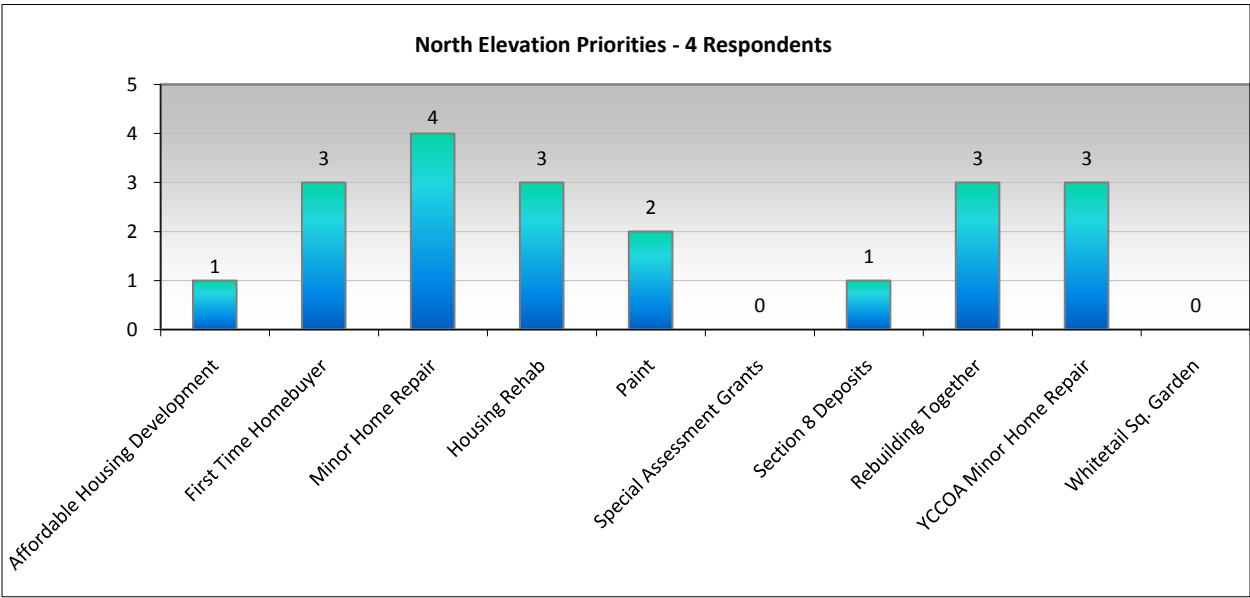
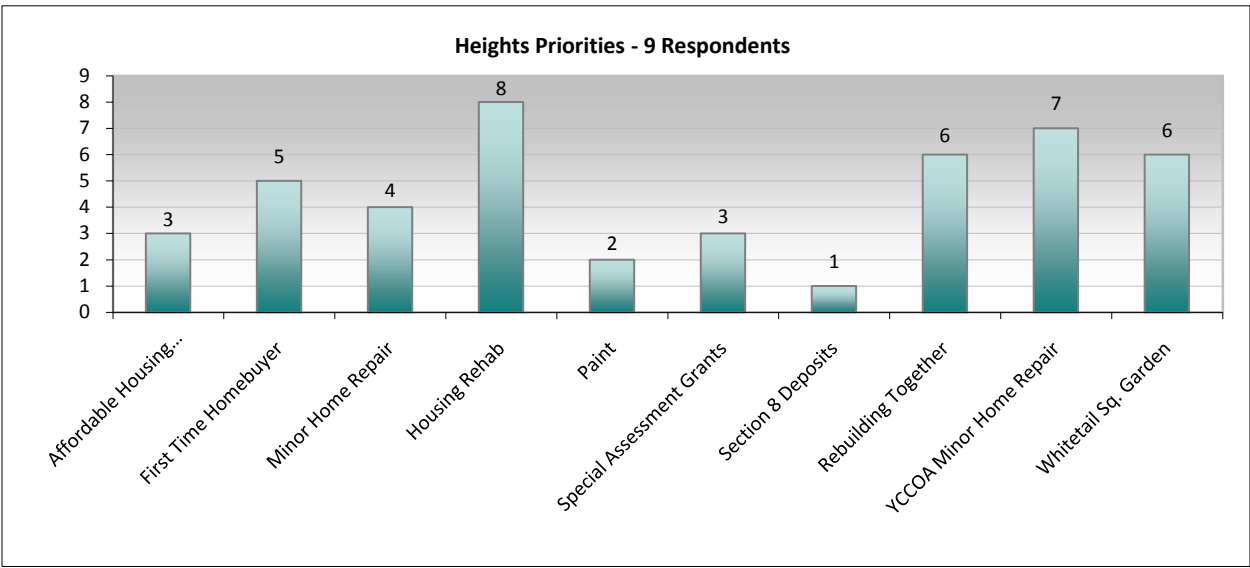
CDBG GRANT HISTORY			2009-2010	2010-2011	THREE YEAR Requests	CD Board Recommend
PUBLIC SERVICES	PS - 1	Tree Planting & Removal Program	\$0	\$0	\$30,000	\$30,000
	PS - 2	Southside Senior Center - Kitchen Equip.	\$0	\$0	\$30,000	\$30,000
	PS - 3	Tumbleweed Runaway Program	\$0	\$0	\$30,000	\$30,000
Total Funded (includes projects not listed):			\$123,986	\$0	\$90,000	\$90,000
			Total Available:	\$90,000		\$0

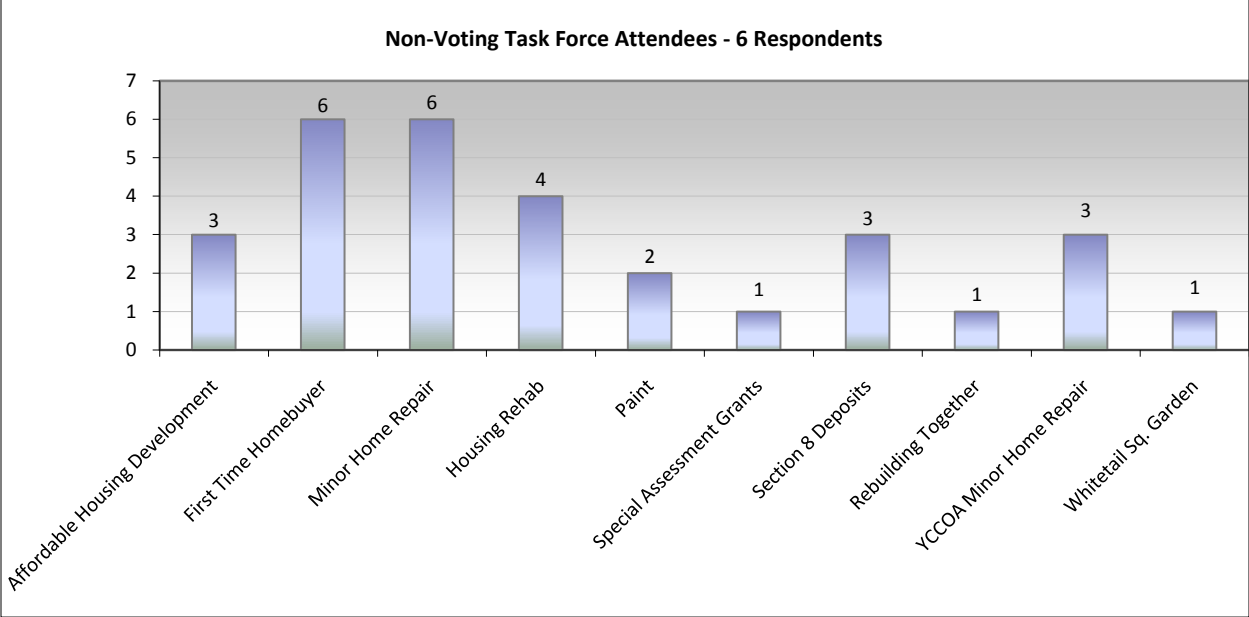
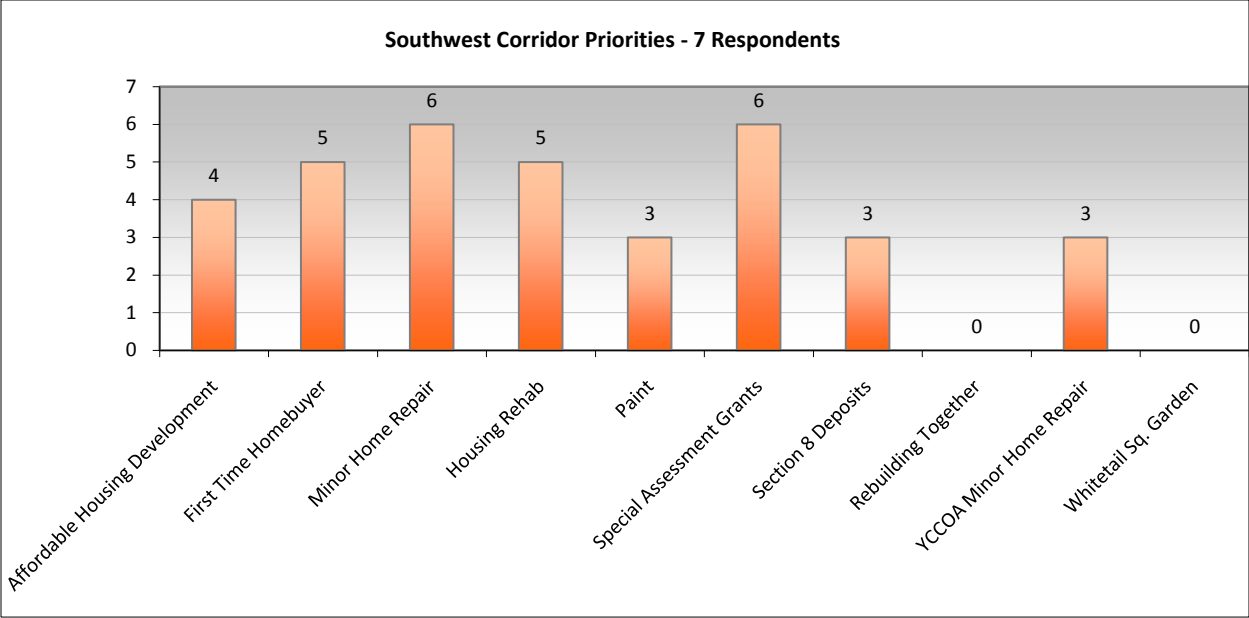
8 applications submitted last year, 3 submitted this year

All Task Forces - Combined (58 Respondents)











PROJECT SUMMARIES

Housing and Neighborhood Activities

FY2011-2012

#	Organization Name	Project Name	\$ Requested
HN-01	City of Billings	CDBG Administration	\$175,000
<p><i>General CDBG administration expenditures and salary and benefits for Community Development Block Grant (CDBG) Program. CDBG resources also provide the resources for administration of other grants related to community development received by the City.</i></p>			
HN-02	City of Billings	HOME Administration	\$65,000
<p><i>General HOME administration expenditures and salary and benefits for program management.</i></p>			
HN-03	City of Billings	Professional Services	\$30,000
<p><i>Funding is requested for professional services to assist the Community Development Division in contracting needed services to manage the Division, including: management support for the AmeriCorps Volunteers in Service to America (VISTA) project; grantee sub-recipient monitoring, and other audit functions as recommended by U.S. Department of Housing and Urban Development and the Community Development Division staff.</i></p>			
HN-04	City of Billings	Affordable Housing Development	\$700,000
<p><i>The Affordable Housing Development program provides grants or deferred loans as gap financing to developers for affordable housing projects. These projects can range from multi-family apartments to single-family developments.</i></p>			
HN-05	City of Billings	Community Housing Development Orgs	\$85,000
<p><i>A minimum of 15% of the HOME annual allocation is required by HUD to be reserved for Community Housing Development Organizations (CHDOs) for new housing development activities.</i></p>			
HN-06	City of Billings	First Time Homebuyer Program	\$500,000
<p><i>Assists low to moderate income first time home buyers with down payment and closing costs. Assistance is based on household size and income.</i></p>			
HN-07	City of Billings	Minor Home Repair Program	\$60,000
<p><i>The City of Billings offers a Minor Home Repair Program for low and very low income homeowners. This program is intended to revitalize established neighborhoods and preserve the existing affordable housing stock through the completion of emergency repairs to stick built homes and essential repairs to mobile/ manufactured housing.</i></p>			
HN-08	City of Billings	Housing Rehabilitation	\$280,000
<p><i>Housing rehabilitation assistance is available to low and moderate income homeowners. This program is intended to revitalize established neighborhoods and improve the City's affordable housing stock by providing financing options to eligible homeowners. The Low Interest Loans provide an affordable home improvement financing options for homeowners who are at or below 80% of the area median income. The Deferred Loans are intended for very low-to-low income applicants (below 60% of the area median income).</i></p>			
HN-09	City of Billings	Paint Program	\$10,000
<p><i>Funds will be used to assist up to 5 low-income homeowners with exterior painting projects to their owner-occupied stick built or mobile / manufactured homes. The maximum assistance for supplies and labor for each project is \$2,000 and will incorporate the use of lead-safe work methods if needed.</i></p>			
HN-10	City of Billings	Property Management	\$15,000
<p><i>Funds will be used to pay existing SIDs and maintain weeds and snow on property previously acquired through the CDBG Program. These properties are primarily located along South 27th Street, the Kings Green Subdivision and the Neighborhood Stabilization Program for property management.</i></p>			

#	Organization Name	Project Name	\$ Requested
HN-11	City of Billings	Special Assessment Grants Program	\$40,000
<p>Funds will be used to provide grant funds to lower income households impacted by Special Improvement District assessments for public improvements in lower income areas, such as curb, gutter & sidewalk projects. As Special Improvement Districts are formed and assessed to property taxes, these funds are utilized to pay off SIDs for lower income residents.</p>			
HN-12	Housing Authority of Billings	Section 8 Deposit Assistance	\$15,000
<p>Deposit assistance for housing assistance program participants served by the Housing Authority of Billings.</p>			
HN-13	Rebuilding Together Yellowstone County	Rebuilding Together 2011 Projects	\$10,000
<p>Funds will be used to assist up to 5 low to moderate income homeowners with home repairs such as weatherization and replacement of furnaces.</p>			
HN-14	Yellowstone County Council on Aging	Minor Home Repair	\$5,000
<p>The Minor Home Repair Program provides low-cost safety-related repairs (e.g. electrical, plumbing, carpentry and disability access) to low-income elderly homeowners.</p>			
HN-15	Housing Authority of Billings	Whitetail Sq. Park / Community Garden	\$50,000
<p>CDBG funds will assist with the specific park / community gardens for the Whitetail Run Subdivision and will be used for the construction of the actual park and community garden element.</p>			
			\$2,040,000

We do not request Task Force Rankings on Public Service Activities (social services) due to neighborhood favorites.



PROJECT SUMMARIES

Public Service Activities

FY2011-2012

#	Organization Name	Project Name	\$ Requested
PS-01	City of Billings	Tree Planting & Removal Program	\$30,000
<p>Assistance to low income homeowners with a dangerous or diseased tree on their property. This program is available to help pay for the cost of tree trimming and / or removal. For those homeowners interested in replacing a tree, a matching grant may be available. This program can be used in conjunction with the Minor Home Repair and the Housing Rehabilitation programs.</p>			
PS-02	Southside Senior Center	Kitchen Equipment	\$30,000
<p>The Southside Senior Center is a community center for seniors, families and other organizations. The facility has a congregate meal program and senior activities daily. The non-profit organization is run by a board and is responsible for the upkeep and maintenance of the facility. The Council on Aging used the site for the Meals-On-Wheels Program while they were transitioning into their new kitchen. A larger kitchen would accommodate seniors, as well as other activities, for the center.</p>			
PS-03	Tumbleweed Runaway Program, Inc.	Services for Runaway/Homeless Youth	\$30,000
<p>Funds will be used to provide direct services to homeless, runaway and street youths as well as you at high risk of becoming homeless and/or runaway.</p>			
			\$90,000

Regular City Council Meeting

Date: 04/25/2011

TITLE: SID 1392 and PMD 4040 Yellowstone Family Park Public Hearing and Resolution Creating District and Contract for Professional Services.

PRESENTED BY: Mike Whitaker

Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

The master plan for Yellowstone Family Park was approved at the February 14, 2011, City Council Meeting. With the master plan, it was determined that improvements to the park would be completed through a Special Improvement District (SID). The improvements to the park generally include landscaping, trees, shrubs, turfgrass, native vegetation, trails, sidewalks, irrigation system, playground and equipment. The benefit district for the park includes 386 properties. If approved, the improvements will be started in fall 2011 and be completed in spring 2012. Along with the SID for construction of the improvements, it is necessary to create a Park maintenance District (PMD) to fund maintenance of the improvements. In addition to the creation of the SID, Mayor and Council are asked to consider authorizing and executing a Contract for Professional Services with Land Design to provide park design and construction administration for SID 1392. The contract is in the amount of \$103,990.00. Land Design was selected through the Request For Proposals (RFP) process to provide master planning services for Yellowstone Family Park with the understanding that upon successful completion of the master plan and subject to obtaining additional funding through the approval and creation of an SID, the PRPL Department would retain Land Design to provide the design and construction administration services to construct the park.

ALTERNATIVES ANALYZED

1. After holding a public hearing, approve the Resolution Creating SID 1392, the Resolution Creating PMD 4040, and the Professional Services Contract with Land Design; or
2. Do not approve the Resolution Creating SID 1392, PMD 4040 and the Professional Services Contract with Land Design.

FINANCIAL IMPACT

The total estimated costs of the improvements are \$1,260,000.00. The costs of the improvements are to be paid from the sale of Special Improvement District bonds. The estimated first year assessment for the PMD is \$66.39/lot.

RECOMMENDATION

Staff recommends that Council approve the Resolution Creating SID 1392, PMD 4040 and the Professional Services Contract with Land Design.

APPROVED BY CITY ADMINISTRATOR

Attachments

[SID 1392 Yellowstone Family Park Resolution Creating District](#)
[PMD 4040 Yellowstone Family Park Resolution Creating District](#)
[Boundary of Proposed SID and PMD](#)

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 11-_____, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1392; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on **April 25, 2011**, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

_____; voted against the same: _____
_____; abstained from voting thereon: _____
_____; or were absent: _____
_____.

WITNESS my hand officially this _____ day of _____.

Cari Martin

CITY CLERK

RESOLUTION NO. 11-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1392; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

BE IT RESOLVED by the City Council of the City of Billings (the "City"), Montana, as follows:

Section 1. Passage of Resolution of Intention. This Council, on **March 28, 2011**, adopted Resolution No. 11-XXXXX (the "Resolution of Intention"), pursuant to which this Council declared its intention to create a special improvement district, designated as Special Improvement District No. 1392 of the City, under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds drawn on the District (the "Bonds"), the creating and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with the law, and on **April 25, 2011**, this Council conducted a public hearing on the creation or extension of the District and the making of the Improvements. The meeting of this Council at which this resolution was adopted is the first regular meeting of the Council following the expiration of the period ended 15 days after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period").

Section 3. Protests. Within the Protest Period, _____ protests were filed with the City Clerk and not withdrawn by the owners of property in the District subject to assessment for ____% of the total costs of the Improvements or representing ____% of the area of the District to be assessed for the cost of the Improvements. **The protest represents ____% of the assessed cost.**

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period, if any, are hereby found to be insufficient. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

Section 5. Reimbursement Expenditures.

5.01. **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.

5.02. 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.

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs for the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of **\$1,260,000** after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2 (d) (3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, there are not 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.

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

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 25th Day of April, 2011.

THE CITY OF BILLINGS:

BY _____
Thomas W. Hanel MAYOR

ATTEST:

BY _____
Cari Martin CITY CLERK

RESOLUTION NUMBER 11-_____

**A RESOLUTION CREATING EXTENDED SPECIAL
IMPROVEMENT MAINTENANCE DISTRICT NO. 4040 IN
YELLOWSTONE COUNTRY CLUB FOR THE PURPOSE OF
MAINTENANCE OF PARK IMPROVEMENTS**

WHEREAS, the City Council of Billings, Montana, hereby finds, determines and declares that:

1. The public interest and convenience require the creation of the above named district;
2. That said district is of more than local or ordinary public benefit which requires that said district be an extended district;
3. All lands are benefited and no lands which are not benefited have been included within the district. All lands within the district will be enhanced in value to the extent of the assessments to be levied upon such lands, and all lands included within the district should be assessed accordingly to pay the costs and expenses of the district.
4. All lands in the district are subject to the previously created SID 1392 by virtue of which, and the benefit for, this maintenance district is being created.

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

1. *Jurisdiction and Creation.* Special Improvement Maintenance District Number 4040 is of more than local or ordinary public benefit. The Council has acquired jurisdiction to order the proposed improvement, and it does hereby create Extended Special Improvement Maintenance District Number 4040. All lands included within Special Improvement Maintenance District Number 4040 are benefited and no lands which are not benefited have been included in said district.
2. *General Character of Improvement and Maintenance.* The general character of the improvements to be maintained is as follows: landscaping, trees, shrubs, turf grass, native vegetation, trails, sidewalk, irrigation systems, irrigation system water services, drainage ways, weed control, pest control, shelter, playground and equipment and other park equipment and public area improvements installed by the Parks and Recreation Department and/or as part of Special Improvement District No. 1392.
3. *Boundaries.* The Boundaries of the district are described and designated on Exhibit "B" attached hereto.

