

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

November 28, 2011

6:30 P.M.

CALL TO ORDER – Mayor Hanel

PLEDGE OF ALLEGIANCE – Mayor Hanel

INVOCATION – Councilmember McFadden

ROLL CALL

MINUTES: November 14, 2011, pending

COURTESIES

PROCLAMATIONS

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 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. Bid Awards:

- 1. W.O. 09-28, Water Treatment Facility Back-Up Power, Phase II.** (Opened 10/25/2011)(Delayed from 11/14/2011). Recommend ACE Electric; \$1,142,587.
- 2. Upgrades for the Airport's West End Office Building Project.** (Opened 10/25/2011)(Delayed from 11/14/2011) Recommend High Tech Construction & Properties, Inc.; \$45,400.

- B. Approval** of 5-year Building Lease with Transportation Security Administration for term of 12/1/2011-11/30/2016, total revenue - \$682,830.60; and Supplemental Agreement on the 2008 Lease restating term of 3/1/08-11/30/11. (Delayed from 11/14/2011)
- C. Professional Services Contract for W.O. 09-20, Rimrock Road Reconstruction (Forsythia Boulevard to Shiloh Road)** Engineering Design and Construction Administration Services; DOWL HKM, \$318,670.
- D. Subordination of Housing Rehabilitation Loan** for Terri A. Smith, \$20,000.
- E. Approval** of the purchase of seven (7) Replacement Police Vehicles from Bison Motor Company for \$26,615.13 each, for a total cost of \$186,305.91, budgeted in the 2012 Equipment Replacement Plan.
- F. Acceptance of Warranty Deeds** for right-of-way adjacent to city-owned parcels at 11th Street West and Grand Avenue and 12th Street West and Grand Avenue (W.O. 92-11 Grand Avenue Widening).
- G. Resolution** related to financing the design and construction of improvements to the 5-Mile Creek Water and Wastewater Lift Station or construction of a new lift station establishing compliance with reimbursement bond regulations under the Internal Revenue Code.
- H. Bills and Payroll:**
 - 1. October 27, 2011
 - 2. October 31, 2011
 - 3. November 7, 2011

REGULAR AGENDA:

- 2. PUBLIC HEARING FOR VARIANCE #OP-11-02:** a variance from BMCC Section 6-1203(j) regarding reduction in required off-street parking spaces from 42 to 37 for a new 3-story office building located at 1648 Poly Drive. UNO Corporation, developer. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
- 3. PUBLIC HEARING AND RESOLUTION** approving and adopting first quarter budget amendments for FY 2011/2012. 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. Comments here are limited to 3 minutes. 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

Meeting Date: 11/28/2011

TITLE: W.O. 09-28--Water Treatment Facility Backup Power Phase II, Contract Award

PRESENTED BY: David Mumford

Department: Public Works

PROBLEM/ISSUE STATEMENT

W.O. 09-28 will provide backup power for the water treatment and distribution system, acting as an important insurance policy for maintaining the ability to produce and deliver water to the City. Any loss of power on the main feed into the Water Treatment Plant (WTP), loss of the switch gear, or problems with NorthWestern Energy (supplier) has the potential to put the WTP out of commission. Power disruptions on the main feed system, caused by voltage spikes, equipment failures, or other issues, occur an average of eight to ten times every year. The loss of any of the high voltage equipment that cannot be bypassed could take days to weeks to replace. The project includes 2 generators, a medium voltage unit and a portable low voltage unit that will bypass the high energy switch gear and allow the WTP to treat and deliver up to 20 MGD (million gallons per day). Following the terrorist attacks in 2001, there has been a significant effort nationwide to install backup power at all water utilities. The City of Billings has finally secured funding to implement these measures at the WTP.

The project was bid October 25, 2011. Action on the bids was delayed at the November 14 meeting to allow further review of information presented after the bid opening.

ALTERNATIVES ANALYZED

The Council may:

- Approve a contract with ACE Electric, the apparent low bidder; or
- Further delay action on the bids received; or
- Reject all bids and do not approve a contract.

FINANCIAL IMPACT

There were four (4) bids received for the project, as shown below.

Contractor	Base Bid	Alternate A
Colstrip Electric, Inc	\$1,316,936	
ACE Electric	\$1,142,587	
Yellowstone Electric	\$1,407,072	(\$23,112)
Action Electric	\$1,233,750	
Engineer's Estimate	\$1,400,000	

Alternate A is a bid deduct to provide for an alternate manufacturer of the low voltage generator.

The low bidder is ACE Electric. The project is being funded with \$974,000 from a HUD grant and the remainder from water funds approved in the FY11 budget. There are adequate funds available to cover all project costs.

RECOMMENDATION

Staff recommends that Council approve the award of W.O. 09-28--Water Treatment Facility Backup Power Phase II to ACE Electric and authorize the Mayor to execute a contract in the amount of \$1,142,587.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Award of the Upgrades for the Airport's West End Office Building Project

PRESENTED BY: Tom Binford

Department: Airport

PROBLEM/ISSUE STATEMENT

The Transportation Security Administration (TSA) leases a portion of the Airport's West End Office Building and has been negotiating with Airport staff to add office space to their operations. To meet the TSA's requirements for the additional office areas, the new space must be upgraded. This construction upgrade is part of a new Lease agreement with the TSA that is being presented to City Council in a separate action. Airport staff has worked with TSA staff to develop a scope of work for this upgrade project, which includes installing sound dampening insulation in the walls and ceilings, new entry doors with high security locks, new data cabling, and new paint throughout the entire office area. TSA will reimburse the City for these improvement costs. The project was advertised in the Billings Times and on the City's Web Site on October 13 and 20. The following bids were received on October 25, 2011:

- High Tech Construction & Properties, Inc. \$45,400
- Hardy Construction Co. \$48,300 DPS Company, LLC \$52,312
- General Contractors Construction, Inc. \$55,189
- Fisher Construction, Inc. \$55,220

This item was delayed from the November 14, 2011 meeting.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the award of the Upgrades for the Airport's West End Office Building Project; or
- Decline to approve the award of the Upgrades for the Airport's West End Office Building Project, reject all bids and not complete the project at this time, and subsequently not enter into a five-year lease for the space with the TSA.

FINANCIAL IMPACT

The total cost of this project is \$45,400. The Airport will be fully reimbursed for these costs by the TSA upon the completion of the project. Subsequently, there is no financial impact to the Airport from this project.

RECOMMENDATION

Staff recommends that the City Council award the contract for the Upgrades for the Airport's West End Office Building to the low bidder, High Tech Construction & Properties, Inc., for the amount of \$45,400.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Building Lease and Supplemental Lease Agreement with Transportation Security Administration

PRESENTED BY: Tom Binford

Department: Airport

PROBLEM/ISSUE STATEMENT

The Transportation Security Administration (TSA) wishes to continue to lease space in the Airport's office building located at the west end of the Airport near the water tower. On November 10, 2008, the City Council approved a one-year Lease for 4,342 square feet of office space, including utilities and garbage service, for a term beginning March 1, 2008 and ending February 28, 2009. The TSA has been in holdover on the 2008 Lease since the Lease expired. During the holdover period, the TSA has continued to pay for and occupy the space, while working with staff on the potential for improvements to the space that the TSA leases. The TSA has determined that they want to continue to occupy this space, as well as add 3,715 square feet of office space that was previously leased by the Valley Bible Church. Subsequently, staff has been negotiating with the General Services Administration (GSA) to put a new lease in place for the TSA. The new Lease is for 8,057 square feet of office space, and would be for a five-year firm term, with an ability to extend the Lease for an additional five (5) years at a rate to be determined for that period. The Lease will commence December 1, 2011 and expire on November 30, 2016. This Lease also provides for some tenant improvements to meet the TSA's needs, for which the TSA will reimburse the Airport. Additionally, since the TSA has been operating in holdover status on the original 2008 Lease, a Supplemental Agreement is also required to restate the term on that Lease, so that the term includes the holdover period and coincides with the actual lease occupancy dates. The Supplemental Agreement restates the actual term as commencing March 1, 2008 and ending on November 30, 2011. This item was delayed from the November 14, 2011 meeting.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the new five-year Lease with the U.S. Government on behalf of the TSA and the Supplemental Agreement on the 2008 Lease restating the term as commencing March 1, 2008 and ending November 30, 2011; or
- Not approve the new five-year Lease with the U.S. Government on behalf of the TSA and the Supplemental Agreement on the 2008 Lease restating the term as commencing March 1, 2008 and ending November 30, 2011.

FINANCIAL IMPACT

The Lease will generate \$136,566.12 per year of revenue for the City's Airport, and \$682,830.60 for the initial five-year term. Should the TSA opt to extend the Lease for the additional five years, a new rental rate will be determined for that extended period.

RECOMMENDATION

Staff recommends that Council approve the Lease with the U.S. Government for the benefit of the TSA for an initial five-year term beginning December 1, 2011 and ending November 30, 2016, and the Supplemental Agreement on the 2008 Lease restating the term as commencing March 1, 2008 and ending November 30, 2011.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: WO 09-20 Rimrock Road Reconstruction (Forsythia Blvd to Shiloh Road)
Contract for Professional Services

PRESENTED BY: David Mumford

Department: Public Works

PROBLEM/ISSUE STATEMENT

The purpose of this project is to reconstruct Rimrock Road from Forsythia Boulevard to Shiloh Road. This includes widening Rimrock Road to a 3-lane section with curb and gutter and sidewalk on both sides, addition of bike lanes or a separated bike path on one side, and rehabilitation of the water main. Staff requested the services of an engineering firm to provide design and construction administration services for the project, and DOWL HKM was selected through the Request for Proposals (RFP) process.

ALTERNATIVES ANALYZED

The Council may:

- Award the Contract for Professional Services to DOWL HKM; or
- Do not award the contract. If the contract is not awarded, the reconstruction of the road will be delayed.

FINANCIAL IMPACT

The cost of design services is \$318,670. The Capital Improvement Plan (CIP) includes \$400,000 of arterial fees in FY 2012 for the design. Construction is included in the CIP in FY 2013.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute a Contract for Professional Services with DOWL HKM for \$318,670 for engineering design.