4. *Maintenance Estimate.* The estimated cost of the proposed maintenance for the first year will be \$25,625.00 as described in the Maintenance Estimate attached hereto in Exhibit "C".
5. *Assessment Method:* All of the costs and expenses of the district will be assessed against the entire district, and each lot or parcel of land within the district will be assessed for that part of the whole cost which its assessable area bears to the total assessable area in the entire district, exclusive of streets, avenues, alleys and public places. Assessments for each lot during the first year will be approximately \$66.3860 per lot, tract, or parcel of land.
6. *Payment of Assessment.* The assessments for all maintenance and costs of the district shall be paid in equal annual installments, provided that payment of one-half of said annual assessment may be deferred to May 31 of the year following the assessment. All money derived from the collection of said assessments otherwise shall constitute a fund to be known as Fund of Special Improvement Maintenance District Number 4040.
7. *Bonds for Improvement.* There will be no bonds sold for this district as it is for maintenance only.
8. *Engineering.* The park improvements shall be installed under SID 1392. No engineering will be required for the said maintenance district.
9. *District Accounts.* The Director of Finance is hereby authorized and directed to establish the necessary accounts to govern the receiving of all revenues and the expenditures of the same district.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, and **APPROVED** _____, 2011.

CITY OF BILLINGS

By: _____
Mayor

Attest:

By: _____
City Clerk

PMD 4040 EXHIBIT B

Yellowstone Club Estates 1st Filing, Recorded August 8, 1960, under Document No. 646375;

Yellowstone Club Estates 2nd Filing, Recorded August 8, 1960, under Document No. 646376;

Lots 14-A & 15-A, Block 7 of Amended Lots 14 & 15, Block 7, Yellowstone Club Estates 2nd Filing, Recorded September 6, 1979, under Document No.1140959;

Lots 18A, 19A & 20A, Block 5 of Amended Plat of Lots 18, 19 & 20, Block 5, Yellowstone Club Estates 2nd Filing, Recorded September 10, 1982, under Document No. 1239812;

Lots 11A & 12A, Block 5 of Amended Plat of Lots 11 & 12, Block 5, Yellowstone Club Estates 2nd Filing, Recorded April 18, 1985, under Document No. 1347440;

Yellowstone Club Estates 3rd Filing, Recorded August 8, 1960, under Document No. 646377;

Yellowstone Club Estates 4th Filing, Recorded August 8, 1960, under Document No. 646378;

Lots 7-A & 8-A-1, Block 13 of Amended Lots 7 & 8-A, Block 13, Yellowstone Club Estates 4th Filing, Recorded May 2, 1986, under Document No. 1391518;

Lots 3-A, 4-A & 5-A, Block 13 of Amended Plat of Lots 3, 4 & 5, Block 13 of, Yellowstone Club Estates 4th Filing, Recorded May 2, 1986, under Document No. 1391519;

Lot 1A, Block 13 of Amended Plat of Lots 1 and 2, Block 13 and Portions of Vacated Spalding Avenue, Yellowstone Club Estates 5th Filing, Recorded October 27, 2004, under Document No. 3309614;

Yellowstone Club Estates 6th Filing, Recorded September 10, 1965, under Document No. 762216, Records of Yellowstone County;

Lots 8-A & 9-A, Block 25 of Amended Lot 8 and 9, Block 25, Yellowstone Club Estates 6th Filing, Recorded June 2, 2005, under Document No. 3335181;

Yellowstone Ridge Subdivision, Recorded May 14, 2003, under Document No. 3230262, Records of Yellowstone County;

Lots 14-A, 15-A & 17-A, Block 2 of Amended Plat of Lots 13, 14, 15 & 17, Block 2, Yellowstone Ridge Subdivision, Recorded October 10, 2006, under Document No. 3396131;
Lots 3A, & 3B, Block 1 of Amended Plat of Lot 3, Block 1, Yellowstone Ridge Subdivision, Recorded February 8, 2007, under Document No. 3410474;
Lot 12-A, Block 2 of Amended Plat of Lots 10, 11 & 12, Block 2, Yellowstone Ridge Subdivision, Recorded June 25, 2007, under Document No. 3427850;
Lots 9A & 10A-1, Block 2 of Amended Plat of Lots 9 & 10-A, Block 2, Yellowstone Ridge Subdivision, Recorded June 10, 2010, under Document No. 3552311;
Tract 10A of Amended Tract 10, Certificate of Survey No. 836, Recorded September 13, 1983, under Document No. 1279839;
Tract 2B1 of Amended Tract 2B, Certificate of Survey No. 1197 Amended, Recorded July 23, 1990, under Document No. 1566690.

All documents on file with the Records of Yellowstone County.

EXHIBIT “C”

ESTIMATE OF PROBABLE COST

PARK MAINTENANCE DISTRICT NO. - 4040

Yellowstone Family Park

EXTENDED PARK MAINTENANCE DISTRICT

1. The District will be to maintain existing and future park improvements in Yellowstone Club Estates. The park, as shown on attached Exhibit “A” will be constructed as part of Special Improvement District No.1392.
2. The costs to create the maintenance district are estimated to be \$600.00.
3. The City Parks and Recreation Department estimates the maintenance of the improvements for the first year at \$ 25,625.00. The first year’s assessment is estimated as follows:

<u>Account Description</u>	<u>Proposed Budget</u>
• Parks Charges for Services: 260 hrs. @ \$38.20/hr. (Salary, Wages, Incl. Supplies & Materials, & Equipment per Hour Rate)	9,550.00
• Electricity	160.00
• Water	10,160.00
• Ground maintenance	560.00
• Other service/finance charges	580.00
• Special Assessments	1,015.00
Operation Total	\$22,025.00
Fund Reserve	\$3,000.00
Maintenance District Creation Costs	\$600.00
Yellowstone Family Park – Total	\$ 25,625.00

4. Total lots, tracts or parcels of land is as follows:

Yellowstone Family Park

A30735	C03221	C03269	C03289	C03329	C03361	C05713	C05762
A30736	C03222	C03270	C03290	C03330	C03362	C05714	C05763
A30737	C03223	C03271	C03290A	C03331	C03363	C05715	C05764
A30737A	C03224	C03272	C03290B	C03331A	C03364	C05716	C05765
A30738	C03225	C03273	C03291	C03331B	C03367	C05717	C05766
A30739	C03226	C03274	C03291A	C03332	C03373	C05718	C05767
A30740	C03227	C03275	C03291B	C03332A	C03373A	C05719	C05768
A30741	C03228	C03276	C03292	C03332B	C03373B	C05720	C05769
A30742	C03229	C03276A	C03292A	C03333	C03373C	C05721	C05770
A30743	C03230	C03276B	C03292B	C03333A	C03373D	C05722	C05771
A30744	C03231	C03277	C03293	C03334	C03374	C05723	C05772
A30745	C03232	C03277A	C03293A	C03335	C03374A	C05724	C05773
A30746	C03233	C03277B	C03294	C03336	C03374B	C05725	C05774
A30747	C03234	C03278	C03295	C03337	C03374C	C05726	C05775
A30748	C03235	C03278A	C03296	C03338	C03375	C05727	C05776
A30749	C03236	C03278B	C03297	C03339	C03376	C05728	C05777
A30750	C03237	C03279	C03298	C03340	C03377	C05729	C05778
A30751	C03238	C03279A	C03299	C03340A	C03377A	C05730	C05779
A30752	C03239	C03279B	C03300	C03340B	C03377B	C05731	C05780
A30753	C03240	C03280	C03301	C03340C	C03377C	C05732	C05781
A30754	C03241	C03280A	C03302	C03341	C03377D	C05733	C05782
A30755	C03242	C03280B	C03303	C03341A	C03378	C05734	C05783
A30757	C03243	C03280C	C03304	C03341B	C03379	C05735	C05784
A30759	C03244	C03281	C03305	C03342	C03380	C05736	C05785
A30760	C03245	C03281A	C03306	C03343	C03381	C05737	C05786
A30761	C03246	C03281B	C03307	C03343A	C03381A	C05738	C05787
A30762	C03247	C03281C	C03308	C03344	C03382	C05739	C05788
A30763	C03248	C03282	C03309	C03345	C03383	C05740	C05789
A30764	C03249	C03282A	C03310	C03345A	C05693	C05741	C05790
A30765	C03250	C03282B	C03311	C03345B	C05694	C05742	C05791
A30766	C03251	C03283	C03312	C03346	C05695	C05743	C05792
A30767	C03252	C03283A	C03313	C03346A	C05696	C05744	C05793
A30768	C03253	C03283B	C03314	C03346B	C05697	C05745	C05794
A30769	C03254	C03284	C03315	C03347	C05698	C05746	C05795
A30770	C03255	C03284A	C03316	C03348	C05699	C05747	C05796
A30771	C03256	C03284B	C03317	C03349	C05700	C05748	C05797

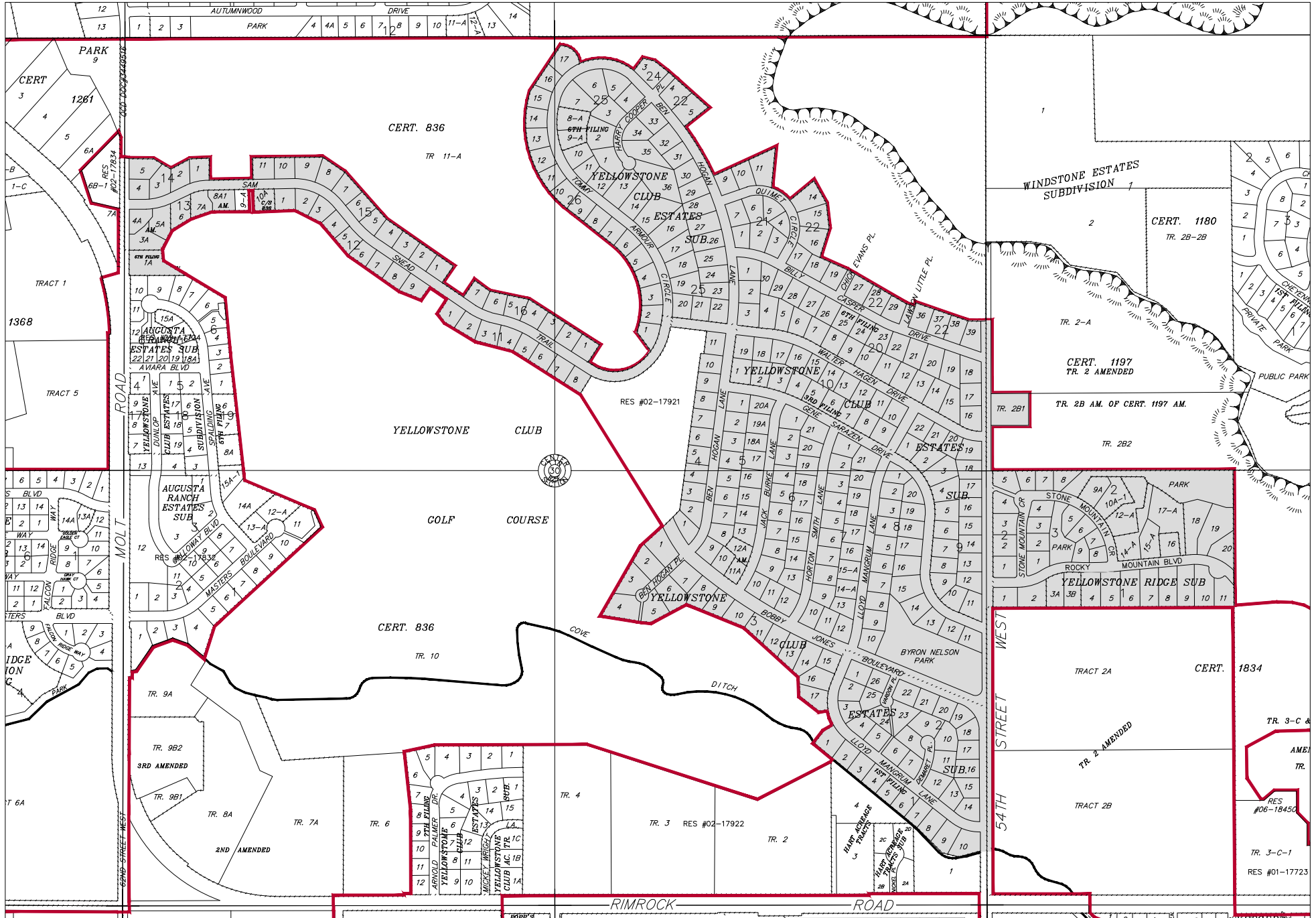
A30772	C03257	C03285	C03318	C03350	C05701	C05749	C05798
A30773	C03258	C03285A	C03319	C03350A	C05702	C05750	C05799
A30774	C03259	C03285B	C03320	C03351	C05703	C05751	C05800
C03212	C03260	C03286	C03321	C03352	C05704	C05752	C05801
C03213	C03261	C03286A	C03322	C03353	C05705	C05753	C11621
C03214	C03262	C03286B	C03323	C03354	C05706	C05754	C11622
C03215	C03263	C03287	C03323A	C03355	C05707	C05755	C11623
C03216	C03264	C03287A	C03324	C03356	C05708	C05756	C11624
C03217	C03265	C03287B	C03325	C03357	C05709	C05758	C11625
C03218	C03266	C03288	C03326	C03358	C05710	C05759	C11626
C03219	C03267	C03288A	C03327	C03359	C05711	C05760	C11627
C03220	C03268	C03288B	C03328	C03360	C05712	C05761	C11628
D04629B	D04645A						

Total Lots, Tracts, or Parcels of Land in Park Maintenance District: **386 lots, tracts, or parcels of land**

5. Estimated annual maintenance assessment per lot, tract, or parcel of land for the first year:

Cost per lot, tract, or parcel of land = $\$25,625 / 386 = \mathbf{\$66.3860/ Lot, Tract, or Parcel of Land assessed.}$

SID 1392 EXHIBIT "A"



Regular City Council Meeting

Date: 04/25/2011

TITLE: Zone Change #874 - Public Hearing and 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request from Community Commercial (CC) to Highway Commercial (HC) on two parcels of land described as Lots 1 through 17, Block 14 of Suburban Subdivision located at 327 Cook Avenue and 3919 Montana Avenue. The total area of both parcels is 65,175 square feet. Both of the parcels have existing commercial development. The parcel at address 3919 Montana Avenue has a vacant welding and machine shop. That property is owned by Gene and April Staudinger. The property at 327 Cook Avenue is owned by Mike D. Dimich Sons. Mike Dimich is the contract purchaser of 3919 Montana Avenue. The owners are represented by Michael Dockery of Crowley Fleck, PLLP. The owners conducted a pre-application neighborhood meeting on February 24, 2011, at the First Interstate Bank at 401 North 31st Street. The pre-application meeting notes are included as Attachment C. The Zoning Commission conducted a public hearing on April 5, 2011, and is forwarding a recommendation of approval on a 3-0 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

Approval of the requested zone change will enhance the value of the property, which may increase property tax revenue when improvements are made to the existing and new buildings.

BACKGROUND

The applicants are requesting to rezone this property to bring the current and proposed uses of the property into conformance with the zoning. The property is owned by Mike Dimich Sons and by Gene and April Staudinger. Mike Dimich Sons intends to consolidate and redevelop the site for Pepsi operations. The lots north of the alley are currently zoned HC and have been the main location of Pepsi since 1954 (344 Howard Avenue). This application would change the zoning to HC for the lots that are south of the alley. Beverage bottling, wholesale distribution and warehousing are special review uses in the HC zone but those uses are not allowed in the current CC zone. Pepsi received a special review approval for the lots north of the alley in 1982 (SR #146). The existing Pepsi operation at 327 Cook Avenue is a legal nonconforming use of property in the CC zoning district. If the new zoning is approved, a special review for the existing Pepsi operation will not be required unless an expansion of the operation is greater than 10% of the existing gross floor area.

Montana Avenue is a 5-lane principal arterial street and at this location has a center turn lane to allow left turns for east bound traffic. The average daily traffic on this part of Montana Avenue is approximately 23,180 vehicle trips per day. The new zoning will not increase traffic on Montana Avenue or on Cook Avenue since Pepsi operations already exist at this location and any new development will occur to better accommodate the existing business.

The new zoning will not require any site improvements. If re-development does occur, it will be evaluated based on criteria in the zoning code, the site development code and the building code. Any right-of-way improvements, site improvements and new buildings or paving will need to meet existing codes.

The applicant conducted a pre-application neighborhood meeting on February 24, 2011. No surrounding property owners attended the meeting. No surrounding property owners contacted the Planning Division staff prior to the Zoning Commission public hearing.

The 2008 Growth Policy encourages in-fill development and retention of existing businesses in areas where infrastructure exists to support those uses. The proposed HC zoning fits with the goals of the policy. Potential uses and existing uses in the HC zone are generally compatible with the zoning and uses directly adjacent to the property.

The Planning Division reviewed the application and recommended approval based on the attached twelve (12) criteria for zone changes. The subject property is adjacent to HC zoning and CI zoning and no changes in the character of the property are predicted in the near future. The uses allowed within the proposed HC 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 development code 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 April 5, 2011, and concurred with the Planning Division recommendation.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on April 5, 2011, and received testimony from the applicant, Bill Dimich and the agent Michael Dockery of Crowley Fleck.

Mr. Dockery explained the need for the application to bring the existing Pepsi operation on the west half of the property in to conformance with zoning and to complete the proposed sale of the Staudinger property to the Pepsi company. The Pepsi company has been in operation at this location since 1954 and would like to optimize it's operations at this location rather than building on a new site further from the center of the city. Mr. Dockery explained that any future improvements to the property will conform to city codes including zoning, building and site development. He noted the proposed zoning of Highway Commercial is consistent with the zoning to the north of the alley - the main Pepsi property - and to the east and west. He noted that Montana Avenue is a principal arterial and can handle all the Pepsi traffic currently generated from the site. The new zoning will not generate additional traffic from the site since operations at Pepsi are expected to remain the same. He noted the proposed zoning will not be an additional burden to city services since all services to the property already exist including water, sewer, stormwater control, police and fire protection. Mr. Dockery noted the new zoning will be a benefit to the property and the area since Pepsi will likely remove the vacant dilapidated machine shop and build new improvements.

Mr. Bill Dimich of 2917 Mohawk Drive and President of Pepsi operations in Billings requested support for the proposed zone change. He stated his company has been a strong presence and community supporter since 1954 and the zone change will enable Pepsi to remain in its current location for many years to come.

There was no further public testimony. The Zoning Commission is forwarding a recommendation of approval and adoption of the 12 criteria for Zone Change #874 on a 3-0 vote.

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 Pepsi warehouse to continue and would allow the property at 3919 Montana Avenue to be re-developed compatible with the proposed zoning.

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

The proposed zoning will permit the retention of an existing business along a major arterial street near downtown Billings.

- Coordinated economic development efforts that target business recruitment, retention, and expansion. (Economic Development Goal, page 6)

The proposed zoning will encourage the retention of an existing employer near existing population centers.

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

There should be no effect on traffic congestion. The existing property is primarily used by Pepsi for warehouse activity and traffic generation should not increase with the proposed zoning. The new zoning is intended to make the existing uses conform to zoning.

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

The subject property is currently serviced by all city services including police and fire. There should be no effect on these services.

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

The proposed zoning would permit the existing use to continue and expand. The vacant machine shop at 3919 Montana could be re-purposed and the property cleaned up. This will promote the health and general welfare of the neighborhood.

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 HC zone allows 75% lot coverage and the current CC zone allows up to 50% lot coverage. The proposed HC zone requires a separation between structures on the same lot, a minimum 20 foot front setback and a 10 foot side setback for any adjacent street. The HC and CC zones do not require a rear setback unless adjacent to a residential zone.

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

The new zoning does avoid undue concentration of population. The existing zoning, CC, allows the same number of dwelling units as the proposed HC zoning. Both zoning districts allow single family, two family and multi-family dwellings and lot area requirements are based on the Residential Multi-family-Restricted zoning regulations. It is not likely the new zoning will result in any residential use of the property. 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 should not have any impact on the surrounding streets.
Water and Sewer: The City will be able to provide water and sewer to the property through existing lines.

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

Fire and Police: The subject property is currently served by city fire and police. There should be no impact to these services from the new zoning.

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

The proposed zoning will allow the existing development to continue as a conforming use in the proposed HC zoning district. Montana Avenue is a principal arterial street and the zoning to the north, south, east and west is compatible. The proposed zoning gives reasonable consideration to the district and neighborhood.

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 an arterial street that has sufficient capacity for the intended and existing uses. The new zoning allows the existing development to continue.

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

The existing building value will be conserved with the new zoning in place. Currently, the CC zone does not allow a beverage bottling, warehouse or distribution center. 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 is recommending approval of Zone Change #874 and adoption of the 12 criteria on a 3-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Map

Site Photos

Pre app meeting notes and applicant letter

Ordinance

Attachment A: Surrounding Zoning
 Zone Change #874 – 327 Cook and 3919 Montana



Attachment B

Site Photographs, Zone Change #874 – 327 Cook and 3919 Montana



Subject Property view from Montana Avenue



Aerial Map

Attachment B, continued
Site Photographs, Zone Change #874 – 327 Cook and 3919 Montana



View east along Montana Avenue



View west along Montana Avenue

Attachment B, continued
Site Photographs, Zone Change #874 – 327 Cook and 3919 Montana



View northwest at 3919 Montana Avenue



327 Cook Avenue

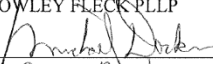
Attachment C
Pre-application meeting notes and Applicant's Letter

ROSTER OF PERSONS WHO ATTENDED
NEIGHBORHOOD MEETING

1. William Dimich (Mike D. Dimich Sons)
2. Bill Dimich (Mike D. Dimich Sons)
3. April Staudinger
4. Mike Dockery (Crowley Fleck)
5. Jamie Wells (Crowley Fleck)

We, the undersigned agent of the owners of the property listed in the zone change application to which this is attached, pursuant to Billings City Code Sec. 27-1502(b)(4)(g), hereby affirm: 1) the pre-application neighborhood meeting was held concerning this zone change request on February 24, 2011, and 2) the zone change application is based on materials presented at the meeting. A copy of the meeting notice, written materials mailed and provided at the meeting, and a brief synopsis of the meeting results are attached.

CROWLEY FLECK PLLP

By: 

Its: Owner's Agent

WRITTEN MINUTES OF THE NEIGHBORHOOD MEETING

Present at the Meeting: William Dimich, Bill Dimich, April Staudinger, Mike Dockery, Jamie Wells

Only the owners of the properties and their agent attended the meeting. Because everyone at the meeting is directly involved in the zone change request, it was not necessary to field questions or give any extra explanation.

ZONE CHANGE APPLICATION

Applicants Mike D. Dimich Sons, d/b/a The Pepsi Cola Bottling Company of Billings, and Gene Staudinger and April Staudinger request that the property described herein consisting of approximately 65,175 square feet be amended from Community Commercial zoning to Highway Commercial zoning. The Pepsi Cola Bottling Company of Billings ("Billings Pepsi"), a family owned business, has been located at its present location at 344 Howard Avenue since 1954. At that time, the zone classification of Highway Commercial did not exist. As the City of Billings developed and grew, it was necessary for more specific zone classifications to be put in place and, as a result, Highway Commercial zoning was established. Highway Commercial has been and is now the most appropriate zone classification for the property described herein.

Wholesale trade of groceries is allowed in Highway Commercial by special review and not allowed in Community Commercial. Warehouse enclosed storage is allowed in Highway Commercial and not allowed in Community Commercial. Because both of these classifications encompass parts of Billings Pepsi's operations, the zone change would allow Billings Pepsi greater use of its property.

In support hereof, the applicants submit the following:

QUESTION: IN WHAT WAYS IS YOUR PROPOSAL CONSISTENT WITH THE GOALS AND POLICIES OF THE ADOPTED GROWTH POLICY?

A. THE PROPOSED ZONE CHANGE IS CONSISTENT WITH THE GOALS AND POLICIES OF THE ADOPTED GROWTH POLICY.

The subject property consists of two adjoining parcels of land located on Montana Avenue and within close proximity to the 27th Street, City Center exit and the West Billings, City Center exit.

The property owned by Mike D. Dimich Sons d/b/a The Pepsi Cola Bottling Company of Billings consists of approximately 42,000 square feet (the "Dimich Property"). The Dimich Property is currently used as part of Billings Pepsi's operations for purposes of storage of product and storage of trucks at night. Billings Pepsi is a family-owned Pepsi distributor and distributes its product in a 100 mile radius, which includes Billings, Laurel, Red Lodge, Hardin, Forsyth, Colstrip, Columbus, Joliet, Bridger, Belfry, Lame Deer, Crow Agency, Ashland, Broadview, Busby, Huntley Project, Pryor, Hysham, Worden, Absorkee. The Dimich Property's street address is 327 Cook Avenue, Billings, Montana 59101. The property owned by Gene Staudinger and April Staudinger consists of approximately 23,165 square feet and adjoins the Dimich Property (the "Staudinger Property"). The Staudinger Property was formerly used as a service station and welding shop, but is currently vacant and unoccupied. The Staudinger Property's street address is 3919 Montana Avenue, Billings, Montana 59101. The Dimich Property and Staudinger Property are referred to collectively herein as the "Property." Mike D. Dimich Sons is currently the contract purchaser of the Staudinger Property, but the requested zone change from Community Commercial to Highway Commercial is a required contingency for closing. Of significance, the Property lies directly across the alley from other properties owned by Mike D. Dimich Sons, which are currently zoned Highway Commercial.

The surrounding area near Montana Avenue is already home to other commercial businesses, such as the other portion of Billings Pepsi's operations, Bloedorn Lumber, Montana Chad's, the Rainbow Motel, Diamond D Auto Sales, and JP Auto Sales. The Bloedorn Lumber property is also zoned as Highway Commercial.

The Yellowstone County and City of Billings 2008 Growth Policy Update (the "Plan") updated the Yellowstone County and City of Billings 2003 Growth Policy Plan. The update was necessary based on the significant changes in population, growth patterns and economics since the adoption of the 2003 growth policy (p. 1 of the Plan). The proposed zone change is consistent with the past, present and future best use of the Property and is in harmony with the commercial development along Montana Avenue.

The proposed zone change is consistent with the following land use element and economic development goals set forth in the Plan:

1. **Neighborhoods are experiencing pressures from new development and land use changes.** (Land Use Element, Issue 1.) This Goal encourages predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. The Plan states that this preserves neighborhood integrity and empowers neighborhood groups.

Billings Pepsi has been a family business for three (3) generations beginning in 1926. The requested zone change promotes the goal by keeping Billings Pepsi's expansion in the same area where it has been since 1954, which is also near businesses of similar character. This expansion is "infill" instead of expansion outside of the city. Instead of expanding into the residential area near Billings Pepsi, it will expand towards Montana Avenue. The area has always had a strong commercial vibe and a zone change would not in any way change the neighborhood. A change in zoning to Highway Commercial would allow Billings Pepsi to expand its operations and make better use of the land, which is currently not utilized in its most productive capacity. This will allow Billings Pepsi to keep its operations centrally located and allow the business to improve the current Property to match the same style and character as the surrounding Billings Pepsi premises. The use that would take place if a zone change is granted would make the neighborhood a better place because the unoccupied buildings on the Staudinger Property would be demolished and would be replaced with a newer and cleaner building.

A zone change to Highway Commercial would be a predictable land use decision that is in line with the neighborhood.

2. **The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites.** (Land Use Element, Issue 2.) This goal encourages new developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. According to the Plan, the objectives are to maintain a high quality of life for new and existing residents and to reduce conflicts between neighbors.

The requested zone change is compatible to the neighborhood. The location of the Property (which is bordered by a major arterial, Montana Avenue) readily lends itself to

commercial development, as can be seen by the surrounding businesses. The Dimich Property is already utilized by Billings Pepsi in its current business operations. The Staudinger Property is currently not in operating condition and is unoccupied.

The surrounding properties have commercial attributes and directly across Montana Avenue is the railroad. The commercial development on Montana Avenue is not new and is not changing the landscape or the area surrounding Montana Avenue, but instead is a continuation of the character that has been present in this area for decades. In fact, the existing Billings Pepsi facilities are situated on property already zoned Highway Commercial.

3. Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area. (Land Use Element, Issue 4.) The goal is contiguous development focused in and around existing population centers separated by open space. The objectives are to ensure the continued functionality of natural systems, to use City and County resources in a cost effective manner, and to create attractive communities.

If the zone change is granted, Billings Pepsi will eventually expand its operations onto the Staudinger Property. This will prevent urban sprawl because its operations will be centralized in the long-standing commercial area in Billings. This is in-fill instead of outward expansion. The current Billings Pepsi operations are clean and well-maintained. If this zone change is not granted, Billings Pepsi may have to move portions of its operations further from the city center, which is a waste of current land and resources. Billings Pepsi's operations could in the future attract other businesses to the area near downtown and Montana Avenue.

4. We need to continue a cohesive focus in economic development. (Economic Development Element, Issue 1.) The goal is coordinated economic development efforts that target business recruitment, retention and expansion. The objectives are to improve the quality of life for residents, strengthen the economy and provide living wage jobs.

Because the amendment to Highway Commercial zoning is necessary for Billings Pepsi to conduct certain aspects of its operations on the Property, allowing this zone change will help retain this family-owned business in its current location. Granting the zone change will also promote business expansion because it will allow Billings Pepsi to conduct its operations on land currently not zoned Highway Commercial and on land it currently does not own. Allowing current businesses and enterprises to grow strengthens the economy and provides living wage jobs.

5. Entryways to our communities should be attractive and not present physical barriers discouraging economic development. (Economic Development Element, Issue 3.) The goal is an attractive and accessible community. The objective is to encourage new business to locate in Billings and gateway areas, to reduce the travel time through town, to convey a business-friendly attitude, and to increase the visual appeal of our highway and railroad corridor.

Currently, the Staudinger Property consists of empty, dilapidated buildings. Granting a zone change to Highway Commercial will allow Billings Pepsi to expand its current operations and construct a new building, which will match the professional façade of its current operations.

The Staudinger Property currently consists of unoccupied buildings with significant deferred maintenance, which does not provide for visual appeal on Billings' railroad corridor. Billings Pepsi's expansion will help visually clean up the Montana Avenue portion of the railroad corridor and make the area more attractive to other new businesses who want to relocate in Billings. Allowing Billings Pepsi to conduct its operations in this centralized location will reduce the travel time through town. Granting this zone change will make better use of the Property than is currently being made and will convey a business-friendly attitude towards people from out-of-town as well as Billings residents.

6. **Like many other Montana cities, the economic viability of Downtown Billings is uncertain.** (Economic Development Element, Issue 5.) The goal is an economically and culturally vibrant Downtown Billings. The objective is to preserve and promote economic development of Downtown Billings, to create a strong central "core" for our community, and to establish downtown as a recognizable landmark.

Billings Pepsi has been a strong and economically vibrant business in Downtown Billings since 1954. Granting the zone change to Highway Commercial and allowing Billings Pepsi to expand its current business operations will add to the central core of commercial development along Montana Avenue and Downtown Billings. The improvements that Mike D. Dimich Sons will make will strengthen the tax base and the economic development of Downtown Billings. Keeping successful businesses near Downtown Billings is an obvious way to improve the economic viability of the area.

7. **Safety in the Downtown Billings is an important element.** (Economic Development Element, Issue 6.) The goal is a safe, attractive, economically vibrant downtown. The objectives are to encourage additional downtown residential and commercial development, to provide a safe environment for visitors and shoppers downtown, and to build on the recent revitalization efforts in the downtown.

Granting the zone change will allow buildings and property currently vacant to be demolished and a new building to be constructed. Not only is it safer for buildings to be occupied but a going-concern business is usually more visually appealing to those visiting downtown. Granting the zone change will promote business in Downtown Billings by setting an example to other businesses contemplating relocating downtown. Removing old and dilapidated buildings in favor of new construction is in line with the revitalization efforts of Downtown Billings.

8. **Billings needs to attract businesses that pay higher wages.** (Economic Development Element, Issue 7.) The goal is to provide citizens with greater financial stability. The objectives are to focus on attracting skilled labor positions in clean industries, improve the quality of life for residents, to strengthen the area economy and to create living wage jobs.

Supporting long-standing, nationally-recognized companies in Billings is a great way to encourage other large companies that Billings would be a great place for relocation. Allowing businesses to expand and thrive will strengthen the economy and help to create living-wage jobs.

9. **Neighborhoods provide the character and strength of the community and the quality of neighborhoods should be preserved.** (Economic Development Element, Issue 11.) The goal is to preserve neighborhood character and quality of life. The objective is to empower neighborhoods.

Allowing the zone change from Community Commercial to Highway Commercial will not change the state of the neighborhood. If anything, it will only make the neighborhood better and preserve the commercial quality of many of the businesses along Montana Avenue. The neighborhood, which is currently commercial in nature, will be empowered to draw in more commercial development after the currently unutilized Staudinger Property is put to use in a clean and professional manner.

10. **There are areas in the City and County that are unattractive and present a poor image of the community.** (Aesthetics Element, Issue 1.) The goal is visually appealing communities. The objectives are to improve the image of the community, to instill pride in the community, to improve the quality of life for residents, and to preserve the community assets such as the Rimrocks, the River, downtown and major street thoroughfares.

At this point, the Staudinger Property is not visually appealing. Granting the zone change will allow Mike D. Dimich Sons to demolish the buildings on the Staudinger Property and expand their current operations. The update of the building will be more visually appealing. Improving the physical structures will improve the aesthetics of Downtown Billings as well as Montana Avenue. A thriving business will present a more positive image of our community.

11. **Natural Resources.** The Plan seeks to preserve and take into account a variety of natural resource concerns such as Yellowstone River and associated riparian habitat; scarcity of water, wildfire, encounters with wildlife, weeds, and damage to natural resources.

It is not anticipated that there will be any negative impact on the natural resource issues listed in this section since this zone change fosters "in-fill" of land already within city or county limits and is connected to city utilities.

12. **Open space and recreation.** The Plan seeks to preserve and take into account open space and recreation.

It is not anticipated that this goal will be negatively impacted by the zoning change since the Property does not involve public parkland, does not involve modification of public recreation facilities, does not limit access to public land, affect access to the Rimrocks or the Yellowstone River. Moreover, Founders Park is located within close proximity of the Property.

13. **Transportation** The zoning change does not negatively impact transportation in the area. Montana Avenue seems to handle the commercial nature of the area, and the zoning is in line with the automobile traffic conditions in the area. Moreover, the zone change to Highway Commercial will not change the amount and flow of the traffic currently utilizing Montana Avenue.

14. **Public Services** There is no anticipated impact to public services. The expanding tax base the zone change would bring may provide additional tax dollars to support public services.

15. **Cultural and Historic Resources.** There are no anticipated cultural or historic resources impacted by this zoning change.

16. **Community Health Element.** There are no anticipated community health issues impacted by this zoning change.

QUESTION: EXPLAIN YOUR NEED FOR THE INTENDED ZONE CHANGE AND WHY THE PROPERTY CANNOT BE USED UNDER THE EXISTING ZONING. EXPLAIN HOW THE NEW ZONE WILL FIT IN WITH THE EXISTING ZONING AND LAND USES OF THE IMMEDIATE AREA.

The Property cannot achieve its highest and best use under the present zoning, which is currently Community Commercial. The zone classification of Community Commercial was assigned to the Property long before the classification of Highway Commercial existed. Highway Commercial is most appropriate because Billings Pepsi is involved in wholesale trade of groceries and also because Billings Pepsi's operations require wholesale enclosed storage. Because the zoning classifications have evolved, Billings Pepsi's operations no longer fit within Community Commercial. The current Billings Pepsi operations at 344 Howard Avenue, which are located directly across the alley from the Property, are situated on land already zoned Highway Commercial. As a result, to fully utilize the Property and integrate it with the current business operations, the zoning classification must be changed from Community Commercial to Highway Commercial. Moreover, close proximity to two exits leading to the interstate and its utilization of Montana Avenue make Highway Commercial the most appropriate zone classification.

The new zoning will fit in well with the present and long-standing commercial nature of the area. The types of business that surround the Property currently include Bloedorn Lumber, Montana Chad's, the Rainbow Motel, Diamond D Auto Sales and JP Auto Sales. Changing the zoning of the Property to Highway Commercial is fully consistent with the commercial nature of the area.

The existence of other commercial businesses in the area, especially the other portion of the Dimich property and the Bloedorn Lumber property, both already zoned Highway Commercial, demonstrate that the use (and requested zoning) is consistent with the area's land use. Without the zone change, the Property will become less useful and unavailable for integration into the existing Billings Pepsi operation, at a great loss to the Applicants. Accordingly, given the past, present and future commercial development of the surrounding property and the compatibility with the current Billings Pepsi operations, the zone change will bring a positive impact to the Montana Avenue and Downtown Billings area.

C. THE REQUESTED ZONE CHANGE MEETS MONTANA STATUTORY CRITERIA AND GUIDELINES.

In addition, the requested zone change meets the criteria and guidelines established in Montana for zoning regulations and amendments thereto. Mont. Code Ann. § 76-2-304. More particularly:

1. **Designed in accordance with comprehensive plan.** As discussed fully above, the requested change fully comports with the comprehensive plan.
2. **Lessening Congestion in the Streets and Providing Safe Access.** There is no anticipated increase in traffic as a result of this requested zone change. Further, the Property has and will continue to utilize Montana Avenue, a roadway that is able to handle higher traffic flow. The regulations in effect will ensure the uses which are allowed under the requested zoning will not create unacceptable increases in congestion or affect the safety of the streets and highways.
3. **Promoting Health and General Welfare.** The public interest is served by keeping commercial businesses near the Billings core of downtown. Commercial properties have always existed along Montana Avenue and will continue to develop. The Plan realizes that growth patterns and economics in Billings are changing and supports business recruitment, retention and expansion of all businesses. The requested zone change would also convey a business-friendly attitude while promoting the existence of businesses along gateway areas such as those adjacent to the interstate exits of West Billings and 27th Street City Center and the railroad corridor. The requested zone change does not negatively impact the public health and general welfare.
4. **Securing Safety from Fire, Panic and Other Dangers.** Building codes are adopted for the purpose of protecting the public and assuring its safety and any structures built on the Property following the proposed requested change will follow applicable building codes. The requested zone change would place all development in the zone under code review and assure safety from fire and other dangers to occupants. The proposed zone change thus provides significant protection of the public from fire dangers and the like. The proposed zone change is consistent with the land use pattern in the area, which has a variety of commercial businesses located along Montana Avenue. The requested zone change does not present a threat in this area from floods, landslides or high fire hazard designations. The Property is not located on a flood plain, and topographically the site is relatively flat.
5. **Providing Adequate Light and Air.** The applicable zoning setbacks are designed to provide adequate light and air. A Highway Commercial zoning designation should not create any adverse effects on light and air.
6. **Preventing the Overcrowding of Land.** The proposed zoning designation includes standards which govern land use, building size, placement and parking. By adhering to these standards, overcrowding of the land is prevented. Applying a new zoning designation on a piece of property will not, in and of itself, result in the overcrowding of that property or adjacent street system. Rather, it will encourage a more efficient use of space in connection with the existing Billings Pepsi operations.
7. **Avoiding Undue Concentration of Population.** The development in mind will not unduly concentrate the population because there is more than enough room to expand the

current Billings Pepsi operations and still meet the requirements of Highway Commercial zoning.

8. **Facilitating the Adequate Provision of Transportation, Water, Sewer, Schools, Parks, Fire, Police and Other Public Requirements.** The proposed zoning designation includes standards that govern land use. By adhering to these standards, the requested zoning facilitates the adequate provision of transportation, water, sewer, schools, parks and other public facilities. Moreover, the commercial use of the land will, in all likelihood, increase the taxable value of the land, generating increased property taxes for use in public services. As the same time, such uses will not create adverse impacts on the transportation system, water and sewer systems, schools, parks or other public facilities.

9. **Giving Reasonable Consideration to the Character of the Area.** The immediate area contains property zoned as Highway Commercial. Substantial commercial businesses exist within the area such as: the existing Billings Pepsi operations, Bloedorn Lumber, Montana Chad's Casino, the Rainbow Motel, JP Auto Sales, Diamond D Auto Sales, Albertsons, Geering Co. Hearth & Home and Billings Monument Co. As noted above, the other portion of the Billings Pepsi property, as well as Bloedorn Lumber, are already zoned as Highway Commercial.

In addition, the properties along Montana Avenue have long been commercial in nature. Thus, the proposed zoning fully comports to the long-standing commercial character. Given the existence of other commercial businesses in the area, the requested zone change is reasonable and compatible with other land uses in the area.

10. **Giving Consideration to the Peculiar Suitability of the Property for Particular Uses.** The Property has been operated as part of Billings Pepsi's operations and as a former service station and welding shop. However, the zoning of the current Billings Pepsi property limits the ability to fully integrate the uses with the other Billings Pepsi operations. The site's location along Montana Avenue and the commercial development surrounding it now strongly lends itself to the proposed zoning and not the Community Commercial zoning. The Property is unique in that it is situated adjacent to the current Billings Pepsi operations. Its location on Montana Avenue makes it easy and convenient for its trucks to enter and exit the premises. It is definitely suited for Highway Commercial development given long-standing commercial development in this area.

At this point, the Staudinger Property is not being utilized for business. If granted the zone change, Mike D. Dimich Sons plans to remove the run down and dilapidated buildings and create a consolidated, cohesive property where it can more efficiently operate its business. Failure to change the zone will result in a significant diminution (or potential elimination) of the Property's value. Mike D. Dimich Sons will not purchase the Staudinger Property if the zone change request is not granted.

11. **Protecting and Conserving the Value of the Buildings.** Due to the commercial nature of Montana Avenue, continued commercial development will be the highest and best use of the Property. When developed, the existing buildings on the Staudinger Property will be

removed and replaced with higher valued commercial development, which will increase the property tax value of the property.

On the other hand, failure to change the zone will result in a significant and material diminution of the Property's value over time. The Property will not be utilized to its full productive potential. Moreover, the zoning regulations offer protection to surrounding properties by containing specific setbacks from the boundaries for the purpose of protecting and conserving space between buildings. The value of the surrounding buildings is adequately preserved. However, absent a zone change, the Applicants' property value will be severely impacted.

12. **Encouraging the Most Appropriate Use of the Land by Assuring Orderly Growth.**

The following business lie within close proximity of the Property: Bloedorn Lumber, Montana Chad's Casino, the Rainbow Motel, Albertson's, Diamond D Auto Sales, JP Auto Sales, Geering Co. Hearth & Home, and Billings Monument Co. These businesses are all commercial in nature. A zone change of the Property is a reasonable, and appropriate, response to the ongoing development and the long-standing land use which has always been present in the area. Changing the zone will assure the orderly expansion of business uses in a manner consistent with the commercial nature of Montana Avenue.