APPROVED BY CITY ADMINISTRATOR

Attachments

Contract for Professional Services

Contract for Professional Architectural and Engineering Services

Project 09-20 Rimrock Road – Forsythia Blvd to Shiloh Road

In consideration of the mutual promises herein, City of Billings and DOWL HKM agree as follows. This Contract consists of:

Part I, consisting of 15 Sections of Special Provisions;

Part II, consisting of 11 Sections of General Provisions;

Appendix A consisting of 10 pages (Basic Services of Engineer);

Appendix B consisting of 2 pages (Methods and Times of Payment);

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

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

Appendix E consisting of 1 pages (Project Schedule);

Appendix F consisting of 4 pages (Certificate(s) of Insurance); and

PART I SPECIAL PROVISIONS

Section 1. Definitions.

In this Contract:

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

Section 2. Scope of Services.

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

- C. Billings shall not allow any claim for services other than those described in this Section. However, the Contractor may provide, at its own expense, any other services that are consistent with this Contract.
- D. The Contractor shall provide as-built drawings on mylars and in digital format, as approved by the City of Billings, to the Administrator within 30 days after the project completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings.

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on December 31, 2014.

Section 4. Compensation; Method of Payment.

- A. Subject to the Contractor's satisfactory performance, Billings shall pay the Contractor no more than Three Hundred Eighteen Thousand Six Hundred Seventy Dollars (\$318,670.00) in accordance with this Section.
- B. Each month, the Contractor shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Contractor within 30 days of receiving an acceptable invoice.
- C. The Contractor is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- D. As a condition of payment, the Contractor shall have paid all City taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

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

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

Section 6. Duties Upon Termination

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

Section 7. Insurance.

- A. The Contractor shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.
- B. The Contractor shall provide the following insurance:
 - 1. Workers' compensation and employer's liability coverage as required by Montana law.
 - 2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
 - 3. Commercial automobile liability -- \$1,500,000 per accident.
 - 4. Professional liability in the amount of \$1,500,000 per claim.

- C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.
- D. Billings shall be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

Section 8. Assignments.

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

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

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

Section 10. Notices.

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

Billings: Debi Meling, PE
City of Billings
Public Works - Engineering
2224 Montana Avenue
Billings, Montana 59101 FAX: (406) 237-6291

Contractor: Todd Cormier
DOWL HKM
222 North 32nd Street, Suite 700
Billings, MT 59101 FAX: (406) 656-6398

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

Section 11. Contract Budget.

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

Section 12. Force Majeure.

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

Section 13. Financial Management System.

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

- A. Provides accurate, current, and complete disclosure of all financial transactions relating to the Contract;
- B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this Contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
- C. Effectively controls and accounts for all municipal funds and Contract property;

- D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
- E. Allocates administrative costs to direct service delivery units;
- F. Minimizes the time between receipt of funds from Billings and their disbursement by the Contractor;
- G. Provides accounting records supported by source documentation; and
- H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

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

Section 15. Subcontracts.

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

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

PART II
GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

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

Section 2. Nondiscrimination.

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

Section 3. Permits, Laws, and Taxes.

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

Section 4. Nonwaiver.

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

Section 5. Amendment.

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

Contractor: John A. Shoff, PE, PTOE _____
(Eastern Regional Manager, DOWL HKM)

Billings: City Council or Authorized Designee

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

Section 6. Jurisdiction; Choice of Law.

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

Section 7. Severability.

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

Section 8. Integration.

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

Section 9. Liability.

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

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

Section 10. Inspection and Retention of Records.

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

Section 11. Availability of Funds.

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

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

City of Billings

Contractor - DOWL HKM

City Council or Designee

Date: _____

Name: _____

Title: _____

Date: _____

ATTEST:

IRS Tax ID # _____

City Clerk

APPROVED AS TO FORM:

Date: _____

By _____

BRENT BROOKS, City Attorney

STATE OF MONTANA)
 :ss.
COUNTY OF YELLOWSTONE)

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

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

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

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

Appendix A

Basic Services of Contractor

Section 1. Contractor's Rights and Duties.

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

- J. Name a Task Director who shall be the liaison between Billings and the Contractor. For this project the Task Director designated for the Contractor is Todd Cormier, PE, PTOE, AVS working under the Principal-in-Charge, John Shoff, PE, PTOE.

Section 2. Billings Rights and Duties.

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

Section 3. Scope of Work.

The following tasks will be undertaken by DOWL HKM. Any item not specifically discussed or as otherwise noted are assumed to be a City of Billings (OWNER) responsibility or beyond the services listed in this scope. Any additional work requested by the OWNER can be supplied on a time and material basis or through addendum to this Scope of Services and the City of Billings Contract for Professional Services.

Task 100 – Project and Public Involvement

- 1) Project scoping meeting (field and office review) with OWNER
- 2) Investigate available information, documents, and studies
- 3) Coordination with the OWNER
- 4) Coordination and development of public involvement program
 - a. DOWL HKM will draft a News Release regarding the start of the project to be submitted to OWNER for distribution to media outlets and for posting on the OWNER's website.
 - b. DOWL HKM will develop an informational letter to be sent to all adjacent property owners within the limits of the corridor. This letter will serve as the initial public outreach for this project.
 - c. DOWL HKM will address questions and participate in individual meetings with landowners and City staff, as directed by the OWNER.
 - d. One (1) public informational meeting will occur near the end of the project but before final plans. DOWL HKM will draft a meeting announcement letter for all landowners adjacent to the project corridor, will set up meeting locations and times, monitor sign-in sheets, and will provide figures, meeting minutes, and electronic presentations, as necessary. It is expected that the OWNER will advertise all meeting announcements, will provide DOWL HKM with a mailing list of owners adjacent to the project corridor, and will moderate each meeting. Fees associated with advertisements, mailings, or securing meeting locations will be the responsibility of the OWNER.

- 5) Prepare monthly progress reports for the OWNER detailing the work completed that month, expected work to be accomplished in the coming period, and listing action items for both DOWL HKM and the OWNER.

***Submittal: Draft News Release
Landowner Informational Letter
Meeting Announcement
Monthly Progress Reports***

Task 110 – Preliminary Right-of-Way, Utilities, Survey and Control

- 1) The OWNER will provide all existing City right-of-way plans and as-built or record drawings applicable to this project. DOWL HKM will acquire any available Montana Department of Transportation record drawings that may be applicable.
- 2) DOWL HKM will acquire available plats and certificates of survey to develop property lines within the corridor. A retracement of public right-of-way is not included in this scope of services.
- 3) An ownership report listing current property ownership as based on current tax records or information provided by the OWNER. While right-of-way is not expected to be necessary for this project, the ownership report will serve as a framework for both the public outreach as well as the identification of right-of-way needs, if necessary.
- 4) Utility locates will be requested for the project corridor (using One-Call service) and surveyed from the roadway segment between Forsythia and Shiloh as part of a Phase I SUE. Information detailing City utilities, as available, will be provided by PUD and through atlas maps and through OWNER provided water and sewer service location forms. A Phase II SUE (soft digs) will not be conducted for this project. Should soft digs be determined to be necessary prior to the initial construction work, DOWL HKM will coordinate with the OWNER.
- 5) DOWL HKM will coordinate with PUD, gas, power, CATV, telephone, and fiber optic companies, as necessary, regarding the development of this project including preliminary planning of the roadway alignment and grade. Any non-responders will be identified to the OWNER.
- 6) DOWL HKM will ground survey the corridor using a combination of total station and GPS survey to create electronic design topography for the project, including found property pins. Ground survey will be provided from right-of-way to right-of-way and 150-ft up each side street. Survey outside of the right-of-way will be conducted at specific locations where connections to driveways may require additional topography. In these cases, right-of-entry letters will be transmitted to the subject property owner.
- 7) Provide coordinate listings of benchmarks and control stations as found in the field. DOWL HKM will not relocate or reset benchmarks, survey monuments, or property pins which could not be located in the field.

***Submittal: Ownership Report
Project Base Mapping***

Task 120 – Preliminary Geotechnical and Materials

- 1) Review available information regarding regional geology, soil survey, site setting and topography, including project coordination with City of Billings.
- 2) Conduct a site investigation including field exploration, borings, and laboratory testing for the project. Geotechnical information and reports submitted for adjacent road projects, subdivisions, or housing developments will be provided by the City. A detailed scope of the work is as follows:
 - a. 12 borings, to a depth of approximately 10-ft max. (approximately every 500 ft),
 - b. Review of geotechnical reports for adjacent projects,
 - c. Laboratory testing including Classification (gradation & Atterberg Limits), moisture content and CBR, and
 - d. Identify groundwater levels encountered at the time of field exploration.
- 3) A visual inventory of existing surfacing will be conducted for the project area to estimate what sections of roadway, if any, could be reused. Up to five (5) pavement cores will be collected to supplement this review.
- 4) DOWL HKM will use City supplied traffic data (ADT, vehicle classifications) to develop a preliminary surfacing design for approval by the City.
- 5) A draft preliminary geotechnical technical memo including a review of the existing data, surfacing evaluation, subsurface exploration, laboratory testing, and a preliminary surfacing design will be prepared for the City. The memo will also discuss the potential use of reclaimed asphalt as part of the roadway section. Two (2) copies of the memo will be issued to the City.

Submittal: Draft Preliminary Geotechnical Memo and Appendix

Task 130 – Environmental

- 1) DOWL HKM will drill up to two (2) 10-ft borings within the right-of-way and adjacent to the location of the existing gas station to test for underground contamination. The purpose of this will be to determine if contamination is present for the consideration of possible utility replacements adjacent to the site or as otherwise necessary for the project. The borings will not be developed as monitoring wells. A formal environmental document will not be developed.
- 2) All other environmental checklists for this project including determination of environmental concerns, permits, and agency coordination will be performed and coordinated by the OWNER, as necessary, for the completion of this project. Based on the scope of work and considering the location of the roadway within the urban limits, no environmental effort is anticipated.

Task 150 – Preliminary Traffic

- 1) The OWNER will provide all available traffic data for the corridor, including recently submitted traffic studies for adjacent development or improvement projects as well as the most recent ADT from the City of Billings traffic count program.
- 2) The OWNER has identified the need for a pedestrian crossing at 38th Street West. DOWL HKM will coordinate with the OWNER to determine the type of crossing to develop at this location. No new field data will be collected.
- 3) An operational analysis, level-of-service analysis, or signal warrant analysis for the corridor or the intersections within the project limits will not be developed for this project. The existing signal at Zimmerman Trail / Rimrock Road and the unsignalized intersection of 38th Street West / Rimrock Road have been recently reviewed by the OWNER who has determined that no further analysis is necessary.
- 4) An inventory of existing signing and pavement markings will be completed for the corridor within the project limits, and preliminary marking plans will be developed under Task 180.

Task 160 – Preliminary Utility Design

- 1) Coordinate with PUD for replacement of approximately 6100 LF of the north 12-in water main only, including hydrants, services, and side street connections to the right-of-way limits. DOWL HKM will coordinate with PUD for the appropriate design criteria. Hydraulic modeling, field flow metering, or other pipe sizing analyses are not included in this scope.
- 2) Sanitary sewer replacement within the project limits is not currently included in this scope, but can be addressed with the City should the need arise.
- 3) Acquire from City all available as-builts or record drawings, water service line records, and other information and studies as applicable. Incorporate available information into design drawings and specifications.
- 4) Design of water main alignment, and related improvements, to a 30% design level to be included in preliminary roadway plan submittal. Evaluate project segments for the feasibility of utilizing trenchless utility replacement methods, and design trenchless alternatives as applicable.
- 5) Prepare and submit a draft MDEQ memo summarizing project related design parameters, improvements, and impacts.
- 6) Geotechnical engineering including field sampling, laboratory testing and review of subsurface soils will be conducted to determine design alternatives, subgrade treatment, groundwater conditions, pipe material selections, and foundations for utility installations. This service is provided under Task 120 “Preliminary Geotechnical and Materials”.

Submittal: draft MDEQ memo

Task 170 – Preliminary Hydraulics

The City of Billings has requested a low-level hydraulic analysis for this project. It is the City's understanding that this area does not have flooding issues and recommends that only a road corridor inlet spacing analysis be performed. A hydraulic model of the project area will not be developed for this project. As such, the inlet analysis will only be based on meeting spread requirements for surface runoff and not from potential storm drain surcharging of the system. In addition, a flood hazard analysis will not be performed without a hydraulic model. DOWL HKM proposed to perform the following tasks:

- 1) Identify existing flooding issues along the project area. This will include interviewing the City of Billings Maintenance personnel to understand existing drainage patterns and problems.
- 2) Compile and review storm drainage reports and as-built drawings for the following City of Billings projects within the study area (for example; P-145, WO 89-06, WO 97-04, P-44, WO 04-20, or SID 1021).
- 3) Perform a site visit to inventory storm drainage existing facilities and verify facilities depicted on the atlas maps. Identify drainage patterns from the area to the north of Rimrock Road (visual inspection).
- 4) Evaluate existing drainage basins contributing to Rimrock Road. Identify drainage patterns to the project area. This analysis will be used to help identify key locations to minimize disturbances to the existing drainage facilities when considering the development the roadway alignment.
- 5) Use the rational method to determine inlet sizing and spacing to meet City of Billings spread requirements. Inlet locations will be located to avoid existing utilities, to the extent possible.
- 6) Develop preliminary plan and profile SD sheets for the preliminary roadway design package. Storm drain details including lateral profiles and structural details will be provided under Task 270.

Task 180 – Preliminary Roadway Design and Plan Review

- 1) Rimrock Road will be developed to a 3-lane section with curb and gutter throughout the project. The potential for future improvement to a 5-lane section will be considered when developing the project, but will not be detailed or designed.
- 2) Roadway lighting will be designed for this project. DOWL HKM with recommendations for spacing, height, and mast-arm length of roadway lighting for the corridor and include lighting in the preliminary roadway design. Design will be based on the recently completed Rimrock Road section from 17th Street to Forsythia.

- 3) On-street parking will not be included in the design of the roadway.
- 4) A multi-use path, sidewalk, and/or bike lanes will be designed along the roadway corridor. It is assumed that the typical section for the roadway will generally duplicate adjacent and recently completed sections of Rimrock Road. Due to physical constraints, the OWNER has determined that a multi-use trail from Zimmerman Trail to the east is likely impractical, and that only sidewalk should be considered.
- 5) DOWL HKM will develop a preliminary design package, including
 - a. Horizontal and vertical layout (plan and profile)
 - b. Typical section(s)
 - c. Preliminary pavement markings
 - d. Preliminary storm drainage alignment (See Task 170)
 - e. Intersection improvement (preliminary details only)
 - f. Preliminary landscaping plan (layout only)
 - g. Preliminary quantities and opinion of cost
- 6) Isolated locations along the project may require short runs of block retaining walls to facilitate the development of a full roadway section, multi-use path, and/or sidewalk, and will be defined within the project plans. Structural retaining walls are not anticipated for this project. If structural retaining walls are needed, DOWL HKM will identify the estimated limits for review by the OWNER, and can enter into a supplemental agreement with the OWNER for the engineering and design of the structural retaining walls.
- 7) Preliminary plans will be prepared for review by the OWNER with a preliminary opinion or construction costs prepared to assist the OWNER's evaluation of the project. The plans will include typical sections, right-of-way limits, roadway plan and profile, found utilities, probable limits of construction, preliminary traffic sheets (pavement marking only), cross sections, and storm drainage alignment.
- 8) DOWL HKM will conduct a plan review meeting with City staff to discuss the preliminary plan package, and will document comments for the OWNER's files.

***Submittal: Preliminary Alignment and Grade Plans
Opinion of Probable Construction Costs***

Task 220 – Final Geotechnical and Materials

- 1) Develop final surfacing design recommendations based on City of Billings supplied traffic data and DOWL HKM developed CBR test results, as well as selected typical section and roadway alignment. The final recommendations will take into account OWNER comments and design considerations developed in Activity 180.
- 2) A final geotechnical memo will be submitted to the City for their records and to be included in the final construction documents.

Submittal: Final Geotechnical Memo

Task 260 – Prefinal Utility Design

- 1) DOWL HKM will incorporate PUD and OWNER comments pertaining to the preliminary design package, and will prepare water main replacement plan and profile sheets to the prefinal design package.
- 2) Prepare project specifications, details, and special provisions for water main replacement work to be incorporated into the prefinal design package.
- 3) Coordination with private utilities (NWE, MDU, Qwest, Bresnan, AT&T) will be performed to include existing and proposed utilities in the plan set as provided by the utilities. DOWL HKM will not provide design or engineering for the relocation of private utilities.

Task 270 – Final Hydraulics

- 1) Complete final hydraulic design of the storm drainage system for storm drain inlet spacing and sizing.
- 2) Develop storm drain lateral detailed based on known and assumed utility locations. A Phase II SUE (soft digs) will not be conducted for this project, as the OWNER will direct the successful contractor to include this work as part of the initial construction work for the verification of utility locations. Should soft digs be determined to be necessary prior to the initial construction work, DOWL HKM will coordinate with the OWNER to address this work.
- 3) Assist in development of construction plans, details and specifications for the prefinal submittal.

Task 280 – Finalize Prefinal Design Activities and Review

- 1) DOWL HKM will incorporate OWNER comments pertaining to the preliminary design package.
- 2) Final intersection and turn lane geometrics will be developed and included in the prefinal plans package.
- 3) A demolition plan will be detailed, identifying removal items. The removal of trees will be acknowledged, however, the final determination of removal will be identified by City staff in the field prior to construction.
- 4) Lighting spacing based on LED fixtures, and the location of service pedestals and pull boxes will be identified and detailed.
- 5) No modifications are anticipated to the traffic signal at Zimmerman Trail and Rimrock Road. The intersection will be evaluated only for the identification of modifications that could be necessary to accommodate the reconstruction of Rimrock Road.
- 6) Coordinate with utilities regarding the updated plan package.

- 7) Develop construction plans for a prefinal design review package for the OWNER. Plans will include typical sections, detail sheets, plan and profile sheets, storm drain sheets and details, signing and pavement marking sheets, cross-section sheets, landscaping plan sheets, and an opinion of construction cost. Landscaping plan sheets will identify areas to be seeded, and do not include the design of an irrigation system.
- 8) Preliminary project specifications and special provisions will be based on the current edition of the Montana Public Works Standard Specifications (MPWSS) and as modified by the current City of Billings Standard Modifications. The MPWSS will be supplemented as needed by Special Provisions.
- 9) A prefinal plans package will be prepared for review by the OWNER.
- 10) Finalize prefinal Opinion of Probable Construction Cost.
- 11) Participate in City review for the prefinal submittal, reviewing detailed design of all critical components. Review comments will be documented and submitted to the OWNER for their files.

***Submittal: Prefinal Plans Package
Prefinal Project Specifications and Special Provisions
Opinion of Probable Construction Cost***

Task 340 – Final Design Package

- 1) Submittal of final plans incorporating pertinent prefinal comments.
- 2) Develop construction package including Specifications and Special Provisions.
- 3) Develop final engineers estimate for construction.
- 4) Attend review meeting with OWNER for 100% plan set.
- 5) Complete final construction documents package based on any final comments received during the final plan review including one (1) full size set of the plans, five (5) half size sets of the plans, and five (5) construction manuals (specifications and special provisions).
- 6) Coordinate with private utilities regarding final plan package and the schedule for bidding the project. Utility locations that can not be verified or utility companies that are non-responsive will be addressed in field by City of Billings staff during construction.
- 7) Submit copies of the project plans and specifications, a design report, and all other application requirements to the Montana Department of Environmental Quality (MDEQ) for approval. All review, permit, and licensing fees will be paid by the OWNER.
- 8) A construction traffic control plan is not anticipated to be necessary for this project phase of the project, and will be addressed by the successful contractor.
- 9) Bid advertisement text will be provided to the OWNER for publication by the OWNER.

Submittal: Final Construction Package
Final Opinion of Probable Construction Cost

Task 400 – Bidding and Preconstruction Services

- 1) This scope of work assumes that the City will advertise the project, answer contractor questions regarding the bid package, and conduct the pre-bid meeting and the bid opening with attendance by DOWL HKM.
- 2) DOWL HKM will distribute bid sets, maintain the plan-holders list, issue addenda and clarifications, and prepare a tabulation of bids following the opening.
- 3) DOWL HKM will attend the pre-bid meeting, will assist the City during the pre-bid meeting with questions related to the construction package, and will issue meeting minutes.
- 4) DOWL HKM will provide the OWNER an award recommendation based on a tabulation of received bids.
- 5) All other preconstruction and construction services, including construction staking or exploratory excavation are not included within this scope of work.