ORDINANCE NO. 11-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR a parcel of land described as Lots 1 through 17, Block 14, Suburban Subdivision, a 65,175 square foot parcel of land and generally located at 327 Cook Avenue and 3919 Montana Avenue.

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 Lots 1 through 17, Block 14, Suburban Subdivision, a 65,175 square foot parcel of land and is presently zoned **Community Commercial (CC)** and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Community Commercial (CC) to Highway Commercial (HC)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Highway Commercial (HC)** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading April 25, 2011.

PASSED, ADOPTED AND APPROVED on second reading May 9, 2011.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk
Zone Change #874 –327 Cook Avenue and 3919 Montana Avenue

Regular City Council Meeting

Date: 04/25/2011

TITLE: Zone Change #875 - Public Hearing and 1st reading

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change from Community Commercial (CC), Public (P), Residential 6,000 (R-60) and Residential Multi-Family (RMF) to Residential 9,600 (R-96) and Residential 6,000 Restricted (R-60-R) on Lots 10 through 12, Block 16; Lot 15, Block 17; Lots 1 through 4, Block 18; Lots 1 through 4 and 7 & 8, Block 19; Lots 25 through 27, Block 45; Lots 12A, 12B, 13A and 14 through 17, Block 46; Lots 8 through 13, Block 47; and proposed new Lots A through G to be created from golf course land, a total of 12.651 acres of land. All of the lots are currently vacant. Ron Hill is the owner and is represented by Marshall Phil, P.E. of Blueline Engineering. The owners conducted a pre-application neighborhood meeting on February 28, 2011, at the Lake Hills Clubhouse at 1930 Clubhouse Way. The pre-application meeting notes are included as Attachment C. The Planning Division received a valid protest petition from the owners within 150 feet of proposed Lots B and C, a letter from the owner of 494 Cherry Hills Road in favor of the zone change and a letter sent to the agent prior to the zone change application in opposition to proposed Lots B and C. These are included in Attachment D. The Zoning Commission conducted a public hearing on April 5, 2011, and is forwarding a recommendation of approval with the exception of proposed Lots B, C, and G on a 3-0 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

Since this zoning application has a valid protest filed against it for the new proposed Lots B and C, it is Planning Staff's opinion that if the City Council wants to make a motion to approve the zone change and include proposed Lots B and C, it will need a super majority to do so to overcome the valid protest petition. If the Council chooses to make a motion to approve the zone change excluding Lots B and C, then a simple majority would suffice.

FINANCIAL IMPACT

If approved, the zone change to single family residential zones may reduce some City assessments currently charged against the existing multi-family and commercial lots, but this may be off-set by the creation of the new lots within the golf course area and the total assessments collected by the City for the rezoned lots and the new lots.

BACKGROUND

The applicant is requesting to rezone multiple lots within the Lake Hills Subdivision from CC, R-60 and RMF to R-60-R and R-96. In addition, the owner intends to create 7 new lots from property currently included in the Lake Hills golf course and re-zone these lots from Public to R-96. The applicant conducted a pre-application neighborhood meeting and submitted a request to change the zoning based on the meeting. The owner of 2107 Clubhouse Way submitted a letter of objection to the applicant's agent (west of proposed Lot B) and one owner attended the pre-application meeting objecting to the creation of proposed Lot H (south of Glenhaven Drive). Proposed Lot H was not submitted with the zone change request due to objection of the adjacent owner and due to a utility easement that would have pushed the proposed lot too far into the existing golf course. The majority of the lots will be "down-zoned" from commercial uses and multi-family uses to single family residential uses. Two of the proposed lots to be created on Green Briar Road are adjacent to existing lots and would eliminate the golf course frontage for both of these lots. This is a significant issue for these lot owners in terms of property value, marketability, and how the new lots could have a negative effect on the value of existing buildings.

There is sufficient road access or road access will be developed to all of the lots proposed for the zone change. Gleneagles Boulevard is a principal arterial street and Annandale Road and Lake Hills Drive are collector streets. No traffic counts have been conducted on these streets as they are incomplete and adjacent development is not fully in place. Governor's Boulevard – Gleneagles Boulevard north of Wicks Lane - carries approximately 3,430 vehicle trips per day south of Wicks Lane. The new zoning will not increase traffic on any residential, collector or arterial streets. The new zoning should produce less traffic than under the current zoning of CC, R-60 and RMF.

The Billings Heights Neighborhood Plan indicates a need for a variety of housing types including single family dwellings on smaller lots but similar to existing neighborhood character. The future land use plan indicates this area could be considered for mixed uses however, the development of retail or other commercial uses in the Lake Hills Subdivision more than a block north of Wicks Lane has not proven successful to date. This may change if transportation facilities improve and the Lake Hills Subdivision approaches build-out and the Dover Ranch property north and west of the subject property is developed. The designation of Gleneagles Boulevard as a principal arterial street may also change over time when other transportation facilities are planned and constructed. Currently, this arterial street dead-ends at the intersection with Annandale Road. Annandale Road is a minor arterial to the west of this intersection and a collector street to the east. The R-60-R zoning proposed for the lots with Gleneagles Boulevard frontage are a compatible zoning on this arterial street.

The owner of 2107 Clubhouse Way contacted the Planning Division prior to the Zoning Commission hearing. The owner is concerned with the loss of building property value if proposed Lot B is created and zoned R-96. Direct access to the golf course currently exists for the lots adjacent to proposed Lots B and C on Green Briar Road. This access would be cut off if two new lots were platted in front of the existing lots and golf course frontage would be eliminated.

The 2008 Growth Policy encourages the support of in-fill development and development of existing platted lots in subdivisions. The lots proposed for re-zoning to R-96 and R-60-R, with the exception of the new lots in the golf course, have been platted since 1957. The subdivision was annexed into the city in 1984. Lots have been developing slowly over a number of years and many were developed in the past decade. The Growth Policy also encourages compatible development in existing neighborhoods. The proposed zoning will be compatible with the

existing Lake Hills neighborhood.

The Planning Division reviewed the application and recommended approval with the exception of proposed Lots B and C on Green Briar Road. The recommendation is based on the attached twelve (12) criteria for zone changes. The subject property is adjacent to single family zoning districts. The uses allowed within the proposed R-96 and R-60-R are compatible with the surrounding zoning and neighborhood character. Any development of the lots will require street improvements to provide access. The 2008 Growth Policy and the Billings Heights Neighborhood Plan 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 April 5, 2011 and concurred with the Planning Division recommendation. In addition, at the public hearing the applicant requested that proposed Lot G also be excluded from the zone change since conflict with active play area of the golf course will occur on the proposed lot. The Zoning Commission is recommending approval with the exception of proposed Lots B, C and G on a 3-0 vote.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on April 5, 2011, and received testimony from the applicant, Ron Hill and agent, Marshall Phil. In addition, Roger Dallner owner of 2107 Clubhouse Way testified in opposition to the zone change.

Marshall Phil stated the reason for the zone change was to align the zoning to the overall plan for the build out of Lake Hills Subdivision. Originally, the Community Commercial and Residential Multi-family zoning was put in place in response to the transportation plan that showed Gleeneagles Boulevard and Annandale Road as continuous principal arterial streets. Since 1974, the transportation plan for the area has changed and Gleeneagles Boulevard will not continue north of Annandale Road and Annandale Road becomes a minor arterial street west of the intersection with Gleeneagles Boulevard. This indicates a Community Commercial zone is not warranted at this location. The existing neighborhood is primarily single family and the new owner, Ron Hill, desires to continue this pattern. Mr. Phil stated this will enhance the overall quality of the development. Mr. Phil stated he was in agreement with the Planning Division recommendation to remove Lots B and C from consideration. Mr. Phil stated the applicant could have asked for a delay to re-advertise the zone change but this would cause an unnecessary delay in the project and the applicant has a concurrent major preliminary subdivision application under review. The owner has discussed the issue of proposed Lots B and C with the owner of 2107 Clubhouse Way, Mr. Dallner, and does not want to pursue these lots at this time. In addition, Mr. Phil stated the owner would also urge the Commission to exclude proposed Lot G from the zone change. It was determined after submitting the application that Lot G would have too much impact on the active play area of the golf course.

Mr. Ron Hill of 2242 West Skokie and owner of the subdivision and golf course, testified that further development in the neighborhood is economically driven and the proposed zone change will enhance the ability to complete the subdivision. Lake Hills Subdivision was originally platted in 1957 and building has been gradual since that time. Mr. Hill stated he bought the remaining lots and the golf course a few years ago and has been working to make improvements since then. He noted that Mr. Dallner would still have about 10 feet of frontage along a non-play area of the golf course if Lot B is created and zoned residential. However, Mr. Hill also noted his concerns and concurs with the Planning Division recommendation to remove Lots B and C from consideration at this time. Mr. Hill also stated he would urge the Commission to remove proposed Lot G from consideration as well for the reasons stated by Mr. Phil.

Mr. Dallner of 4546 Laredo and owner of 2107 Clubhouse Way provided testimony in opposition specifically to the zone change for proposed Lots B and C. Mr. Dallner stated he intends to eventually condo the existing 4-plex rental apartments he owns and golf course access and frontage is important to preserving the value of these units. He stated he was in contact with Ron and he appreciates the work Mr. Hill has done over the last few years to improve the neighborhood and continue the development. Mr. Dallner stated he gathered the signatures for the protest petition against the zone change to preserve his and his neighbor's property value but is not in opposition to the remaining lots proposed for the zone change. Commission member Barbara Hawkins asked Mr. Dallner if he would withdraw his protest if Lots B and C were removed from consideration and Mr. Dallner he would withdraw if that were the case. He stated it has been a good experience working with Mr. Hill on this issue.

The Zoning Commission is forwarding a recommendation of approval with the exclusion of proposed Lots B, C and G on a 3-0 vote.

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 allow single family development in a neighborhood that primarily consists of single family dwellings. Two proposed lots, B and C, may be inconsistent with the ,and use patterns in subdivision in so far that every lot platted with golf course frontage has access. Proposed lots B and C would eliminate golf course access to 2 existing lots.

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

The proposed zoning will assist in the complete development of the Lake Hills Subdivision, first platted in 1957.

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

There should be no effect on traffic congestion. The existing property is vacant and adjacent streets including Gleneagles Boulevard are constructed to handle subdivision traffic. The proposed zoning will likely reduce the potential for traffic generation.

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

The subject property is currently serviced by all city services including police and fire. There should be no effect on these services.

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

The proposed zoning in most areas proposed will benefit the existing neighborhood. The exceptions are the 2 proposed lots B and C that eliminate the existing golf course access from 2 existing lots.

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. Each lot will need to provide minimum lot area and required setbacks to property lines.

6. Will the new zoning prevent overcrowding of land?

The proposed zoning, like all zoning districts, contains limitations on the maximum percentage of the lot area that can be covered with structures. The proposed R-96 and R-60-R allows 30% lot coverage and 40% lot coverage respectively. The current CC zone allows up to 50% lot coverage, the R-60 zone allows 40% lot coverage and the RMF zone allows up to 55% lot coverage. The Public zone allows up to 50% lot coverage but does not allow any residential uses. The new zoning will ensure prevention of overcrowding of land.

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

The new zoning does avoid undue concentration of population. The existing zoning, CC, allows the same number of dwelling units as the RMF-R zone (26 units per acre) and the RMF zone allows up to 76 units per acre. The R-60 zone can allow up to 20 units per acre by special review approval. The public zone does not allow residential uses. The proposed zoning of R-96 can allow up to 4 units per acre and the R-60-R can allow up to 7 units per acre. No multi-family uses are allowed in these zoning districts. 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 should not have any impact on the surrounding streets.
Water and Sewer: The City will be able to provide water and sewer to the property through existing lines.

Schools and Parks: There may be impact to schools from the proposed zone change.

Fire and Police: The subject property is currently served by city fire and police. There should be no impact to these services from the new zoning.

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

The proposed zoning will allow the existing neighborhood to continue development as primarily a single family area. The proposed lots B and C will have a direct impact to existing lots and would not give reasonable consideration to these lots. The Planning staff is recommending approval of the zone change with the exception of these 2 proposed lots.

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 with the exception of proposed lots B and C.

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

The existing building value on 2107 Clubhouse Way and the vacant lot to the south will likely see a reduction in marketability due to loss of direct golf course access and golf course views from the creation and re-zoning of proposed Lots B and C. The remainder of the lots in the zone change request will conserve the value of surrounding buildings and land.

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

The proposed zoning, with the exceptions noted above, will encourage the most appropriate use of land throughout the neighborhood.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval with the exception of proposed Lots B, C, and G, and adoption of the 12 criteria for Zone Change #875 on a 3-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Map

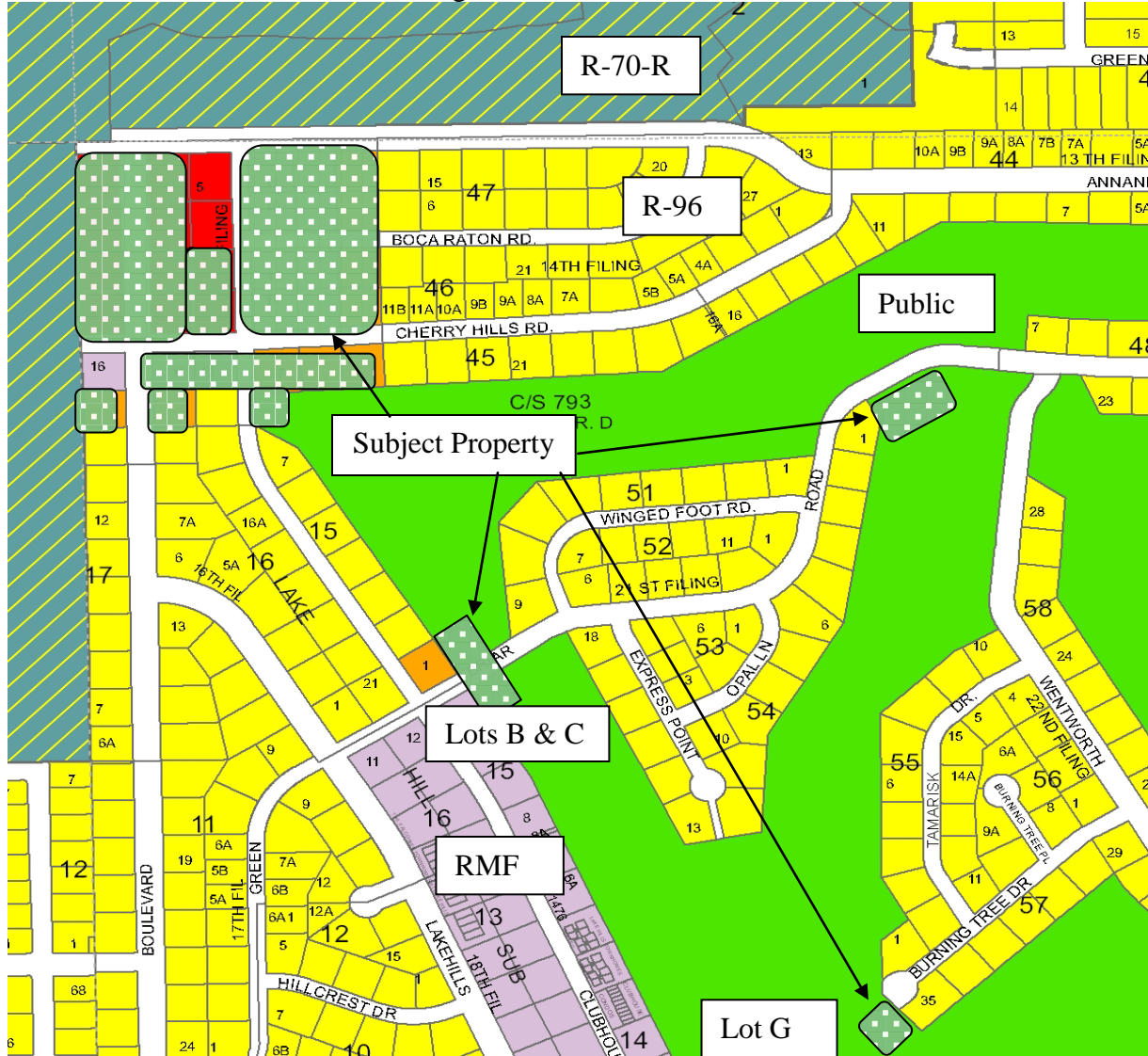
Site photos

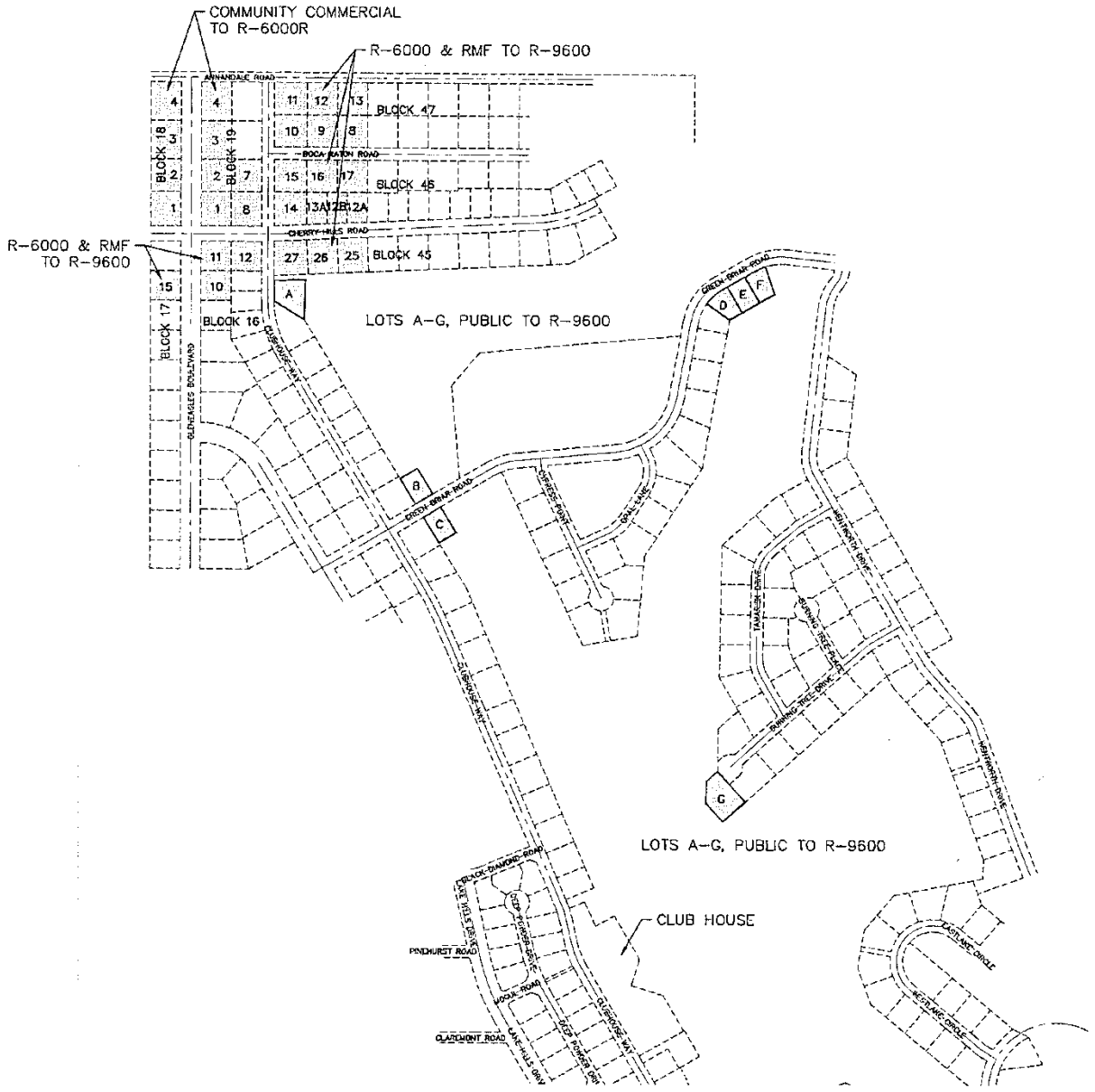
Preapp meeting notes and applicant letter

Letters opposed and in support and valid protest petition

Ordinance

Attachment A: Surrounding Zoning
Zone Change #875 – Lake Hills Subdivision

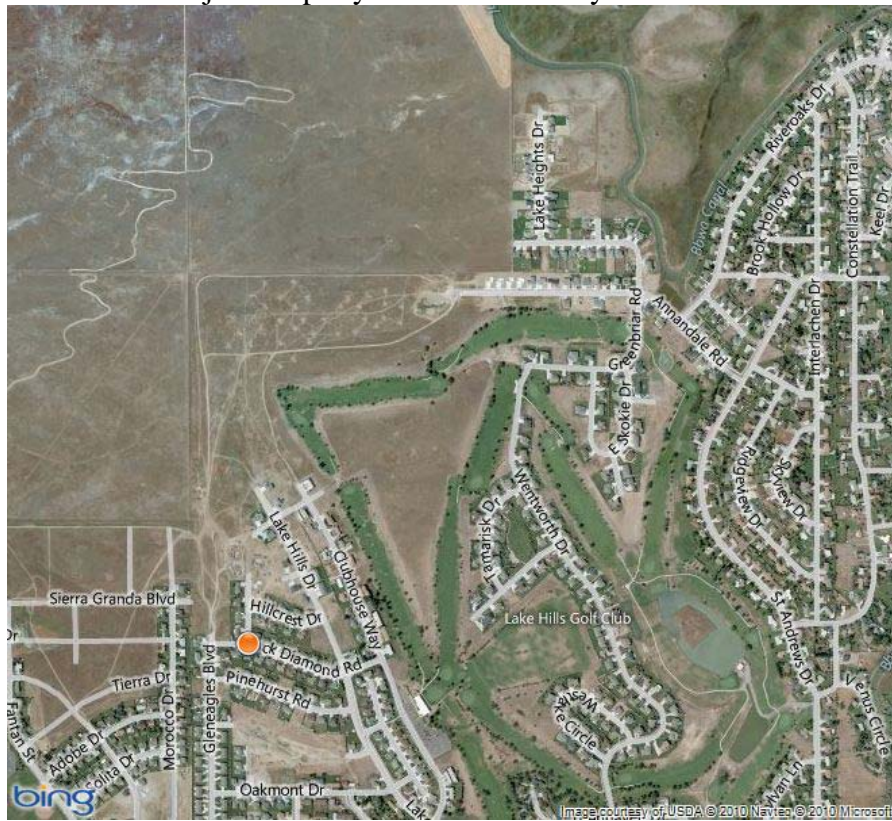




Attachment B
Site Photographs, Zone Change #875 – Lake Hills Subdivision



Subject Property view from Cherry Hills Road



Aerial Map

Attachment B, continued
Site Photographs, Zone Change #875 – Lake Hills Subdivision



View east along Cherry Hills Road



View south along intersection of Cherry Hills Rd and Clubhouse Way

Attachment B, continued
Site Photographs, Zone Change #875 – Lake Hills Subdivision



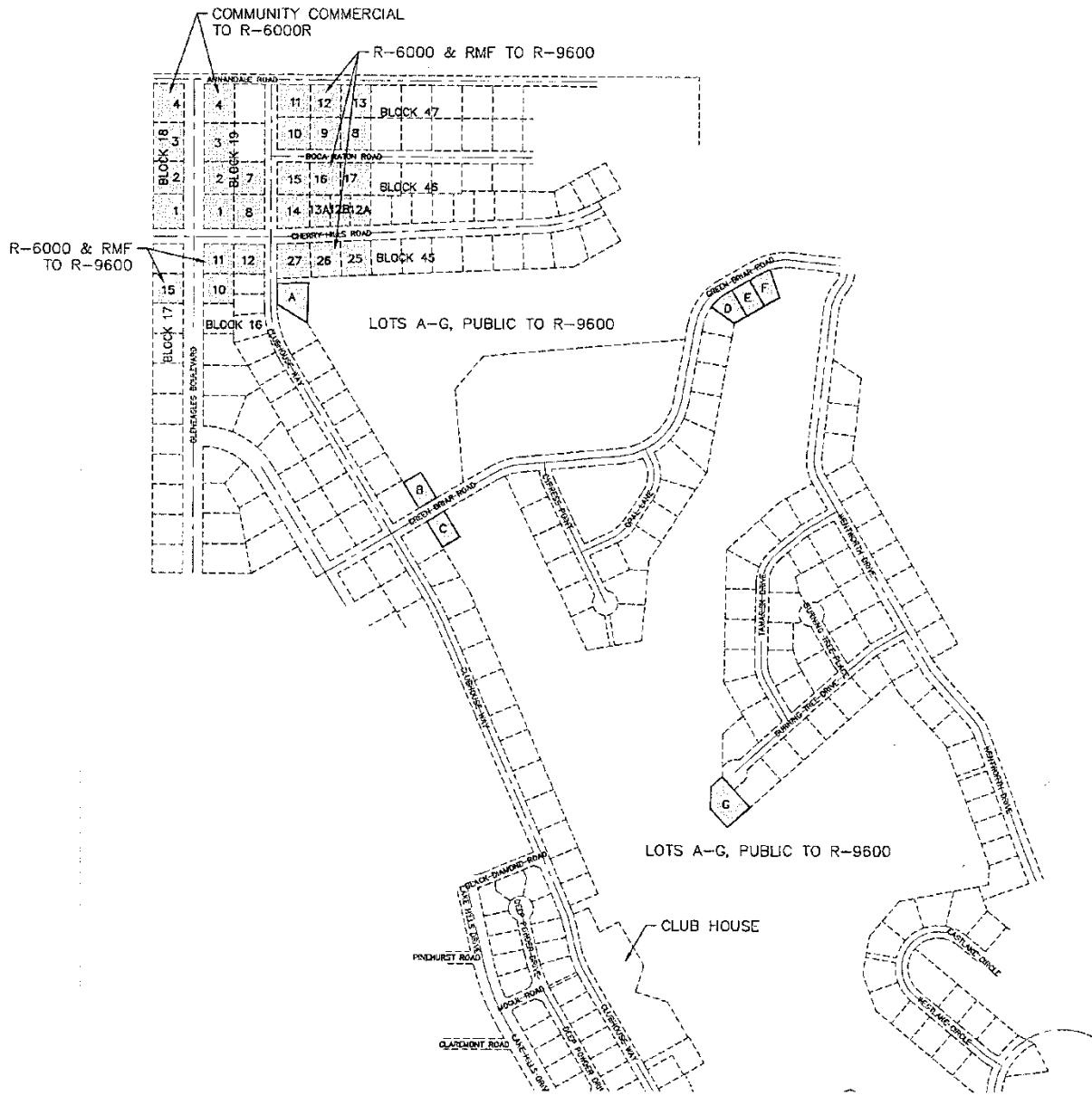
View northwest at intersection of Cherry Hills Road and Clubhouse Way



Current dead-end of Clubhouse Way

Attachment C

Pre-application meeting notes and Applicant's Letter



**CITY ZONE CHANGE APPLICATION FORM
 ADDITIONAL INFORMATION
 Lake Hills Subdivision, Billings, Montana**

Legal Description Block	Lot	TAX ID#	Area of Parcel (ft ²)	Dimensions of Parcel (ft x ft)	Existing Zoning	Proposed Zoning
16	10	A22190	14,400	120 x 120	R-6000	R-9600
16	11	A22191	14,400	121 x 120	RMF	R-9600
16	12	A22192	14,400	122 x 120	RMF	R-9600
17	15	A22233	14,400	120 x 120	R-6000	R-9600
18	1	A22235	16,694	139 x 120	CC	R-6000R
18	2	A22236	15,600	120 x 130	CC	R-6000R
18	3	A22237	18,600	155 x 120	CC	R-6000R
18	4	A22238	18,600	155 x 120	CC	R-6000R
19	1	A22239	16,694	139 x 120	CC	R-6000R
19	2	A22240	15,600	120 x 130	CC	R-6000R
19	3	A22241	18,600	155 x 120	CC	R-6000R
19	4	A22242	18,600	155 x 120	CC	R-6000R
19	7	A22245	15,600	120 x 130	CC	R-6000R
19	8	A22246	16,694	139 x 120	CC	R-6000R
45	25	A22582	16,820	120 x 130	R-6000	R-9600
45	26	A22583	16,820	120 x 130	R-6000	R-9600
45	27	A22584	18,541	140 x 130	R-6000	R-9600
46	12A	A22596	9,669	80 x 120	R-6000	R-9600
46	12B	A22596A	9,980	80 x 122	R-6000	R-9600
46	13A	A22597	10,286	80 x 127	RMF	R-9600
46	14	A22598	17,264	130 x 130	RMF	R-9600
46	15	A22599	16,819	130 x 130	RMF	R-9600
46	16	A22600	15,600	120 x 130	RMF	R-9600
46	17	A22601	15,600	120 x 130	R-6000	R-9600
47	8	A22619	15,600	120 x 130	R-6000	R-9600
47	9	A22620	15,600	120 x 130	RMF	R-9600
47	10	A22621	16,880	130 x 130	RMF	R-9600
47	11	A22622	16,880	130 x 130	RMF	R-9600
47	12	A22623	15,600	120 x 130	RMF	R-9600
47	13	A22624	15,600	120 x 130	R-6000	R-9600
Golf Course Lots						
	A	D11957	13,111	120 x 125	Public	R-9600
	B	D11957	9,600	80 x 120	Public	R-9600
	C	D11957	9,600	80 x 120	Public	R-9600
	D	D11957	9,600	80 x 120	Public	R-9600
	E	D11957	9,600	80 x 120	Public	R-9600
	F	D11957	9,600	80 x 120	Public	R-9600
	G	D11957	17,532	120 x 150	Public	R-9600

March 7, 2011

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

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

RE: Zone Change Application

To Whom It May Concern:

I am applying for a Zone Change from Public to R-9600, R-6000 to R-9600, Residential Multi-Family to R-9600 and Community Commercial to R-6000R for various areas within Lake Hills Subdivision. The purpose of these zone changes is to utilize some of the unused golf course property for single-family lots and to turn the commercial areas into smaller single-family lots.

A neighborhood meeting was held on Monday, February 28, 2011 at 6:00 P.M. A mailing list was obtained from the Planning Office and those individuals were sent letters from the owner and engineer along with a copy of the 300' radius map for reference. One neighbor attended the meeting with a complaint about Lot H, which had already been removed from the plans due to a 50-foot sanitary sewer and utility easement that would push the home too far into the golf course. He did not have any problems with the rest of the zone change. We waited until 6:20 and determined that no one else was going to show. A letter was also received from a neighbor in opposition to a zone change for Lots B and C; however, we have chosen to continue with the zone change process. A copy of his letter is attached.

Issue 1 of the Land Use Element is covered by the Zone Change to have predictable land use that is consistent with the neighborhood. By allowing the Zone Change, the land use becomes more consistent with the R-9600 Zoning surrounding most of the properties in the Zone Change.

Issue 2 of the Land Use Element is met by this application. Single-family homes are much more compatible with the existing neighborhood than a corner of Community Commercial development would be.

Issue 4 of the Land Use Element is covered by this Zone Change because the lots being added to Lake Hills Subdivision are infill lots. This prevents urban sprawl because these lots are being added to the middle of an existing residential subdivision. These new lots will not encroach on any open space as they are in a previously-populated area.

Issue 5 of the Land Use Element will be met by the Zone Change as some of the proposed zoning (R-6000R) will be aimed at smaller single-family homes that will cater

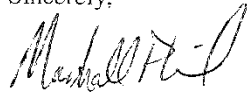
to a moderate income family. These smaller lots are also becoming more popular in a difficult economy.

Issue 6 of the Transportation Element will be met by this Zone Change as these lots will add a tax base to pay for the existing roads. This helps maintain safe City streets.

This Zone Change will also increase the tax base for this area. In a few instances, two existing lots are being split into three smaller lots. This will increase the taxes per length of road. The lots that are being added to the public golf course will also be added property taxes.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Phil". The signature is written in a cursive, slightly slanted style.

Marshall Phil

Attachment D
Letter of Objection from 2107 Clubhouse Way
Letter of Support from 494 Cherry Hills Rd
Valid Protest Petition from Lots within 150 feet of proposed Lots B & C

Roger Dallner
4546 Laredo Pl.
Billings, MT 59106

February 19, 2011

Blueline Engineering
2110 Overland Avenue, Suite 119B
Billings, MT 59102

Dear Mr. Phil:

I received your letter dated February 18, 2011 regarding a potential zone change effecting land adjacent to our rental property located at 2107 Clubhouse Way. I will be out of town on the date of the neighborhood meeting scheduled for Feb 28, 2011 and want to make sure you are informed of our position regarding your request. We are opposed to any change in land use regarding land designated as B and C in your proposal.

We purchased the property located at 2107 Clubhouse Way specifically because it bordered the golf course fairway and it is our long-term plan to sell these as condos with the golf course view as the primary amenity. Any zone change that will block the view of the golf course from our property will lower our current property value; cause financial damage to current rent rates, and damages our ability to market them as condos.

I hope you will convey our opposition to the developer and drop the attempt to zone and build in the area noted as proposed lots B and C.

Sincerely,

Roger Dallner
Trustee of the Roger F Dallner Trust

CC

James Dallner
Lathrop and Gage LLP

Sent: Saturday, April 02, 2011 10:25 AM
To: Cromwell, Nicole
Subject: zone change lake hills

My wife and I support Ron Hill's proposed Zone change for lots in the Lake Hills subdivision. It is my understanding that lots will be changed from residential commercial to residential.

Dan and Celine Gray

494 Cherry Hills Rd
Billings, MT 59105
406.534.2729

We the undersigned are against the following zone change:

Zone Change #: Public, R-6000, Residential/Mult. Family Community
change to → R-9600, R 6000R Commercial

General Location: → 2107 Clubhouse - proposed lots B+C
Reasons: New zoning does not give reasonable consideration to
The character of the district, does not avoid undue concentration
of population, block access to self-conceal from existing
properties, lowers property values.

Name	Address	Legal Description
<u>R. F. Della</u>	<u>2107 Clubhouse Way</u>	<u>LAKE HILLS SUBD 16TH FILING, S16, T01 N, R26 E, BLOCK 015, LOT 001, LT 1 BLOCK 15 LAKE HILLS SUBD 16TH FILING</u>

<u>Michael Smith</u>	<u>2041 Clubhouse Way</u>	<u>LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 015, LOT 009, LT 9 BLK 15 LAKE HILLS SUBD 17TH FILING</u>
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<u>Paula</u>	<u>2049 Clubhouse Way</u>	<u>LAKE HILLS SUBD 17TH FILING, S16, T01 N, R26 E, BLOCK 015, LOT 010, LT 10 BLK 15 LAKE HILLS SUBD 17TH FILING</u>
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Received by: Nicole Connell Date: 4/4/11

General Location: Clubhouse way and Glenview

Reasons: any zone change that will block the view of the golf course from our lots will lower the current value; cause financial damage. We have been paying taxes on these lots for 50 plus years. We are the people that developed Lake Hill 50 years ago. Thank you.

Name	Address	Legal Description
Christopher Eve	Block 15 Lot 11	Clubhouse way
Christopher Eve	Block 15 Lot 2	Clubhouse way

RECEIVED

APR - 4 2011

PLANNING & COMMUNITY SERVICES DEPARTMENT

ORDINANCE NO. 11-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR a several parcels of land described as Lots 10 through 12, Block 16; Lot 15, Block 17; Lots 1 through 4, Block 18; Lots 1 through 4 and 7 and 8, Block 19; Lots 25 through 27, Block 45; Lots 12A, 12B, 13A and 14 through 17, Block 46; Lots 8 through 13, Block 47 all in Lake Hills Subdivision; and proposed new Lots A, D, E, and F to be created from golf course land, a total of 12.03 acres of and generally located in the Lake Hills Subdivision.

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. Block 18, Lots 1-4; Block 19, Lots 1-4, 7 and 8 are presently zoned **Community Commercial (CC)** and are shown on the official zoning maps within this zone. Block 16, Lot 10; Block 17, Lot 15; Block 45, Lots 25-27; Block 46, Lots 12A, 12B & 17; Block 47, Lot 8 & 13 are presently zoned **Residential 6,000 (R-60)** and are shown on the official zoning maps within this zone. Block 16, Lots 11 & 12; Block 46, Lots 13A, 14-16; Block 47, Lots 9-12 are presently zoned **Residential Multi-family (RMF)** and are shown on the official zoning maps within this zone. Proposed Lots A, D, E, and F to be created from golf course property are presently zoned **Public (P)** and are shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcels** is hereby changed as follows: from **Community Commercial (CC) to Residential 6,000 – Restricted (R-60-R)** on Block 18, Lots 1-4; Block 19, Lots 1-4, 7 and 8; from **Residential 6,000 (R-60) to Residential 9,600 (R-96)** on Block 16, Lot 10; Block 17, Lot 15; Block 45, Lots 25-27; Block 46, Lots 12A, 12B & 17; Block 47, Lot 8 & 13; from **Residential Multi-family (RMF) to Residential 9,600 (R-96)** on Block 16, Lots 11 & 12; Block 46, Lots 13A, 14-16; Block 47, Lots 9-12; and from **Public (P) to Residential 9,600 (R-96)** on proposed Lots A, D, E, and F to be created from golf course property and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 9,600 (R-96) and Residential 6,000 – Restricted (R-60-R)** 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 April 25, 2011.

PASSED, ADOPTED AND APPROVED on second reading May 9, 2011.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk
Zone Change #875 –Lake Hills Subdivision

Regular City Council Meeting

Date: 04/25/2011

TITLE: Special Review #889 - Public Hearing

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a request for a special review to allow the modification of a previously approved site plan for Special Review #885 to allow the addition of a 2-story office building to accommodate the assisted living management and administrative offices and the re-orientation of the parking and one of the assisted living structures on the Shiloh Road frontage. The total number of assisted living dwelling units will be 64 in four (4) new assisted living buildings. The property is in a Residential 7,000 (R-70) and Residential Multi-family-Restricted (RMF-R) zone within the Shiloh Corridor Overlay District on a 2.388 acre parcel. The subject property is legally described as Tract 2 of Rush Acreage Tracts Subdivision and Lots 5 and 6 of Block 6, Rush Subdivision, 2nd Filing. The property is generally located at 4040 Parkhill Drive on the southwest corner of the intersection of Shiloh Road and Parkhill Drive. The Zoning Commission conducted a public hearing on April 5, 2011, and is forwarding a recommendation of conditional approval on a 3-0 vote.

ALTERNATIVES ANALYZED

The Planning Division reviewed the application and recommended conditional approval. The Zoning Commission concurred with this recommendation. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criterion because it meets required setbacks and does not exceed maximum lot coverage. The application conforms to the purposes of the zoning regulations and the 2008 Growth Policy. The development will fill in an existing, vacant lot in an established neighborhood in Billings. Assisted living is allowed with special review approval in all residential zoning districts.

The application also conforms to the second and third criteria. The submitted drawing with this application appears to meet all zoning requirements for setbacks, lot coverage and building height. The Shiloh Overlay District absolute criteria will be met and the relative criteria for the overlay district will be reviewed for compliance during the master site plan approval process. The existing Tendernest Assisted Living facility at 4003 Parkhill Drive fits in well with the neighborhood and this will be a similar development. The proposed expansion of the assisted living is consistent with goals of the 2008 Growth Policy and specifically the goals of encouraging in-fill and developments that are consistent with neighborhoods and adjacent land uses.

The Zoning Commission is recommending conditions for this special review based on the approval criteria for special review uses. The Zoning Commission has recommended conditions below to address building uses, lighting, safety, and traffic flow.

PROPOSED CONDITIONS

1. The special review approval shall be limited to Tract 2, Rush Acreage Tracts and Lots 5 and 6, Block 6, Rush Subdivision, 2nd Filing generally located at 4040 Parkhill Drive.
2. Any expansion of the proposed building, building occupancy or parking lot greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
3. The development of the property shall be in substantial conformance with the submitted site plan.
4. All site lighting on the buildings, in parking areas and under the covered porches shall have full cut-off shields so lighting is projected to the ground or onto the building façade and not on to adjacent properties.
5. The proposed use of the Phase 1 Office Building will be for administration and management of the Tenderest Assisted Living facilities. The building and the underlying property will not be sold, leased or otherwise granted to a party for conducting business not directly ancillary to the assisted living facility.
6. All outdoor mechanical equipment shall be screened including but not limited to air-conditioning units.
7. The signs shown on the Phase 1 Office Building will not be internally illuminated. A separate sign permit is required for the installation of these signs or other signs not shown on the site plan.
8. The clock shown on the Phase 1 Office Building will not be internally illuminated.
9. No portion of the gooseneck lighting fixtures shown on the Phase 1 Office Building will have lenses or light bulbs that project below the fixture shielding.
10. The applicant or agent(s) shall secure a demolition permit from the Building Division prior to starting demolition of the existing dwellings at 2004 and 2010 Shiloh Road.
11. Construction or demolition activities shall not start prior to 8 am or continue after 8 pm.
12. The vinyl fencing proposed along the Shiloh Road frontage and along the south property line of Lot 6 shall have a non-reflective surface finish (matte or satin).
13. Pedestrian crossing signs shall be posted at the drive approach entrance on Parkhill Drive. These signs will alert drivers entering and existing to watch for pedestrians on the public sidewalks.
14. The applicant will comply with all absolute criteria and achieve the minimum number of points for relative criteria in the Shiloh Corridor Overlay District as outlined in Section 27-1401 through 27-1423 of the Unified Zoning Regulations.
15. The applicant will apply for a Master Site Plan Approval as required by Section 27-622 of the Unified Zoning Regulations.
16. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
17. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

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

FINANCIAL IMPACT

Approval of the amended site plan will allow the applicant to move forward this construction season with Phase 1 development. The new development will increase property tax revenue of the lots. Additional city services will be required to serve the residents including water, sewer, and storm water systems but these will be paid for by the developer at the time of installation.

BACKGROUND

This is a request for a special review to allow the modification of the previously approved site plan for Special Review #885 for the construction of 64 assisted living units in 4 buildings and one office building for administration functions on a 2.388 acre parcel of land for Tendernest Assisted Living South Campus. In 2002, RK Development constructed the North Campus for Tendernest Assisted Living at 4003 Parkhill Drive consisting of 3 buildings with 15 dwelling units in each building. This will be a similar style development but with 4 buildings and 16 dwelling units in each building. The applicant now wishes to construct a separate 2-story office building to consolidate the management and administration functions of Tendernest. In addition, the site plan has adjusted the orientation of the Phase 1 assisted living building directly south of the proposed office building and provided for a one-way driveway from Parkhill Drive to exit on to Shiloh Road through property currently owned by the Billings Urban Fire Service Area (County agency).