Task 500 – Record Drawings and Project Completion

- 1) Construction administration, contractor submittals, construction staking, observation, construction notes, and testing are not included within this scope of work. These services can be provided under a separate amendment.
- 2) DOWL HKM will prepare record drawings based on OWNER supplied construction notes and drawings upon the completion of the project.
- 3) DOWL HKM will accompany the OWNER on a substantial completion walk-through of the project.
- 4) DOWL HKM will accompany the OWNER on a 1-year walk-through of the project.

Compensation

Based on the scope of work tasks detailed herein, and the level of effort and staff necessary to complete the project within the timeframe specified by the OWNER, DOWL HKM proposes to perform the above referenced work for time and materials as follows:

Fee	\$ 302,270.00
Materials	\$ 5,800.00
Subconsultants	\$ 10,600.00
Total	\$ 318,670.00

Appendix B

Methods and Times of Payment

Section 1. Payments for Basic Services.

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

Partial payment shall be made to the Contractor upon receipt of the Contractor's pay estimate, said estimate being proportioned to the work completed by the Contractor. Billings shall deduct **five percent (5%)** from each monthly pay estimate to be held until the completion of the final construction documents. The final payment shall be made only after acceptance of the final construction documents by Billings, and determination that the scope of work through the final construction documents and pre-bidding services have been satisfactorily completed.

- A. For services rendered per Appendix A, the Contractor shall be paid based upon actual time accrued on a cost plus fixed fee basis, up to the maximum amount listed below. The actual cost shall be calculated as follows: the direct raw labor cost multiplied by 3.1 (direct labor plus 176.8% times direct labor for overhead), plus a 12% fixed fee. Maximum fees for the following phases are as follows:

- i. Design \$318,670.00

Materials and other direct expenses are included in the above phase and total fee amounts.

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

Section 2. Materials and Other Direct Costs.

Materials and other direct costs will be invoiced at current rates, with no handling fee. Included as direct costs are the following:

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

F. Other Out-of-Pocket Expenses

G. Consultants

The cost of Professional Liability Insurance coverage is included in the overhead rate listed in Section 1 of this appendix.

Section 3. Payments for Extra Services when Authorized by Billings.

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

Section 4. Corrections.

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

Appendix C

Additional Services of Contractor

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

- A. Field and laboratory testing of materials and reports beyond those specifically listed in Appendix A.
- B. Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study.

Appendix D

Schedule of Professional Fees

Not used.

Appendix E

Project Schedule

Based on a notice to proceed by Billings dated no later than December 1, 2011, the completion date for the Contractor's work through final design shall be based on the following milestones:

- A. Final Engineering Services (100% Design): February 1, 2013

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

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

Appendix F

Certificate(s) of Insurance

(Attach Certificate(s) of Insurance)

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Subordination Agreement - Terri A. Smith

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

Terri A. Smith qualified for and received a Housing Rehabilitation Deferred Loan for \$20,000 in October 2011. The loan does not have to be repaid as long as Ms. Smith remains the owner/occupant of the property. The loan is to be 100% repaid when the property is sold or when the owner no longer occupies the property. Ms. Smith requested the City subordinate its lien to a new first mortgage with a lower interest rate. Ms. Smith will not roll over additional debt into the first mortgage and the City's position will not be affected by this action.

ALTERNATIVES ANALYZED

1) Approve the subordination request to subordinate \$20,000 interest in the property in a second position to a new first mortgage; 2) Do not approve the subordination request which could result in the homeowner not being able to refinance in order to benefit from the current low interest rates.

FINANCIAL IMPACT

The property has a Market Value of \$153,000. The City will retain its \$20,000 interest in the property in second position, and the City is still protected by the current value of the home.

RECOMMENDATION

Staff recommends that the Council subordinate the City's lien to Terri A. Smith, 1220 Avenue F, securing \$20,000 interest to a new first mortgage from First Interstate Bank not to exceed \$78,000 that will refinance existing debt on the property.

APPROVED BY CITY ADMINISTRATOR

Attachments

Subordination Agreement

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Approval to Purchase Seven (7) Police Vehicles

PRESENTED BY: Rich St. John

Department: Police

PROBLEM/ISSUE STATEMENT

The Police Department has seven (7) patrol vehicles to replace in the FY12 Equipment Replacement Plan (ERP). The State of Montana conducts an annual competitive process for law enforcement vehicles. Local government agencies are allowed to use the same vendor that the State chooses. Bison Ford Motor Company, Great Falls, Montana, was selected as the vendor to provide the State of Montana with Ford Sedan Police Interceptors patrol vehicles in 2011. Local car dealers cannot compete on price due to the volume purchased through the State contract. Therefore, staff is requesting that the City Council approve purchasing 7 patrol vehicles from Bison Ford Motor Company of Great Falls for the price of \$26,615.13 each, or a total cost of \$186,305.91.

ALTERNATIVES ANALYZED

The City Council may:

- Approve purchase of the 7 patrol vehicles, or
- Not approve the purchase of the 7 patrol vehicles. Present patrol units will be retained and operated beyond their recommended replacement life, which will result in more down-time and higher repair costs.

FINANCIAL IMPACT

The 7 replacement patrol vehicles are budgeted in the 2012 Equipment Replacement Fund budget.

RECOMMENDATION

Staff recommends that the City Council approve purchasing 7 patrol vehicles from Bison Ford Motor Company of Great Falls for the price of \$26,615.13 each, or a total cost of \$186,305.91.

APPROVED BY CITY ADMINISTRATOR

Attachments

Invoice



500 10th Avenue South
 Great Falls, MT 59405
 406-727-2552 • Fax: 406-731-5163

Purchasing Invoice				
				Nov. 17, 2011
				Invoice #111720117
To:	City of Billings			
Address:	210 N 27th Street			
Address:	Billings, MT 59101			
Attn:	Larry Deschene 657-8229			
ITEM #	VEHICLE	VIN #	DIVISION	BID PRICE
1	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
2	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
3	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
4	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
5	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
6	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
7	2013 Police Sedan	to be assigned	Police Dept	\$26,615.13
			Amount Due:	\$186,305.91
Color to be Dark Blue (LK) with all Standard Equipment plus Ford Option Codes 661, 662, 854, 41H, 153, 13C, 51G, 21L, 53M, 18G, 67D, 76R, and 77B.				
Thank you for your business!				
	<u>Please Remit to:</u>	Bison Ford		
		500 10th Ave. S.		
		Great Falls, MT 59405		

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Warranty Deeds for Right of Way from Properties on Grand Avenue

PRESENTED BY: David Mumford

Department: Public Works

PROBLEM/ISSUE STATEMENT

The old Dairy Queen property at 11th Street West and Grand Avenue and the vacant property at 12th and Grand were purchased by the City of Billings at the December 13, 2010, City Council meeting. Both of these properties were necessary for the Grand Avenue Widening project from 8th Street West to 12th Street West and were part of the condemnation settlements. The City Public Works Department is in the process of selling these properties. Before they can be sold, the necessary right of way for Grand Avenue must be taken off of these properties by way of warranty deeds.

ALTERNATIVES ANALYZED

The Council may:

- Accept the warranty deeds for the right of way on Grand Avenue which prepares the parcels to be sold; or
- Do not accept the warranty deeds and the properties will continue to include portions of Grand Avenue in them.

FINANCIAL IMPACT

There is no significant financial impact with acceptance of the warranty deeds. The warranty deeds are necessary to allow the sale of the properties.

RECOMMENDATION

Staff recommends council accept the warranty deeds for the right of way adjacent to the parcels at 11th and Grand and 12th and Grand.

APPROVED BY CITY ADMINISTRATOR

Attachments

Warranty Deed for property at 11th and Grand

Warranty Deed for property at 12th and Grand

Project No. W.O. 92-11 Parcel No. 120 County of Yellowstone
Designation Grand Avenue

WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 20____.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT:**

City of Billings
P.O. Box 1178
Billings, MT 59101

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of **The Public** the following described real property, to wit:

A tract of land situated in Lot 3, Sunset Subdivision Fifth Filing, Document No. 535696, Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the northwest corner of said Lot 3; thence N 90°00'00" E along the north lot line of said Lot 3 for a distance of 93.43 feet; thence S 00°16'27" E to the northwest corner of Lot 1-A, of Amended Lots 1, 2. & 3, Certificate of Survey No. 269; thence S 89°34'00" W for a distance of 74.85 feet; thence S 35°00'00" W for a distance of 32.17 feet to a point on the east right-of-way line of 11th Street West; thence N 00°16'27" W along said east right-of-way line for a distance of 41.33 feet Point of Beginning.

Said tract contains 1,623 square feet.

AS SHOWN by Exhibit "A", consisting of one sheet attached hereto and made a part hereof.

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and al other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever.

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

STATE OF MONTANA)

:SS

County of Yellowstone)

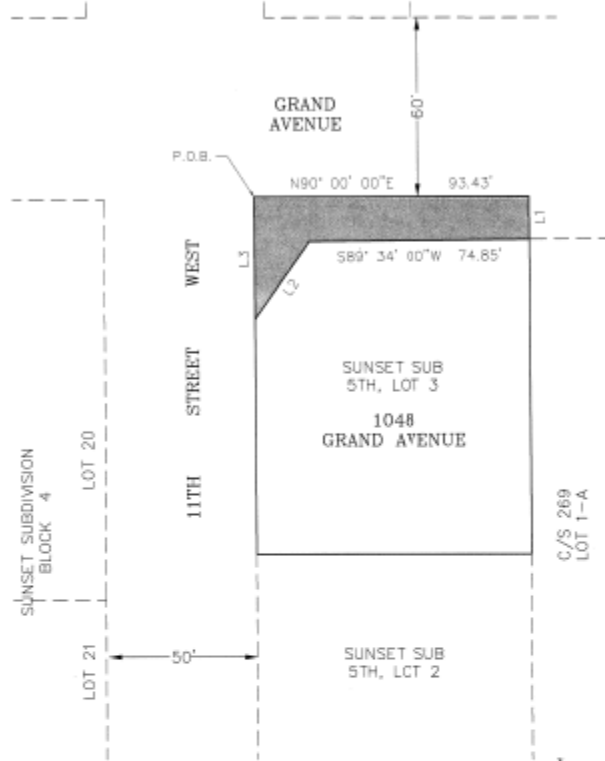
On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

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

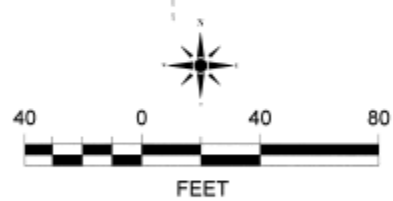
Print Name

EXHIBIT A

RIGHT-OF-WAY ACQUISITION
SITUATED IN LOT 3,
SUNSET SUBDIVISION 5TH FILING
BILLINGS, YELLOWSTONE COUNTY, MONTANA



Line #	DIRECTION	LENGTH
L1	S00° 16' 27"E	14.41
L2	S35° 00' 00"W	32.17
L3	N00° 16' 27"W	41.33



BASIS OF BEARINGS: Sunset Subdivision, Fifth Filing, Document No. 535696, Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana.