The applicant has existing demand for memory care living units but cannot accommodate this demand in the North Campus. Assisted living is a use allowed by special review approval in all residential zoning districts. The property consists of 3 separate lots that are zoned R-70 and RMF-R. The 2 lots zoned RMF-R on Shiloh Road are developed with single family residences (2004 and 2010 Shiloh Road). The new phasing of the project will plan for demolition of these structures in the first phase of the development. The larger lot, Tract 2 of Rush Acreage Tracts, is zoned R-70 and is vacant. The primary access to the development will be off Parkhill Drive. Traffic will be one-way from Parkhill Drive to the south with a new exit-only driveway on Shiloh Road. The applicant states each building will be constructed over a 1 year time period before the next building is started for a total development time line of 4 years.

The property to the west is a residential subdivision and has single family dwellings. An existing 6 foot vinyl fence runs along the west property line and was installed by the residential subdivision. The applicant proposes to install new vinyl fencing for each new building as it is constructed as well as landscaping and a private internal access road. The property is within the Shiloh Corridor Overlay District and requires augmented building design, landscaping, signage, lighting and other site design standards not otherwise required for special review uses. All developments that are not single family or two-family dwellings are required to meet the absolute criteria and earn points in 8 of the 9 categories for relative criteria. It appears the proposed development will meet the absolute criteria. Planning staff will review and require compliance with relative criteria at the time of the master site plan review prior to the first building permit application.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on April 5, 2011, and received testimony from Quentin Eggart, agent for the applicant, Randy Swenson, of RK Development. Mr. Eggart stated the reason for the change in the site plan was due to changes in the business climate and the development plan for the new assisted living units. RK Development desires to consolidate its administrative functions in a single purpose building rather than disburse these operations throughout the site. Mr. Eggart stated the development will occur over a number of years with Phase 1 planned for the coming construction season. Phase 1 includes the new office building and the first 16-unit assisted living dwelling. Mr. Eggart stated the applicant is

agreeable to all the recommended conditions. There was no other testimony.
The Zoning Commission is forwarding a recommendation of conditional approval for Special Review #889 on a 3-0 vote.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Please see the Alternatives Analyzed for consistency with Policies and Plans.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #889 on a 3-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Map

Site photos

Site plan

Applicant letter

Attachment A
Zoning Map – SR #889 – Tenderest Assisted Living



Attachment B
Site photos – SR #889- Tenderneest Assisted Living



Subject property

Attachment B, continued
Site photos – SR #889- Tenderneest Assisted Living



View south from Parkhill Drive – existing entry



View east from existing entry to residence at 2010 Shiloh Road (Phase 1)

Attachment B, continued
Site photos – SR #889- Tenderest Assisted Living



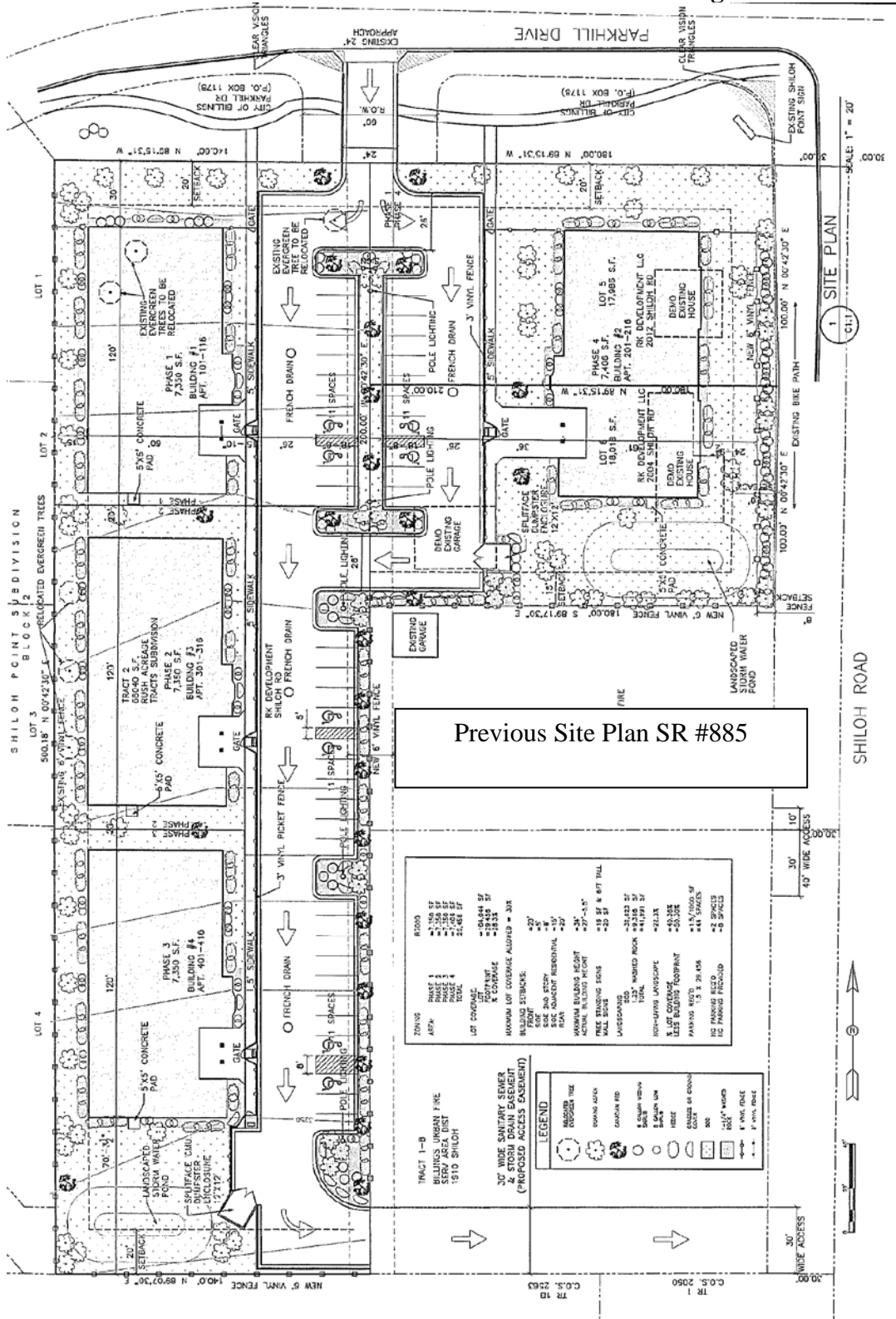
View north to Tenderest Assisted Living North Campus 4003 Parkhill Drive



View north to Shiloh Point Condominiums

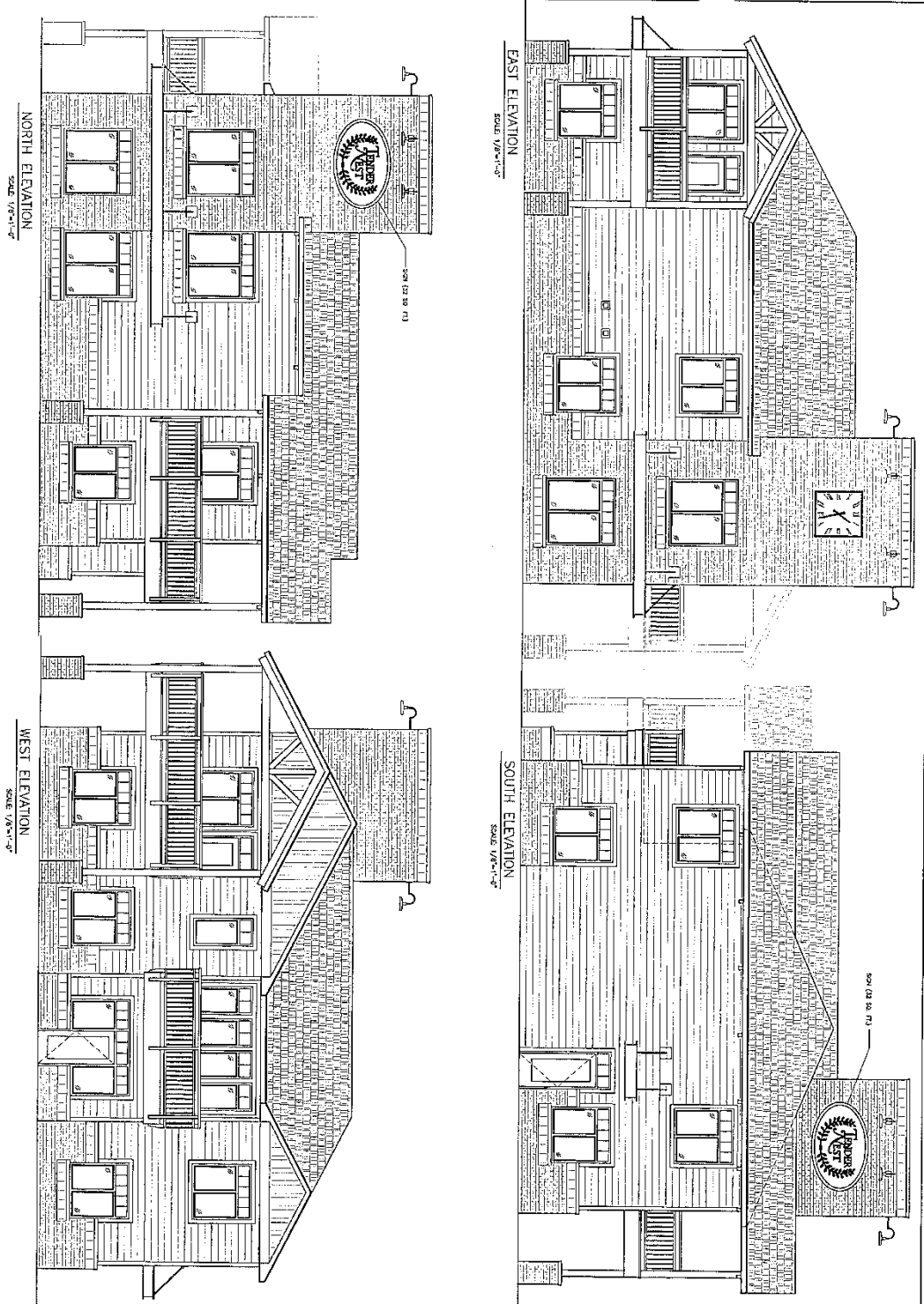
Attachment C

Site Plan – SR #889 Tenderest Assisted Living



Attachment C

Site Plan – SR #889 Tendernest Assisted Living



Drawn By: BV
 Checked By: QWE
 Date: 3-7-11
 Project #: TNSH109
 Add file:



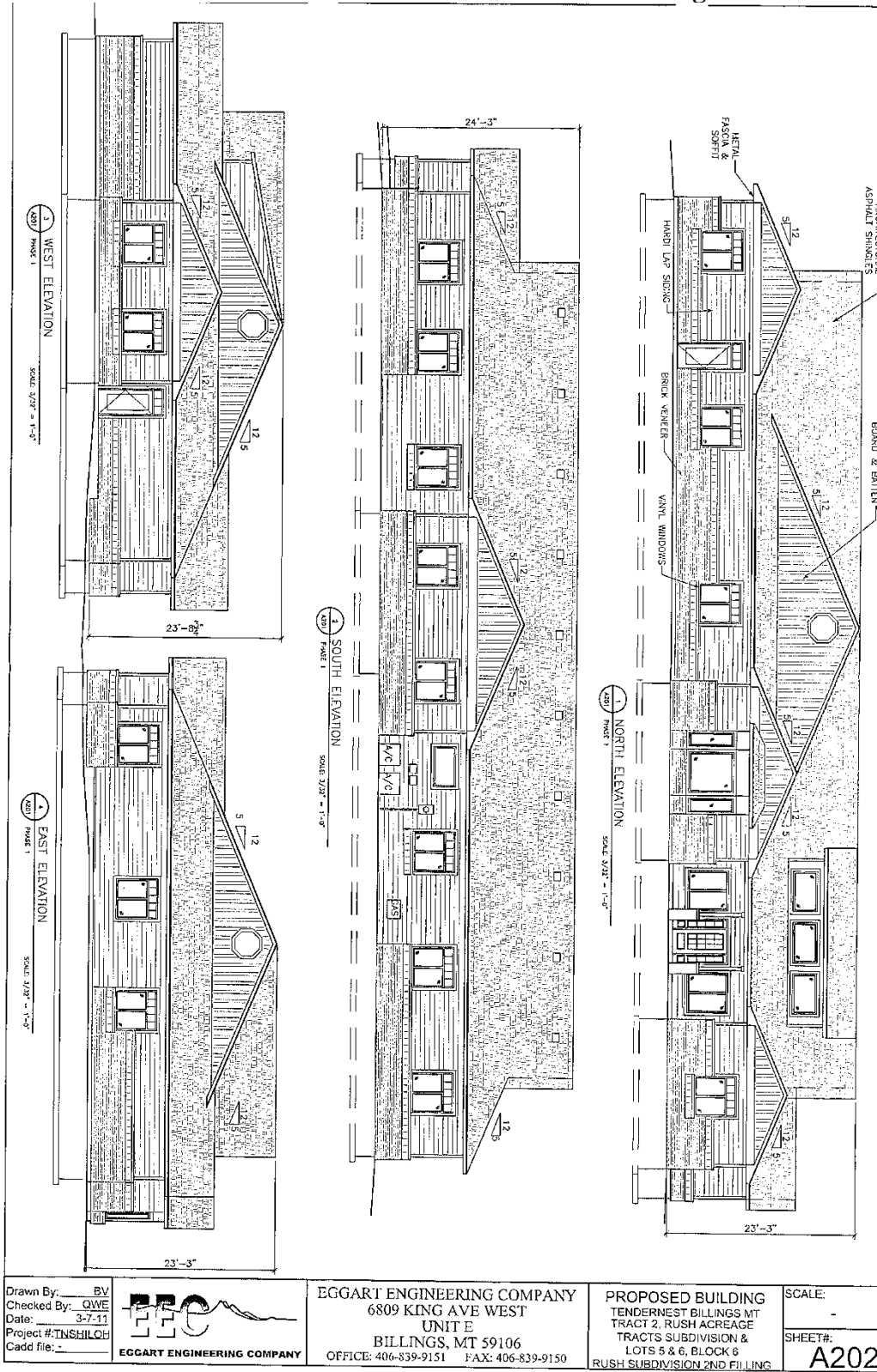
EGGART ENGINEERING COMPANY
 6809 KING AVE WEST
 UNIT E
 BILLINGS, MT 59106
 OFFICE: 406-839-9151 FAX: 406-839-9150

PROPOSED BUILDING
 TENDERNEST BILLINGS MT
 TRACT 2, RUSH ACREAGE
 TRACTS SUBDIVISION &
 LOTS 5 & 6, BLOCK 6
 RUSH SUBDIVISION 2ND PHASE

SCALE:
 SHEET#:
A201

Attachment C

Site Plan – SR #889 Tenderneest Assisted Living



Drawn By: BV
 Checked By: QWE
 Date: 3-7-11
 Project # TNSHLQH
 Cadd file: -

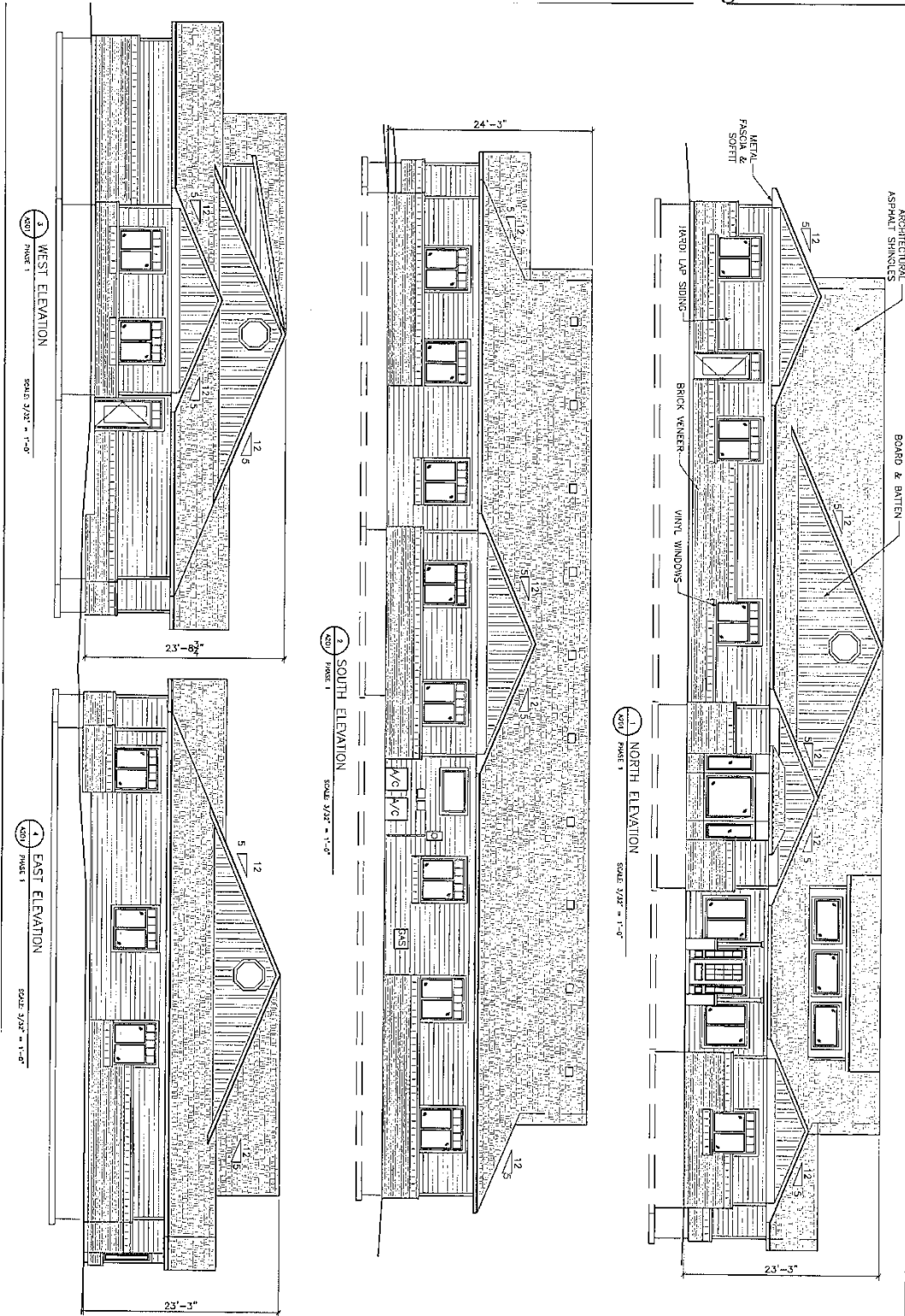


EGGART ENGINEERING COMPANY
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PROPOSED BUILDING
 TENDERNEEST BILLINGS MT
 TRACT 2, RUSH ACREAGE
 TRACTS SUBDIVISION &
 LOTS 5 & 6, BLOCK 6
 RUSH SUBDIVISION 2ND FILING

SCALE: -
 SHEET#: **A202**

Attachment C
Site Plan – SR #889 Tenderneest Assisted Living



Drawn By: BV
 Checked By: QWE
 Date: 3-7-11
 Project #: TNSHLOH
 Cadd file: -

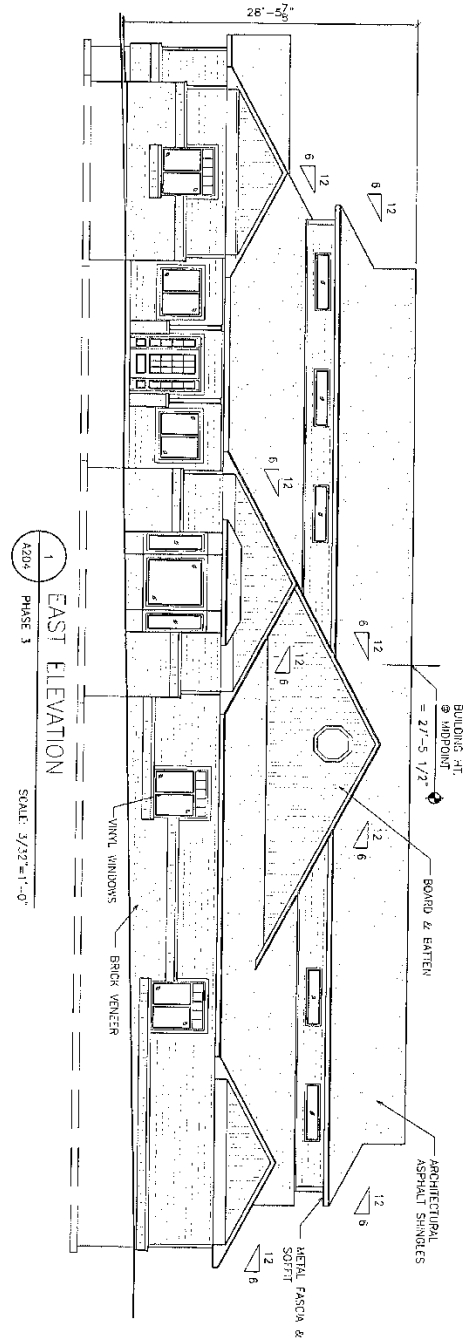


EGGART ENGINEERING COMPANY
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PROPOSED BUILDING
 TENDERNEEST BILLINGS MT
 TRACT 2, RUSH ACREAGE
 TRACTS SUBDIVISION &
 LOTS 5 & 6, BLOCK 6
 RUSH SUBDIVISION 2ND FILLING

SCALE: -
 SHEET#: **A203**

Attachment C
Site Plan – SR #889 Tendernest Assisted Living



Drawn By: BV
 Checked By: QWE
 Date: 8-2-10
 Project #: _____
 Add file: _____



EGGART ENGINEERING COMPANY
 6809 KING AVE WEST
 UNIT E
 BILLINGS, MT 59106
 OFFICE: 406-839-0151 FAX: 406-839-0150

PROPOSED BUILDING
 TENDERNEST BILLINGS MT
 TRACT 2, RUSH ACREAGE
 TRACTS SUBDIVISION &
 LOTS 5 & 6, BLOCK 6

SCALE:
 SHEET#: **A204**

Attachment D
Applicant Letter – SR #889 Tenderneest Assisted Living

SPECIAL REVIEW APPLICATION - CITY OF BILLINGS

3-7-2011

Legal Description: Tract 2 of the Rush Acreage Tracts Subdivision and Lots 5 and 6 of the Rush Subdivision 2nd Filling situated in the East ½ of section 33, T-1N, R-25E, P.M.M. Yellowstone County Montana.

QUESTIONS:

- A. *In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?*
- B. *Why is there a need for the intended use of the property at this location?*
- C. *How will the public interest be served if this application is approved?*
- D. *Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.*

Answers:

- A. *In what way is your proposal consistent with the goals and policies of the adopted Growth Policy?*

Land Use Element – Issue 2:

The current zoning ordinances and subdivision regulations do not always prevent compatible uses in and adjacent to existing City neighborhoods and County town-sites.

Goal -New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County town-sites.

*Objective -Maintain a high quality of life for new and existing residents.
 -Reduce conflicts between neighbors.*

Tenderneest Assisted Living Center South Campus will follow the Shiloh Corridor Overlay District guidelines while providing easy access for quality assisted living care to the surrounding neighborhood. The Tenderneest Assisted Living Center will be designed with residential characteristics in mind to maintain the residential neighborhood appearance. Residential characteristics of the proposed South Campus include a dutch hip roof, brick wainscot, architectural asphalt shingles, lap siding and a split faced CMU dumpster enclosure. Vinyl fences and aesthetically pleasing landscaping will provide visual barriers between the residential neighbors and the proposed assisted living facility. The parking lot lighting will be fully shielded so not to project light above the horizontal plane of the fixture and will be no greater than 20 feet above grade. The facility will be a continuation of the existing North Campus Facility located on the north side of Parkhill and will resemble it in many aspects.

Land Use Element - Issue 6:

There is a desire for more mixed use neighborhoods.

Goal -More housing and business choices within each neighborhood.

Objective -Improve quality of life.

-Encourage more live-work environments.

-Reduce commuting and subsequent drain on natural resources and traffic congestion.

-Develop more self-contained neighborhoods.

Tenderness Assisted Living Center would be a great business addition to any neighborhood. It will not only provide residents with a close place to house elderly loved ones, but will also expand a reputable business that is already located in the neighborhood and create more local jobs. The addition of the South Campus Tenderness Assisted Living Center will have negligible effect on traffic congestion within the neighborhood due to its close proximity to Shiloh Road and its proposed access from Shiloh Road through a 30 foot access easement located on neighboring Lot 1B. A majority of the residents are incapable of driving therefore the majority of added traffic will be from employees and visitors.

Economic Development Element – Issue 1:

We need to continue a cohesive focus in economic development.

Goal -Coordinate economic development efforts that target business recruitment, retention, and expansion.

Objectives -Improve the quality of life for residents.

-Strengthen area economy.

-Create living-wage jobs.

The addition of the four South Campus buildings and one office building will bring increased economic development to the area. Tenderness Assisted Living Center is planning on hiring 55 full-time equivalent employees to operate the proposed South Campus Facility. Along with the new jobs created many jobs will be retained in the construction industry throughout the multiple phases of construction. Tenderness Assisted Living, providing affordable housing and care, will improve the quality of living for the growing number of elderly citizens in the community along with its employees who will be making a competitive living-wage.

Aesthetics Element – Issue 1:

There are areas in the city and county that are unattractive and present a poor image of the community.

Goal -Visually appealing community.

Objectives -Improve the image of the community.

-Instill pride in the community.

-Improve quality of life for residents.

-preserve the community assets such as the Rimrocks, the Yellowstone River, the downtown and the major street thoroughfares.

Constructing the South Campus of Tenderness Assisted Living Center on Tract 2, Lot 5 and 6 will increase the aesthetics of the neighborhood tremendously. Tract 2 is currently a vacant lot and

Lots 5 and 6 are occupied by unappealing and inefficient rental homes. The removal of these homes, which border the major thoroughfare of Shiloh Road, and replacing them with the proposed phase 1 assisted living building along with an office building will not only make the community more appealing but will bring the lots up to the requirements of the Shiloh Corridor Overlay District. Below are pictures of the existing rental houses on Lot 5 and Lot 6 along with the vacant lot.



Rental Houses Located on Lots 5 and 6 (View from Shiloh Road)



Vacant Lot, Tract 2 (View from Proposed South access easement on Lot 1B)

The new South Campus of Tenderness Assisted Living Center will resemble the North Campus with a few modifications and upgrades. Pictures of the North Campus can be seen below along with the proposed front elevation of the new assisted living buildings and office building. Additional elevations of the proposed South Campus are also included with this special review package.



Existing North Campus Photos

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

The South Campus of Tendernest Assisted Living Center is needed because of the growing population of elderly citizens in the community. As of the 2000 Census 13.36% or 17,243 citizens in Yellowstone County were over the age of 65. This number is expected to increase as the baby boomers continue to age and people live longer. Tendernest Assisted Living specializes in memory care which is a growing problem among the elderly. They offer these elderly citizens affordable housing options where they can maintain their freedom in a family environment and be assisted only in areas they feel needed. Tendernest takes pride in creating a high quality of living for their residents. Currently the North Campus of Tendernest Assisted Living Center is at full capacity, 45 dwellings, and has to turn down new applicants. The proposed four phased South Campus will accommodate another 64 dwellings when fully complete allowing the entire campus to house 109 residents.

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

The public interest will be served if this application is approved because of the added number of housing facilities for the growing elderly population and also because of the number of jobs this facility will create. The addition of the South Campus will require Tendernest Assisted Living Center to employ an equivalent of 55 full time employees. These employees will receive competitive living-wages and will aid in the development of the local economy. When these primary jobs are created in the community it will create other jobs in the community. This is known as a job multiplier. Stated in the 2008 Growth Policy, Health Service Jobs have a job multiplier of 1.67. This equates to an additional 92 jobs created in the community. This project will also retain and create construction jobs as well. With the added housing for elderly and the creation of much needed jobs, the community will benefit greatly from the addition of the South Campus to the Tendernest Assisted Living Center.

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

Tendernest Assisted Living Center Proposed South Campus is a four phase project that will consist of four Assisted Living Buildings and an Office Building. The footprint of each building is listed below.

• Phase 1 Assisted Living Building	7,307	S.F.
• Phase 1 Office Building	1,961	S.F.
• Phase 2 Assisted Living Building	7,307	S.F.
• Phase 3 Assisted Living Building (Proposed Second Floor)	7,307	S.F.
• Phase 4 Assisted Living Building	7,307	S.F.
Total	31,189	S.F.

Each Assisted Living Building will contain 16 dwelling units and the office building will contain 7 offices. This facility will be an expansion of the Tendernest Assisted Living Center North Campus

which is located across Parkhill on Lot 1A of the Rush Acreage Subdivision. The first phase of construction will consist of the Office Building and neighboring Assisted Living Building, located on Lots 5 and 6 of the Rush Subdivision 2nd Filing, with required infrastructure, parking, and surrounding landscaping. Phases 2, 3, and 4, will each consist of constructing one additional Assisted Living Building with required infrastructure, parking, and surrounding landscaping. Each phase is estimated to take approximately six (6) months to complete. Each additional phase will take place once the previous phase building is at or near full capacity, approximately six (6) months. The time estimated to complete all four (4) phases of construction will be approximately four (4) years. This Special Review is being sought to assure that the proposed use of the property, assisted living facility, located in an R-7000 zone is compatible with its location and the surrounding land uses.

Regular City Council Meeting

Date: 04/25/2011

TITLE: Supplemental Agreements for Purchasing Lots 1-12, Block 109, Original Townsite of Billings; Empire Parking Garage

PRESENTED BY: Bruce McCandless

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

On April 11, 2011, the City Council approved two property purchase agreements for land and buildings that are located on the north side of Montana Ave., between N. 27th and N. 28th. These properties will be used for the proposed Empire Parking Garage. The property sellers are Bill Honaker (Alley Cat) and Chris and Mike Nelson (Northern Hotel or Zootist). The staff reports for those items and the presentation at the Council meeting noted that there are several conditions in each purchase agreement that must be satisfied before the properties transfer to the City. Those conditions include that the present owners:

1. may buy or lease parking spaces and retail space in the new parking garage
2. may lease the parking lot and parking garage free until site preparation begins
3. may be co-owners in a condominium or unit ownership if they choose to purchase parking spaces or retail space
4. have a first right of refusal to repurchase the property if the City tries to sell it
5. may repurchase the properties if the City fails to build a parking garage within 2 years
6. may participate in the parking garage design

In addition, the City must provide replacement parking for the Northern Hotel contractors and guests if the present garage has been demolished and the new garage is not completed. Lease and Option-Repurchase Agreements that will satisfy the conditions described above have been prepared for the Alley Cat transaction (Windsor Court building and adjacent parking lot). These agreements are submitted to the City Council for approval. Approval at this meeting is necessary so that the property purchase closing can occur on April 29th. The Northern Hotel/Zootist Garage is a more complex transaction and the agreements that are needed for the closing are not completed. The agreement will be submitted for the Council's May 9 meeting and the property closing will be delayed accordingly.

ALTERNATIVES ANALYZED

The City Council may

- approve the agreements, or
- disapprove the agreements

Approving the agreements will allow the property purchase to close on April 29th and conform to the purchase agreements. Disapproving the agreements will delay or cancel the property purchase closing. Either delay or cancellation will make it more expensive for the City to acquire the property or the present owners may not be willing to sell the property to the City in the future.

FINANCIAL IMPACT

The property purchase totals \$1,625,000. The estimated cost or lost revenue of each item that corresponds with the numbered items above are as follows:

1. Parking spaces will be purchased for approximately \$4,300/space while the cost is approximately \$20,000/space to build. The retail space will be purchased at a market rate that will be determined after the design is completed and the garage is ready for construction. The parking space subsidy is worth about \$393,000 and there should not be a retail space subsidy. The owner may also choose to lease parking or retail space and those market rates will be determined after design and before completing the structure.
2. The potential revenue loss at \$50/space is approximately \$2500.
3. There is no direct cost for participation in a unit ownership but there will be costs for creating the condominium documents. The document preparation cost is unknown at this time.
4. The first right of refusal has no out-of-pocket costs but staff time will be expended to execute the necessary agreements and transfers.
5. The previous item conditions apply to this repurchase.
6. Owner participation in the design process should not have a cost. However, if there is a dispute over the design, both parties will incur staff and legal costs to resolve the dispute.

RECOMMENDATION

Staff recommends that the City Council approve execution of the agreements that satisfy conditions of the property purchase agreements with Alley Cat Investments LLC.

APPROVED BY CITY ADMINISTRATOR

Attachments

Alley Cat Option-Repurchase

Alley Cat Lease

**City – Alley Cat
Empire Garage Option Agreement**

This Agreement (“Agreement”) is made and entered into this 29th day of April, 2011 (“Effective Date”), by and between the City of Billings, Montana, a municipality of the State of Montana (“City”) and Alley Cat Investments, LLC (“Alley Cat”) Alley Cat. City and Alley Cat are individually a “Party” and collectively the “Parties”.

Recitals

A. On the Effective Date of this Agreement, City has purchased from Alley Cat the real property and improvements thereon described below (“Property”):

Lots 1-7, Block 109, Original Town, now City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana under Document #16312,

together with all rights (including without limitation development rights), privileges, easements, structures, appurtenances, improvements and fixtures appurtenant thereto.

B. Contemporaneously with this Agreement, City has entered into a lease agreement with Alley Cat to lease a portion of the Property back to Alley Cat (“Lease Agreement”). Under the Lease Agreement Alley Cat will sublet parking to its affiliate, Securities Building, LLC, on a month to month basis.

C. In addition to the Property, City has also purchased, or plans to purchase, adjacent property on the north side of Montana Avenue (Lots 8 through 12 of Block 109) to assemble land for the purpose of constructing a mixed use parking structure (“New Facility”).

D. City desires to proceed with the construction of the New Facility (the “Project”); however, the Parties acknowledge that there are unresolved contingencies regarding the Project, including without limitation, design and specification requirements, bonding requirements, unit ownership agreement requirements, construction cost and financing considerations, that may result in the City determining that it will not construct the New Facility and will terminate the Project.

E. The Parties wish to set forth the terms of their agreements regarding the Project, Alley Cat’s right of first refusal and option to repurchase the Property, and options to purchase parking and retail space in the New Facility.

AGREEMENT

Now, therefore, the Parties agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and incorporated into this Agreement.

2. **Definitions.** The following terms as used in this Agreement are defined as set forth below:

a. “Commence(d) Construction” or “Commencement of Construction” means City or its contractor commencing actual demolition or construction work on the Project.

b. “Completion and Acceptance of Design Work” means completion and acceptance of design work for the Project as set forth in Section 4 of this Agreement.

c. “Completion of the Project” means completion of construction of the New Facility and issuance of an occupancy permit for the garage portion of the New Facility.

d. “Notice of Commencement of Construction” means written notice from City to Alley Cat that City intends to Commence Construction on the Project. The Notice of Commencement of Construction shall notify Alley Cat of the approximate date that City will Commence Construction and City shall be entitled to Commence Construction 60 days after the date of the Notice.

e. “Notice of Completion of Project” means the written notice from City to Alley Cat of Completion of the Project.

f. “Notice of Termination of Project” means written notice from City to Alley Cat that City has determined to terminate the Project.

3. **City’s Obligations.** City will proceed with its due diligence and investigation for the Project. City will obtain design work, consultation on issuance of bonds for the Project, and prepare a draft Condominium Declaration and Bylaws. City will keep Alley Cat advised of the status and progress on these matters. Upon determination that it will proceed with construction of the Project, City shall provide Alley Cat with Notice of Commencement of Construction at least 60 days prior to Commencement of Construction.

4. **Completion and Acceptance of Design Work.** The parties acknowledge that it is the intent for the Project and New Facility to be designed and constructed in a manner substantially similar to and consistent with the preliminary plan and drawings set forth on the attached Exhibit A, including without limitation substantially similar design, quality, and grade, and consisting of a mixed use building with parking and retail space components as that set forth on Exhibit A. Accordingly, City agrees to consult with and keep Alley Cat informed with respect to the Project design details and any material changes thereto throughout the entire design process. City will notify Alley Cat when it has received design plans for the Project that it believes are acceptable to identify units in the New Facility and to proceed with obtaining bids for construction. City will submit

the design plans to Alley Cat together with the draft Condominium Declaration and Bylaws documents for the New Facility. The Parties shall have 30 days after City's submission of these plans and documents to Alley Cat to complete the following: (a) obtain Alley Cat's written consent to the design plans and scope of the Project; (b) reach agreement on the terms of the draft Condominium Declaration and Bylaws; and (c) finalize Alley Cat's identification of the unit of parking spaces subject to Alley Cat's Parking Option as set forth in Section 8 of this Agreement. Completion of these items shall constitute "Completion and Acceptance of Design Work".

5. Termination of Project. City reserves the right, in its sole discretion, to determine that it will not proceed with the Project or construction of the New Facility. If City determines not to proceed with the Project or construction of the New Facility, it will promptly provide Alley Cat with Notice of Termination of Project. Upon City providing Alley Cat with Notice of Termination of Project: (a) the options set forth in Sections 8 and 9 and the right of first refusal set forth in Section 10 of this Agreement shall terminate and be of no further force and effect; (b) the Lease Agreement shall terminate 60 days after the date of the Notice; and, (c) City shall have no further obligation to Alley Cat under this Agreement or related to the Project, except those obligations under the Right of First Refusal and the Repurchase Option set forth in Sections 6 and 7 of this Agreement.

6. Alley Cat Right of First Refusal to Repurchase. Commencing on the Effective Date, and continuing until Completion of the Project, City grants Alley Cat a continuing right of first refusal to reacquire the Property in the sole event City receives a bona fide offer to purchase the Property, and City determines to accept such offer, in which case the purchase price to reacquire the Property shall be the lesser of (i) the purchase price paid by the City to Alley Cat for the Property or (ii) the purchase price set forth in the bona fide offer received by the City. The Parties acknowledge and agree that City may enter into pre-sale agreements and arrangements to sell condominium units in the New Facility, that would close following Completion of the Project, without triggering this Right of First Refusal.

7. Grant of Option to Repurchase to Alley Cat. In the event (i) City provides Alley Cat with Notice of Termination of Project, (ii) City does not Commence Construction of the Project within two (2) years from the Effective Date, or (iii) the parties are unable to agree upon final design or otherwise complete any of the items required for "Completion and Acceptance of Design Work" under Section 4, then Alley Cat shall have an exclusive option to repurchase the Property from City, in accordance with and upon the following terms ("Repurchase Option"):

a. **Exercise of Option.** In order to exercise the Repurchase Option, Alley Cat shall notify the City in writing as applicable: (1) within ninety (90) days following the date of Notice of Termination of Project; (2) within ninety (90) days following April 29, 2013 if City has not Commenced Construction by April 29, 2013; or (3) within ninety (90) days following the expiration of the 30-day period for "Completion and Acceptance of Design Work"

b. Option Price. The Option Price for the Property shall be the lesser of (i) the purchase price paid by the City to Alley Cat for the Property or (ii) the fair market value of the Property determined by independent appraisal at the election of either party, in which case the parties shall mutually approve the selected appraiser.

c. Payment. The Option Price shall be paid in cash at closing.

d. Evidence of Title. If the Repurchase Option is properly exercised by Alley Cat, City agrees to execute and deliver to Alley Cat a standard Warranty Deed conveying fee simple absolute title for the undivided interests to be purchased, subject only to the following exceptions: (i) all reservations and exceptions in patents from the United States or the State of Montana; (ii) all existing easements and rights-of-way record; (iii) all building, use and zoning restrictions and ordinances, and sanitary and environmental restrictions; (iv) taxes and assessments for the year the Option is exercised and subsequent years; and (v) all mineral rights and prior conveyances or transfers of any interest in minerals, including but not limited to oil, gas and other hydrocarbons.

e. Title Insurance. If the Repurchase Option is exercised, City agrees to provide to Alley Cat a commitment for title insurance covering the Property to be purchased in an amount at least equal to the purchase price of the Property. The commitment shall show that City is vested with merchantable title subject only to those exceptions allowable in the paragraph above entitled "Evidence of Title." The Parties will share equally the cost of the title insurance policy.

f. Prorations. If the Repurchase Option is exercised, the City and Alley Cat shall prorate all real property taxes, levies and assessments as of the date of closing.

g. Closing. Closing following the exercise of the Repurchase Option shall occur at the time and place mutually agreed to between the Alley Cat and City within thirty (30) days after the exercise of the Repurchase Option.

h. Assignability. The Repurchase Option shall be only be assignable to (i) an owner or purchaser of the Securities Building in Billings, Yellowstone County, Montana, (ii) an entity owned by William Honaker, principal owner of Alley Cat, (iii) or upon written approval of City.

8. Grant of Option to Purchase Parking Spaces to Alley Cat. Commencing upon the Effective Date, and continuing until sixty (60) days after Completion and Acceptance of Design Work, City hereby grants Alley Cat an exclusive option to purchase from City a condominium unit consisting of all of the first-floor, ground level parking spaces within the New Facility, which shall consist of a minimum of twenty-five (25) parking spaces as indicated by the "Proposed Parking Area" on Exhibit A, in accordance with and upon the following terms ("Parking Option"):

a. Conditions to Exercise. The Parking Option can only be exercised for all of the first-floor parking spaces within the New Facility, to be initially located and described in the design plans for the New Facility, and finally described in the Final Condominium Declaration for the New Facility.

b. Exercise of Option. In order to exercise the Parking Option, Alley Cat shall notify the City in writing within sixty (60) days of receipt of Notice of from City of Completion and Acceptance of Design Work.

b. Option Price. The Option Price for the interests under the Parking Option shall be \$4,331.55 per space..

c. Payment. Alley Cat shall pay \$5,000_ as earnest money. The balance of the Option Price shall be paid in cash at closing.

d. Evidence of Title. If the Parking Option is properly exercised by Alley Cat, City agrees to execute and deliver to Alley Cat at closing a standard Warranty Deed conveying fee simple absolute title for the interests to be purchased, subject only to the following exceptions: (i) all reservations and exceptions in patents from the United States or the State of Montana; (ii) all existing easements and rights-of-way record; (iii) all building, use and zoning restrictions and ordinances, and sanitary and environmental restrictions; (iv) taxes and assessments for the year the Parking Option is exercised and subsequent years; (v) all mineral rights and prior conveyances or transfers of any interest in minerals, including but not limited to oil, gas and other hydrocarbons; and (vi) the Final Condominium Declaration and Bylaws for the New Facility.

e. Title Insurance. If the Parking Option is exercised, City agrees to provide to Alley Cat a commitment for title insurance covering the interests to be purchased in an amount at least equal to the purchase price of the interests. The commitment shall show that City is vested with merchantable title subject only to those exceptions allowable in the paragraph above entitled "Evidence of Title." The Parties will share equally the cost of the title insurance policy.

f. Prorations. If the Parking Option is exercised, the City and Alley Cat shall prorate all real property taxes, levies and assessments as of the date of closing.

g. Closing. Closing following the exercise of the Parking Option shall occur at the time and place mutually agreed to between the Alley Cat and City within thirty (30) days after Completion of the Project.

h. Assignability. This Parking Option shall only be assignable to (i) an owner or purchaser of the Securities Building in Billings, Yellowstone County, Montana, (ii) an entity owned by William Honaker, principal owner of Alley Cat, (iii) or upon written approval of City.