A tract of land situated in Lot 3, Sunset Subdivision Fifth Filing, Document No. 535696, Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the northwest corner of said Lot 3; thence N 90°00'00" E along the north lot line of said Lot 3 for a distance of 93.43 feet; thence S 00°16'27" E to the northwest corner of Lot 1-A, of Amended Lots 1, 2, & 3, Certificate of Survey No. 269; thence S 89°34'00" W for a distance of 74.85 feet; thence S 35°00'00" W for a distance of 32.17 feet to a point on the east right-of-way line of 11th Street West; thence N 00°16'27" W along said east right-of-way line for a distance of 41.33 feet Point of Beginning, containing an area of 1,623 square feet more or less.

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

LEGEND
 RIGHT-OF-WAY ACQUISITION

PROJECT NO. 92-11 PARCEL 120
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA

Project No. W.O. 92-11 Parcel No. 105 County of Yellowstone
Designation Grand Avenue

WARRANTY DEED

THIS INDENTURE, made this _____ day of _____, 200__.

FOR VALUABLE CONSIDERATION, lawful money of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT:**

City of Billings
P.O. Box 1178
Billings, MT 59101

does hereby **GRANT, BARGAIN, SELL CONVEY, WARRANT AND CONFIRM** unto the **CITY OF BILLINGS** for the benefit and use of **The Public** the following described real property, to wit:

A tract of land situated in the north 100 feet of Lot 11, Block 4 Sunset Subdivision, Document No. 430343, Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana.

Said tract being more particularly described as follows:
Beginning at the northwest corner of said Lot 11; thence N 90°00'00" E along the north lot line of said Lot 11 for a distance of 58.44 feet to the northeast corner of said Lot 11; thence S 00°09'00" E for a distance of 19.09 feet; thence S 89°16'22" W for a distance of 39.75 feet; thence S 46°36'35" W for a distance of 25.66 feet to a point on the east right-of-way line of 12th Street West; thence N 00°09'00" W along said east right-of-way line for a distance of 37.22 feet Point of Beginning.

Said tract contains 1,300 square feet.

AS SHOWN by Exhibit "A", consisting of one sheet attached hereto and made a part hereof.

PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. as a division of land that creates rights-of-way or utility sites.

EXCEPTING AND RESERVING, however, all gas and oil, beneath the surface of the above described and conveyed premises, together with the right to extract the same, provided that in the exercise of such right the surface thereof shall not be disturbed, interfered with, or in anyway damaged.

FURTHER EXCEPTING AND RESERVING, unto the grantors, their successors and assigns all water, water rights, ditches, canals, irrigation systems, existing or as relocated, if any, including but not limited to, water stock or shares, bonds, certificates, contracts and any and al other indicia, of water, water right and ditch ownership, or any interest therein, appurtenant to the land described herein.

TO HAVE AND TO HOLD the above described and conveyed premises, with all the reversions, remainders, tenements, hereditaments and appurtenances thereto, unto the **CITY OF BILLINGS**, and to its successors and assigns forever.

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

Date

ATTEST: _____

City Clerk

STATE OF MONTANA)

:SS

County of Yellowstone)

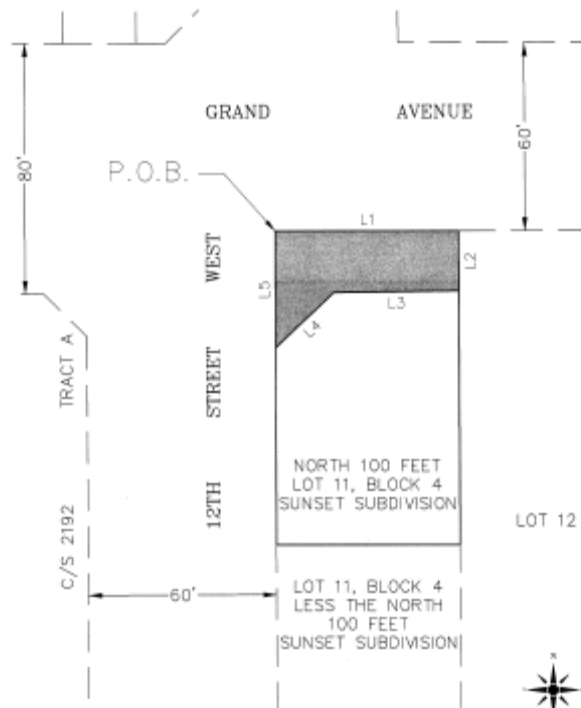
On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____ as Mayor and _____ City Clerk of Billings known to me to be the persons who signed, respectively, and acknowledge to me that they executed the foregoing instrument. IN WITNESS WHEREOF, I have hereunto set my hand and my seal the day and year herein above written.

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

Print Name

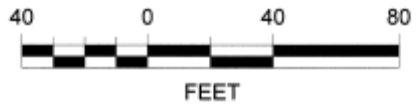
EXHIBIT A

RIGHT-OF-WAY ACQUISITION
SITUATED IN THE NORTH
100 FEET OF LOT 11, BLOCK 4
SUNSET SUBDIVISION
BILLINGS, YELLOWSTONE COUNTY, MONTANA



Parcel Line Table		
Line #	DIRECTION	LENGTH
L1	N90° 00' 00"E	58.44
L2	S00° 09' 00"E	19.09
L3	S89° 16' 22"W	39.75
L4	S46° 36' 35"W	25.66
L5	N00° 09' 00"W	37.22

BASIS OF BEARINGS:



Sunset Subdivision, Block 4, Document No. 430343, Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana.

A tract of land situated in the north 100 feet of Lot 11, Block 4 Sunset Subdivision, Document No. 430343, Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana.

Said tract being more particularly described as follows:
Beginning at the northwest corner of said Lot 11; thence N 90°00'00" E along the north lot line of said Lot 11 for a distance of 58.44 feet to the northeast corner of said Lot 11; thence S 00°09'00" E for a distance of 19.09 feet; thence S 89°16'22" W for a distance of 39.75 feet; thence S 46°36'35" W for a distance of 25.66 feet to a point on the east right-of-way line of 12th Street West; thence N 00°09'00" W along said east right-of-way line for a distance of 37.22 feet Point of Beginning, containing an area of 1,300 square feet more or less.

LEGEND
 RIGHT-OF-WAY ACQUISITION

CITY OF BILLINGS, MONTANA
RIGHT-OF-WAY EXHIBIT

PROJECT NO. 92-11 PARCEL 105
THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Resolution Establishing Compliance with Reimbursement under Internal Revenue Code

PRESENTED BY: Patrick M Weber

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Public Works plans to upgrade the 5 Mile Creek Wastewater Lift Station or to replace it in FY 2013 and to issue revenue bonds at that time to pay for the work. However, the City needs to expend monies related to the project before funds are available from the bond sale proceeds. Under IRS rules, the attached resolution must be adopted in order for the City to reimburse those expenses from the bond sale proceeds.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the resolution and proceed with the project with the ability to reimburse expenses when the bonds are sold; or
- Not approve the resolution

FINANCIAL IMPACT

This will not result in additional costs to the project.

RECOMMENDATION

Staff recommends City Council approve the attached resolution that will allow the City to reimburse expenses related to a wastewater lift station project that are incurred prior to issuing bonds for the project.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: "RESOLUTION RELATING TO FINANCING CERTAIN PROPOSED IMPROVEMENTS; 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 at a regular meeting on November 28, 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 Council Members voted in favor thereof: _____
_____; voted against the same: _____
_____; abstained from voting thereon: _____
_____; or were absent: _____.

WITNESS my hand officially this 28th day of November, 2011.

City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO FINANCING OF CERTAIN
PROPOSED IMPROVEMENTS; ESTABLISHING
COMPLIANCE WITH REIMBURSEMENT BOND
REGULATIONS UNDER THE INTERNAL REVENUE CODE

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

Section 1. Recitals.

1.01 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 bonds be issued and the reimbursement allocation be made from the proceeds of such 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.

1.02 The City desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

Section 2. Official Intent Declaration.

2.01 The City proposes to undertake certain projects, which projects and the estimated costs thereof are generally described on Exhibit A hereto, which is hereby incorporated herein and made a part hereof (the “Projects”).

2.02 Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds (as hereinafter defined), (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 Projects have heretofore been paid by the City and no expenditures will be paid by the City until after the date of this Resolution.

2.03 The City reasonably expects to reimburse some or all of the expenditures made for costs of the Projects out of proceeds of bonds in an estimated maximum aggregate principal amount of \$3,242,000 (the “Bonds”) after the date of payment of all or a portion of the costs of the Projects. 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.

Section 3. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Projects, 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.

Section 4. Reimbursement Allocations. The City Finance Director 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 Projects. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Projects and shall specifically identify the actual original expenditure being reimbursed.

Adopted this 28th day of November, 2011.

Mayor

Attest:

City Clerk

EXHIBIT A

<u>Description of Projects</u>	<u>Estimated Cost</u>
Design and construction of improvements to an existing lift station or construction of a new lift station and related improvements and paying associated costs of issuance	\$3,242,000

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Payment of Claims October 27, 2011

PRESENTED BY: Pat M. Weber, Finance Director

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$104,051.93 have been audited and are presented for Council approval for payment. A complete listing of the claims dated October 27, 2010, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

List of claims greater than \$2500 October 27 2011

Report

Check	Vendor	Amount	Date	Status Changed By	Payment Type
750096	A & I Distributors	8,844.25	10/27/2011	bestm	Check
750097	Border States Electric	14,776.10	10/27/2011	bestm	Check
750098	Carquest Auto Parts	3,481.63	10/27/2011	bestm	Check
750099	Galles Filter Service	2,904.62	10/27/2011	bestm	Check
750100	Kois Brothers Equipment Co	10,456.90	10/27/2011	bestm	Check
750101	Northwest Pipe Fittings	51,706.76	10/27/2011	bestm	Check
750103	Tire-Rama	9,753.47	10/27/2011	bestm	Check
		101,923.73			

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Payment of Claims October 31, 2011

PRESENTED BY: Pat M. Weber, Finance Director

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$2,276,388.66 have been audited and are presented for Council approval for payment. A complete listing of the claims dated October 31, 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

Claims greater than \$2500 October 31 2011

Report

Check	Vendor	Amount	Date	Status	Changed By	Payment Type
750105	1127 ALDERSON LLC	3,267.00	10/31/2011	bestm		Check
750121	Big Sky Senior Services, Inc	3,455.55	10/31/2011	bestm		Check
750128	Bison Motor Company	269,266.00	10/31/2011	bestm		Check
750136	Business Tax Section	14,303.38	10/31/2011	bestm		Check
750139	Bvac Inc	2,808.60	10/31/2011	bestm		Check
750140	Caliper Corporation	9,000.00	10/31/2011	bestm		Check
750143	Cmg Construction, Inc.	112,161.55	10/31/2011	bestm		Check
750146	Cop Construction Co	190,740.68	10/31/2011	bestm		Check
750148	Cretek Concrete Products West Inc	5,462.17	10/31/2011	bestm		Check
750155	Dixie Petro-Chem	4,784.00	10/31/2011	bestm		Check
750157	Duchmasters Inc	21,997.34	10/31/2011	bestm		Check
750160	Ebsco	17,231.36	10/31/2011	bestm		Check
750164	Ef Johnson Company	44,000.00	10/31/2011	bestm		Check
750169	Expert Tire	3,071.35	10/31/2011	bestm		Check
750174	First Interstate Bank	6,568.80	10/31/2011	bestm		Check
750179	Gilling Corporation	6,415.48	10/31/2011	bestm		Check
750183	Great West Engineering	8,105.26	10/31/2011	bestm		Check
750184	Gyphon Industries	2,775.00	10/31/2011	bestm		Check
750189	Hardives Asphalt Co	8,764.04	10/31/2011	bestm		Check
750191	Hdr Inc	46,360.05	10/31/2011	bestm		Check
750193	Highmark Traffic Services Inc	8,835.54	10/31/2011	bestm		Check
750196	Ingram Library Services	6,962.36	10/31/2011	bestm		Check
750197	Integrated Powers Services LLC	2,781.83	10/31/2011	bestm		Check
750198	Interfaith Hospitality Network	4,968.79	10/31/2011	bestm		Check
750205	Jackson Contractor Group Inc	186,081.50	10/31/2011	bestm		Check
750207	Jll Group Inc Dba Knife River	297,268.94	10/31/2011	bestm		Check
750208	Kadmas Lee & Jackson	3,485.45	10/31/2011	bestm		Check
750237	Montana Dakota Utilities Co	11,312.70	10/31/2011	bestm		Check
750241	Montana Rail Link Inc	3,403.24	10/31/2011	bestm		Check
750243	Moonlight Construction	8,195.05	10/31/2011	bestm		Check
750244	Morrison Maierle Inc	16,252.26	10/31/2011	bestm		Check
750259	Northwestern Energy	69,528.85	10/31/2011	bestm		Check
750269	Pioneer Research Corporation	2,965.02	10/31/2011	bestm		Check
750275	Public Utilities	13,387.29	10/31/2011	bestm		Check
750276	Qwest Communications	11,320.97	10/31/2011	bestm		Check
750283	Reporter Big Sky Office Inc	3,089.95	10/31/2011	bestm		Check
750285	Riverstone Health	9,000.00	10/31/2011	bestm		Check
750288	Sanderson Stewart	13,487.34	10/31/2011	bestm		Check
750307	Stockman Bank	6,568.80	10/31/2011	bestm		Check
750309	Sundown Security	2,735.75	10/31/2011	bestm		Check
750322	Town & Country Supply Association	101,491.34	10/31/2011	bestm		Check
750324	Tractor & Equipment	5,680.59	10/31/2011	bestm		Check
750334	Us Bank-Revolving Loan Fund	6,568.80	10/31/2011	bestm		Check
750336	Verizon Wireless	5,961.13	10/31/2011	bestm		Check
750338	Wastequip/May Manufacturing	19,521.00	10/31/2011	bestm		Check
750339	Wells Fargo Bank-Loan Payment	6,568.80	10/31/2011	bestm		Check
750342	Western Municipal Construction Inc	587,978.14	10/31/2011	bestm		Check
750343	Western Security Bank	6,568.80	10/31/2011	bestm		Check
		2,202,507.54				

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Payment of Claims November 7, 2011

PRESENTED BY: Pat M. Weber, Finance Director

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$2,038,283.97 have been audited and are presented for Council approval for payment. A complete listing of the claims dated November 7, 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

Payment of Claims

Report

Check	Vendor	Amount	Date	Status Changed By	Payment Type
750396	Active Transportation Alternatives	5,667.00	11/07/2011	bestm	Check
750398	Alfa Laval	7,630.83	11/07/2011	bestm	Check
750407	Auto Trim Design	6,279.00	11/07/2011	bestm	Check
750408	Automated Office Inc	2,598.71	11/07/2011	bestm	Check
750415	Billings Police Protective Assoc	2,661.00	11/07/2011	bestm	Check
750420	Brook Distributing	2,784.05	11/07/2011	bestm	Check
750423	Business Tax Section	8,515.43	11/07/2011	bestm	Check
750427	County Water District Of Billings Heights	21,585.36	11/07/2011	bestm	Check
750428	Cia Architects	3,000.00	11/07/2011	bestm	Check
750431	Dept Of Justice Dci	3,766.56	11/07/2011	bestm	Check
750435	Dorsey & Whitney Llp	30,000.00	11/07/2011	bestm	Check
750439	Ebms	64,571.10	11/07/2011	bestm	Check
750441	Edge Construction Supply	2,534.79	11/07/2011	bestm	Check
750452	Flathead County Sheriff's Office	4,370.00	11/07/2011	bestm	Check
750454	Frontier Fence	25,258.85	11/07/2011	bestm	Check
750455	Gallagher Benefit Services Inc	10,741.66	11/07/2011	bestm	Check
750465	Helena Police Department	3,517.86	11/07/2011	bestm	Check
750468	Hydrotech	22,250.25	11/07/2011	bestm	Check
750469	laff	8,456.40	11/07/2011	bestm	Check
750477	Jll Group Inc Dbw Knife River	758,279.75	11/07/2011	bestm	Check
750486	L P Anderson Tire Co, L P	2,572.00	11/07/2011	bestm	Check
750488	Anderson Tire Co	22,034.43	11/07/2011	bestm	Check
750502	Langlas & Associates Inc	9,193.34	11/07/2011	bestm	Check
750504	Mi Schuman Co	2,840.62	11/07/2011	bestm	Check
750507	Montana Dakota Utilities Co	9,203.70	11/07/2011	bestm	Check
750510	Montana Municipal Interfocal	5,463.13	11/07/2011	bestm	Check
750516	Montana State Fireman's Assoc	5,054.78	11/07/2011	bestm	Check
750518	Motorola	4,993.17	11/07/2011	bestm	Check
750523	Mippa	178,494.00	11/07/2011	bestm	Check
750526	New World Systems	36,361.38	11/07/2011	bestm	Check
750528	Northwestern Energy	6,950.00	11/07/2011	bestm	Check
750529	Paddock Heating & Cooling	3,620.00	11/07/2011	bestm	Check
750537	Palm Tree Construction	152,073.79	11/07/2011	bestm	Check
750553	Public Utilities	7,140.47	11/07/2011	bestm	Check
750558	South Park Senior Citizen	82,286.23	11/07/2011	bestm	Check
750559	Star Service Inc	5,000.00	11/07/2011	bestm	Check
750566	Sunset Excavation	236,009.07	11/07/2011	bestm	Check
750567	Titan Machinery Inc	22,831.86	11/07/2011	bestm	Check
750568	Town & Country Supply Association	5,184.39	11/07/2011	bestm	Check
750572	Tractor & Equipment	158,834.09	11/07/2011	bestm	Check
750577	U.S. Bank	14,063.60	11/07/2011	bestm	Check
750582	Verizon Wireless	7,985.42	11/07/2011	bestm	Check
	Yellowstone County Sheriffs	1,972,658.07			

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Office Building/Eye Clinic - Off Street Parking Variance Request - OP-11-02

PRESENTED BY: David Mumford

Department: Public Works

PROBLEM/ISSUE STATEMENT

UNO Corporation, developer of a new 3 story office building at 17th Street West and Poly Drive, is requesting a variance from the off-street parking requirements. The original building permit had strictly office space, which required 36 parking stalls. The site plan shows 37 spaces being provided. The developer would like to add a medical office to one floor of the building, which will require 42 parking stalls for the building. To add the medical office to one floor, a variance from Section 6-1203(j) of the city code is required in order to reduce the required parking from 42 to 37. The applicant states that the maximum use expected for the proposed tenants would require 25 parking stalls for employees and clients.

ALTERNATIVES ANALYZED

- Approve the variance. Approval of this variance will allow the UNO Corporation to use the facility with one floor being medical office.
- Do not approve the variance. If this variance is denied, the owner's options to meet the requirements of the Site Development Ordinance will be to limit the occupancy to general business and professional offices or find additional off-street parking spaces that meet the City Code.

FINANCIAL IMPACT

There is no direct financial impact to the City. Advertising costs for the public hearing are offset by the variance application fee.