9. Alley Cat Option to Purchase Retail Space. Commencing upon the Effective Date, and continuing until ninety (90) days after Completion and Acceptance of Design Work, City hereby grants Alley Cat an exclusive option to purchase first floor retail space in the New Facility located on the corner of North 27th Street and Montana Avenue as indicated by the “Proposed Retail Option” on the attached Exhibit A in the minimum amount of 4,000 square feet, in accordance with and upon the following terms (“Retail Space Option”):

a. Conditions to Exercise. The Retail Space Option can only be exercised for the Retail Space approximately depicted on Exhibit A and to be finally described in the Final Condominium Declaration for the New Facility.

b. Exercise of Option. In order to exercise the Retail Space Option, Alley Cat shall notify the City in writing within ninety (90) days after receipt of Notice of Completion of the Project from City.

c. Option Price. The Option Price for the interests under the Retail Space Option shall be the fair market value of the Retail Space as determined by appraisal from an appraiser mutually approved by the parties.

d. Payment. The Retail Space Option Price shall be paid in cash at closing.

e. Evidence of Title. If the Retail Space Option is properly exercised by Alley Cat, City agrees to execute and deliver to Alley Cat at closing a standard Warranty Deed conveying fee simple absolute title for the interests to be purchased, subject only to the following exceptions: (i) all reservations and exceptions in patents from the United States or the State of Montana; (ii) all existing easements and rights-of-way record; (iii) all building, use and zoning restrictions and ordinances, and sanitary and environmental restrictions; (iv) taxes and assessments for the year the Option is exercised and subsequent years; (v) all mineral rights and prior conveyances or transfers of any interest in minerals, including but not limited to oil, gas and other hydrocarbons; and (vi) the Final Condominium Declaration for the New Facility.

f. Title Insurance. If the Retail Space Option is exercised, City agrees to provide to Alley Cat a commitment for title insurance covering the interests to be purchased in an amount at least equal to the purchase price of the interests. The commitment shall show that City is vested with merchantable title subject only to those exceptions allowable in the paragraph above entitled “Evidence of Title.” The Parties will share equally the cost of the title insurance policy.

g. Prorations. If the Retail Space Option is exercised, the City and Alley Cat shall prorate all real property taxes, levies and assessments as of the date of closing.

h. Closing. Closing following the exercise of the Retail Space Option shall occur at the time and place mutually agreed to between the Alley Cat and City within thirty (30) days after the Completion of the Project.

i. Assignability. The Retail Space Option shall only be assignable to (i) an owner or purchaser of the Securities Building in Billings, Yellowstone County, Montana, (ii) an entity owned by William Honaker, principal owner of Alley Cat, (iii) or upon written approval of City.

10. Alley Cat Right of First Refusal to Purchase Retail Space. Commencing on the Effective Date, City grants Alley Cat a continuing right of first refusal to purchase the retail space as described in the Retail Space Option in Section 9 for the offered price in the sole event City receives a bona fide offer to purchase the Property, and City determines to accept such offer.

11. Design Input. City will not commit itself to any particular design or plan regarding the New Facility until Alley Cat has provided its prior written consent to the design and scope of the New Facility, including subsequent changes to the design and scope of the New Facility, provided such consent shall not be unreasonably withheld. However, it is acknowledged and agreed that any material changes to the design from that contemplated under Section 4 may result in Alley Cat's withholding of consent, in which case Alley Cat shall have the option to repurchase the Property under Section 7. The Parties shall finalize this design input and consent prior to Completion and Acceptance of Design Work.

12. Intentionally Omitted.

13. Condominium Provisions. The Parties acknowledge that mutually acceptable Final Condominium Declaration and Bylaws will be required for the New Facility that address the unit for parking spaces and the retail space. City will prepare drafts of the Condominium Declaration and Bylaws and submit them to Alley Cat for review and comment. The Parties, and any other parties to the documents, will meet and confer in good faith to negotiate the terms of the draft Condominium Declaration and Bylaws. City may determine, in its discretion, to complete and record a preliminary condominium declaration for the New Facility before construction is completed.

14. Liens. Except to the extent diligently contested in good faith, City shall keep the Property free from any liens and real estate taxes or assessments arising out of any work performed, materials furnished, or obligations incurred by City.

15. Recording. The Parties may record abstracts of the options and rights of first refusal set forth in this Agreement.

16. Notice. Any notice to be given hereunder shall be in writing and shall either be served upon a party personally, or served by registered or certified mail, return receipt requested, directed to the party to be served at the address of the party set forth below. A party wishing to change his designated address shall do so by notice in writing to the other party. Notice served by mail shall be deemed complete when deposited in the United States mail, postage prepaid.

To Alley Cat:

To City:

Alley Cat, LLC
Attn: William Honaker

Billings, MT 59101

City of Billings
Attn: City Attorney
P.O. Box 1178
Billings, MT 59103

17. Time and Binding Effect. Time shall be of the essence of this Agreement. The terms and conditions hereof shall inure to the benefit of, and be binding upon, the heirs, legal representatives, successors and permitted assigns of the parties hereto.

18. Entire Agreement. This Agreement and the Lease Agreement, each dated concurrently herewith and entered by and between City and Alley Cat, collectively embody the entire agreement between the parties, and supersede all prior negotiations, understandings and agreements, if any, relating to the Property. This Agreement may be amended, modified, or supplemented only by an instrument in writing duly executed by both parties hereto.

19. Waiver. Waiver by any party hereto of any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant, or condition, or of any subsequent breach of the same, or of any other term, covenant or condition contained in this Agreement. The consent to, or approval of, any act of any the parties hereto by any other party shall not be deemed to render unnecessary the obtaining of the consent to, or approval of, any subsequent act by any party hereto, as the case may be, by the other party.

20. No Partnership Third Party Rights. Nothing contained in this Agreement shall create any partnership, joint venture, or other arrangement between City and Alley Cat. Except as expressly provided herein, no term or provision of this Agreement is intended to or shall be for the benefit of any person not a party hereto, and no such other person shall have any right or cause of action hereunder.

21. Interpretation. If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall nonetheless be effective. This Agreement has been made and entered into in the State of Montana and shall be governed by the laws of the State of Montana.

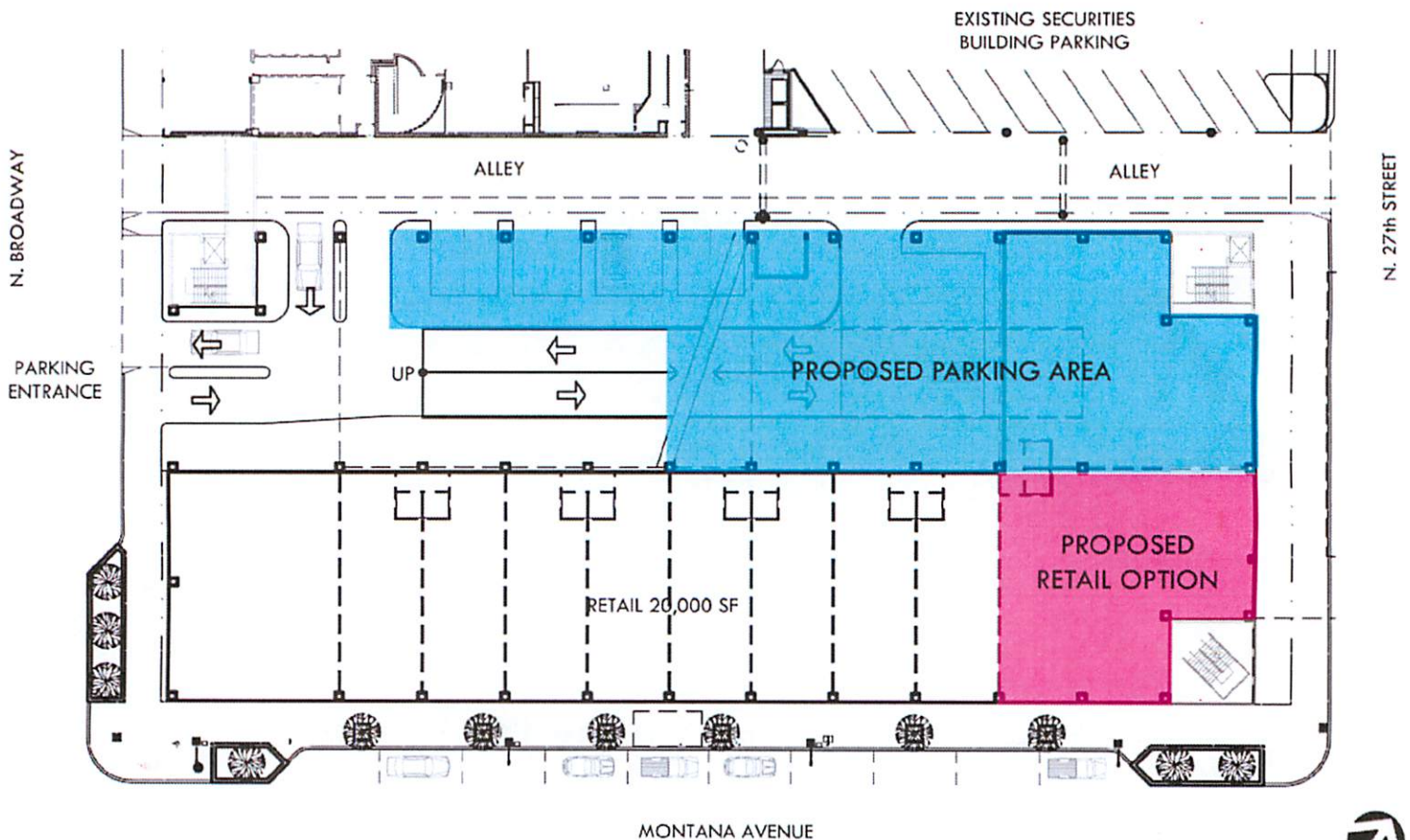
City of Billings

By: _____
Name: _____
Its: _____

Alley Cat, LLC

By: _____
William Honaker, Member

EXHIBIT "A"



LEASE AGREEMENT

This lease agreement ("Lease Agreement") is made and entered into this 29th day of April, 2011 ("Commencement Date"), by and between the **CITY OF BILLINGS, MONTANA**, hereinafter referred to as "Landlord" and **ALLEY CAT INVESTMENTS, LLC**, a Montana limited liability company, _____, hereinafter referred to as "Tenant."

Recitals

A. On the Commencement Date, Landlord has purchased the premises described in this Lease Agreement, together with certain adjacent properties, for the purpose of assembling land to construct a new mixed use parking garage facility ("New Facility").

B. Landlord and Tenant have contemporaneously entered into the Empire Garage Option Agreement ("Option Agreement") which sets forth their respective rights and responsibilities with regard to construction of the New Facility and options granted to Tenant. Unless otherwise indicated, capitalized terms used herein shall have the same defined meaning as set forth in the Option Agreement.

Agreement

That in consideration of the covenants hereinafter contained on the part of the Landlord and Tenant to be observed and performed, the parties hereby agree:

1. LEASE

The Landlord does hereby grant, demise and lease unto the Tenant, for and in consideration of the rents, covenants, and agreements hereinafter specified to be paid, kept and performed by the Tenant, use of existing parking lot located on-

Lots 5-7, Block 109, Original Town, now City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, under Document No. 16312 (the "Premises");

TOGETHER WITH all improvements and fixtures attached to the above-described Premises and attached buildings or structures.

2. TERM AND POSSESSION

The term of this lease shall commence on the Commencement Date and continue uninterrupted through April 29, 2013, unless earlier terminated by Landlord, in its sole

discretion, by giving Notice of Commencement of Construction or Notice of Termination of Project to Alley Cat as provided in the Option Agreement.

As provided in the Option Agreement, this Lease Agreement shall terminate 60 days after the date of the Notice of Commencement of Construction. As provided in the Option Agreement, this Lease Agreement shall terminate 90 days after the date of the Notice of Termination of Project.

Upon termination of this Lease Agreement, Tenant shall surrender possession of the premises to Landlord free of any liens, encumbrances, and leases or subleases of the premises.

3. RENT

Rent for the entire lease term shall be \$1.00.

4. INSURANCE

Tenant shall provide fire and hazard insurance for the protection of the premises and the contents and shall be liable for said protection. Provided, however, that in case said premises shall be damaged by fire or other casualty for some cause not related to tenant's business or operation so as to render the premises untenable, in which case the Landlord shall at its cost repair the same. During the period the premises remain uninhabitable, the rent shall abate, and provided further, if such repairs cannot or are not completed within 120 days, Tenant may elect to terminate its interest in this lease and the premises by giving notice thereof to Landlord.

Tenant shall obtain and maintain at all times during the term hereof, with a responsible insurer, naming the Landlord as an additional insured, comprehensive general liability insurance against any loss or liability, personal injury or property damages, and any expenses of the parties against any claim, demands, payments, suits, actions, recoveries or judgments for damages which might result from the use, occupation or condition of the premises in the amount of \$750,000 for each claim and \$1.5 million per occurrence. Tenant shall furnish a copy of such insurance policy and renewals thereof to the Landlord and such policy shall not be canceled without a 30-day written notice to the Landlord.

5. UTILITIES SERVICES

Tenant agrees, at its own expense to pay for all utilities used by the Tenant on the premises during the term of this lease.

6. IDEMNIFICATION OF LANDLORD BY TENANT

Tenant hereby agrees to indemnify and hold the Landlord harmless at all times from and against all actions, claims, demands, liabilities, judgments and all costs, expenses and fees, including attorney's fees, incurred by the Landlord, arising from the use, occupancy or non-use of the premises by the Tenant, or arising from the failure of the Tenant to maintain the premises

as required by this lease. Such indemnification shall include but not be limited to carelessness, negligence, improper conduct or breach of this lease by Tenant or its agents, employees, customers, suppliers or licensees.

7. ADVERTISING SIGNS

The Tenant shall be allowed to provide, at his own expense, such advertising displays on the exterior of the building as may be appurtenant to his business, provided however that such displays will be in accordance with the laws and regulations of the State of Montana and the City of Billings, Montana, and that such displays will not deface, damage or devalue the demised property during their use or after their removal, reasonable wear and tear expected. All signs must be approved in writing by the Landlord prior to installation which approval shall not be unreasonably withheld.

8. IMPROVEMENTS BY TENANT

All improvements, alterations, additions and all such work shall be done at Tenant's expense and shall, unless Landlord elects otherwise, become the property of the Landlord at the conclusion of the lease, and shall remain upon and be surrendered with said premises, as a part thereof, at the end of the term or renewal of this lease. No improvements, alterations or additions shall be made by Tenant without the written consent of Landlord, which consent shall not be unreasonably withheld.

9. FIXTURES AND PERSONAL PROPERTY

All trade fixtures, equipment, signs, cabinets, shelves and other moveable personal property, shall remain the property of the Tenant and may be removed by Tenant at any time during, or at the termination of this Lease Agreement, provided, however, that the same can be removed without serious injury to the leased premises.

Prior to the date of termination of this Lease Agreement pursuant to Notice of Commencement of Construction or Notice of Termination of Project, Tenant shall remove all of its trade fixtures and moveable personal property from the premises.

10. ASSIGNING AND SUBLETTING

Tenant shall not assign this agreement or sublet the premises in whole or in part without first obtaining the concurrence in writing from Landlord which shall not be unreasonably withheld. Landlord consents to Tenant subletting parking spaces to its affiliate, Securities Buildings, LLC and its commercial and residential tenants on a month to month basis.

Prior to termination of this Lease Agreement pursuant to Notice of Commencement of Construction or Notice of Termination of Project, Tenant shall terminate any leases, subleases or licenses related to the premises and shall surrender the premises free and clear of any claims of tenants, subtenants or licensees.

11. LANDLORD'S ACCESS TO INSPECT

Landlord or its agent, at all reasonable times during business hours, shall have free access to the demised premises, for the purpose of examining and inspecting the same and making any needed repairs or alterations thereon which Landlord may see fit to make. In such case Landlord will make every reasonable effort not to interfere with the Tenant's operation of business.

12. TENANT TO HAVE PEACEABLE POSSESSION

Landlord covenants that Tenant shall peaceably hold and enjoy the premises so long as they are in faithful compliance with the terms hereof and the covenants thereof.

13. TRASH AND RUBBISH

The Landlord shall at its expense provide an area for the collection of and pickup of all trash and rubbish. The tenant shall provide containers for the collection of said rubbish. Said area may be a common area within or outside the premises.

14. REPAIR AND MAINTENANCE

Tenant shall be responsible for all repair and maintenance of the improvements located on the leased premises during the term of this Lease Agreement. Tenant shall surrender the premises in the same condition as existing on the Commencement Date.

15. ATTORNEY FEES AND COSTS ON VIOLATION OF LEASE

In the event that either party shall be required to commence any action, retain an attorney, or use in-house counsel to enforce the covenants or agreements of this lease, the party whose failure to perform occasioned such action shall pay and discharge all reasonable costs, expenses, and attorney fees, including fees of in-house counsel, which shall be made or incurred by the other party.

16. DEFAULT AND RE-ENTRY

If the Tenant shall neglect or fail to perform or observe any of the covenants contained herein on their part to be observed and performed for thirty (30) days after notice by the Landlord of such breach, or if tenant shall be adjudicated bankrupt or insolvent, or shall make an assignment for the benefit of creditors, or permit any mechanics or materialman's liens to be filed against the demised premises for labor or material furnished, which Tenant does not in good faith defend against, then and in any of said cases the Landlord may lawfully enter into and upon said premises or any part thereof and repossess the same, and expel the Tenant and those claiming under and through them and remove their effects, forcibly if necessary, without being deemed guilty of any manner of trespass, without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenant, and upon entry of the aforesaid, this Lease shall terminate and wholly expire.

17. CONDUCT OF BUSINESS BY TENANT

Recognizing that it is in the interest of Tenant's successful operation of his business, Landlord shall allow Tenant at Tenant's election to be open for business daily, including Sundays and Holidays, and Landlord shall not interfere, by regulation or other imposition, with the hours or the days of business operation by the Tenant. The Tenant covenants and agrees that from and after its initial opening for business, it will operate and conduct within the premises the business which it has been licensed and permitted to operate or such other lawful business licensed and permitted by Landlord.

18. NOTICES

All notices to be given hereunder by either party hereto shall be in writing and given by personal service or by first class mailing by registered or certified mail, return receipt requested. Said method of notice is deemed sufficient service thereof, and shall be deemed given as to the date when served or deposited in any post office. Either party may change address by written notice by certified or registered mail to the other. The initial address for receipt of notices is as follows:

Tenant name & address info: Alley Cat Investments, LLC Attn: William Honaker <hr/> Billings, MT 59101	Landlord Contact: City of Billings Attn: City Attorney P.O. Box 1178 Billings, MT 59103
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19. MUTUAL RELEASE FOR HAZARDS COVERED BY INSURANCE

The Landlord and Tenant and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance on the leased property, or covered by insurance, in connection with the property on or activities conducted on the leased property, regardless of the cause of the damage or loss to the extent such waiver of subrogation can be reasonably obtained.

20. COMPLIANCE WITH ALL EXISTING CITY ORDINANCES AND POLICE, FIRE, AND SANITARY MEASURES

Tenant agrees to use and occupy the above described premises in accordance with all lawful police, fire and sanitary regulations imposed by a municipal, state or federal authority, or made by fire insurance underwriters as the basis for insurance for said Landlord's interest in said building, and will observe and obey the laws, City ordinances and other requirements governing the conduct of Tenant's business with respect to the use of said premises.

21. WAIVER

A waiver of any breach or default by either Landlord or Tenant shall not be a waiver of any other breach or default. Landlord or Tenant approval of any act by the other requiring

consent or approval shall not be deemed to waive or render unnecessary Landlord or Tenant consent to or approval of any other subsequent similar act by Landlord or Tenant.

22. TAXES AND ASSESSMENTS

Tenant shall pay and discharge all taxes, assessments, penalties, charges, rates, or liens of any nature whatsoever, that may, during the term hereof or any renewal, be levied, assessed, charged, imposed, or claimed on or against the demised premises or any improvements or fixtures thereon or appurtenances thereto, or any part thereof, or against the owner or owners of such land or the improvements, by reason of such ownership or tenancy, by whatsoever authority levied, assessed, charged, imposed, claimed, and whether the same is on or against the property herein leased, its improvements, fixtures, or appurtenances, or any part thereof, or on or against the income from the property or its improvements.

23. BINDING EFFECTS

The Covenants and agreements herein contained shall be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Lease on this 29th day of April, 2011.

CITY OF BILLINGS (LANDLORD)

BY: _____
ITS (MAYOR)

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

(TENANT)

BY: _____

ITS _____