RECOMMENDATION

Staff recommends that the City Council approve the variance, allowing 37 off-street parking spaces for the general and medical office building at 1648 Poly Drive.

APPROVED BY CITY ADMINISTRATOR

Attachments

Attachment A

Attachment B

Attachment C

Attachment D

APPLICATION FOR VARIANCE

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings-Section of the Site Development Ordinance.

1. Legal description of property: LOT 4 BLOCK 2 ROCKY VILLAGE SUB
Tax ID# A21124

2. Address (If unknown, contact the City Engineer's office) or general location: 1648 POLY DRIVE

3. Owner (s): UNO CORPORATION
(Recorded Owner)

100 NORTH 27TH STREET
(Address)

256-8155 JOHN.EDWARDS@EDWARDSLAWFIRM.ORG
(Phone Number) (Email)

4. Agent (s): JONES CONSTRUCTION INC JERRY W. JONES
(Name)

123 REBAL STREET
(Address)

252-6298 JJONES@JONESCONSTRUCTIONMT.COM
(Phone Number) (Email)

5. Section of the Site Development Ordinance that this request for variance applies to: _____
OFF STREET PARKING REQUIREMENTS

6. Reason for request: CITY CODE REQUIRES MORE PARKING THAN
THE OCCUPANTS NEED FOR THEIR USE

7. Covenants for deed restriction on the property: Yes X No _____

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

Signature: [Signature] Date: 10/19/11
(Recorded Owner)

Fee: _____ Receipt #: _____ Hearing Date: _____ Application # _____

Attachment " B "



123 Regal Street • Billings, Montana 59101

(406) 252-6298 • Fax (406) 252-4385

October 19, 2011

City of Billings
Engineering Department
2224 Montana Avenue
Billings, Montana 59101

RE: 17th & Poly Office Building

The developers of the office building at 17th & Poly Drive are requesting a variance to the City of Billings off street parking requirements to allow an optometrist office to occupy the ground level floor space.

The plans as submitted and approved for construction include thirty seven (37) parking spaces on the premises. The gross area of each of the three (3) floors is 3,612 SF for a total of 10,836 SF. Please note this is a gross square footage calculated from the outside of the exterior walls and the actual interior floor space is 3,487 SF. Using the gross square footage of 10,836 SF and the requirement of one (1) parking space per 300 SF for office use equals thirty six (36) required parking spaces.

The proposed Optometry tenant is classified as Medical Use and the City code calculation for parking is one (1) space per 200 square feet. Using the gross square footage of the ground floor of 3,612 SF would require eighteen (18) parking spaces. The upper two (2) floors would require a total of 24 spaces so the grand total required is 42 parking spaces. As stated earlier we have 37 spaces available so we are only five (5) spaces short.

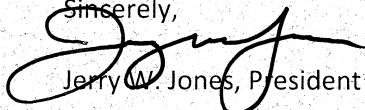
Referring to the attached floor plans the actual usable area of the main floor is only 2,942 SF. The stairwells and elevators that only provide access for the upper two floors reduce the floor area by 670 SF. The adjusted required parking count would be reduced to 39 spaces, which only leaves us two (2) short of the required amount.

The City of Billings Code establishes a base line for parking calculations and as per the attached affidavit the actual parking required by these two occupants is only twenty five (25) total spaces. The optometry office requires nine (9) spaces and the law firm requires fifteen (15) spaces, which gives us an excess of twelve (12) parking spaces. There are numerous examples of building projects in Billings that we have constructed per the City Code that have massive asphalt parking lots but only a few cars parked in those lots every day. (Ziggy's Lumber on Monad Road, Party Time Plus on Gabel Road). This project is another example that the actual required parking is less than that required by the City Code.

We respectfully request a variance to the off street parking requirements for this project.

Thank you.

Sincerely,


Jerry W. Jones, President

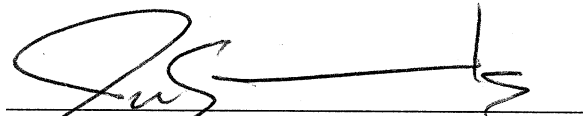
Attachment " C "

I, John W. Edwards, being first duly sworn on oath, state as follows:

1. I have personal knowledge of the facts stated herein.
2. I am a shareholder in Uno Corporation, a Montana registered corporation.
3. Uno Corporation has a long-term contract with the Billings law firm, Edwards, Frickle, and Culver, for office space located at 1648 Poly Drive, Billings, MT. The law firm and its personnel have been practicing in Billings, MT for 35 years.
4. Also, I have recently learned that long-time Billings' residents and respected optometrists would be interested in locating their practice in the same building as the law firm.
5. Billings Eye Care Associates, owned and operated by Dr. Ruben C. Sanchez and Dr. Kerry T. Sanchez, provides a private, general optometry practice and has been in business in Billings for 38 years.
6. Billings Eye Care Associates is interested in the space because it provides greater comfort to their clients with updated facilities and accessibility.
7. I understand that in order to lease the designated space to Billings Eye Care Associates, the parking lot is deficient in parking spaces by a total of 5 spaces.
8. The parking lot has a total of 37 spaces to provide for both tenants.
9. The Edwards, Frickle, and Culver law firm has 13 employees. On average, the law firm has physical client visits of 3 per day.
10. The law firm keeps regular business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. Clients of the law firm take up less than 3 parking spaces per hour, all day.
11. I also understand Billings Eye Care Associates operates regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday.
12. Billings Eye Care has a total of 6 full-time employees, including both doctors. On average, Billings Eye Care sees 17-20 clients per day. Over the course of a business day, Billings Eye Care will use 3 parking spaces per hour; I understand this is consistent with Billings Eye Care's parking usage at its current location.
13. Between both tenants, the average number of occupied parking spaces at this location equals 19. This numbers represents 19 employees between the two tenants total (13 +6). An additional average of 6 spaces per hour between the two tenants' clientele (3 + 3) equates to a total of 25 occupied spaces between the tenants.


14. The parking lot at 1648 Poly Drive has a total of 37 spaces available. If both businesses are running full, on average, this leaves the building with 12 unoccupied parking spaces available at all times. We believe this provides more than enough parking for tenants, their clients, and the general public. With 12 unoccupied spaces available the lot provides ample contingency parking.
15. It is extremely important for Uno Corporation to maintain proper parking and facilities to these potential tenants. In no way would we jeopardize our potential tenants' business, let alone our own by not providing adequate parking. Both tenants have agreed there is more than adequate parking available for both businesses in this location and will provide comfortable service for their clients.
16. I understand that a variance is used for unique situations; I believe that this is such a situation. Please consider that both parties have mutually analyzed the parking issue and agree it will not hinder their business, but better it.
17. Because both parties have analyzed and agreed this location logistically meets their needs, I submit that we believe a variance for this situation is appropriate.
18. Thank you for considering my affidavit in your deliberation.


DATED this 19 day of October, 2011.



John W. Edwards

SUBSCRIBED AND SWORN to me this 19th day of October, 2011.



 JENNY HASKIN
NOTARY PUBLIC for the State of Montana
Residing at Billings, Montana
My Commission Expires March 3, 2013

Notary Public for the State of Montana
Residing at Billings, MT

Attachment " D "

I, Dr. Kerry T. Sanchez, being first duly sworn on oath, state as follows:


1. I was born and raised in Billings, MT and have now practiced optometry in Billings, MT for 8 years. I created Billings Eye Care Associates, PLLC to carry on my father's optometry practice, coupled with my own practice, into the future.
2. Together, with my father, Ruben C. Sanchez, we provide a general, private optometrist practice in Billings, MT.
3. Currently, we are looking at the potential of leasing office space on the corner of 17th and Poly Drive, address: 1648 Poly Drive, Billings, MT.
4. Partial reasoning for our interest in this location is the updated accessibility and space at this location, allowing us to better serve our customers.
5. It has come to my attention that this location is approximately 5 parking spaces short of meeting the current parking requirements when combined with the other tenant in the building.
6. It is also my understanding that the location has 37 parking spots available.
7. Billings Eye Care Associates has a total of 6 full-time employees, to include myself and my father.
8. Our practice sees an average of 17-20 patients a day. We operate during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.
9. With our average daily patient visit of 17-20 visitors, we see usage at our current location of 3 parking spaces an hour on average.
10. Further, it also my understanding that the building's only other tenant, Edwards, Frickle & Culver Law Firm, has a total of 13 employees and sees an average of 3 clients per day.
11. It is extremely important to me that our customers have enough space and access to our business. After all, that is what comes first, our patients. I certainly would not want a location that did not provide adequate parking for them.
12. With our customers in mind, the total usage between the two tenants of 19 (6 + 13) for employees, plus our additional average of 3 spaces per hour, and the law firm occupying less than 3 spaces per hour equates to a total average of

occupied spaces less than 25, and leaves a total of 12 unoccupied spaces available.

13. I feel this location offers more than enough parking to fully meet any of our anticipated needs, as well as those of the general public.

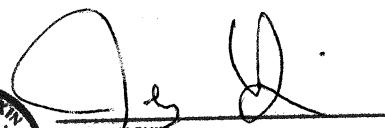
14. Therefore, based on a daily average of over 12 parking spaces unoccupied, I ask that my affidavit be taken into consideration in allowing our Optometry practice to occupy the leased space at 1648 Poly Drive, Billings, MT.

DATED this 19th day of October, 2011.


Kerry T. Sanchez

SUBSCRIBED AND SWORN to me this 19th day of October, 2011.




JENNY HASKIN
NOTARY PUBLIC for the State of Montana
Residing at Billings, Montana
My Commission Expires March 3, 2013

Notary Public for the State of Montana
Residing at Billings, MT

Regular City Council Meeting

Meeting Date: 11/28/2011

TITLE: Public Hearing and Approval of Resolution Approving and Adopting First Quarter Budget Amendment for Fiscal Year 2011/2012

PRESENTED BY: Patrick M. Weber, Finance Director

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

First Quarter Budget amendments for Fiscal year 2011/2012 are requested for the following:

The City County Planning Fund will need additional budget authority in the operations and maintenance accounts for professional and consultant services where overages were related to the Infill Workshop. Contributions of \$10,580 were received to help pay the cost of the Infill Workshop.

The Gas Tax Fund requires budget amendments for the Central Avenue Sidewalks, Moore Lane, Rimrock Road, Slope Stabilization, and PAVER projects. The additional costs will be funded by fund reserves and increased Street Maintenance fees.

The Storm Sewer Fund requires a budget amendment for the Howard Heights Storm Drain, Annual Storm Drain, Senators/Alkali Creek Sidewalk, and Thousand Oaks Culvert Replacement projects. Expenditures will use fund reserves.

The Arterial Fund requires budget amendments for the Alkali Creek Road and Inner Beltloop projects. The additional costs will be funded by fund reserves.

The EOC 911 Fund and the Radio Communications Fund require a budget amendment for the new radio system to be funded by cash reserves of both funds.

The Parks Programs Fund and the Dog Park Construction Fund needs a budget amendment to move dog park donations to the construction fund to pay for the construction costs incurred.

The Solid Waste Fund requires a budget amendment related to the HHW Collection Facility project. The expenditures will use fund reserves.

The City County Planning Fund requires a budget amendment related to the 25th Street Pedestrian Bridge project. The project is funded with cash donations.

The Water Fund requires a budget amendment related to the Clearwell CT Improvements and SCADA projects. The expenditures will use fund reserves.

The Water Fund requires a budget amendment related to the Emergency Power project. The expenditures will use fund reserves and a HUD grant of \$974,000.

The Wastewater Fund requires a budget amendment for additional costs related to the rebuild clarifier infrastructure and MCC projects. Expenditures will use fund reserves.

The Wastewater Fund requires a budget amendment for additional costs related to the UV Disinfection and Primary Digester Drain Vault projects. Expenditures will use fund reserves and an SRF loan.

The Airport needs additional budget authority for the paving on a portion of Terminal Circle Road.

ALTERNATIVES ANALYZED

The Council may: Approve the requested budget amendments; or Not Approve the requested budget amendments.

FINANCIAL IMPACT

The requested budget amendments will be funded by additional revenues or reserves.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution approving and adopting the first quarter budget amendments for Fiscal Year 2011/2012.

APPROVED BY CITY ADMINISTRATOR

Attachments

Amendments

Attachment A

EXHIBIT A

Revenue Expenditure

Fund 2400 - City County Planning Fund

The City County Planning Fund will need additional budget authority in the following O&M accounts. The professional and consultant services were overages related to the Infill Workshop. Contributions of \$10,580 were received to help pay the cost of the Infill Workshop.

2400-43180	349045	10,580	Misc. Revenue
2400-43180	402190	1,000	Office Supplies
2400-43180	402925	2,000	Computer Equipment under \$5,000
2400-43180	403110	1,000	Postage
2400-43180	403210	1,000	Printing/Forms
2400-43180	403240	1,000	Duplication
2400-43180	403310	1,000	Publication of Notices
2400-43180	403350	400	Membership Fees/Tuition

Fund 2050 - Gas Tax Fund

Public Works requires budget amendments for several capital projects. Central Avenue Sidewalks is a CTEP project that will use Gas Tax funds as the local match. MDT approved the City of Billings to go forward with this project in August 2011 and a budget amendment is necessary to establish the budget authority for the local share portion in the FY 2012 budget. Budget authority is needed for change orders for the Moore Lane and Rimrock Road projects. Both projects have project budgets remaining; however, because these were FY 11 projects, the budget authority needs to be reestablished in FY 12. A budget amendment is also needed for slope stabilization work on Mountain View Boulevard which was damaged in the June 2011 storms. Public Works has sufficient cash in its Gas Tax Fund for all of these projects. In June 2011, Council approved an increase in Street Maintenance District (SMD) fees, in large part to increase funding to the PAVER program. A budget amendment is required to establish the budget authority needed to fund the additional PAVER program costs to correlate with the increase in SMD fees.

2050-31310	409310	13,700	Central Avenue Sidewalks
2050-31310	409310	35,000	Moore Lane
2050-31310	409310	150,000	Rimrock Road
2050-31310	409310	30,500	Mountain View Blvd Slope Stabilization
2050-31310	409390	1,300,000	PAVER

Fund 8400 - Storm Sewer Fund

Public Works is requesting a budget amendment to fund the remaining costs of the Howard Heights Storm Drain project. There is sufficient budget remaining in the project budget for Howard Heights; however, because it was an FY 11 project, the budget authority needs to be reestablished in FY 12. Budget authority also needs to be reestablished for the Annual Storm Drainage Intersection Trouble Spot program which was in the FY 11 budget but not awarded until FY 12. This program funds storm repairs for intersections with drainage problems as determined by staff and public comment. A budget amendment is also needed for repairs to the Senators Boulevard sidewalk and Thousand Oaks culvert to fix damage caused by the June 2011 storms. Public Works has sufficient cash in its Storm Fund for all of these projects.

8400-31840	409310	40,000	Howard Heights Storm Drain
8400-31840	409310	114,500	Annual Storm Drain
8400-31840	409660	15,000	Senators/Alkali Creek Sidewalks
8400-31840	409660	18,710	Thousand Oaks Culvert Replacement

Fund 8450 - Arterial Fund

Public Works is requesting the budget authority for the Alkali Creek Road project and the Inner Beltloop be reestablished in the FY 12 budget. There is sufficient budget remaining in the project budget for Alkali Creek Road; however, because it was an FY 11 project, the budget authority needs to be reestablished in FY 12 for change orders needed to complete the project. Budget authority also needs to be reestablished to purchase right-of-way for the Inner Beltloop project. This was previously budgeted in FY 11, but was unable to be completed due to on-going negotiations with property owners. Public Works has sufficient cash in its Arterial Construction Fund for both of these projects.

8450-31860	409310	143,000	Alkali Creek Road Project
8450-31860	409310	198,000	Inner Beltloop ROW

Fund 2250 - EOC 911 Fund and Fund 6070 - Radio Communications Fund

The construction of new radio system will be funded by cash reserves in the 911 and Radio Funds.

2250-22320	409490	170,000	Radio system
6070-22350	409450	703,000	Radio system

Funds 7690 & 4990 - Parks Programs and Dog Park Construction Fund

The Dog Park project received donation that were accounted for in the Park Programs Fund. A transfer is needed in order to pay for the construction in the Construction Fund

7690-51820	408225	75,000	Transfer to Construction Fund
4990-51630	307514	75,000	Transfer from Park Programs Fund
4990-51630	409370	75,000	Capital Outlay

Fund 5410 - Solid Waste Fund

Public Works is requesting a budget amendment in its Solid Waste Fund to reestablish budget authority for the Household Hazardous Waste Collection Facility. This was an FY 11 project that will not be awarded until FY 12 and there is sufficient cash in the Solid Waste Fund for this facility.

5410-31230	409250	350000	HHW Collection Facility
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Fund 2360 - City County Planning Fund

The City County Planning Fund requires a budget amendment related to the Pedestrian Bridge project.

The project is funded with cash donations.

2360-43700	396630	102,945	Donations/Contribution Revenue
2360-43700	409370	102,945	Pedestrian Bridge

Fund 5030 - Water Fund

Public Works is requesting a budget amendment for its SCADA replacement project which will construct a communication system that can provide control and monitoring capabilities for pump stations and reservoirs. This was an FY 11 project that will not be awarded until FY 12. Thus, budget authority needs to be reestablished in the FY 12 budget. A budget amendment is also needed for unanticipated repairs to Clearwell #1. Public Works has sufficient cash in its Water Fund for both of these projects. However, because of the unanticipated costs of the Clearwell repairs, the FY 13 CIP is no longer fully funded and capital projects will need to be deferred going forward.

5030-75910	409340	1,000,000	Clearwell CT Improvements
5030-75910	409340	840,000	SCADA

Fund 4160 - Water Fund

Public Works is requesting a budget amendment to reestablish budget authority for the Emergency Power project at the Water Treatment Plant. This was an FY 11 project that will not be awarded until FY 12 and thus budget authority needs to be reestablished in the FY 12 budget. \$974,000 of this project will be funded with a HUD grant and Public Works has sufficient cash in its Water Fund for the local share portion.

4160-74930	409340	1,565,000	Emergency Power
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Fund 5130 - Wastewater Fund

Public Works is requesting a budget amendment to fund the remaining costs of the Clarifier Infrastructure project. There is sufficient budget remaining in the project budget for the clarifier; however, because it was an FY 11 project, the budget authority needs to be reestablished in FY 12 for change orders. Budget authority also needs to be reestablished for the Wastewater Treatment Plant Motor Control Center (MCC) replacement project which will replace the MCC panels, wiring, and waste activated sludge pump variable frequency drives in the West Mechanical Building. This project was in the FY 11 budget, but was not awarded until FY 12. Public Works has sufficient cash in its Wastewater Fund for these projects.

5130-84910	409390	45,000	Rebuild clarifier infrastructure
5130-84910	409390	405,310	MCC

Fund 4210 - Wastewater Fund

Public Works is requesting a budget amendment to fund the remaining costs of the UV Disinfection project. There is sufficient budget remaining in the project budget for the UV; however, because it was an FY 11 project, the budget authority needs to be reestablished in FY 12 for change orders. The UV project is funded with a State Revolving Fund Loan.

4210-84930	409340	30,300	UV Disinfection
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Fund 5620 - Airport Fund

Paving on a portion of Terminal Circle Road using reserves.

5630-71220	409310	17,000	Nonbuilding
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RESOLUTION 11-

A RESOLUTION TO MAKE **FISCAL YEAR 2011/2012** ADJUSTMENTS TO APPROPRIATIONS PURSUANT TO M.C.A. 7-6-4006 AS AMENDED, AND PROVIDING TRANSFERS AND REVISIONS WITHIN THE GENERAL CLASS OF SALARIES AND WAGES, MAINTENANCE AND SUPPORT AND CAPITAL OUTLAY.

WHEREAS, M.C.A. 7-6-4006 provides that the City Council, upon proper resolution, adopted by said Council at a regular meeting and entered into its Minutes, may transfer or revise appropriations within the general class of salaries and wages, maintenance and support, and capital outlay, and

WHEREAS, based upon a Budget Review (**FY 2011/2012**), it is necessary to alter and change said appropriations.

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

That the attached transfers or revisions are hereby adopted.

(SEE EXHIBIT A)

PASSED AND APPROVED by the City Council, this 28th day of November, 2011.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK