

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

January 9, 2012

6:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Astle

ROLL CALL: Councilmembers present on roll call were:

MINUTES:

- December 12, 2011
- December 19, 2011

ELECTION OF DEPUTY MAYOR PRO TEMPORE

COURTESIES:

PROCLAMATIONS:

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, 6 & 7 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. Change Order #1** , Kings Green Subdivision Project, Phase IV; Knife River, \$26,434.40.
 - B. Approval** of 5-year grazing lease with Wayne Townsend for 144 acres south of the Billings Regional Landfill (2/1/2012-1/31/2017) with one 5-year renewal option; annual revenue - \$432.

- C. **Sidewalk Easements** for construction of W.O. 09-11, Rimrock Road - 17th Street West to Forsythia Blvd.; W.O. 10-31, 29th Street West and Central Avenue traffic signal; and W.O. 11-02, Miscellaneous and Developer-Related Project.
- D. **Right-of-Way Easement** with Aspen Grove Partnership for construction of SID 1392, Yellowstone Family Park.
- E. **Revolving Loan Fund** Pay-off Extension to Billie J. Ruff of Travel Cafe, Inc.
- F. **Acceptance of Warranty Deeds** from Thomas and Carrie Schleder (1215 Ave. D) and Gary and Susan Carlson (1216 Ave. E) for W.O. 12-01, Water and Sanitary Sewer Replacement Project; \$1,000 each.
- G. **Grant Applications Request** to submit for TransADE, 5317 New Freedom, and 5316 JARC funds totalling \$265,000 for paratransit operating assistance and for a capital grant for purchase of a new paratransit van.
- H. **Resolution** adopting the Tax Compliance Policy for Tax-Exempt Bonds.
- I. **Final Plat Approval** of Amended Lots 2A-4-A, 2A-5A, 3A, and 4E, Block 1, Shiloh Crossing Subdivision
- J. **Bills and Payroll:**
 - 1. December 5, 2011
 - 2. December 12, 2011
 - 3. December 19, 2011

REGULAR AGENDA:

- 2. **PUBLIC HEARING AND SPECIAL REVIEW #894:** a special review to allow the expansion of an existing elementary and high school in a Residential 9,600 (R-96) zoning district described as Lot 3, Block 1, Cornerstone Subdivision and located at 4519 Grand Avenue. Cornerstone Community Church, owner; Alex Tommerup, AT Architecture, representative. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)
- 3. **PUBLIC HEARING AND SPECIAL REVIEW #895:** a special review to allow the location of an all beverage license (gaming attached) in a Controlled Industrial (CI) zone on Lot 11A-1, Block 1, CBH Industrial Park Subdivision, a 2.3 acre parcel of land generally located at 1911 King Avenue West; Bob Pulley, representative. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)
- 4. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending the boundaries of Ward IV to exclude the portion of recently de-annexed property in De-Annexation #11-04 described as Lots 26, 27, the west half of Lot 28 and Lot 38, and Lot 40 of the Sunny Cove Fruit Farms. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation)

5. **PUBLIC HEARING AND RESOLUTION** approving and adopting second quarter budget amendments for Fiscal Year 2011/2012. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
6. **APPROVAL** of \$8,000 Downtown Tax Increment Financing for the Downtown Shuttle/Circular Study. Downtown Billings Partnership Board of Directors recommends approval. (Action: approval or disapproval of Downtown Billings Partnership Board of Directors' recommendation.)
7. **APPROVAL** of \$20,000 Downtown Tax Increment Funding for the North 25th Street Pedestrian Bridge Project. Downtown Billings Partnership Board of Directors recommends approval. (Action: approval or disapproval of Downtown Billings Partnership Board of Directors' 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: 01/09/2012

TITLE: King's Green Phase IV Change Order #1

PRESENTED BY: Dina Billington

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

Community Development is installing site improvements in Phase 4 (final phase) of the King's Green project. On October 24, 2011, Knife River was awarded the contract for site improvements. Shortly after the contract was awarded, it was brought to Staff's attention that the installation of sidewalks was inadvertently left out of the design and original bid. The addition of curbs and gutters results in a change order with an increase in costs of \$26,434.40 or 10.95% of the contract. This exceeds the City Administrator's signing authority, which is the lower of \$100,000 or 10% of the contract. Community Development wishes to install sidewalks to meet City Code and to match improvements in previous phases. There is sufficient money in the FY2011-12 budget in the Affordable Housing Fund to finance the increase.

ALTERNATIVES ANALYZED

Council may:

- Approve the Change Order to allow for the installation of sidewalks in the King's Green Phase IV;
- Do not approve the Change Order. Without the improvements, the lots would violate the City's site development code or individual builders would need to build and pay for the sidewalks. Those costs would be included in the home sales prices, making the housing less affordable.

FINANCIAL IMPACT

There will be an increase to the overall project of \$26,434.40. The additional funding is set aside in the FY2011-12 budget in the Affordable Housing Fund.

RECOMMENDATION

Staff recommends that the City Council approve Change Order #1 to allow for the installation of sidewalks in Phase IV of the King's Green project.

APPROVED BY CITY ADMINISTRATOR

Attachments

Change Order

PROJECT: P-631 Kings Green Subdivision,
Third Filing, Phase IV

DATE OF ISSUANCE: November 17, 2011

OWNER: City of Billings
Community Development
510 North Broadway, Fourth Floor
Billings, MT 59101

OWNER PROJ. NO. _____

CONTRACTOR: Knife River - Billings
4014 Hesper Road
Billings, MT 59108

ENGINEER: SANDERSON STEWART

ENGINEER PROJ. NO. 78168.42

CONTRACT FOR: Private Contract No. 631, To Provide Water, Sanitary Sewer, Storm Drain, and Street Improvements for Phase IV of Kings Green Subdivision, Third Filing

You are directed to make the following changes in the Contract Documents.

Purpose of Change Order: **To modify plans based on City comments and requests.**

Explanation of Items. **See page two for explanation**

Attachments: NA

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIME:

Original Contract Price

Original Contract Time

\$241,388.30

60
days or date

Previous Change Order No. 0

Net change from previous Change Orders

\$0.00

0
days

Contract Price prior to this Change Order

Contract Time prior to this Change Order

\$241,388.30

60
days or date

Net INCREASE of this Change Order

Net INCREASE of this Change Order

\$ 26,434.40

0
days

Contract Price with all approved Change Orders

Contract Time with all approved Change Orders

\$267,822.70

60
days or date

RECOMMENDED:

by: [Signature] 11/29/11
Sanderson Stewart Date

ACCEPTED:

by: [Signature] 11/28/11
Knife River - Billings Date

APPROVED:

by: [Signature] 12/5/2011
City of Billings Date

by: _____
City Administrator Date

PROJECT: P-631 Kings Green Subdivision,
Third Filing, Phase IV

DATE OF ISSUANCE:

November 17, 2011

Bid Item	Description	Unit	Price	Quantity Increase / Decrease	Dollar Amount Increase / Decrease
CHANGE ORDER NO. ONE					
CO 123	Remove Existing Hydrant Assembly and Main Line Valve at STA 5+78 +/-	LS	\$ 1,890.00	1.00	\$ 1,890.00 \$ -
CO 124	Add 18 LF 8-inch Water Main	LF	\$ 33.90	18.00	\$ 610.20 \$ -
CO 125	Approach Curb Head Depression	EA	\$ 60.00	10.00	\$ 600.00 \$ -
CO 126	6-inch Thick Drive Approach Sidewalk	LF	\$ 6.10	2000.00	\$ 12,200.00 \$ -
CO 127	4-inch Thick Curbwalk Sidewalk	LF	\$ 4.20	2651.00	\$ 11,134.20 \$ -
TOTAL NET INCREASE					\$ 26,434.40

EXPLANATION OF ITEMS

Item No.

CO 123-
127 Comments from City of Billings - Public Works Dept and Owner.

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Grazing Lease Adjacent to Landfill - Wayne Townsend

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The City of Billings owns approximately 375 acres south of and adjacent to the Billings Regional Landfill. Since 1996, the City has had a grazing lease on a portion of this land with Mr. Aaron Meyer. Under the current 2005 lease, Mr Meyer leases a total of 205 acres for grazing purposes. The grazing lease with Mr. Meyer provides the City an annual revenue of \$615 for the term of the lease. The City was recently approached by Mr. Wayne Townsend to lease 144 acres of the remaining 170 acres for grazing purposes. The property is located in Section 29, Township 1 South, Range 26 East, southeast of Hillcrest Road as shown on the attached map. The property is bordered on the south by uninhabited State Land owned by the Bureau of Land Management. The new lease will provide the City an additional annual revenue of \$432. The lease for this property would be for a 5-year term with the option for one additional five-year term under the same terms and conditions as the lease for Mr. Meyer.

ALTERNATIVES ANALYZED

Council may:

- Approve the lease with Mr. Townsend; or
- Not approve the lease with Mr. Townsend

FINANCIAL IMPACT

The proposed lease agreement with Mr. Townsend would provide annual revenue of \$432 for the term of the 5-year lease. The lease also provides Mr. Townsend the option to renew the lease for one additional five-year term at the expiration of the five year lease under the same terms and conditions.

RECOMMENDATION

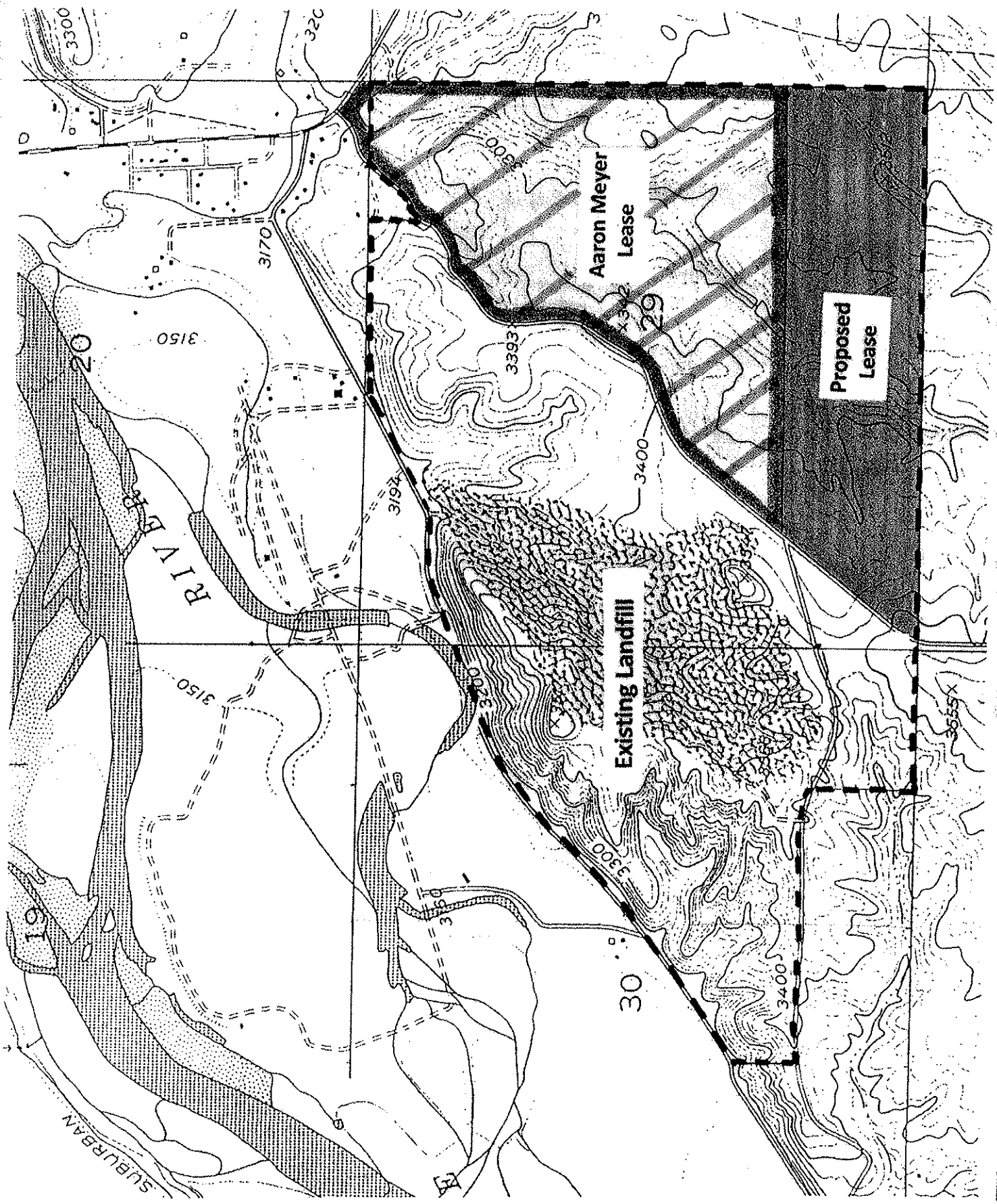
Staff recommends that Council approve the grazing lease with Mr. Wayne Townsend for 144 acres south of the Billings Regional Landfill for a 5-year term with the option to renew for one additional 5-year term.

APPROVED BY CITY ADMINISTRATOR

Attachments

Map

Lease Agreement



SUDBAN

RIVER

Aaron Meyer
Lease

Existing Landfill

Proposed
Lease

3300

320

3170

3150

320

3192

3194

3200

3203

3300

3393

3400

30

3405

3555X

GRAZING LEASE

I. GENERAL TERMS

A. **THIS LEASE** is entered into this _____ day of _____, 2012, between the City of Billings hereinafter referred to as the "Owner", and Wayne Townsend of 3611 Robindale Dr, Billings, MT hereinafter referred to as the "Lessee".

B. **DESCRIPTION OF PROPERTY:** The Owner hereby leases to the Lessee to occupy and use for grazing purposes, the following property all located in Section 29, Township 1 South, Range 26 East, P.M.M., Yellowstone County, Montana, described as follows:

- The S1/2 of the SE1/4 consisting of approximately 80 acres.
- A portion of the S1/2 of the SW1/4 consisting of approximately 64 acres and specifically that portion located southeast of Hillcrest Road.

The total area covered by this grazing lease consists of 144 acres more or less, in good condition, together with all buildings, corrals and improvements thereon and rights thereto. The Owner warrants that he owns the land, has the right to give the Lessee possession under this lease, and will, so long as this lease remains in effect, warrant and defend the Lessee's possession against any and all persons.

C. **RENTAL RATES AND ARRANGEMENTS:** As rent for the rangeland the Lessee agrees to pay the Owner an annual sum of \$ 432.00 payable in advance of the 1st day of January of each year.

II. LEASE CONDITIONS

A. **LENGTH OF LEASE:** This lease shall be in effect from February 1, 2012, and shall terminate five years later on January 31, 2017. Lessee shall have an option to renew the lease for one additional five-year term at the expiration of the five year lease under the same terms and conditions, providing he gives Owner 60 days notice of his intention to do so.

B. **TERMINATION PRIOR TO EXPIRATION OF TERM OF LEASE:** This lease agreement may be terminated by either Owner or Lessee at any time upon sixty (60) days written notice to the other party. Lessee shall not be compelled to remove from the demised premises or surrender the demised premises until sixty (60) days after receipt of that notice and any payment due by Lessee to Owner pursuant to the terms of this Lease shall be prorated to the date of termination.

C. **THIS LEASE SHALL BIND AND BENEFIT** the heirs, successors, and assigns of the Owner and the Lessee.

- D. **NON-FULFILLMENT:** Upon failure of either party to carry out any material provision of this lease, the other shall serve a written notice specifying the default. The offending party shall have a reasonable length of time to correct the default, or to arbitrate if he does not admit the charge. If default is not corrected as charged, or instructions of the arbitration committee not carried out, in proper time to prevent further damage, the injured party may, at his option, either correct the default and collect the cost from offending party, or cancel the lease and collect damages set by the committee.
- E. **ARBITRATION:** Any difference between the Owner and Lessee shall upon request of either party be submitted for settlement to a committee of three disinterested persons who reside in the community and are familiar with the property. One member shall be chosen by the Owner, one by Lessee, and the third by the other two members. A determination by a majority of the committee shall be binding on both the Owner and Lessee. One-half the cost of arbitration shall be paid by each party.

III. RANGE MANAGEMENT, IMPROVEMENTS & MAINTENANCE

- A. The Lessee shall use good range management principles in his operations of this land. He shall balance livestock numbers with available forage to prevent range deterioration. He will use the premises in a good and husband-like manner and will not overgraze the range land. However, it is understood and agreed that Lessee may feed hay to livestock on the premises when necessary to supplement the supply of grass.
- B. The degree of use to be made of the range annually shall be: For grazing of livestock only. Cultivation of the land shall not be permitted.
- C. The Lessee shall use diligence to prevent the establishment and spread of poisonous plants and noxious weeds. Treatment of infestations and the cost thereof shall be handled by the Lessee: If chemical application or other appropriate weed control measures become necessary, the Lessee shall first consult with the Owner prior to any measures being taken.
- D. Fences, and other improvements now in satisfactory condition shall be maintained by the Lessee.
- E. The Lessee may not place any improvements upon the land under this lease without the approval of the Owner. Should approval be given to place improvements on the land, the Lessee shall remove them upon expiration of the lease, unless the Owner has given approval to leave such improvements.
- F. The Owner reserves all rights and interests to the land under this

lease other than those specifically granted by this lease. These reservations include but are not limited to the following:

- (a) Mineral and Timber Reservation - All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other non-minerals valuable for building, mining or other commercial purposes and all timber and trees are exempted from the operation of this lease.
- (b) Additional Reservations - The Owner reserves the right to grant rights-of-way, licenses and permits on the subject land so long as they do not interfere with the grazing rights granted to the tenant herein.

- G. The Lessee assumes all responsibility for carrying on at his own expense all fire prevention and suppression work necessary or required to protect the forage, trees, building and structures on the land.
- H. The Lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted. If the lands under this lease are used or allowed to be used for any purpose contrary to the laws of this State or the United States, such unlawful use shall constitute sufficient reason for the cancellation of the lease. The Lessee shall not utilize or allow to be utilized any land under this lease for purposes other than the purpose for which it was granted.

IV. LANDLORD SERVICES AND LESSEE AGREEMENT

A. THE OWNER AGREES:

- 1) To assume all risk of damage to his property beyond the control of the Lessee.
- 2) Lessee may use dead timber or other timber specifically agreed upon for poles or posts to be used on this land.

B. THE LESSEE AGREES:

- 1) Not to assign this lease or sublet any portion of the property without the approval of the Owner.
- 2) Not to permit waste or damage to the property beyond ordinary wear and depreciation.
- 3) To permit Owner or his agent to enter premises at any time to inspect the range, count livestock, and make repairs and improvements as necessary.
- 4) To permit Owner to lease land for oil and/or gas development and permit entry of a third party in connection with the gas and oil

Grazing Lease

Page 4

development. The Lessee will be compensated for all forage or livestock damages arising from such lease.

- 5) To surrender peaceably possession and occupancy of the premises at the termination of the lease.

In Witness Whereof, we have signed this lease this _____ day of _____ 20__.

LESSEE:

BY: _____ Witness: _____

LESSOR:

City of Billings:

BY: _____
Mayor

City Clerk

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, personally appeared **Wayne Townsend**, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

(SEAL)

Notary Public for the State of Montana;
Residing at Billings, Montana;
My commission expires: _____

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be Mayor of the City of Billings, and acknowledged to me that the City of Billings executed this instrument.

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

(SEAL)

Notary Public for the State of Montana;
Residing at Billings, Montana;
My commission expires: _____

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Acceptance of Sidewalk Easements for Public Works Projects

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

With the construction of W.O. 09-11 Rimrock Road, 17th to Forsythia; W.O. 10-31 Central and 29th Traffic Signal Improvements; and W.O. 11-02 Miscellaneous and Developer Related, it was determined that a number of sidewalk easements are needed for areas where portions of the sidewalk extend past the right-of-way.

For W.O. 09-11, sidewalk easements are needed for certain properties where a City-standard drive approach was installed. This construction placed a portion of the back of the approach (which is also used as sidewalk) over the property line. The American with Disabilities Act Guidelines for Public Rights of Way require a minimum sidewalk width of 36" and that determined which drive approach sections used for sidewalk would be over the property line. The easement documents for properties are attached.

For W.O. 10-31, a sidewalk easement at the southeast corner of Central Avenue and 29th Street West/Brookshire Boulevard is needed for a piece of sidewalk that connects the ADA accessibility ramp to the existing boulevard walk along Central. This portion of the boulevard walk meanders in and out of the right-of-way. Where the connection needs to be made for the ADA ramp, the existing sidewalk is on private property. Multiple options were discussed with the property owner and it was decided an easement would be granted to minimize costs to the City and provide a measure of aesthetics for the property owners. The easement document is attached.

For W.O. 11-02, several sidewalk sections were installed on the east side of 32nd Street West between Rosebud Drive and Stillwater Drive. At the northeast corner of 32nd Street West and Rosebud Drive and the northeast and southeast corners of 32nd Street West and Myrtle Drive, it was discovered that one-foot of the City-standard five-foot sidewalk was constructed on private property. The easement documents for properties at 3145 Myrtle Drive, 3146 Myrtle Drive, and the undeveloped property at the northeast corner of 32nd and Rosebud are attached.

ALTERNATIVES ANALYZED

The Council may:

- Accept the sidewalk easements; or
- Do not accept the sidewalk easements. The sidewalks would be on private property with no right of public access.

FINANCIAL IMPACT

There is no financial impact with acceptance of these sidewalk easements.

RECOMMENDATION

Staff recommends that the City Council accept the sidewalk easements for the specific locations described.

APPROVED BY CITY ADMINISTRATOR

Attachments

Bernhart Easement

Fox Easement

Koenig Easement

Smith Easement

Bourne Easement

Trang Easement

LAIS Easement

Boyer Easement

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

GRANTEE:

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

Thomas W. Hanel
Mayor, City of Billings

ATTEST:

City Clerk

STATE OF MONTANA)
 :ss
County of Yellowstone)

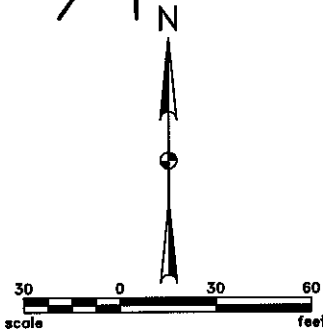
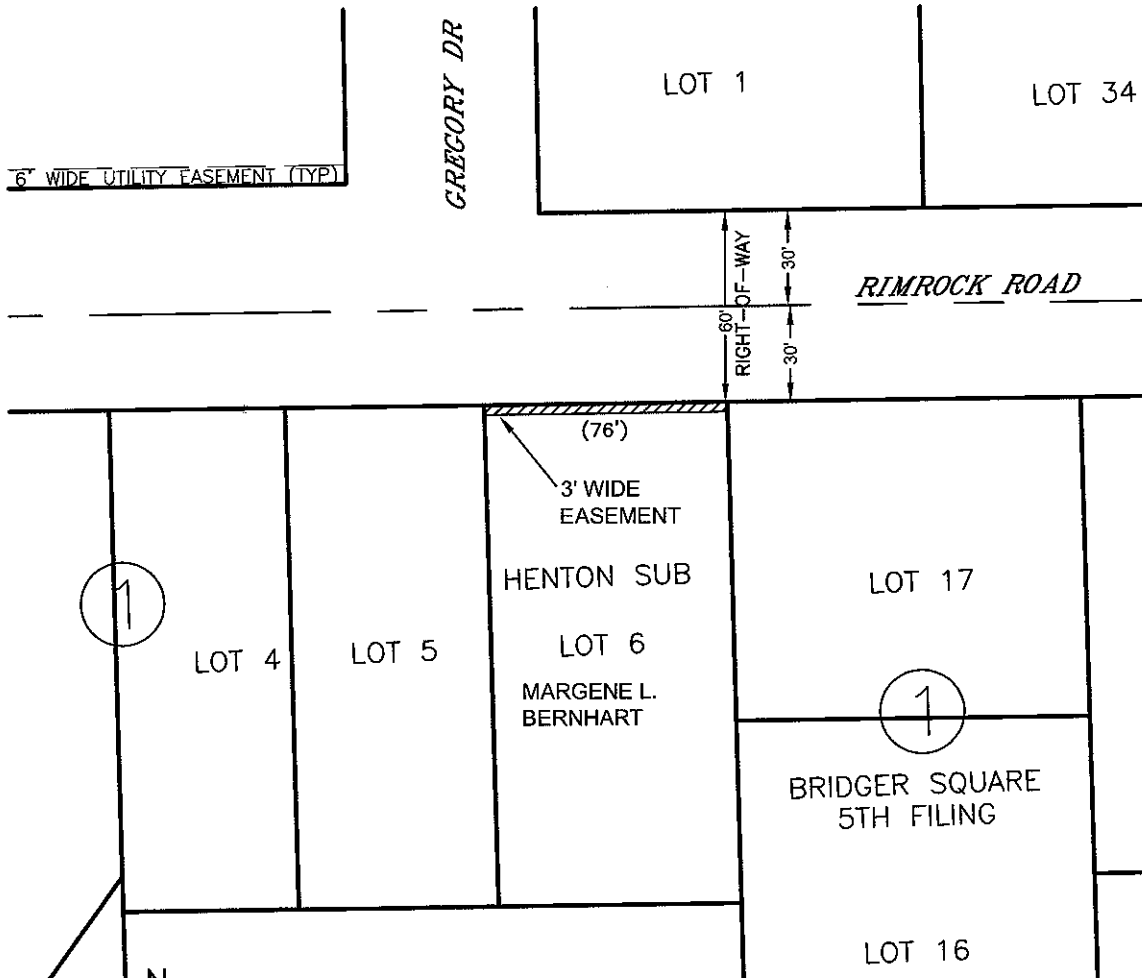
On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared Thomas W. Hanel and Cari Martin, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

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

EASEMENT EXHIBIT A
WITHIN
LOT 6, BLOCK 1, HENTON SUBDIVISION

PREPARED FOR: CITY OF BILLINGS
PREPARED BY: KADRMAS, LEE & JACKSON, INC.

AUGUST 2011
BILLINGS, MONTANA



RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

DECLARATION OF EASEMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned, Richard A. and Judy K. Fox, Owners, does hereby create as written below a perpetual easement across, over and through certain real property addressed as 2326 Rimrock Road located in the NE ¼ of Section 35, T. 1 N., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, more particularly described as follows, to wit:

An easement two feet in width being the northerly two feet of Lot 1B, 2nd Amended Certificate of Survey 140, and the western 10 feet of Lot 10, Amended Certificate of Survey 140, as recorded in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 478068 for Lot 1B and Document No. 463743 for Lot 10.

The Owner does hereby create this perpetual easement for the purpose of constructing, reconstructing, maintaining, operating, repairing, improving, replacing and using a public sidewalk and any necessary fixtures and appurtenances over, across, and upon said real property.

This perpetual easement is created for the benefit of the City of Billings, Montana, shall run with the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, executors, successors, administrators and assignees, and shall bind each owner thereof.

RICHARD A. AND JUDY K. FOX, OWNERS

By: *Richard A. Fox* By: *Judy K. Fox*

Printed Name: Richard A. Fox

Printed Name: Judy K. Fox

Title: Owner

Title: Owner

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 29 day of December, 2011, before me, a Notary Public in and for the State of Montana, personally appeared Richard A. and Judy K. Fox, known to me to be the owners of 2326 Rimrock Road whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Susan Wellbrook
SUSAN WELLBROOK
NOTARY PUBLIC for the State of Montana
Residing at Billings, Montana
My Commission Expires
September 29, 2012



Notary Public in and for the State of Montana

Printed Name: _____

Residing at: _____

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

My commission expires _____

GRANTEE:

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

Thomas W. Hanel
Mayor, City of Billings

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 Thomas W. Hanel and Cari Martin, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

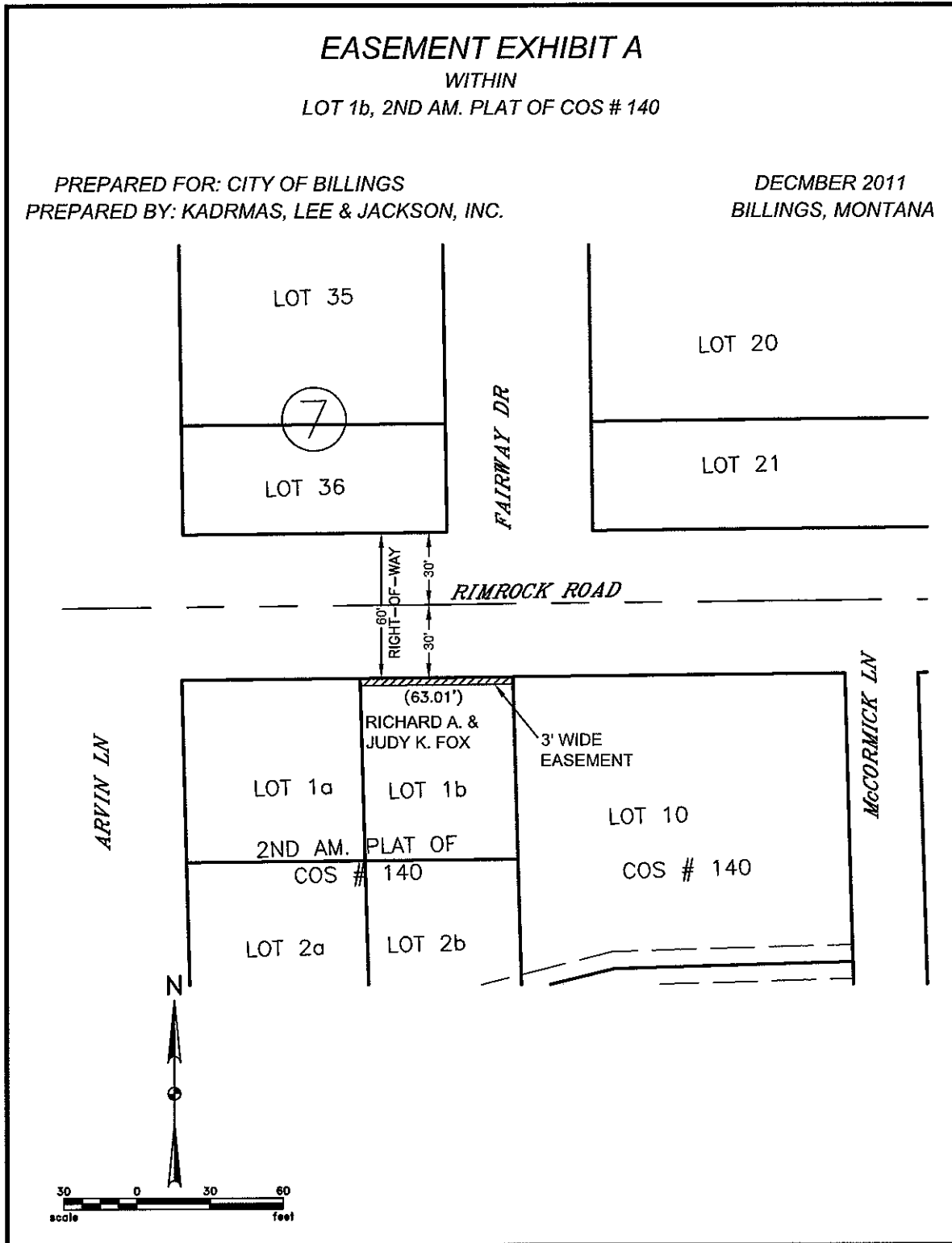
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

EASEMENT EXHIBIT A

WITHIN
LOT 1b, 2ND AM. PLAT OF COS # 140

PREPARED FOR: CITY OF BILLINGS
PREPARED BY: KADRMAS, LEE & JACKSON, INC.

DECEMBER 2011
BILLINGS, MONTANA



RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

DECLARATION OF EASEMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned, Verlin E. and Diana R. Koenig, Owners, does hereby create as written below a perpetual easement across, over and through certain real property addressed as 2612 Rimrock Road located in the NW ¼ of Section 35, T. 1 N., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, more particularly described as follows, to wit:

An easement two feet in width being the northerly two feet of Lot 10 in Block 4 of Bridger Square Subdivision, 7th Filing, as recorded in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 778409, and as shown on the attached EXHIBIT A.

The Owner does hereby create this perpetual easement for the purpose of constructing, reconstructing, maintaining, operating, repairing, improving, replacing and using a public sidewalk and any necessary fixtures and appurtenances over, across, and upon said real property.

This perpetual easement is created for the benefit of the City of Billings, Montana, shall run with the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, executors, successors, administrators and assignees, and shall bind each owner thereof.

VERLIN E. DIANA R. KOENIG, OWNERS

By: *Verlin E. Koenig*
Printed Name: Verlin E. Koenig
Title: Owner

By: *Diana R. Koenig*
Printed Name: Diana R. Koenig
Title: Owner

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 6th day of September 2011, before me, a Notary Public in and for the State of Montana, personally appeared Verlin E. and Diana R. Koenig, known to me to be the owners of 2612 Rimrock Road whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Susan Wellbrook
SUSAN WELLBROOK
NOTARY PUBLIC for the State of Montana
Residing at Billings, Montana
My Commission Expires
September 29, 2012

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

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

GRANTEE:

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

Thomas W. Hanel
Mayor, City of Billings

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 Thomas W. Hanel and Cari Martin, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

Printed Name: _____

Residing at: _____

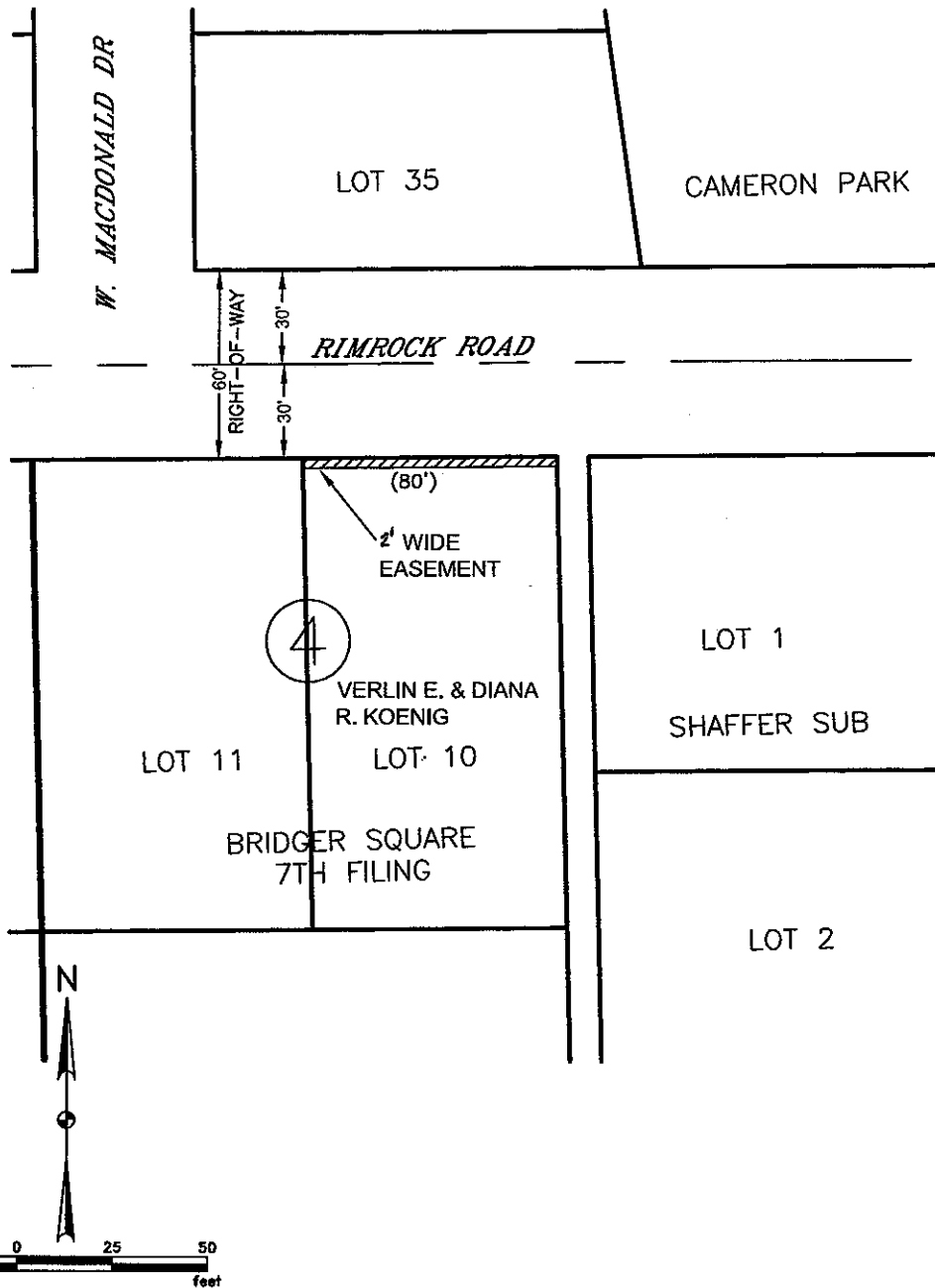
My commission expires: _____

EASEMENT EXHIBIT A

WITHIN
LOT 10, BLOCK 4, BRIDGER SQUARE SUBDIVISION, 7th FILING

PREPARED FOR: CITY OF BILLINGS
PREPARED BY: KADRMAS, LEE & JACKSON, INC.

AUGUST 2011
BILLINGS, MONTANA



RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

DECLARATION OF EASEMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned, Dean C. and Jessica D. Smith, Owners, does hereby create as written below a perpetual easement across, over and through certain real property addressed as 2938 Rimrock Road located in the NW ¼ of Section 35, T. 1 N., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, more particularly described as follows, to wit:

An easement three feet in width being the northerly three feet of Tract 1 of Certificate of Survey 2114, as recorded in the office of the Clerk and Recorder of Yellowstone County, Montana under Document No. 1217571.

The Owner does hereby create this perpetual easement for the purpose of constructing, reconstructing, maintaining, operating, repairing, improving, replacing and using a public sidewalk and any necessary fixtures and appurtenances over, across, and upon said real property.

This perpetual easement is created for the benefit of the City of Billings, Montana, shall run with the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, executors, successors, administrators and assignees, and shall bind each owner thereof.

DEAN C. AND JESSICA D. SMITH, OWNERS

By: Dean C. Smith

Printed Name: Dean C. Smith

Title: Owner

By: Jessica D. Smith

Printed Name: Jessica D. Smith

Title: Owner

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 27th day of December, 2011, before me, a Notary Public in and for the State of Montana, personally appeared Dean C. and Jessica D. Smith, known to me to be the owners of 2938 Rimrock Road whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Zachary S. McKittrick
Notary Public in and for the State of Montana

Printed Name: Zachary S. McKittrick

Residing at: Billings

My commission expires Aug 26, 2013

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

GRANTEE:

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

Thomas W. Hanel
Mayor, City of Billings

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 Thomas W. Hanel and Cari Martin, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

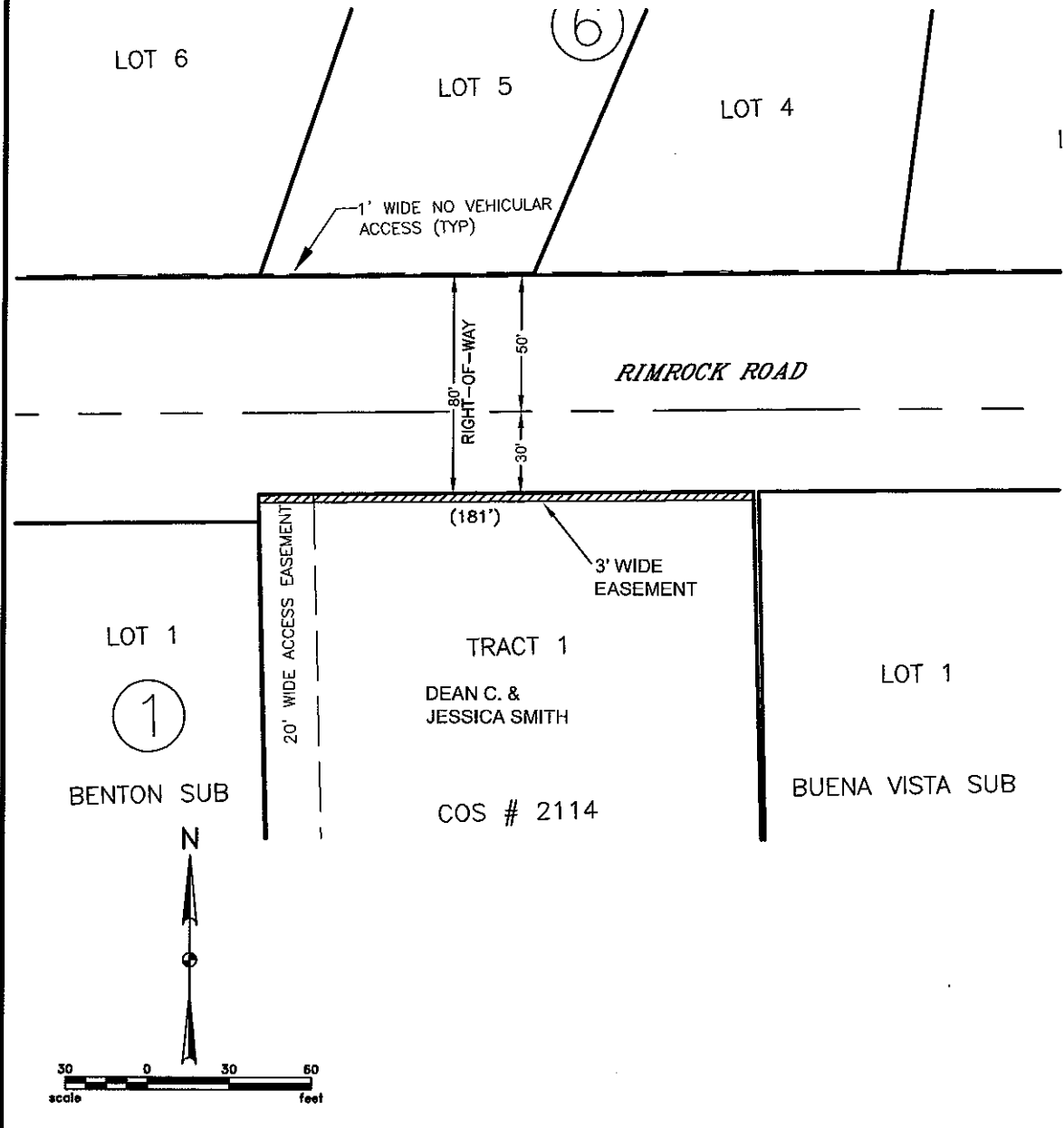
Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

EASEMENT EXHIBIT A

WITHIN
TRACT 1, COS # 2114

PREPARED FOR: CITY OF BILLINGS
PREPARED BY: KADRMAS, LEE & JACKSON, INC.

DECEMBER 2011
BILLINGS, MONTANA



RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this 21 day of November 2011, by and between the following:

ANTHONY BOURNE and SAMANTHA SWAN
3145 Myrtle Dr
Billings, Montana 59102,
hereinafter referred to as **GRANTORS**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTORS do hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, accessibility ramps, and fire hydrants over, across, under, and through the real property more particularly described as follows:

A tract of land situated in Lot 6, Block 20 of Lampman Subdivision, Document No. 557995, documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the southwest corner of said Lot 6, Block 20, point also being on the east right-of-way line of South 32nd Street West; thence N 00°35'00" E along said east right-of-way for a distance of 125.00 feet, to a point on the north lot line of said Lot 6, Block 20; thence S 89°30'45" E along said north lot line for a distance of 4.00 feet; thence S 00°35'00" W and leaving said north lot line for a distance of 6.00 feet; thence N 89°30'45" W for a distance of 2.00 feet; thence S 00°35'00" W for a distance of 114.00 feet; thence S 05°43'06" E for a distance of 5.03 feet, to a point on the north right-of-way line of Myrtle Drive; thence N 89°30'45" W along said north right-of-way line for a distance of 2.55 feet to the Point of Beginning.

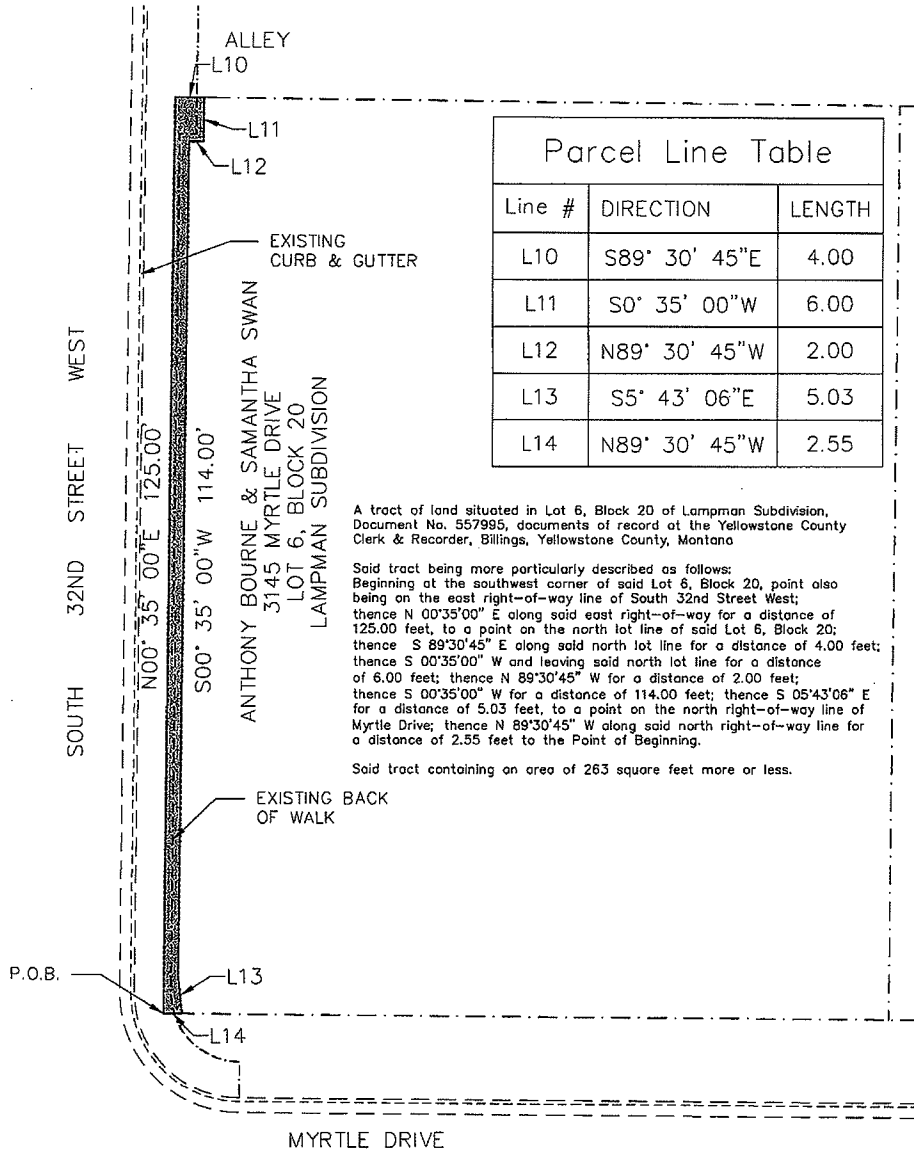
Said tract containing an area of 263 square feet more or less.

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTORS** warrant that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

EXHIBIT A

SIDEWALK EASEMENT SITUATED IN LOT 6, BLOCK 20 OF LAMPMAN SUBDIVISION, DOCUMENT NUMBER 557995 BILLINGS, YELLOWSTONE COUNTY, MONTANA

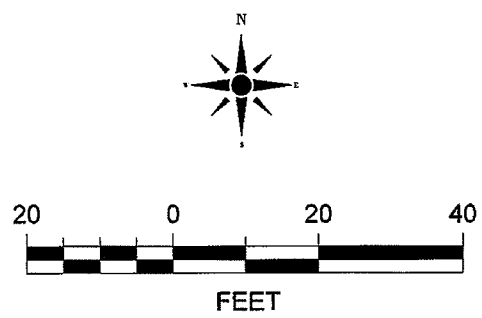


Line #	DIRECTION	LENGTH
L10	S89° 30' 45"E	4.00
L11	S0° 35' 00"W	6.00
L12	N89° 30' 45"W	2.00
L13	S5° 43' 06"E	5.03
L14	N89° 30' 45"W	2.55

A tract of land situated in Lot 6, Block 20 of Lampman Subdivision, Document No. 557995, documents of record of the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the southwest corner of said Lot 6, Block 20, point also being on the east right-of-way line of South 32nd Street West;
thence N 00°35'00" E along said east right-of-way for a distance of 125.00 feet, to a point on the north lot line of said Lot 6, Block 20;
thence S 89°30'45" E along said north lot line for a distance of 4.00 feet;
thence S 00°35'00" W and leaving said north lot line for a distance of 6.00 feet; thence N 89°30'45" W for a distance of 2.00 feet;
thence S 00°35'00" W for a distance of 114.00 feet; thence S 05°43'06" E for a distance of 5.03 feet, to a point on the north right-of-way line of Myrtle Drive; thence N 89°30'45" W along said north right-of-way line for a distance of 2.55 feet to the Point of Beginning.

Said tract containing an area of 263 square feet more or less.



LEGEND

 SIDEWALK EASEMENT

CITY OF BILLINGS, MONTANA
 SIDEWALK EASEMENT EXHIBIT
 CITY W.O. 11-02
 THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

UPDATED: 10/06/2011 X:\Backup\City 30 2011 Projects\W.O. 11-02 325T W of Myrtle\Consent Exhibit.DWG

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between the following:

MICHAEL L. and MELONIE TRANG
3146 Myrtle Dr
Billings, Montana 59102,
hereinafter referred to as **GRANTORS**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTORS do hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, accessibility ramps, and fire hydrants over, across, under, and through the real property more particularly described as follows:

A tract of land situated in Lot 7, Block 19 of Lampman Subdivision, Document No. 557995, documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:

Beginning at the southwest corner of said Lot 7, Block 19, point also being on the east right-of-way line of South 32nd Street West; thence N 00°35'00" E along said east right-of-way for a distance of 125.00 feet to a point on the south right-of-way line of Myrtle Drive; thence S 89°30'45" E along said south right-of-way line for a distance of 4.32 feet; thence S 00°35'00" W and leaving said south right-of-way line for a distance of 10.00 feet; thence N 89°30'45" W for a distance of 2.32 feet; thence S 00°35'00" W for a distance of 109.18 feet; thence S 35° 26'39" E for a distance of 7.19 feet, to a point on the south lot line of said Lot 7, Block 19; thence N 89°30'45" W along said south lot line for a distance of 6.23 feet to the Point of Beginning.

Said tract containing an area of 286 square feet more or less.

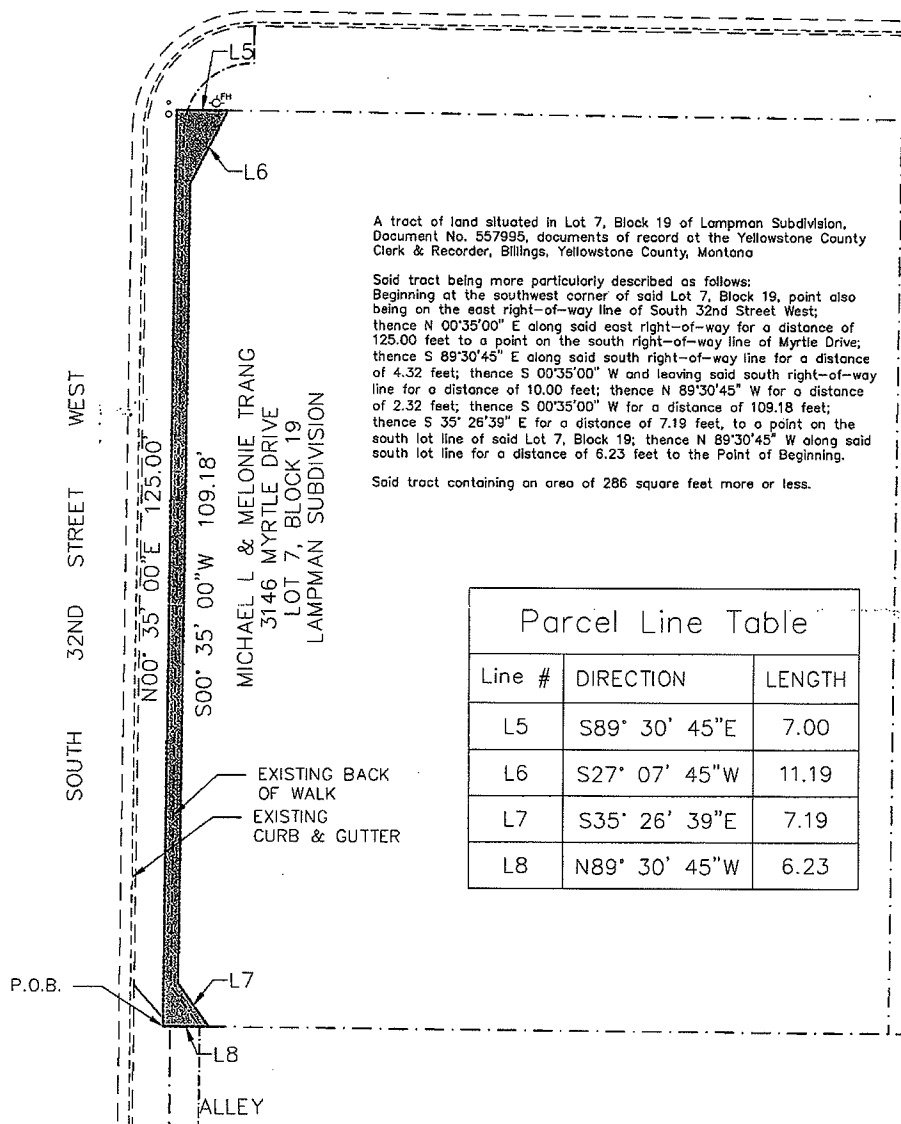
TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTORS** warrant that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

EXHIBIT A

SIDEWALK EASEMENT SITUATED IN LOT 7, BLOCK 19 OF LAMPMAN SUBDIVISION, DOCUMENT NUMBER 557995 BILLINGS, YELLOWSTONE COUNTY, MONTANA

MYRTLE DRIVE



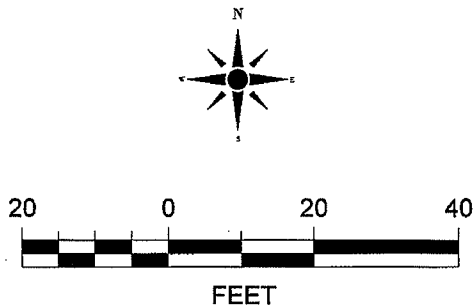
A tract of land situated in Lot 7, Block 19 of Lampman Subdivision, Document No. 557995, documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the southwest corner of said Lot 7, Block 19, point also being on the east right-of-way line of South 32nd Street West;
thence N 00°35'00" E along said east right-of-way for a distance of 125.00 feet to a point on the south right-of-way line of Myrtle Drive;
thence S 89°30'45" E along said south right-of-way line for a distance of 4.32 feet; thence S 00°35'00" W and leaving said south right-of-way line for a distance of 10.00 feet; thence N 89°30'45" W for a distance of 2.32 feet; thence S 00°35'00" W for a distance of 109.18 feet; thence S 35° 26'39" E for a distance of 7.19 feet, to a point on the south lot line of said Lot 7, Block 19; thence N 89°30'45" W along said south lot line for a distance of 6.23 feet to the Point of Beginning.

Said tract containing an area of 286 square feet more or less.

Parcel Line Table

Line #	DIRECTION	LENGTH
L5	S89° 30' 45"E	7.00
L6	S27° 07' 45"W	11.19
L7	S35° 26' 39"E	7.19
L8	N89° 30' 45"W	6.23



LEGEND

SIDEWALK EASEMENT

CITY OF BILLINGS, MONTANA
SIDEWALK EASEMENT EXHIBIT

CITY W.O. 11-02

THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this 28 day of October 2011, by and between the following:

LAIS DEVELOPMENT INC
3307 Grand Ave Ste 103A
Billings, Montana 59102,
hereinafter referred to as **GRANTOR**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall - 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, accessibility ramps, and fire hydrants over, across, under, and through the real property more particularly described as follows:

A tract of land situated in Lot 6, Block 19 of Lampman Subdivision, Document No. 557995, documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:

Beginning at the southwest corner of said Lot 6, Block 19, point also being on the east right-of-way line of South 32nd Street West; thence N 00°35'00" E along said east right-of-way for a distance of 125.00 feet, to a point on the north lot line of said Lot 6, Block 19; thence S 89°30'45" E along said north lot line for a distance of 6.24 feet; thence S 36°34'39" W and leaving said north lot line for a distance of 7.21 feet; thence S 00°35'00" W for a distance of 115.17 feet; thence S 07°16'28" E for a distance of 4.04 feet, to a point on the north right-of-way line of Rosebud Drive; thence N 89°30'45" W along said north right-of-way line for a distance of 2.55 feet to the Point of Beginning.

Said tract containing an area of 263-square feet more or less.

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

LAIS DEVELOPMENT INC

BY Barbara Hawkins

PRINTED NAME: Barbara Hawkins

TITLE: Vice President

STATE OF MONTANA)
 :ss
County of Yellowstone)

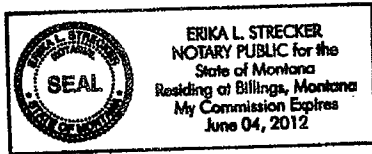
On this 28th day of October, 2011, before me, a Notary Public in and for the State of Montana, personally appeared Barbara Hawkins, known to me to be the Vice President of LAIS DEVELOPMENT INC whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Erika L. Strecker
Notary Public in and for the State of Montana

Printed Name: Erika L. Strecker

Residing at Billings, MT

My commission expires 06/04/2012



ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings

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 THOMAS W. HANEL and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

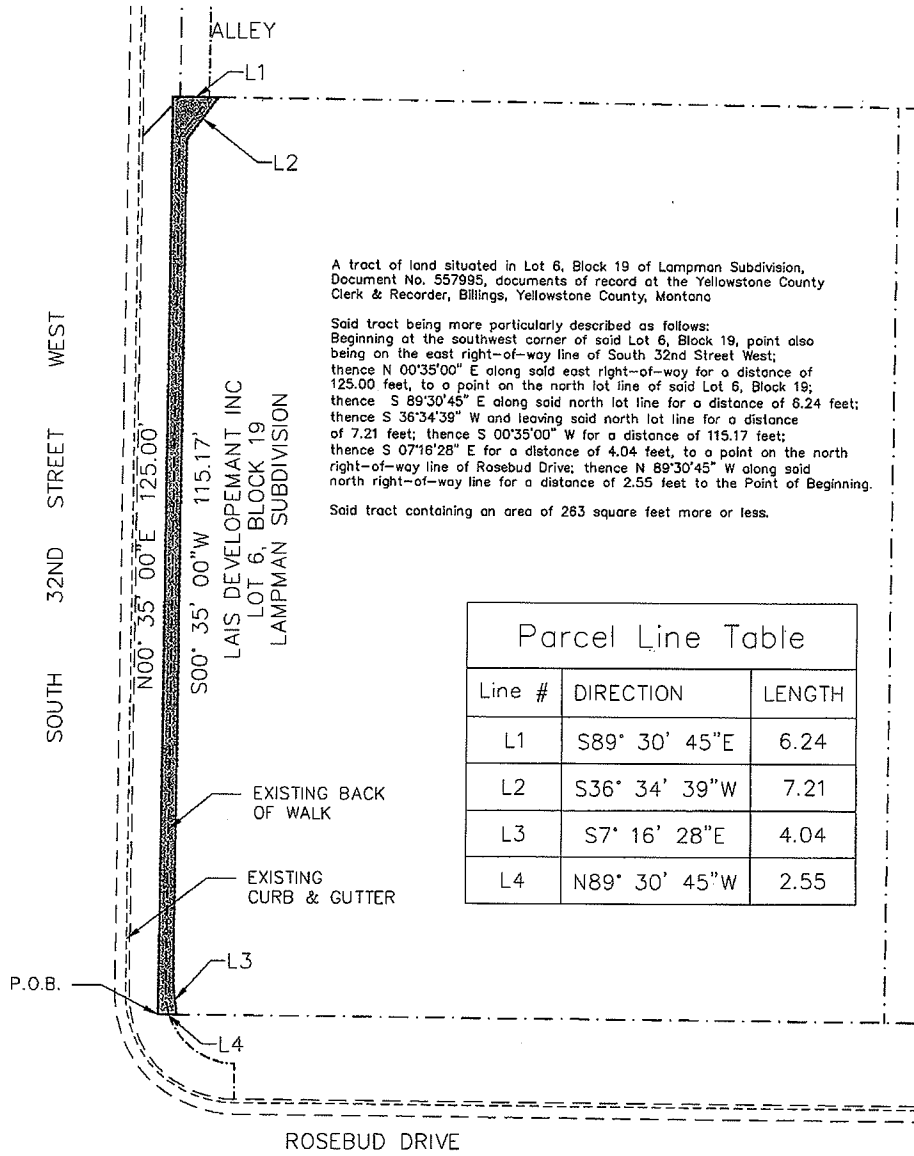
Printed Name: _____

Residing at _____

My commission expires _____

EXHIBIT A

SIDEWALK EASEMENT SITUATED IN LOT 6, BLOCK 19 OF LAMPMAN SUBDIVISION, DOCUMENT NUMBER 557995 BILLINGS, YELLOWSTONE COUNTY, MONTANA

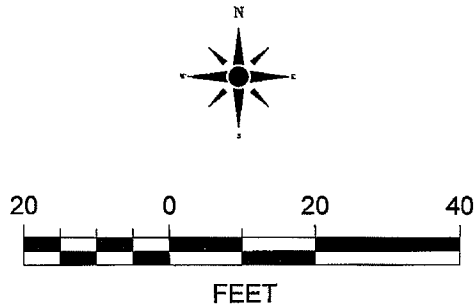


A tract of land situated in Lot 6, Block 19 of Lampman Subdivision, Document No. 557995, documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the southwest corner of said Lot 6, Block 19, point also being on the east right-of-way line of South 32nd Street West;
thence N 00°35'00" E along said east right-of-way for a distance of 125.00 feet, to a point on the north lot line of said Lot 6, Block 19;
thence S 89°30'45" E along said north lot line for a distance of 6.24 feet;
thence S 36°34'39" W and leaving said north lot line for a distance of 7.21 feet;
thence S 00°35'00" W for a distance of 115.17 feet;
thence S 07°16'28" E for a distance of 4.04 feet, to a point on the north right-of-way line of Rosebud Drive; thence N 89°30'45" W along said north right-of-way line for a distance of 2.55 feet to the Point of Beginning.

Said tract containing an area of 263 square feet more or less.

Line #	DIRECTION	LENGTH
L1	S89° 30' 45"E	6.24
L2	S36° 34' 39"W	7.21
L3	S7° 16' 28"E	4.04
L4	N89° 30' 45"W	2.55



LEGEND

SIDEWALK EASEMENT

CITY OF BILLINGS, MONTANA
SIDEWALK EASEMENT EXHIBIT

CITY W.O. 11-02
THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

UPDATED: 10/06/2011 X:\Backup\Chl 20 2011 Projects\WO 11-04 3257 W et Hwylle\Easement Exhibit.DWG

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between the following:

Central Business Park Owners Association
James W. Boyer, JoAnn Boyer and Ernie Olness
1250 15th Street West Suite 200
Billings, Montana 59102,
hereinafter referred to as **GRANTOR**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk, and accessibility ramps, over, across, under, and through the real property more particularly described as follows:

A tract of land situated in Lot 1, Block 1, Central West Subdivision, Document No. 3518144. Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana.

Basis of Bearings: Central West Subdivision

Said tract being more particularly described as follows:

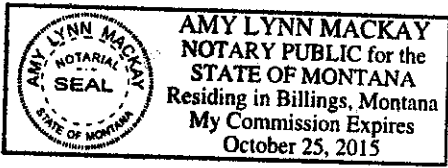
Beginning at the northwest corner of said Lot 1, Block 1, Central West Subdivision, point also being on the south right-of-way line of Central Avenue; thence N 89°27'56" E along said right-of-way for a distance of 50.00 feet; thence S 00°32'04" E and leaving said right-of-way for a distance of 10.00 feet; thence S 89°27'56" W for a distance of 50.04 feet to a point on the west lot line of said Lot 1; thence along a curve to the left with a radius of 1,600.00 feet along the west lot line of said Lot 1 with an arc length of 10.00 feet (chord bearing N 00°19'40" W, chord length 10.00 feet) to the Point of Beginning, containing an area of 500 square feet more or less.

(Attached Exhibit A)

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.

James Boyer
James Boyer, member

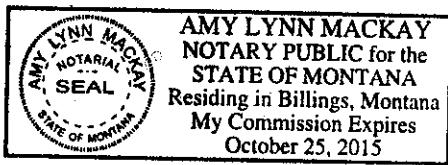


Amy Lynn Mackay
Notary Public for the State of Montana
Name Printed: Amy Lynn Mackay
Residing at Billings, Montana
My Commission Expires October 25, 2015

STATE OF MONTANA)
:SS
County of Yellowstone)

On this 20th day of November, 2011, before me, a Notary Public in and for the State of Montana, personally appeared James Boyer, as Board Member of Central Business Park Owners Association, known to me to be the representative of said property whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

JoAnn Boyer
JoAnn Boyer, member



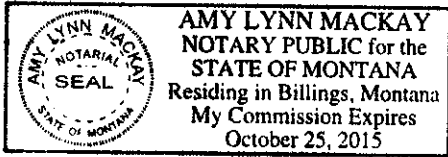
Amy Lynn Mackay
Notary Public for the State of Montana
Name Printed: Amy Lynn Mackay
Residing at Billings, Montana
My Commission Expires October 25, 2015

STATE OF MONTANA)
:SS
County of Yellowstone)

On this 20th day of November, 2011, before me, a Notary Public in and for the State of Montana, personally appeared JoAnn Boyer, as Board Member of Central Business Park Owners Association, known to me to be the representative of said property whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

EO

Ernie Olness, member



Amy Lynn Mackay
Notary Public for the State of Montana
Name Printed: Amy Lynn Mackay
Residing at Billings, Montana
My Commission Expires October 25, 2015

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 21th day of November, 2011, before me, a Notary Public in and for the State of Montana, personally appeared Ernie Olness, as Board Member of Central Business Park Owners Association, known to me to be the representative of said property whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

Mayor, City of Billings

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 THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

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

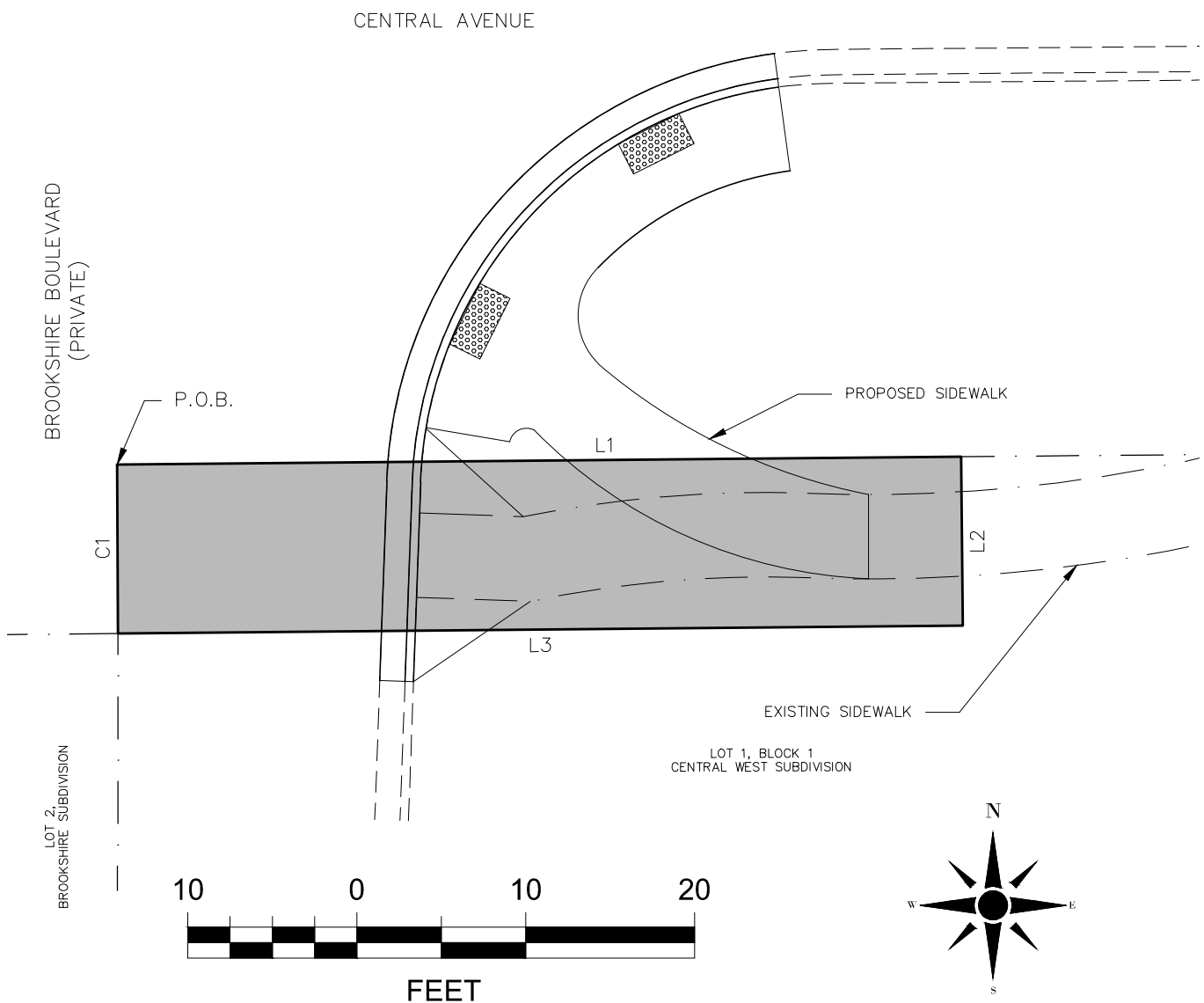
EXHIBIT A

SIDEWALK EASEMENT SITUATED IN LOT 1, BLOCK 1, CENTRAL WEST SUBDIVISION, DOCUMENT NUMBER 3518144 BILLINGS, YELLOWSTONE COUNTY, MONTANA

A tract of land situated in Lot 1, Block 1, Central West Subdivision, Document No. 3518144. Documents of record at the Yellowstone County Clerk & Recorder, Billings, Yellowstone County, Montana

Basis of Bearings: Central West Subdivision

Said tract being more particularly described as follows:
Beginning at the northwest corner of said Lot 1, Block 1, Central West Subdivision, point also being on the south right-of-way line of Central Avenue;
thence N 89°27'56" E along said right-of-way for a distance of 50.00 feet;
thence S 00°32'04" E and leaving said right-of-way for a distance of 10.00 feet;
thence S 89°27'56" W for a distance of 50.04 feet to a point on the west lot line of said Lot 1; thence along a curve to the left with a radius of 1,600.00 feet along the west lot line of said Lot 1 with an arc length of 10.00 feet (chord bearing N 00°19'40" W, chord length 10.00 feet) to the Point of Beginning, containing an area of 500 square feet more or less.



Parcel Line Table		
Line #	DIRECTION	LENGTH
L1	N89° 27' 56"E	50.00
L2	S00° 32' 04"E	10.00
L3	S89° 27' 56"W	50.04

Curve Table					
CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	10.00	1600.00	000°21'29"	N00°19'40"W	10.00

LEGEND

 SIDEWALK EASEMENT

CITY OF BILLINGS, MONTANA
SIDEWALK EASEMENT EXHIBIT

CITY W.O. 10-31

THIS EXHIBIT IS PREPARED FROM THE CITY OF BILLINGS, MONTANA

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Sidewalk Easement For Yellowstone Family Park

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

With the construction of SID 1392 Yellowstone Family Park, the sidewalk along the east side of 54th Street West will be constructed allowing easier access to the park for the property owners within the Yellowstone Ridge Subdivision. The property along the east side of 54th Street West is undeveloped and there is not sufficient right of way to construct the sidewalk along the property. The property owner, Aspen Grove Partnership, has agreed to grant the city a right of way easement to construct the sidewalk.

ALTERNATIVES ANALYZED

The Council may:

- Accept the right of way easement allowing construction of sidewalk along the east side of 54th Street West, or
- Do not accept the right of way easement. If an easement does not exist, a public sidewalk cannot be installed.

FINANCIAL IMPACT

There is no financial impact because the property owner is donating the sidewalk easement. The property owner will have to dedicate this area as right of way in the future in order to subdivide the property.

RECOMMENDATION

Staff recommends that the City Council accept the right of way easement from Aspen Grove Partnership to allow sidewalk construction along 54th Street West.

APPROVED BY CITY ADMINISTRATOR

Attachments

Sidewalk Easement

RECEIVED
NOV 23 2011
DOWL HKM

RETURN TO
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59103

RIGHT-OF-WAY EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20____, by and between the following:

ASPEN GROVE Partnership
2510 Grand Avenue
Billings, Montana 59102-2625
hereinafter referred to as **GRANTOR**

and

CITY OF BILLINGS, a Municipal Corporation
City Hall – 210 North 27th Street
PO Box 1178
Billings, Montana 59103-1178,
hereinafter referred to as **GRANTEE**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged;

WITNESSETH THAT GRANTOR does hereby grant, sell, and convey unto the **GRANTEE**, perpetual easement and right-of-way to construct, reconstruct, maintain, operate, repair and improve necessary fixtures and appurtenances for sidewalk over, across, under, and through the real property owned by grantor and more particularly described as follows:

The location of the easement is shown on the attached exhibit, and is described as follows:

That part of the Southwest quarter of Section 29, Township 1 North, Range 25 East, of the Principal Montana Meridian, in Yellowstone County, Montana, described as Tract 2A, Amended Tract 2 of Certificate of Survey No. 1834 on file in the office of the Clerk and Recorder of said County, under Document No. 1900549.

Beginning at the northwest corner of Tract 2A, Certificate of Survey 1834, recorded November 25, 1997, under document no. 1900549, records of Yellowstone County, Montana; thence N89°51'30"E for a distance of 10.00 feet; thence S00°08'30"E for a distance of 91.17 feet; thence S89°51'30"W for a distance of 10.00 feet; thence N00°08'30"W for a distance of 91.17 feet to the point of beginning. Said tract contains 911.17 square feet.

TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

IN WITNESS WHEREOF, the **GRANTOR** warrants that it has the right to convey the above described easement.

ASPEN GROVE PARTNERSHIP

BY: 

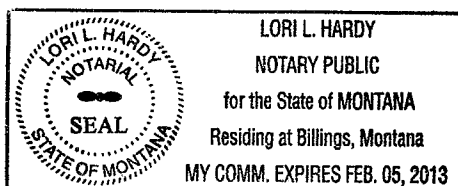
PRINTED

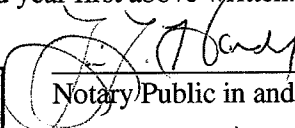
NAME: Sheldon W. Eaton

ITS: Partner

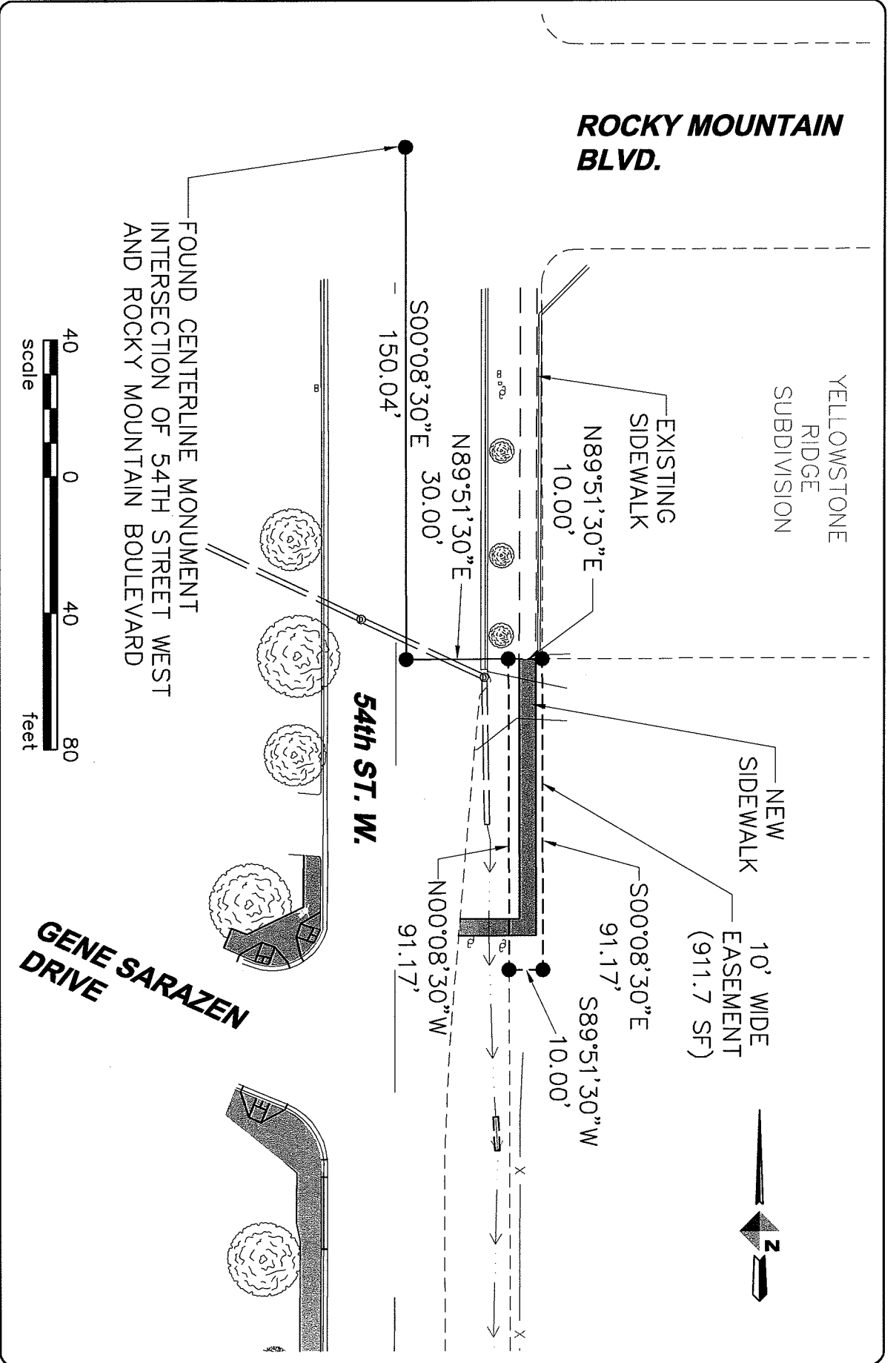
STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 16th day of November, 2011, before me, a Notary Public in and for the State of Montana, personally appeared Sheldon W. Eaton, known to me to be the Partner of ASPEN GROVE PARTNERSHIP whose name is subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.




Notary Public in and for the State of Montana

Printed Name: Lori L. Hardy



SIDEWALK EASEMENT
YELLOWSTONE FAMILY PARK
BILLINGS, MONTANA

FIGURE 1

4027.20160.01 | **DOWL HKM** | OCTOBER 2011

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Downtown Revolving Loan Fund Recommendations for Billie J. Ruff of Travel Café, Inc.

PRESENTED BY: Patrick M. Weber, Finance Director

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Downtown Revolving Loan Committee met on December 16, 2011, and approved an extension of loan terms for the loan to Billie J. Ruff of Travel Café, Inc. The loan was originally set to be amortized over 20 years with a balloon payment at ten years, due on December 1, 2011. The extended loan terms will be for monthly payments of approximately \$300 per month for 60 months with no balloon payment. The interest rate starts at 5% but will be adjusted annually. The current loan balance is \$15,828.68. The existing loan is current and has not been delinquent in the last 24 months.

ALTERNATIVES ANALYZED

Council may:

- Approve the loan extension terms; or
- Not approve loan extension terms. If Council does not approve the loan, the applicant will have to find financing at a bank which could delay principle payment.

FINANCIAL IMPACT

Subsequent to approval of this loan extension, the loan fund will have an available balance of approximately \$2,958,000. This amount does not include loans of \$600,000 that are approved but not issued.

The interest rate will be adjusted annually to the Prime Rate plus 1%.

RECOMMENDATION

The Downtown Revolving Loan Committee recommends that the City Council approve the loan extension terms for Billie J. Ruff of Travel Café, Inc.

APPROVED BY CITY ADMINISTRATOR

Attachments

Loan Terms

Revolving Loan Fund Loan

Monday, January 9, 2012

The Travel Café, Inc., loan terms are as follows:

Loan	Current balance of \$15,828.68.
Interest Rate	5% Adjusted annually.
Term	Amortized over five years.
Payments	Minimum Payments calculated at a rate of 5% over a 60 month term.
Collateral	Personal guarantee from Billie J. Ruff.

This loan was for the purpose of remodeling the building at 313 North Broadway to add two offices.

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: WO 12-01; Water and Sanitary Sewer Replacement Projects, Schedule 2
Warranty Deeds with Carlson and Schleder

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

The 2012 Water and Sanitary Sewer Replacement Projects will replace deteriorating public water and sewer mains in select geographical areas of the City. Due to a historical anomaly in the subdivision planning process, City right-of-way does not exist for a 20-foot long section of the active alley between 12th and 13th Streets West and Avenues D and E. Two property owners on opposite sides of the alley at this location, Thomas/Carrie Schleder (1215 Avenue D) and Gary/Susan Carlson (1216 Avenue E), each own a 20-foot long and 10-foot wide section of alley that the City desires to gain legal access to in order to complete a sewer replacement project.

After examining Yellowstone County property tax records, City staff approached the Schleders and Carlsons with an offer to purchase their 200 square feet of land in the alley for the approximate average of County-assessed land values of properties in this neighborhood. Each owner has verbally agreed to sell the land to the City for a price of \$5 per square foot or \$1,000.

ALTERNATIVES ANALYZED

The City Council may:

- Approve Warranty Deeds with the Schleders and Carlsons; or
- Do not approve Warranty Deeds with the Schleders and Carlsons. If the sanitary sewer main in the alley is not replaced, the City's sanitary sewer collection system in this area will continue to experience ongoing operational and maintenance problems.

FINANCIAL IMPACT

The cost of the Warranty Deeds from the Schleders and Carlsons is \$1,000 each. Funding for the payments will come from Wastewater funds.

RECOMMENDATION

Staff recommends that the City Council accept the Warranty Deeds from the Schleders and Carlsons and authorize payments of \$1,000.00 to each owner.

APPROVED BY CITY ADMINISTRATOR

Attachments

Warranty Deeds

Project No. W.O. 12-01 Schedule II Parcel No. 1 County of Yellowstone
Designation 1215 Avenue D

WARRANTY DEED

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

FOR VALUABLE CONSIDERATION, lawful money (\$1,000.00) of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT:**

Thomas M and Carrie Grace Schleder
1215 Avenue D
Billings, MT 59102

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 1, Block 4, Curtis Subdivision, Third Filing, Recorded January 28, 1948, under Document No.434486, Township 1 North, Range 26 East, P.M.M., Billings, Yellowstone County, Montana, more particularly described as:

Being the north 10.0 feet of Lot 1, Block 4, of said Curtis Subdivision, Third Filing.

Said tract contains 200 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.

IN WITNESSTH WHEREOF, the undersigned have executed these premises the day and year first above written.

Thomas M Schleder

Carrie Grace Schleder

STATE OF MONTANA)
)
County of _____)
:ss

On this _____ day of _____, 20____, before me the undersigned Notary Public for the State of Montana, personally appeared Thomas M Schleder and Carrie Grace Schleder, known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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

Print Name

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

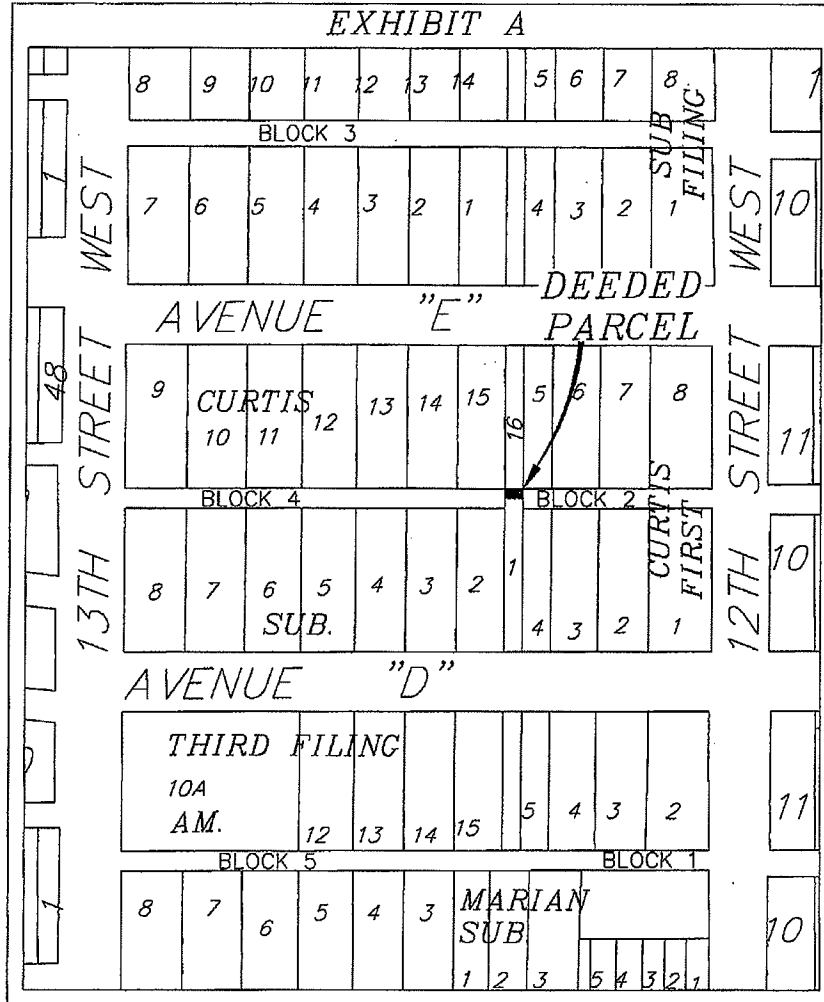
STATE OF MONATNA)
)
County of Yellowstone)
:SS

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



Project No. W.O. 12-01 Schedule II Parcel No. 2 County of Yellowstone
Designation 1216 Avenue E

WARRANTY DEED

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

FOR VALUABLE CONSIDERATION, lawful money (\$1,000.00) of the United States to them in hand paid by the **CITY OF BILLINGS**, THE receipt whereof is acknowledged, **WITNESSTH THAT:**

Gary R and Susan R L Carlson
1216 Avenue E
Billings, MT 59102

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 16, Block 4, Curtis Subdivision, Third Filing, Recorded January 28, 1948, under Document No.434486, Township 1 North, Range 26 East, P.M.M., Billings, Yellowstone County, Montana, more particularly described as:

Being the south 10.0 feet of Lot 16, Block 4, of said Curtis Subdivision, Third Filing.

Said tract contains 200 square feet.

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

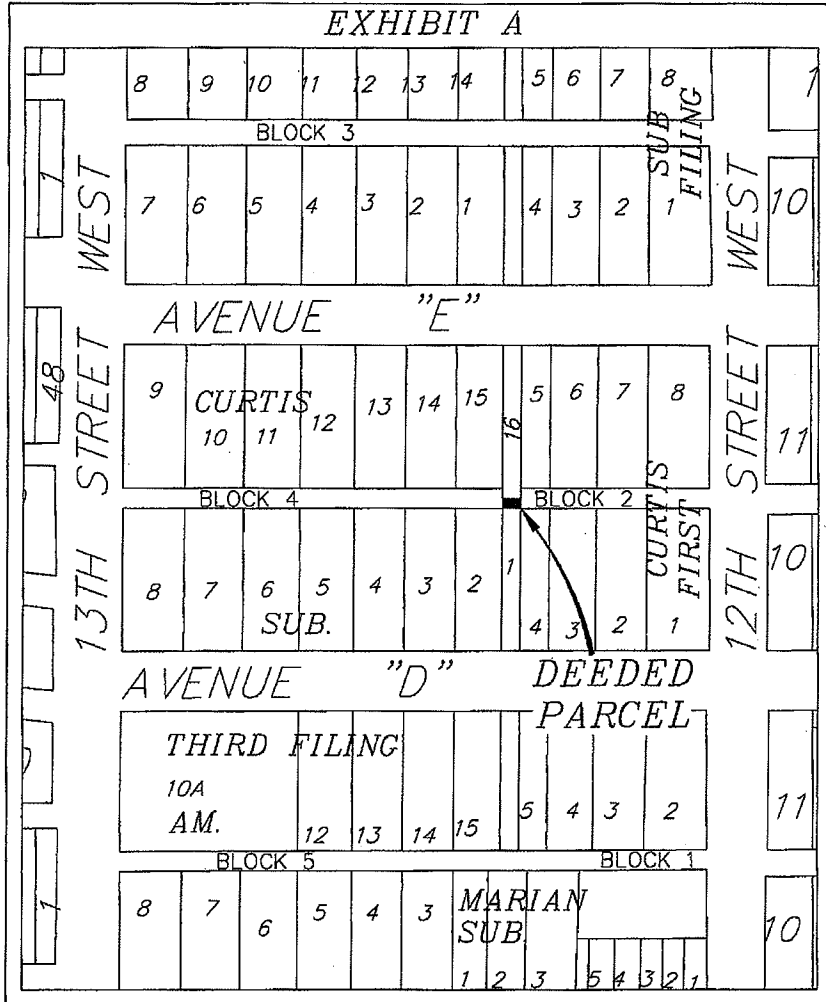
PURPOSE OF ACQUISITION is to create a right-of way parcel for construction and use of public road, utility and related appurtenant structures, pursuant to 76-3-201(1)(h) M.C.A. as a division of land that creates rights-of-way or utility sites.

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.

EXHIBIT A



Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Annual Grant Application with the Montana Department of Transportation (MDT) for Paratransit Operating Assistance and Van Purchase

PRESENTED BY: Thomas H. Binford

Department: Transit

Information

PROBLEM/ISSUE STATEMENT

The Aviation and Transit Department, MET Transit Division, is seeking grant assistance from the Montana Department of Transportation (MDT) Transit Section, for paratransit operating support and the purchase of one paratransit van. The deadline for filing this application is March 1, 2012.

The MDT grant application is two-fold. The first portion of the application is a request for State funds for paratransit operating assistance. The MDT Transit Section has three grant programs, TransADE (\$50,000 request), Section 5317 New Freedom (\$65,000 request), and Section 5316 Job Access Reverse Commute (JARC) (\$150,000 request). MET Transit plans to apply for funding from all three grant programs to provide paratransit operating assistance in the amount of \$265,000. All programs must be applied for annually and MET Transit is typically awarded the grants based on available funds on a year-to-year basis. The State recognizes the rising costs of transporting elderly and disabled citizens, and the significant impact this has on operating budgets. The intent of this funding is to encourage all agencies to provide coordinated transit service to elderly and disabled citizens. In addition, this funding will help supplement operating expenses for paratransit service provided to newly annexed areas of the City, and to serve low income disabled citizens in Billings. It is anticipated that the outcome from this grant request will be known by May 2012.

The second portion of the grant application would provide capital assistance for the purchase of one paratransit van. The grant application is for \$75,000, with the State share being \$64,935 (86.58%) and a local share of \$10,065 (13.42%), both of which will be budgeted in the FY 2013 Transit capital budget if the State awards the grant.

The Aviation and Transit Department, MET Transit Division, is seeking approval to file an application for both operating and capital assistance with the MDT, and approval for the Mayor to execute a grant agreement with the MDT once the grant offers are received by the City.

ALTERNATIVES ANALYZED

The Council may:

- Approve the filing of the grant application for TransADE, 5317 New Freedom and 5316 JARC funds, for a total amount of \$265,000 to go toward paratransit operating assistance and for a capital grant for the purchase of a new paratransit van; or
- Not approve the filing of the grant application for TransADE, 5317 New Freedom and 5316 JARC funds, for a total amount of \$265,000 to go toward paratransit operating assistance or for the capital grant for the purchase of a new paratransit van.

FINANCIAL IMPACT

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

Additionally, if successful, the Transit Division could receive \$64,935 (86.58%) of the cost of a new paratransit van.

RECOMMENDATION

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

APPROVED BY CITY ADMINISTRATOR

Attachments

Resoultion

Application

AUTHORIZING RESOLUTION

RESOLUTION NO. 12-

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

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

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

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

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

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

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

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

APPROVED this 9th day of January, 2012.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, CITY CLERK

CERTIFICATE

The undersigned duly qualified and acting City Clerk of the City of Billings certifies that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Billings City Council held on January 9, 2012.

If applicant has an Official Seal, impress here.

(Seal)

Signature of Recording Officer

Title of Recording Clerk

Date

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

AGENCY PROFILE

A. Organization

1. Legal Name of Applicant Agency:

City of Billings – Aviation and Transit Department – MET Transit

Name of Transit Program: MET Special Transit

Transit Coordinator: Ron Wenger, Transit Manager

Street Address: 1705 Monad Road

Mailing Address: P. O. Box 1178

City: Billings State: MT Zip Code: 59103

County: Yellowstone

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

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

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

Tax ID #: 81-6001237

Fiscal Year: July 1, 2012 to June 30, 2013
(start date) (end date)

Coordination Plan Approval Date: November 10, 2011

2. Agency Sponsor: check

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

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

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

Name	Term of Office	Affiliation
Mayor Thomas W. Hanel	1 st Term	City of Billings
Brent Cromley	1 st Term	City of Billings
Jim Ronquillo	2 nd Term	City of Billings
Denis Pitman	2 nd Term	City of Billings
Angela Cimmino	1 st Term	City of Billings
Becky Bird	1 st Term	City of Billings
Rich McFadden	1 st Term	City of Billings
Jani McCall	2 nd Term	City of Billings
Ed Ulledalen	2 nd Term	City of Billings
Ken Crouch	1 st Term	City of Billings
Mark Astle	1 st Term	City of Billings

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

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

➤ Attach a copy of your organizational chart.

5. Union Affiliation (if applicable):

Union Name: Teamster Union

Contact: Joe Dwyer

Address: P.O. Box 50969

City: Billings State: MT Zip Code: 59105

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

B. System Description

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

- Local Demand/Response***
 Fixed Route* Deviated Fixed Route
 Intercity** Regional

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

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

***If Demand/Response is this:

- Curb-to-curb
 Door-to-door
 Through the door
 Reservations required*

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

2. Service Area:

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

3. Population:

What is the population of your service area? 104,170

4. Connectivity:

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

- Urban Public Systems Airports/Trains
 Park and Ride Lots Intercity Carriers
 Other Operators in Your Region (*please list below*)

C. Level and Use of Service

1. Ridership:

Estimate the average number of rides – per day 209, per year 55,622
*Projected growth over last year: rides per day 207, per year 55,314

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

65% Elderly (60 and over)
35% Disabled
 Under 60

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

Black
 Hispanic
 Asian
 American Indian/Alaskan Native
 Other (specify) _____

4. Trip Purpose: Indicate percent.

1% Nutrition 45% Employment
2% Education 40% Medical
10% Shopping 2% Recreation
 Other (specify) _____

5. Days/Hours of Service:

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

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

6. Marketing or Advertising:

Explain how people know about or can access your service.

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

7. Annual Miles of Service:

Total annual mileage of all vehicles: 202,487

* Describe Projected Growth in Coordination Plan

FINANCIAL INFORMATION-TransADE

D. Operating Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Driver Wages	\$30,853.76		
Mechanic Wages	\$4,499.50		
Dispatcher Wages	\$7,499.22		
2. Fringe Benefits			
Driver/Mechanic/Dispatcher Fringe Benefits Distribution	\$17,707.24		
3. Services			
Facilities/Bus Storage (itemize on page 10)			
Advertising Fees			
Custodial Services (bus-related only)			
Other Services (itemize on page 10)	\$1,578.15		
4. Materials and Supplies Consumed			
Fuel and Lubricants	\$7,873.81		
Other Materials and Supplies	\$61.43		
5. Purchased Transportation Service			
Purchased Transportation Service (itemize on page 10)	\$10,523.57		
6. Taxes			
Vehicle Licensing and Registration Fees			
7. Other Operating Expenses			
Other Expenses (itemize on page 10)	\$1,372.49		
TOTAL OPERATING EXPENSES	\$ 81,969.17	\$ -	\$ -



E. Administrative Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Manager/Coordinator, Admin. Personnel (itemize on page 10)	<u>\$5,276.33</u>	<u> </u>	
2. Fringe Benefits			
Manager/Coordinator, Admin. Personnel Fringe Benefits Distribution	<u>\$1,778.55</u>	<u> </u>	
3. Materials and Supplies			
Office Supplies	<u>\$116.04</u>	<u> </u>	
4. Casualty and Liability Costs			
Casualty and Liability Costs	<u>\$1,013.40</u>	<u> </u>	
5. Utilities			
Utilities (Gas, Electric, Sewer, Phone and Internet)	<u>\$1,063.09</u>	<u> </u>	
6. Taxes			
Property Tax	<u> </u>	<u> </u>	
7. Leases and Rentals			
Vehicle (itemize on page 10)	<u> </u>	<u> </u>	
Office Space (itemize on page 10)	<u> </u>	<u> </u>	
8. Miscellaneous Expense			
Dues and Subscriptions (transit-related)	<u>\$23.89</u>	<u> </u>	
Travel and Meetings (transit-related)	<u>\$105.80</u>	<u> </u>	
Drug Testing	<u> </u>	<u> </u>	
Promotion for Coordination & Ridesharing	<u> </u>	<u> </u>	
Indirect Cost (prior approval required from MDT) *Attach Cost Allocation Plan	<u> </u>	<u> </u>	
9. Other Administrative Expenses			
Other Expenses (itemize on page 10)	<u>\$248.45</u>	<u> </u>	<u>\$19.72</u>
TOTAL ADMINISTRATIVE EXPENSES	<u>\$ 9,625.55</u>	<u>\$ -</u>	<u>\$ 19.72</u>



F. Maintenance Expenses

	Direct Cost	In-kind	DBE
1. Maintenance			
Vehicle Maintenance Parts and Service (itemize on page 10)	<u>\$1,390.85</u>	<u> </u>	<u> </u>
TOTAL MAINTENANCE EXPENSES	<u>\$ 1,390.85</u>	<u>\$ -</u>	<u>\$ -</u>

G. Reimbursement Calculations

1. Total Operating Expenses	<u>\$ 81,969.17</u> *		
2. Total Amount of Fares/Donations	<u>\$4,073.00</u>		
3. Total Amount of Advertising/Rent/Misc. Fees**	<u> </u>		
4. Net Operating Deficit	<u>\$ 77,896.17</u>		
5. Eligible Operating Reimbursement at 54%		<u>\$ 42,149.62</u>	
6. Total Administrative Expenses	<u>\$ 9,625.55</u> *		
7. Eligible Administrative Reimbursement at 70%		<u>\$ 6,737.89</u>	
8. Total Maintenance Expenses	<u>\$ 1,390.85</u> *		
9. Eligible Maintenance Reimbursement at 80%		<u>\$ 1,112.68</u>	
10. FEDERAL OPERATING GRANT AMOUNT		<u>\$ 50,000.18</u>	
Eligible In-kind @ 15% of Federal Operating Grant Amount	<u>\$ 7,500.03</u>		

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

LOCAL MATCH

Operating	<u>\$ 35,746.55</u>
Administrative	<u>\$ 2,887.67</u>
Maintenance	<u>\$ 278.17</u>
TOTAL LOCAL MATCH NEEDED	<u>\$ 38,912.39</u>

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

**Include revenue from rent, storage, etc.



H. Match Revenue - TransADE

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

Source	Amount
State of Montana	\$90,000
Yellowstone County Council on Aging	\$20,000
Nursing Homes	\$3,642
Senior Life Partners	\$15,000
Montana Medicaid	\$25,536

I. List of Itemized Expenses and In-Kind

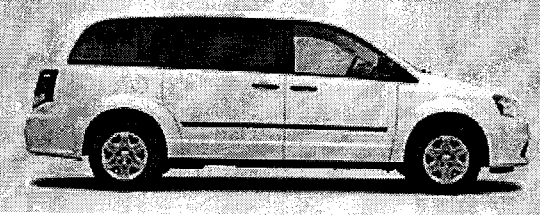

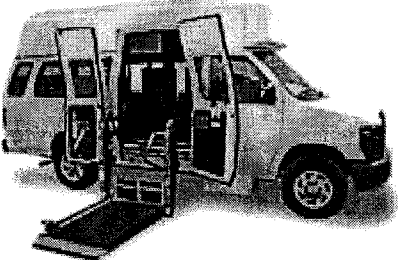

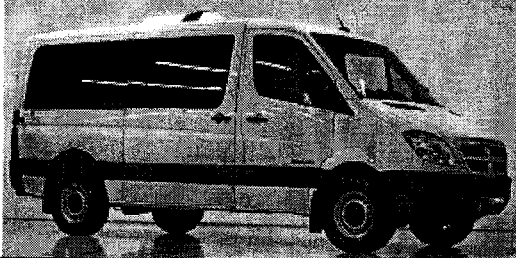

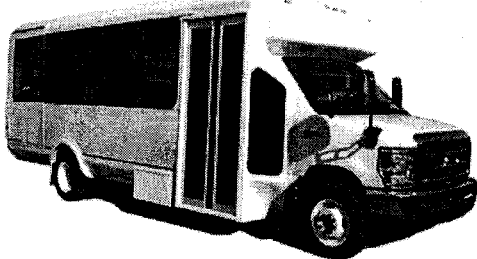
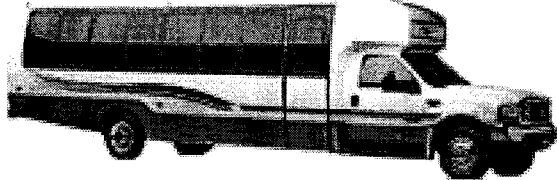

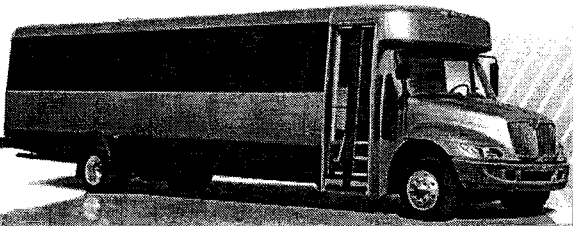
- Identify and list those expenses as requested including the amount. Also, identify those items provided as in-kind. Non-transportation activities are not eligible in-kind costs.

Item	Amount
D. Operating Expenses	
3. Other Services	
DOT Physicals	\$49.83
Radio Maint. – (parts & labor)	\$227.29
Dispatch Software – (maint/updates)	\$1,301.03
7. Other Operating Expenses	
Uniforms	\$86.35
Building maint, supplies, etc.	\$225.24
Radios access/operation monthly charge	\$1,055.03
CDL Renewals	\$5.87
E. Administrative Expenses	
Labor-Paratransit Coordinator	\$4,475.96

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

Item	Amount
<u>Transit Manager, Planner, Support Staff</u>	<u>\$800.37</u>
<u>9. Other Administrative Expenses</u>	<u></u>
<u>Computer Equipment</u>	<u>\$47.78</u>
<u>Postage</u>	<u>\$55.97</u>
<u>Printing</u>	<u>\$53.24</u>
<u>Publication of Notices</u>	<u>\$9.55</u>
<u>Consultant Services</u>	<u>\$68.26</u>
<u>Skills Improvement for Staff</u>	<u>\$13.65</u>
<u>F. Maintenance Expenses</u>	<u></u>
<u>1a. Vehicle Maintenance Parts & Service</u>	<u></u>
<u>Motor Vehicle Parts (maintenance/pm, etc.)</u>	<u>\$982.55</u>
<u>Vehicle Body Repair</u>	<u>\$40.95</u>
<u>Tires & Tubes</u>	<u>\$367.35</u>

2. Examples of Vehicle Styles

<p>Minivan</p> 	<p>Mini-Conversion Van</p> 
<p>High-Top Van</p> 	<p>Extended Van (Vanpool Only)</p> 
<p>Sprinter Style Van</p> 	<p>Van Style Cutaway - Low Floor</p> 
<p>Van Style Cutaway</p> 	<p>Truck Style Cutaway</p> 
<p>Bus Style - Low Floor</p> 	<p>Bus Style - Flat Floor</p> 

3. Terminology and Clarifications

- *Passenger Number:* The number of adult ambulatory passenger seating capacity.
- Vehicle floor plans are subject to \pm one passenger seat.
- *Fuel Option:* Vehicle types are available in gasoline or diesel. Some vehicle types are available in both fuels - gasoline and diesel.
- Ford no longer offers the diesel option on the E-Series van chassis. The only option for a diesel body on van chassis is offered by Chevy. Ford and Chevy offer both fuel types for the body on truck chassis. IC Bus recently launched a small shuttle bus style vehicle with only the diesel option
(<http://www.icbus.com/StaticFiles/iccorp/SiteAssets/pdf/AC%20Series%20Sell%20Sheet.pdf>).
- *Floor Type:* Low floor or regular, flat floor types are available. A low floor style vehicle is one with a lowered floor with noticeable wheel-wells protruding into the seating area. A regular, flat floor style, vehicle is one with a floor that is raised above the vehicle wheel-wells. Wheel-wells are not noticeable in the seating area.
 - A low floor style vehicle is not ideal for over-the-road (interstate) services. The State recommends this style vehicle for in-town services.
- *Wheelchair Stations:* The number of non-ambulatory passenger stations.

4. Requirements

- Agencies applying for non-ADA capital must have a minimum of one accessible vehicle that meets ADA standards.
- The extended van is only available to agencies that provide vanpool services
- Class C vehicles designed to transport 16 or more passengers, including the driver, require a Commercial Driver's License (CDL).
- The Sprinter style vehicle requires a waiver for the Buy America provision.
- Vehicle front and side destination signs and passenger signal systems are only applicable to the cutaway and bus style vehicles. Not the vans.

5. Vehicle Customization Options (Lift Location, Interior Colors, Exterior Designs, Etc.)

Soon after vehicles are awarded the grantee will receive vehicle options forms. Forms are customized to each vehicle and need to be completed and returned by the due date.

6. Other Vehicle Requests

- Agencies may submit additional vehicle recommendations and vehicle variations (including alternative fuels propulsion) that are not currently programmed in Section J. MDT will subsequently review the requested vehicle(s) and provide the grantee

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

The City of Billings' MET Special Transit (MST) provides a very valuable service to the City and its community. MST addresses the needs of people whose disabling conditions prevent their use of the regular fixed route MET Transit bus service. This is done through contracts with some agencies/entities and through MET-Plus, which is a service operated in accordance with the requirements of the Federal Americans with Disabilities Act of 1990 (ADA). New Freedom funding will allow the MET to provide service that will go above and beyond the requirements of ADA. This funding will allow MST to provide rides to newly annexed areas outside of the "3/4 mile of a fixed route" requirement and to accommodate clients over 600 lbs. MET-Plus provides transportation to medical appointments, rehabilitation programs, dialysis, work, school, group homes, day care program, job training, senior centers, shopping, etc.

JARC New Freedom

FINANCIAL INFORMATION-New Freedom

D. Operating Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Driver Wages	\$ 45,111.74		
Mechanic Wages	\$ 6,578.79		
Dispatcher Wages	\$ 10,964.72		
2. Fringe Benefits			
Driver/Mechanic/Dispatcher Fringe Benefits Distribution	\$ 25,890.02		
3. Services			
Facilities/Bus Storage (itemize on page 10)			
Advertising Fees			
Custodial Services (bus-related only)			
Other Services (itemize on page 10)	\$ 2,307.43		
4. Materials and Supplies Consumed			
Fuel and Lubricants	\$ 11,512.41		
Other Materials and Supplies	\$ 89.82		
5. Purchased Transportation Service			
Purchased Transportation Service (itemize on page 10)	\$ 15,386.67		
6. Taxes			
Vehicle Licensing and Registration Fees			
7. Other Operating Expenses			
Other Expenses (itemize on page 10)	\$ 2,006.74		
TOTAL OPERATING EXPENSES	\$ 119,848.34	\$ -	\$ -



E. Administrative Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Manager/Coordinator, Admin. Personnel (itemize on page 10)	\$ 7,714.59	_____	
2. Fringe Benefits			
Manager/Coordinator, Admin. Personnel Fringe Benefits Distribution	\$ 2,600.44	_____	
3. Materials and Supplies			
Office Supplies	\$ 169.66	_____	_____
4. Casualty and Liability Costs			
Casualty and Liability Costs	\$ 1,481.70	_____	_____
5. Utilities			
Utilities (Gas, Electric, Sewer, Phone and Internet)	\$ 1,554.35	_____	_____
6. Taxes			
Property Tax	_____	_____	
7. Leases and Rentals			
Vehicle (itemize on page 10)	_____	_____	_____
Office Space (itemize on page 10)	_____	_____	_____
8. Miscellaneous Expense			
Dues and Subscriptions (transit-related)	\$ 34.93	_____	
Travel and Meetings (transit-related)	\$ 154.69	_____	
Drug Testing	_____	_____	_____
Promotion for Coordination & Ridesharing	_____	_____	_____
Indirect Cost (prior approval required from MDT) *Attach Cost Allocation Plan	_____		
9. Other Administrative Expenses			
Other Expenses (itemize on page 10)	\$ 363.27	_____	\$ 7.76
TOTAL ADMINISTRATIVE EXPENSES	\$ 14,073.63	\$ -	\$ 7.76



F. Maintenance Expenses

	Direct Cost	In-kind	DBE
1. Maintenance			
Vehicle Maintenance Parts and Service (itemize on page 10)	<u>\$ 2,033.58</u>	<u> </u>	<u> </u>
TOTAL MAINTENANCE EXPENSES	<u>\$ 2,033.58</u>	<u>\$ -</u>	<u>\$ -</u>

G. Reimbursement Calculations

1. Total Operating Expenses	<u>\$ 119,848.34</u> *		
2. Total Amount of Fares/Donations	<u>\$ 5,956.00</u>		
3. Total Amount of Advertising/Rent/Misc. Fees**	<u> </u>		
4. Net Operating Deficit	<u>\$ 113,892.34</u>		
5. Eligible Operating Reimbursement at 50%		<u>\$ 56,946.17</u>	
6. Total Administrative Expenses	<u>\$ 14,073.63</u> *		
7. Eligible Administrative Reimbursement at 50%		<u>\$ 7,036.82</u>	
8. Total Maintenance Expenses	<u>\$ 2,033.58</u> *		
9. Eligible Maintenance Reimbursement at 50%		<u>\$ 1,016.79</u>	
10. FEDERAL OPERATING GRANT AMOUNT		<u>\$ 64,999.78</u>	
Eligible In-kind @ 15% of Federal Operating Grant Amount	<u>\$ 9,749.97</u>		

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

LOCAL MATCH

Operating	<u>\$ 56,946.17</u>
Administrative	<u>\$ 7,036.82</u>
Maintenance	<u>\$ 1,016.79</u>
TOTAL LOCAL MATCH NEEDED	<u>\$ 64,999.78</u>

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

**Include revenue from rent, storage, etc.



H. Match Revenue – New Freedom

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

Source	Amount
<u>State of Montana</u>	<u>\$90,000</u>
<u>Yellowstone County Council on Aging</u>	<u>\$20,000</u>
<u>Nursing Homes</u>	<u>\$3,642</u>
<u>Senior Life Partners</u>	<u>\$15,000</u>
<u>Montana Medicaid</u>	<u>\$25,536</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

I. List of Itemized Expenses and In-Kind

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

Item	Amount
<u>D. Operating Expenses</u>	<u> </u>
<u> 3. Other Services</u>	<u> </u>
<u> DOT Physicals</u>	<u>\$72.85</u>
<u> Radio Maint. – (parts & labor)</u>	<u>\$332.33</u>
<u> Dispatch Software – (maint/updates)</u>	<u>\$1,902.25</u>
<u> 7. Other Operating Expenses</u>	<u> </u>
<u> Uniforms</u>	<u>\$126.25</u>
<u> Building maint, supplies, etc.</u>	<u>\$329.33</u>
<u> Radios Access/operation monthly charge</u>	<u>\$1,542.58</u>
<u> CDL Renewal</u>	<u>\$8.58</u>
<u>E. Administrative Expenses</u>	<u> </u>
<u> Labor – Paratransit Coordinator</u>	<u>\$6,544.36</u>

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

Item	Amount
<u>Transit Manager, Planner, Support Staff</u>	<u>\$1,170.23</u>
<u>9. Other Administrative Expenses</u>	<u></u>
<u>Computer Equipment</u>	<u>\$69.87</u>
<u>Postage</u>	<u>\$81.83</u>
<u>Printing</u>	<u>\$77.84</u>
<u>Publication of Notices</u>	<u>\$13.97</u>
<u>Consultant Services</u>	<u>\$99.80</u>
<u>Skills Improvement for Staff</u>	<u>\$19.96</u>
<u>F. Maintenance Expenses</u>	<u></u>
<u>1a. Vehicle Maintenance Parts & Service</u>	<u></u>
<u>Motor Vehicle Parts (maintenance/pm, etc.)</u>	<u>\$1,436.59</u>
<u>Vehicle Body Repair</u>	<u>\$59.88</u>
<u>Tires & Tubes</u>	<u>\$537.11</u>

The City of Billings, MET Special Transit (MST) provides a very valuable service to the City of Billings. It seeks to address the transportation needs of low-income people with disabling conditions. In the past this has been accomplished through contracts with the Department of Public Health and Human Services (DPHHS) and other social service agencies. However, due to recent changes in DPHHS funding, MST is in need of finding alternative revenue to help fund the cost of transporting the disabled, low-income/welfare residents of Billings to and from their respective work sites and training programs. The new contract with DPHHS will provide for up to 27,000 rides to those individuals. The actual cost for providing those rides by MST, based on a cost-per-ride rate of \$25.88, is approximately \$698,760 and the new contract through DPHHS will only pay up to \$90,000 of MST's costs. Without the assistance of JARC funding to help provide this valuable service, many low-income/disabled individuals may find themselves without transportation to their work sites and training programs.

JARC New Freedom

FINANCIAL INFORMATION-JARC

D. Operating Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Driver Wages	\$ 104,103.87		
Mechanic Wages	\$ 15,181.80		
Dispatcher Wages	\$ 25,303.16		
2. Fringe Benefits			
Driver/Mechanic/Dispatcher Fringe Benefits Distribution	\$ 59,746.13		
3. Services			
Facilities/Bus Storage (itemize on page 10)			
Advertising Fees			
Custodial Services (bus-related only)			
Other Services (itemize on page 10)	\$ 5,324.84		
4. Materials and Supplies Consumed			
Fuel and Lubricants	\$ 26,567.06		
Other Materials and Supplies	\$ 207.27		
5. Purchased Transportation Service			
Purchased Transportation Service (itemize on page 10)	\$ 35,507.66		
6. Taxes			
Vehicle Licensing and Registration Fees			
7. Other Operating Expenses			
Other Expenses (itemize on page 10)	\$ 4,630.93		
TOTAL OPERATING EXPENSES	\$ 276,572.72	\$ -	\$ -



E. Administrative Expenses

	Direct Cost	In-kind	DBE
1. Labor			
Manager/Coordinator, Admin. Personnel (itemize on page 10)	\$ 17,802.88		
2. Fringe Benefits			
Manager/Coordinator, Admin. Personnel Fringe Benefits Distribution	\$ 6,001.00		
3. Materials and Supplies			
Office Supplies	\$ 391.52		
4. Casualty and Liability Costs			
Casualty and Liability Costs	\$ 3,419.31		
5. Utilities			
Utilities (Gas, Electric, Sewer, Phone and Internet)	\$ 3,586.97		
6. Taxes			
Property Tax			
7. Leases and Rentals			
Vehicle (itemize on page 10)			
Office Space (itemize on page 10)			
8. Miscellaneous Expense			
Dues and Subscriptions (transit-related)	\$ 80.61		
Travel and Meetings (transit-related)	\$ 356.97		
Drug Testing			
Promotion for Coordination & Ridesharing			
Indirect Cost (prior approval required from MDT) <i>*Attach Cost Allocation Plan</i>			
9. Other Administrative Expenses			
Other Expenses (itemize on page 10)	\$ 838.30		\$ 41.37
TOTAL ADMINISTRATIVE EXPENSES	\$ 32,477.56	\$ -	\$ 41.37



F. Maintenance Expenses

	Direct Cost	In-kind	DBE
1. Maintenance			
Vehicle Maintenance Parts and Service (itemize on page 10)	\$ 4,692.88		
TOTAL MAINTENANCE EXPENSES	\$ 4,692.88	\$ -	\$ -

G. Reimbursement Calculations

1. Total Operating Expenses	\$ 276,572.72 *		
2. Total Amount of Fares/Donations	\$ 13,744.00		
3. Total Amount of Advertising/Rent/Misc. Fees**			
4. Net Operating Deficit	\$ 262,828.72		
5. Eligible Operating Reimbursement at 50%		\$ 131,414.36	
6. Total Administrative Expenses	\$ 32,477.56 *		
7. Eligible Administrative Reimbursement at 50%		\$ 16,238.78	
8. Total Maintenance Expenses	\$ 4,692.88 *		
9. Eligible Maintenance Reimbursement at 50%		\$ 2,346.44	
10. FEDERAL OPERATING GRANT AMOUNT		\$ 149,999.58	
Eligible In-kind @ 15% of Federal Operating Grant Amount	\$ 22,499.94		

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

LOCAL MATCH

Operating	\$ 131,414.36
Administrative	\$ 16,238.78
Maintenance	\$ 2,346.44
TOTAL LOCAL MATCH NEEDED	\$ 149,999.58

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

**Include revenue from rent, storage, etc.



H. Match Revenue - JARC

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

Source	Amount
State of Montana	\$90,000
Yellowstone County Council on Aging	\$20,000
Nursing Homes	\$3,642
Senior Life Partners	\$15,000
Montana Medicaid	\$25,536

I. List of Itemized Expenses and In-Kind

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

Item	Amount
D. Operating Expenses	
3. Other Services	
DOT Physicals	\$168.12
Radio Maint – (parts & labor)	\$766.91
Dispatch Software – (maint/updates)	\$4,389.81
7. Other Operating Expenses	
Uniforms	\$291.33
Building maint, supplies, etc.	\$760.00
Radios access/operation monthly charge	\$3,559.79
CDL Renewal	\$19.81
E. Administrative Expenses	
Labor – Paratransit Coordinator	\$15,102.35

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

Item	Amount
<u>Transit Manager, Planner, Support Staff</u>	<u>\$2,700.53</u>
<u>9. Other Administrative Expenses</u>	<u></u>
<u>Computer Equipment</u>	<u>\$161.21</u>
<u>Postage</u>	<u>\$188.85</u>
<u>Printing</u>	<u>\$179.64</u>
<u>Publication of Notices</u>	<u>\$32.24</u>
<u>Consultant Services</u>	<u>\$230.30</u>
<u>Skills Improvement for Staff</u>	<u>\$46.06</u>
<u>F. Maintenance Expenses</u>	<u></u>
<u>1a. Vehicle Maintenance Parts & Service</u>	<u></u>
<u>Motor Vehicle Parts (maintenance/pm, etc.)</u>	<u>\$3,315.21</u>
<u>Vehicle Body Repair</u>	<u>\$138.18</u>
<u>Tires & Tubes</u>	<u>\$1,239.49</u>

AUTHORIZATION TO MAKE APPLICATION

Name of Applicant Agency: City of Billings

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

on behalf of the City of Billings (applicant), declare

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

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

Signature: _____

Title: Mayor

Date: _____

ASSURANCES
AND
CERTIFICATIONS

APPLICANT ORGANIZATION ASSURANCES

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

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA (17) for Federal Fiscal Year 2011 at the FTA website. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.

01. FOR EACH APPLICANT

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

B. Assurance of Authority of the Applicant and Its Representative

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

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

C. Standard Assurances

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

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

D. Nondiscrimination Assurance

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

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

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

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

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

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

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

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

02. LOBBYING CERTIFICATION

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

03. PROCUREMENT COMPLIANCE

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

04. PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION

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

have:

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

05. PUBLIC HEARING

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

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

06. ACQUISITION OF ROLLING STOCK

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

07. ACQUISITION OF CAPITAL ASSETS BY LEASE

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

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

08. BUS TESTING

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

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

09. CHARTER SERVICE AGREEMENT

A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and each subrecipient and third party contractor at any tier will:

- (1) Provide charter service that uses equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects, only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its subrecipients or third party contractors at any tier desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and
- (2) Comply with the requirements of 49 CFR part 604 before providing any charter service using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects.

B. The Applicant understands that:

- (1) The requirements of 49 CFR part 604 will apply to any charter service it or its subrecipients or third party contractors provide,
- (2) The definitions of 49 CFR part 604 will apply to this Charter Service Agreement, and
- (3) A violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

10. SCHOOL TRANSPORTATION AGREEMENT

A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and each subrecipient or third party contractor at any tier will:

- (1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and
- (2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.

B. The Applicant understands that:

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

11. DEMAND RESPONSIVE SERVICE

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

12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

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

13. NONURBANIZED AREA FORMULA PROGRAM

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

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

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

14. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM

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

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

- made available, or will make available, to the public information on the amounts available for the JARC Formula Grant Program, 49 U.S.C. 5316, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;
- (7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- (8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and
- (9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;
- B. In compliance with 49 U.S.C. 5316(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5316(f)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;
- D. In compliance with 49 U.S.C. 5316(g)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will have been or will have been coordinated with private nonprofit providers of services;
- E. In compliance with 49 U.S.C. 5316(g)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the

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

15. NEW FREEDOM PROGRAM

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

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

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

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

Signed by _____

Organization Name City of Billings_____

Date _____

NON-DISCRIMINATION ASSURANCE

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

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

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

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

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

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

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

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

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

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

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

Signed by _____

Organization Name City of Billings

Date _____

LABOR WARRANTY
SECTION 13(c)

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

Signed by _____

Organization Name City of Billings _____

Date _____

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Tax Compliance Policy For Tax-Exempt Bonds Resolution

PRESENTED BY: Patrick M. Weber, Finance Director

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City of Billings is required by the Internal Revenue Service (IRS) to file a form 8038 when bonds are sold. The IRS added two lines to their form 8038 (lines 43 and 44 on Attachment B) in October of 2011. The two questions relate to having a formal policy that covers issuing the bonds and what happens after the bonds have been issued. Dorsey & Whitney LLP (Bond Counsel) is uncertain about the consequences of not having a policy, but recommends that the City of Billings adopt a formal policy to avoid an unwarranted IRS audit of the City's bonds.

The Policy (Attachment A) establishes practices relating to the use of bond proceeds, bond-financed property, investing bond proceeds, record management/retention, assigning responsibility for following the policy and practices, reimbursement using bond proceeds and IRS remedial provisions. The City currently does everything required by the Policy, so the Resolution simply formalizes the practices.

ALTERNATIVES ANALYZED

Council may approve the resolution, or not approve the resolution. Not approving the resolution may make the City susceptible to an IRS audit of existing and future tax exempt bonds.

FINANCIAL IMPACT

There should be no financial impact for adopting the policy.

RECOMMENDATION

Staff recommends that the City Council approve the resolution to adopt the Tax Compliance Policy For Tax-Exempt Bonds.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

Attachment A

Attachment B

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 APPROVING TAX COMPLIANCE POLICY RELATING TO TAX-EXEMPT BONDS" (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 January 9, 2012, 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 9th day of January, 2012.

City Clerk

RESOLUTION NO. _____

RESOLUTION APPROVING TAX COMPLIANCE POLICY
RELATING TO TAX-EXEMPT BONDS

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

Section 1. Recitals.

1.01. Pursuant to the laws of the State of Montana and Section 103 of the Internal Revenue Code of 1986, as amended, the City has issued, and likely will issue, tax exempt municipal bonds to finance and refinance various projects and functions of the City.

1.02. Dorsey & Whitney, LLP, as bond counsel to the City, has prepared a Tax Compliance Policy For Tax-Exempt Bonds (the “Tax Compliance Policy”) for adoption by this Council in order to assist the City in preserving the tax-exempt status of bonds previously issued and to be issued by the City and to maintain eligibility to issue additional tax-exempt bonds in the future.

Section 2. Approval. The Tax Compliance Policy is hereby approved in substantially the form attached hereto as Attachment A, and the City hereby resolves to abide by the Tax Compliance Policy and to update periodically the Tax Compliance Policy in accordance with the Internal Revenue Code and supporting Internal Revenue Service rulings and regulations. The City Finance Director is hereby authorized and directed to review and revise the Tax Compliance Policy, with advice from bond counsel, in order to ensure compliance with State and Federal laws and regulations.

Passed and approved January 9, 2012.

Mayor

Attest:

City Clerk

**The City of Billings, Montana
Tax Compliance Policy
For
Tax-Exempt Bonds**

Dated: January 9, 2012

I. Purpose

This policy is approved by The City of Billings, Montana (the “Issuer”), to ensure that interest on tax-exempt bonds, notes or other obligations (“Bonds”) of the Issuer remains excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”).

This policy is intended to formally memorialize certain practices and policies of the Issuer previously followed in connection with its issuance of Bonds. The Issuer reserves the right to make exceptions to this policy as necessary or appropriate.

The Issuer’s policy for post-issuance tax compliance is as follows:

II. Expenditure/Use of Bond Proceeds

- A. Expenditure of Bond proceeds will be reviewed by the City Finance Director. Such review will include comparison of actual expenditures to statements made in Bond documents, including any Bond Resolution or Trust Indenture and the Tax Certificate (collectively, the “Bond Documents”).
- B. The Issuer has separately established procedures for the preparation and review of requisitions of Bond proceeds as part of its accounting system. The Issuer’s accounting system will identify, for each Bond-financed project, the capital expenditures, the costs of issuance, the reserve fund deposit, if any, and any other categories of expenditures identified in the related Tax Certificate.
- C. None of the Bond proceeds will be used to reimburse the Issuer for costs paid prior to the date of issuance of the Bonds unless the Issuer shall have complied with Section 1.150-2 of the Treasury Regulations with respect to such reimbursed amounts. Attached hereto as Exhibit A is a summary of the reimbursement regulations for tax-exempt bonds.
- D. Costs of staff may be financed with Bond proceeds only to the extent that they are properly capitalized as a cost of a capital project under generally accepted accounting principles and federal tax law.

- E. Requisitions of Bond proceeds will be summarized in a “final allocation” of Bond proceeds to uses not later than 18 months after the in-service date of the Bond-financed property or the date of completion of the project (and in any event not later than 5 years and 60 days after the issuance of the Bonds and not later than 60 days after earlier retirement of the Bond issue).
- F. Expenditure of Bond proceeds will be measured against the Issuer’s expectation, as set forth in the Tax Certificate delivered at the closing of Bonds, to (i) incur a substantial binding obligation to a third party to spend at least 5% of the net sales proceeds of the Bonds on the capital project within 6 months after the issue date, and (ii) proceed with due diligence to complete the capital project and spend at least 85% of the net sale proceeds within three years from the issue date.
- G. If there are any Bond proceeds remaining other than in a reserve or debt service fund established pursuant to the Bond Documents after completion of a project, unless the proceeds can be properly allocated to other uses, such proceeds shall be applied to make debt service payments on the Bonds or otherwise defease the Bonds.
- H. In the event that Bond proceeds are to be used to make a grant to an unrelated party, a grant agreement will be reviewed prior to execution for compliance with the Code. Such agreement will be approved by the City Finance Director upon consultation with Bond Counsel. The repayment of any portion of a grant by the grantee shall be treated as unspent Bond proceeds.
- I. In the event that Bond proceeds are to be loaned to a conduit borrower, such conduit borrower will be required to agree to all terms of the Tax Certificate prepared by Bond Counsel and provide evidence of tax compliance policies and procedures deemed adequate and consistent with those set forth herein; and all such obligations for tax compliance shall be assumed by such conduit borrower. The City Finance Director shall be the primary contact for all conduit borrowers and related compliance matters.

III. Use of Bond-Financed Property

- A. Use of Bond-financed facilities when completed and placed in service will be reviewed by the City Finance Director. The City Finance Director will consult with Bond Counsel regarding any third-party use of Bond-financed facilities, including, without limitation, leases, use, management or service contracts, and research contracts.
- B. Appropriate department/facility managers shall be instructed to consult with the City Finance Director regarding any third-party use of the Bond-financed facilities, including without limitation leases, use, management or service contracts, and research contracts.
- C. Agreements with third-parties for the use of Bond-financed facilities, including without limitation leases, use, management or services contracts, and research

contracts, or non-governmental use of Bond-financed facilities will be reviewed prior to execution for compliance with the Code. Such agreements will be approved by the City Finance Director upon consultation with Bond Counsel, who will be responsible for determining whether the proposed agreement (i) results in private business use of the facilities, and (ii) if applicable, meets the compensation, term and other requirements under Revenue Procedures 97-13 and 2007-47.

- D. Upon issuance of Bonds, there shall be no expectation that the Bond-financed property will be sold or otherwise disposed of by the Issuer during the term of the Bonds, except for replacement due to normal wear and tear or obsolescence; and no item of Bond-financed property will be sold or transferred by the Issuer while the Bonds are outstanding without approval of the City Finance Director upon consultation with Bond Counsel or advance arrangement of a “remedial action” under the applicable Treasury Regulations. Attached hereto as Exhibit B is a summary of certain remedial actions.
- E. The Issuer acknowledges that any sale, transfer, change in use, or change in the users of the Bond-financed property may require remedial action or resolution pursuant to the IRS Voluntary Closing Agreement Program (“VCAP”) to assist in resolving violations of federal tax laws applicable to the Bonds.

IV. Investments

- A. Investment of Bond proceeds in compliance with Montana law (Title 7, Chapter 6, Part 2, Montana Code Annotated), the Issuer’s investment policy, and the arbitrage and rebate requirements of the Code and applicable Treasury Regulations will be supervised by the City Finance Director.
- B. All investments will be purchased only at fair market value, as determined under applicable Treasury Regulations.
- C. Guaranteed investment contracts (“GICs”) and other open-market securities will be purchased only according to applicable Treasury Regulations, including bid requirements and fee limitations.
- D. Calculation of rebate liability will be performed by outside consultants and reviewed by the City Finance Director. Such calculations shall be made annually and within the period prescribed following full retirement of the Bonds.
- E. Upon final expenditure of the gross proceeds of Bonds, and in any event promptly following the fifth anniversary of the date of issuance of the Bonds or earlier retirement of the Bonds, the City Finance Director will consult a qualified professional to prepare a spending exception report or an arbitrage rebate computation (as applicable) for the issue of Bonds.
- F. Rebate payments, as required based upon the advice of a qualified professional, will be made with Form 8038-T no later than 60 days after (i) each fifth

anniversary of the date of issuance of the Bonds and (ii) the final retirement of the Bond issue.

V. Record Management and Retention

- A. Management and retention of records related to Bond issues will be supervised by the City Finance Director.
- B. Records for Bonds will be retained for the life of the Bonds, plus any refunding Bonds, plus three years (or such longer term as may be required under State law). Such records may be in the form of documents or electronic copies of documents, appropriately indexed to specific Bond issues and compliance functions.
- C. Retainable records pertaining to Bond issuance shall include a transcript of documents executed in connection with the issuance of the Bonds and any amendments thereto, copies of rebate calculations, records of payments, including Forms 8038-T, escrow agreements, verification reports, records of investment earnings on any relevant funds/accounts, IRS filings and audit reports/investigations.
- D. Retainable records pertaining to expenditures of Bond proceeds include requisitions, reimbursement allocations, paying agent statements, if applicable, trustee statements, if applicable, and final allocation of proceeds.
- E. Retainable records pertaining to use of Bond-financed property include all third-party contracts concerning use of the facilities, including, without limitation, leases, use, management or service contracts and research contracts.
- F. Retainable records pertaining to investments include GIC documents under the Treasury Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

VI. Overall Responsibility

- A. Overall administration and coordination of this policy is the responsibility of the City Finance Director.
- B. Review of compliance with this policy shall be undertaken not less than annually.
- C. The Issuer understands that failure to comply with this policy could result in the retroactive loss of the exclusion of interest on Bonds from federal gross and Montana taxable income and, thus, it would be advisable to consult with Bond Counsel and other professionals in advance regarding deviations from the facts and expectations as set forth in any Bond Documents.
- D. Any violations or potential violations of federal tax requirements shall promptly be reported to the City Finance Director, and the City Finance Director will

engage qualified consultants and Bond Counsel to further investigate potential violations or recommend appropriate remedial actions, which actions shall be approved by the governing body of the Issuer.

EXHIBIT A

REIMBURSEMENT BOND SUMMARY

Following is a general summary of the requirements relating to bonds that are issued in whole or in part to reimburse expenditures that were paid prior to the date of issuance of bonds (“Reimbursement Bonds”).

Reimbursement Bond proceeds cannot be used to reimburse expenditures paid more than 60 days prior to the adoption of the declaration of official intent/reimbursement resolution, which must contain:

- a general functional description of the property to which the reimbursement relates or an identification of the fund or account from which the expenditure is to be paid and a general functional description of the purposes of such fund or account; and
- the maximum principal amount of debt proposed to be issued.

The Treasury Regulations generally require that Reimbursement Bonds must be issued not later than 18 months after the later of (i) the date on which the original expenditure is paid, or (ii) the date on which the property is placed in service or abandoned, but in any case not more than three years after the date on which the original expenditure is paid. If possible, actual reimbursement should be made within 30 days of the date of issuance of the Reimbursement Bonds. Treasury Regulations generally permit reimbursement of capital expenditures and costs of issuance of the Reimbursement Bonds.

Note that there are exceptions for “de minimis” amounts (not in excess of the lesser of \$100,000 or 5% of proceeds of the issue) and for “preliminary expenditures” (such as architectural, engineering, surveying, soil testing and similar costs and costs of issuance), so long as such preliminary expenditures do not exceed 20% of the aggregate issue price.

EXHIBIT B

CERTAIN REMEDIAL PROVISIONS APPLICABLE TO BONDS

The Issuer acknowledges that any deliberate action by the Issuer after Bond issuance that results in a satisfaction of the private business tests or the private loan test will result in private activity bond status unless one or more qualifying remedial actions are taken by the Issuer. Specifically, Treasury Regulations provide that actions are not treated as deliberate actions if (A) five conditional requirements are met, and (B) one of three remedial actions is taken, with respect to the disposition proceeds and nonqualified bonds*:

CONDITIONAL REQUIREMENTS

1. Reasonable Expectations – The Issuer reasonably expected on the issue date that it would not meet the private business tests or the private loan test for the whole term of the bonds; and
2. Reasonable Bond Maturity – The term of the issue must not be unreasonably long; this requirement is met if the weighted average maturity of the bond issue is not greater than 120% of the expected economic life of the property financed; and
3. Fair Market Value Consideration – The terms of any agreement (relating to satisfaction of a private activity bond test) must be bona fide and at arm's-length, and the new user must pay a fair market value consideration for the use of the bond-financed property; and
4. Disposition Proceeds Are Gross Proceeds – The Issuer must treat any disposition proceeds as gross proceeds subject to arbitrage/rebate restrictions; and
5. Proceeds Spent for Authorized Purpose – Except as described with respect to redemption and defeasance options below, prior to deliberate actions, the affected proceeds must have been spent for the authorized purposes under the applicable bond documents.

REMEDIAL ACTIONS – Under Treasury Regulations, Sections 1.141-12(d), (e) and (f):

1. Redemption of Non-Qualified Bonds – Under the general rule, all nonqualified bonds of the issue must be redeemed. Tax-exempt bond proceeds (i.e., refunding bond proceeds) cannot be used unless the tax-exempt bonds are qualified bonds, taking into account the purchaser's use of the facility. The bonds must be redeemed within 90 days of the date of the deliberate action or a defeasance escrow for the bonds must be established within such 90-day period. Special rules apply to transfers exclusively for cash and to defeasance escrows.

* The portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the deliberate action occurs, the remaining bonds would not satisfy the private business use test or the private loan financing test, as applicable. The amount of private business use is the highest percentage of business use in any one-year period, commencing with the deliberate action.

2. Alternative Use of Disposition Proceeds – To meet this requirement, all disposition proceeds must be in cash, the Issuer must reasonably expect to expend the proceeds within 2 years, the new use must not meet the private business tests or the private loan test (and the Issuer cannot take any action subsequent to the date of the deliberate action to cause the tests to be met), and any unused proceeds must satisfy the redemption requirement in the preceding paragraph.
3. Alternative Use of Facility – This remedial action is satisfied if the bond-financed property itself (as distinguished from the proceeds of the issue) is used in an alternative manner (e.g., for a different purpose or by a different person); the nonqualified bonds are treated as reissued on the date of the deliberate action and independently meet all of the requirements for tax exemption under Sections 141 through 150 of the Code, except the arbitrage and rebate rules of Section 148, for the remaining term of the nonqualified bonds; the deliberate action does not involve a transfer of the property to a purchaser that finances the acquisition with the proceeds of another issue of tax-exempt bonds; and any disposition proceeds, other than those arising from an agreement to provide services, resulting from the deliberate action are used to pay debt service on the bonds on the next available payment date or escrowed within 90 days of receipt and yield restricted to pay debt service on the next available payment date.

The above is only a brief summary of certain remedial actions, and additional special rules may be applicable. As provided in the Issuer’s Compliance Policy for Tax-Exempt Bonds, the City Finance Director shall seek advice of Bond Counsel as necessary to provide guidance as to “remedial action” that may be required under the applicable Treasury Regulations.

The Commissioner of the IRS may, by publication, provide for additional remedial actions. In addition, the IRS provides a program in which issuers/borrowers which cannot meet a listed remedial action can enter into a closing agreement with the IRS to avoid private activity bond status. The closing agreement program includes several conditions, including providing for the redemption of the bonds and paying the IRS an amount based on an assumption that the non-qualified bonds are taxable from the date of the subsequent act until they are redeemed.

**Information Return for Tax-Exempt
Private Activity Bond Issues**
(Under Internal Revenue Code section 149(e))
▶ See separate instructions.

Part I Reporting Authority		Check if Amended Return <input type="checkbox"/>
1 Issuer's name		2 Issuer's employer identification number
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only) 1 <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
6 City, town, or post office, state, and ZIP code		7 Date of issue (MM/DD/YYYY)
8 Name of issue		9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information		10b Telephone number of officer or other employee shown on 10a

Part II Type of Issue (Enter the issue price.)	Issue Price
11 Exempt facility bond:	
a Airport (sections 142(a)(1) and 142(c))	11a
b Docks and wharves (sections 142(a)(2) and 142(c))	11b
c Water furnishing facilities (sections 142(a)(4) and 142(e))	11c
d Sewage facilities (section 142(a)(5))	11d
e Solid waste disposal facilities (section 142(a)(6))	11e
f Qualified residential rental projects (sections 142(a)(7) and 142(d)) (see instructions)	11f
Meeting 20–50 test (section 142(d)(1)(A)) <input type="checkbox"/>	
Meeting 40–60 test (section 142(d)(1)(B)) <input type="checkbox"/>	
Meeting 25–60 test (NYC only) (section 142(d)(6)) <input type="checkbox"/>	
Has an election been made for deep rent skewing (section 142(d)(4)(B))? . . . <input type="checkbox"/> Yes <input type="checkbox"/> No	
g Facilities for the local furnishing of electric energy or gas (sections 142(a)(8) and 142(f))	11g
h Facilities allowed under a transitional rule of the Tax Reform Act of 1986 (see instructions)	11h
Facility type _____	
1986 Act section _____	
i Qualified enterprise zone facility bonds (section 1394) (see instructions)	11i
j Qualified empowerment zone facility bonds (section 1394(f)) (see instructions)	11j
k District of Columbia Enterprise Zone facility bonds (section 1400A)	11k
l Qualified public educational facility bonds (sections 142(a)(13) and 142(k))	11l
m Qualified green building and sustainable design projects (sections 142(a)(14) and 142(l))	11m
n Qualified highway or surface freight transfer facilities (sections 142(a)(15) and 142(m))	11n
o Other (see instructions) _____	
p Qualified New York Liberty Zone bonds (section 1400L(d)) _____	11p
q Other (see instructions) _____	11q
12a Qualified mortgage bond (section 143(a))	12a
b Other (see instructions) _____	12b
13 Qualified veterans' mortgage bond (section 143(b)) (see instructions) ▶	13
Check the box if you elect to rebate arbitrage profits to the United States <input type="checkbox"/>	
14 Qualified small issue bond (section 144(a)) (see instructions) ▶	14
Check the box for \$10 million small issue exemption <input type="checkbox"/>	
15 Qualified student loan bond (section 144(b))	15
16 Qualified redevelopment bond (section 144(c))	16
17 Qualified hospital bond (section 145(c)) (attach schedule—see instructions)	17
18 Qualified 501(c)(3) nonhospital bond (section 145(b)) (attach schedule—see instructions)	18
Check box if 95% or more of net proceeds will be used only for capital expenditures ▶ <input type="checkbox"/>	
19 Nongovernmental output property bond (treated as private activity bond) (section 141(d))	19
20a Other (see instructions) _____	
b New York Liberty Zone advance refunding bond (section 1400L(e)) (see instructions) _____	20b
c Other. Describe (see instructions) ▶ _____	20c

Part III Description of Bonds (Complete for the entire issue for which this form is being filed.)

Table with 5 columns: (a) Final maturity date, (b) Issue price, (c) Stated redemption price at maturity, (d) Weighted average maturity, (e) Yield. Row 21 shows fields for \$, \$, and years.

Part IV Uses of Proceeds of Issue (including underwriters' discount)

Table with 2 columns: Description and Amount. Rows 22-30 list various uses of proceeds like accrued interest, bond issuance costs, and nonrefunding proceeds.

Part V Description of Property Financed by Nonrefunding Proceeds

Caution: The total of lines 31a through e below must equal line 30 above. Do not complete for qualified student loan bonds, qualified mortgage bonds, or qualified veterans' mortgage bonds.

Table with 2 columns: Type of Property Financed by Nonrefunding Proceeds and Amount. Rows 31a-31e list property types like Land, Buildings, and Equipment.

32 North American Industry Classification System (NAICS) of the projects financed by nonrefunding proceeds.

Table with 4 columns: NAICS Code, Amount of nonrefunding proceeds, NAICS Code, Amount of nonrefunding proceeds. Rows a and b show fields for \$.

Part VI Description of Refunded Bonds (Complete this part only for refunding bonds.)

Table with 2 columns: Description and Amount. Rows 33-36 describe refunded bonds with fields for years and dates.

Part VII Miscellaneous

- 37 Name of governmental unit(s) approving issue
38 Check the box if you have designated any issue under section 265(b)(3)(B)(i)(III)
39 Check the box if you have elected to pay a penalty in lieu of arbitrage rebate
40a Check the box if you have identified a hedge and enter the following information
41 Check the box if the hedge is superintegrated
42a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC)
43 Check the box if the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated...
44 Check the box if the issuer has established written procedures to monitor the requirements of section 148
45a Enter the amount of reimbursement if some portion of the proceeds was used to reimburse expenditures
46 Check the box if the issue is comprised of qualified redevelopment, qualified small issue, or exempt facilities bonds and provide name and EIN of the primary private user

Part VIII Volume Caps		Amount
47	Amount of state volume cap allocated to the issuer. Attach copy of state certification	47
48	Amount of issue subject to the unified state volume cap	48
49	Amount of issue not subject to the unified state volume cap or other volume limitations:	49
a	Of bonds for governmentally owned solid waste facilities, airports, docks, wharves, environmental enhancements of hydroelectric generating facilities, or high-speed intercity rail facilities	49a
b	Under a carryforward election. Attach a copy of Form 8328 to this return	49b
c	Under transitional rules of the Tax Reform Act of 1986. Enter Act section ▶	49c
d	Under the exception for current refunding (section 146(i) and section 1313(a) of the Tax Reform Act of 1986)	49d
50a	Amount of issue of qualified veterans' mortgage bonds	50a
b	Enter the state limit on qualified veterans' mortgage bonds	50b
51a	Amount of section 1394(f) volume cap allocated to issuer. Attach copy of local government certification	51a
b	Name of empowerment zone ▶	
52	Amount of section 142(k)(5) volume cap allocated to issuer. Attach copy of state certification	52

Signature and Consent Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

▶ _____ Date _____ ▶ _____ Type or print name and title

Signature of issuer's authorized representative

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	Preparer's PTIN
	Firm's name ▶			Firm's EIN ▶	
	Firm's address ▶			Phone no.	

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Final Plat of Amended Lots 2A-4-A, 2A-5A, 3A, and 4E, Block 1, Shiloh Crossing Subdivision

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The final plat for the Amended Lots 2A-4-A, 2A-5A, 3A, and 4E, Block 1, Shiloh Crossing Subdivision is being presented to Council for approval. On October 24, 2011, City Council granted conditional approval to the preliminary plat of this subdivision of 27 acres of land. The subject property is located on the east side of Shiloh Road, south of King Avenue West and is currently vacant. It is zoned Controlled Industrial (CI) and is within the South Shiloh Corridor Overlay District (SSCOD). The subdivision will create 5 lots for commercial uses. The property owner is Shiloh Crossing, LLC, and the agent is Sanderson Stewart. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

ALTERNATIVES ANALYZED

The City Council may approve or deny the final plat of Amended Lots 2A-4-A, 2A-5A, 3A, and 4E, Block 1, Shiloh Crossing Subdivision . If the City Council chooses to deny the final plat, it must base the denial on the criteria outlined in MCA 76-3-611 and BMCC Section 23-307.

FINANCIAL IMPACT

Should the City Council approve the final plat, the newly created lots will be available for commercial development which will increase tax revenues for the City.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lots 2A-4-A, 2A-5A, 3A, and 4E, Block 1, Shiloh Crossing Subdivision.

APPROVED BY CITY ADMINISTRATOR

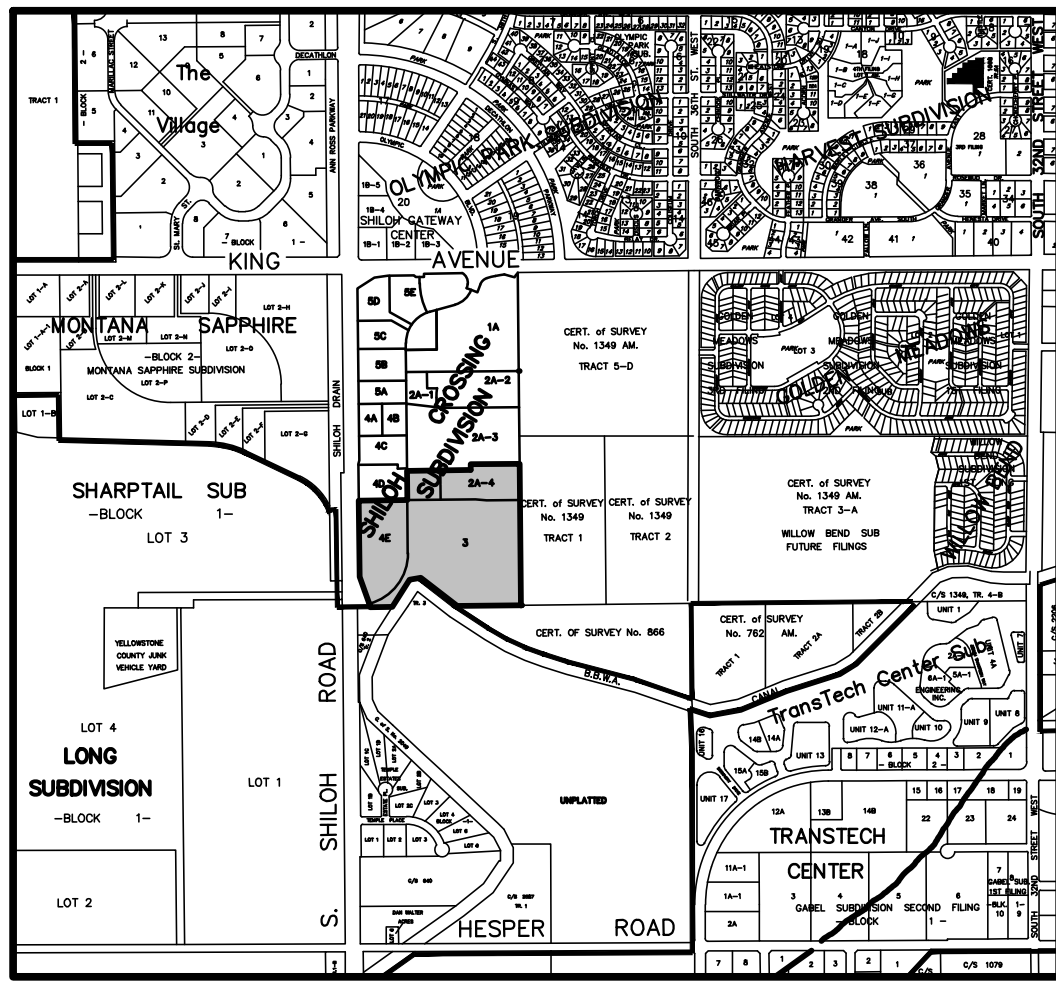
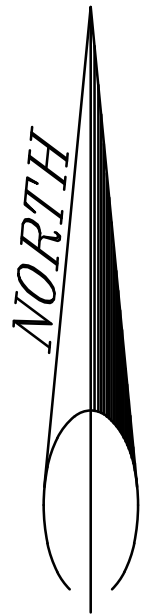
Attachments

Final Plat

AMENDED PLAT OF LOTS 2A-4-A, 2A-5-A, 3A, & 4E, BLOCK 1,
SHILOH CROSSING SUBDIVISION
 SITUATED IN THE NW1/4 OF SECTION 14, T. 1 S., R. 25 E., P.M.M.
 BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: SHILOH CROSSING, LLC
 PREPARED BY: SANDERSON STEWART

NOVEMBER 2011
 BILLINGS, MONTANA



VICINITY MAP

BASIS OF BEARING: PLAT OF SHILOH CROSSING SUBDIVISION.

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

100 50 0 100 200

SCALE: 1" = 100'

NOTICE OF APPROVAL

STATE OF MONTANA)
) ss
 County of Yellowstone)

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date _____ President _____

Executive Secretary _____

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and foregoing plat conforms with Section 76-4-125(2)(d), M.C.A., for the removal of sanitary restrictions since the plat is inside a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this ____ day of _____, 20__

City Engineer's Office _____

ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting and find that said plat conforms with the requirements of the laws of the State of Montana, and that said plat conforms to the adjoining additions and plats of the City of Billings already platted as nearly as circumstances will permit.

Examining Land Surveyor _____ Date _____

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office and is acceptable as to form.

Date: _____

Reviewed by: _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b)/76-3-207(3), M.C.A.

Date: _____

Yellowstone County Treasurer _____

By: _____
 Deputy

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
) ss
 County of Yellowstone)

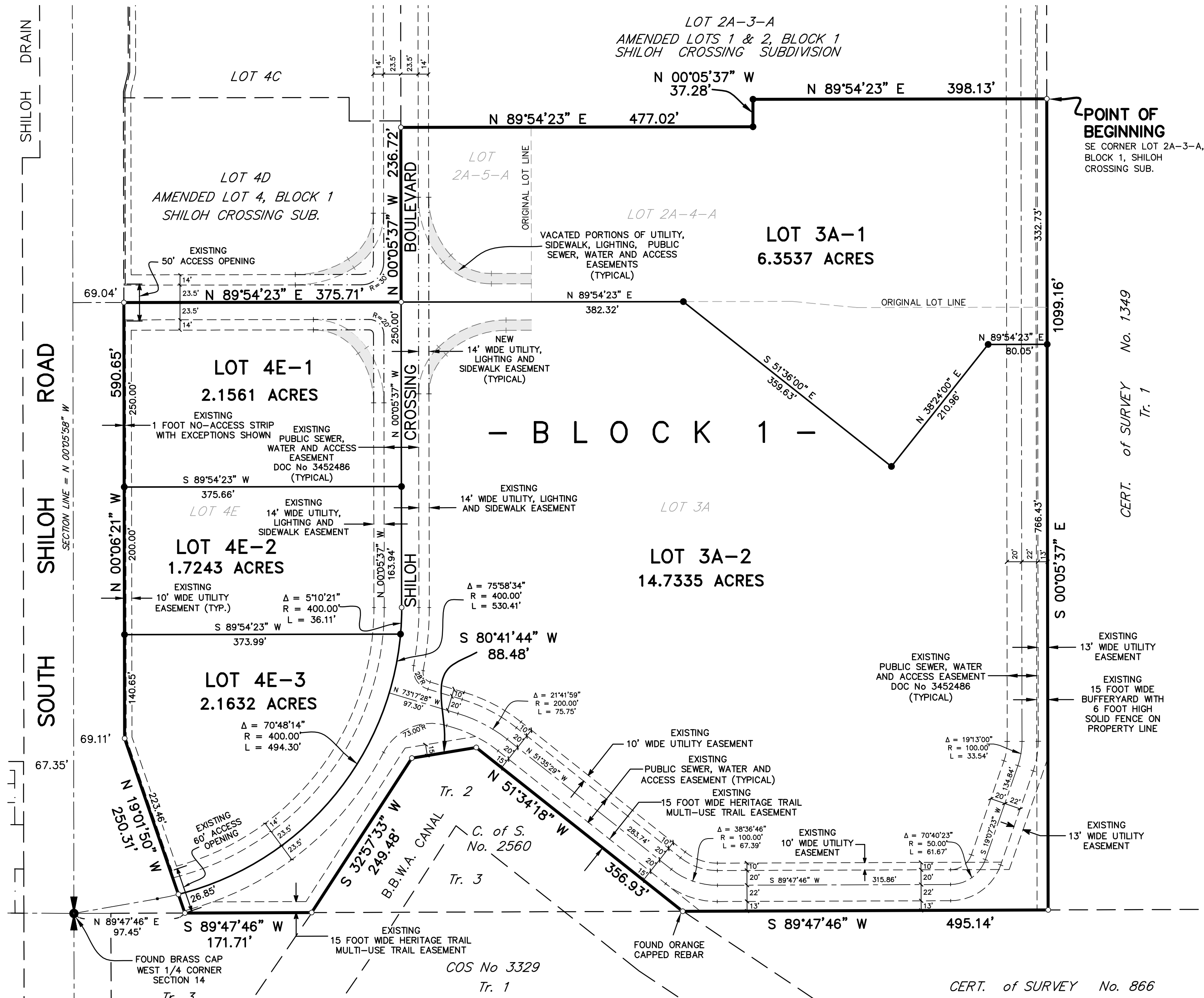
We hereby certify that we have examined the annexed and foregoing AMENDED PLAT OF LOTS 2A-4-A, 2A-5-A, 3A & 4E, BLOCK 1, SHILOH CROSSING SUBDIVISION and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of The Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this ____ day of _____, 20__.

CITY OF BILLINGS, MONTANA

By: _____
 Mayor

Attest: _____
 City Clerk



CERTIFICATE OF DEDICATION

STATE OF MONTANA)
) ss
 County of Yellowstone)

KNOW ALL MEN BY THESE PRESENTS: That SHILOH CROSSING, LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the NW1/4 of Section 14, T. 1 S., R. 25 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point which is the southeast corner of Lot 2A-3-A, Block 1, Shiloh Crossing Subdivision; thence, from said point of beginning, S 00°05'37" E a distance of 1099.16 feet; thence S 89°47'46" W a distance of 495.14 feet; thence N 51°34'18" W a distance of 356.93 feet; thence S 80°41'44" W a distance of 88.48 feet; thence S 32°57'33" W a distance of 249.48 feet; thence S 89°47'46" W a distance of 171.71 feet; thence N 19°01'50" W a distance of 250.31 feet; thence N 00°06'21" W a distance of 590.65 feet; thence N 89°54'23" E a distance of 375.71 feet; thence N 00°05'37" W a distance of 236.72 feet; thence N 89°54'23" E a distance of 477.02 feet; thence N 00°05'37" W a distance of 37.28 feet; thence N 89°54'23" E a distance of 398.13 feet to the Point of Beginning.

Pursuant to 76-3-621(3)(b) M.C.A. there is no parkland dedication requirement for this non-residential subdivision.

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever.

Said tract to be known and designated as AMENDED PLAT OF LOTS 2A-4-A, 2A-5-A, 3A & 4E, BLOCK 1, SHILOH CROSSING SUBDIVISION; there is no public land dedication with this plat.

SHILOH CROSSING, LLC

By: _____

Title: _____

STATE OF MONTANA)
) ss
 County of Yellowstone)

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

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

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
) ss
 County of Yellowstone)

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of November 2011, a survey was performed under his supervision of a tract of land to be known as AMENDED PLAT OF LOTS 2A-4-A, 2A-5-A, 3A & 4E, BLOCK 1, SHILOH CROSSING SUBDIVISION, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown hereon and that the gross area is 27.1308 acres and the net area is 27.1308 acres.

SANDERSON STEWART

By: _____

Montana Registration No. _____

STATE OF MONTANA)
) ss
 County of Yellowstone)

Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this ____ day of _____, 20__.

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

CONSENT TO PLATTING

Document No. _____

SUBDIVISION IMPROVEMENTS AGREEMENT

Document No. _____

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Payment of Claims December 05, 2011.

PRESENTED BY: Pat M. Weber, Finance Director

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,609,165.27 have been audited and are presented for your approval for payment. A complete listing of the claims dated December 5, 2011, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

List of claims greater than \$2500.

Report

Check	Vendor	Amount	Date	Status	Changed By	Payment Type
751134	A-1 Landscaping & Nursery	3,383.00	12/05/2011	bestm		Check
751136	Ace Electric Inc	9,138.17	12/05/2011	bestm		Check
751148	Applied Industrial Technologies	6,416.64	12/05/2011	bestm		Check
751150	Automated Office Inc	9,457.78	12/05/2011	bestm		Check
751164	Brenntag Pacific Inc	9,725.28	12/05/2011	bestm		Check
751166	Brown And Caldwell	8,100.67	12/05/2011	bestm		Check
751169	Business Tax Section	7,785.07	12/05/2011	bestm		Check
751175	Civicplus	3,183.00	12/05/2011	bestm		Check
751176	Cmg Construction, Inc.	7,605.00	12/05/2011	bestm		Check
751180	Cop Construction Co	264,015.84	12/05/2011	bestm		Check
751187	Dell Marketing Lp	10,832.98	12/05/2011	bestm		Check
751190	Donnes Inc	2,500.00	12/05/2011	bestm		Check
751193	DRM Construction Inc	5,000.00	12/05/2011	bestm		Check
751194	Ebms	66,514.89	12/05/2011	bestm		Check
751206	Ferguson Enterprises Inc	6,726.82	12/05/2011	bestm		Check
751213	Garvey's Urban Forest Llc	2,600.00	12/05/2011	bestm		Check
751216	Good Earth Construction	5,000.00	12/05/2011	bestm		Check
751218	Great West Engineering	3,711.01	12/05/2011	bestm		Check
751221	Hdr Inc	13,817.30	12/05/2011	bestm		Check
751224	Iaff	4,228.20	12/05/2011	bestm		Check
751241	Junkermier, Clark, Campanella,	19,500.00	12/05/2011	bestm		Check
751257	Mitchell Instrument Company Inc	2,870.00	12/05/2011	bestm		Check
751260	MONTANA CSED	5,173.13	12/05/2011	bestm		Check
751261	Montana Dakota Utilities Co	33,181.78	12/05/2011	bestm		Check
751265	Montana State Fireman's Assoc	2,739.78	12/05/2011	bestm		Check
751268	Morrison Maierle Inc	125,976.21	12/05/2011	bestm		Check
751271	Mppa	2,505.73	12/05/2011	bestm		Check
751278	Northwestern Energy	92,941.23	12/05/2011	bestm		Check
751282	Palm Tree Construction	6,200.00	12/05/2011	bestm		Check
751284	Power Service Inc	8,785.35	12/05/2011	bestm		Check
751287	Public Utilities	152,266.90	12/05/2011	bestm		Check
751290	Qwest Communications	10,954.38	12/05/2011	bestm		Check
751296	Rimrock Foundation	2,624.69	12/05/2011	bestm		Check
751298	Riverside Sand & Gravel Inc	72,428.74	12/05/2011	bestm		Check
751299	Rjs Software Systems Inc	4,500.00	12/05/2011	bestm		Check
751311	Skycon Inc	3,856.00	12/05/2011	bestm		Check
751313	St Vincent Occupational Health	28,320.94	12/05/2011	bestm		Check
751323	Toter Incorporated	32,416.80	12/05/2011	bestm		Check
751324	Town & Country Supply Association	65,136.66	12/05/2011	bestm		Check
751330	U.S. Bank	171,128.03	12/05/2011	bestm		Check
751337	Verizon Wireless	19,722.68	12/05/2011	bestm		Check
751340	Western Municipal Construction Inc	207,829.25	12/05/2011	bestm		Check
751344	Yellowstone Aids Project	2,635.24	12/05/2011	bestm		Check
751348	Yellowstone Valley Animal Shelter	20,666.67	12/05/2011	bestm		Check
		1,544,101.84				

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Payment of Claims December 12, 2011.

PRESENTED BY: Pat M. Weber, Finance Director

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$726,199.60 have been audited and are presented for City Council approval for payment. A complete listing of the claims dated December 12, 2011, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

List of claims greater than \$2500.

Report

Check	Vendor	Amount	Date	Status Changed By	Payment Type
751352	Active Transportation Alternatives	5,667.00	12/12/2011	bestm	Check
751358	American Assoc Of Airport Executive	8,000.00	12/12/2011	bestm	Check
751372	Big Sky Linen Supply	2,945.37	12/12/2011	bestm	Check
751380	Branch Group Inc	4,259.40	12/12/2011	bestm	Check
751381	Brenntag Pacific Inc	11,633.54	12/12/2011	bestm	Check
751390	Cmd Construction, Inc.	60,730.19	12/12/2011	bestm	Check
751395	County Water District Of Billings Heights	19,999.12	12/12/2011	bestm	Check
751399	Dorsey & Whitney Llp	22,000.00	12/12/2011	bestm	Check
751401	Dowl Hkm	34,050.85	12/12/2011	bestm	Check
751413	Farr Associates Architecture	5,520.00	12/12/2011	bestm	Check
751416	Fisher Construction	53,851.15	12/12/2011	bestm	Check
751419	Gillig Corporation	3,217.06	12/12/2011	bestm	Check
751423	Great West Engineering	13,484.00	12/12/2011	bestm	Check
751427	Hardrives Asphalt Co	68,654.65	12/12/2011	bestm	Check
751431	Hdr Inc	32,587.92	12/12/2011	bestm	Check
751433	High Tech Construction	6,831.00	12/12/2011	bestm	Check
751441	Ingram Book Company	6,339.39	12/12/2011	bestm	Check
751450	Jares Fence Co	6,531.03	12/12/2011	bestm	Check
751453	Jtl Group Inc Dbk Knife River	51,738.05	12/12/2011	bestm	Check
751468	Montana Dakota Utilities	16,300.00	12/12/2011	bestm	Check
751470	Montana Municipal Interlocal	51,681.90	12/12/2011	bestm	Check
751472	Morrison Maierle Inc	11,764.29	12/12/2011	bestm	Check
751476	Nature's Green Llc	3,776.92	12/12/2011	bestm	Check
751479	Normont Equipment Company	4,315.41	12/12/2011	bestm	Check
751481	Northwestern Energy	43,130.33	12/12/2011	bestm	Check
751487	Public Utilities	4,478.52	12/12/2011	bestm	Check
751490	Rdo Equipment Co.	36,543.57	12/12/2011	bestm	Check
751508	St Vincent Occupational Health	7,046.25	12/12/2011	bestm	Check
751512	Sunset Excavation	3,500.00	12/12/2011	bestm	Check
751517	Tnt Springs Inc	3,522.98	12/12/2011	bestm	Check
751518	Toledo Ticket Company	5,166.01	12/12/2011	bestm	Check
751519	Town & Country Supply Association	24,519.64	12/12/2011	bestm	Check
751520	Tractor & Equipment	2,877.47	12/12/2011	bestm	Check
751538	Yellowstone County Finance Dpt	8,960.00	12/12/2011	bestm	Check
		645,623.01			

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Payment of Claims December 19, 2011.

PRESENTED BY: Pat M. Weber, Finance Director

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,419,688.48 have been audited and are presented for City Council approval for payment. A complete listing of the claims dated December 19, 2011, is available in the Finance Department.

ALTERNATIVES ANALYZED

The Council may:

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

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

List of claims greater than \$2500.

Report

Check	Vendor	Amount	Date	Status	Changed By	Payment Type
751542	Ace Electric Inc	20,355.23	12/19/2011	bestm		Check
751548	AECOM Technical Services Inc	50,581.74	12/19/2011	bestm		Check
751553	Allegra Print & Imaging	6,000.00	12/19/2011	bestm		Check
751554	American Assoc Of Airport Executive	6,000.00	12/19/2011	bestm		Check
751564	Billings Community Cable	25,250.00	12/19/2011	bestm		Check
751567	Billings Gazette	7,052.55	12/19/2011	bestm		Check
751574	Business Tax Section	8,994.12	12/19/2011	bestm		Check
751583	Civicplus	9,774.33	12/19/2011	bestm		Check
751584	Conditioned Air Systems Inc	4,760.70	12/19/2011	bestm		Check
751586	Cop Construction Co	14,342.62	12/19/2011	bestm		Check
751589	Csg Systems Inc	12,005.01	12/19/2011	bestm		Check
751593	Dell Marketing Lp	7,267.38	12/19/2011	bestm		Check
751610	Firewerks Fire Apparatus Repair Inc	3,250.00	12/19/2011	bestm		Check
751614	Gallagher Benefit Services Inc	3,220.00	12/19/2011	bestm		Check
751615	Galles Filter Service	3,205.55	12/19/2011	bestm		Check
751622	Gray Construction	2,889.77	12/19/2011	bestm		Check
751624	Guardian Security Inc	5,792.50	12/19/2011	bestm		Check
751632	laff	4,228.20	12/19/2011	bestm		Check
751635	Ingram Book Company	2,856.09	12/19/2011	bestm		Check
751640	J & J Concrete	3,200.00	12/19/2011	bestm		Check
751641	Jackson Contractor Group Inc	145,895.01	12/19/2011	bestm		Check
751646	Jtl Group Inc Db a Knife River	722,066.14	12/19/2011	bestm		Check
751648	Kois Brothers Equipment Co	15,317.60	12/19/2011	bestm		Check
751653	Labor Ready Inc	4,234.77	12/19/2011	bestm		Check
751657	Mahoney Associates Consulting	2,833.00	12/19/2011	bestm		Check
751667	MONTANA CSED	5,018.63	12/19/2011	bestm		Check
751668	Montana Dakota Utilities Co	2,535.74	12/19/2011	bestm		Check
751671	Montana State Fireman's Assoc	2,738.05	12/19/2011	bestm		Check
751673	Morrison Maierle Inc	29,992.50	12/19/2011	bestm		Check
751682	Northwest Industrial	2,840.45	12/19/2011	bestm		Check
751683	Northwest Pipe Fittings	41,596.72	12/19/2011	bestm		Check
751685	Northwestern Energy	10,454.28	12/19/2011	bestm		Check
751687	One Eighty Communications	5,176.39	12/19/2011	bestm		Check
751692	Palm Tree Construction	7,000.00	12/19/2011	bestm		Check
751700	Public Works-Administration	2,822.90	12/19/2011	bestm		Check
751706	Rimrock Foundation	14,288.64	12/19/2011	bestm		Check
751725	Sunset Excavation	6,435.00	12/19/2011	bestm		Check
751732	Town & Country Supply Association	31,702.15	12/19/2011	bestm		Check
751733	Tractor & Equipment	3,080.70	12/19/2011	bestm		Check
751737	UNITED INDUSTRIES	27,815.76	12/19/2011	bestm		Check
751748	Wingfoot Commercial Tire	5,945.42	12/19/2011	bestm		Check
751749	Yellowstone County	46,015.83	12/19/2011	bestm		Check
		1,336,831.47				

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Special Review #894 - Public Hearing - Billings Christian School - 4519 Grand Avenue

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a request for a special review to allow the expansion of an existing school (elementary and high school) in a Residential 9,600 (R-96) zoning district on Lot 3, Block 1, Cornerstone Subdivision. The 3.6 acre parcel of land is located at 4519 Grand Avenue. The property is owned by Cornerstone Community Church and is represented by Alex Tommerup, AT Architecture. The Zoning Commission conducted a public hearing on December 6, 2011, and is forwarding a recommendation of conditional approval on a 5-0 vote.

ALTERNATIVES ANALYZED

The Planning Division reviewed the application and recommended conditional approval to the Zoning Commission. The Zoning Commission concurred with this recommendation.

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria, in so far that it is in a district that allows schools by special review. The proposed school expansion is further back from Grand Avenue to allow for a larger parking area. In the future, the building may not meet the side adjacent to street setback for a building 4 feet taller than the maximum height in the R-96 zone. The current side setback (40 feet to center of Lenhardt Lane easement) shown does meet the additional setback required since the current property line is the center of Lenhardt Lane. The Zoning Commission is recommending a condition to increase the setback from the Lenhardt Lane easement so if future annexation occurs and a right-of-way is dedicated, the building will meet the required setback of 18 feet from the side adjacent to a street property line. Outdoor lighting and announcement systems are a concern especially when a large play field is adjacent to residential uses (north and east). The application is conforming to the purposes of the regulations and the 2008 Growth Policy and the West Billings Neighborhood Plan (2001). The development will expand an existing local school and will provide needed classroom space for current and future students.

The application also conforms to the third criteria and conditions of approval are recommended to mitigate any potential impacts to surrounding property. The current building is an older modular structure and has likely reached its maximum life span. The building does not exceed lot coverage and meets the required front, side, and rear setbacks. The proposed lot line relocation will give the school access to a new play field on the north part of the property. It appears the school will meet the required off-street parking requirements and no new access

appears the school will meet the required on-street parking requirements and no new access driveways are proposed for the school. There are several residential dwellings in the immediate neighborhood and the Zoning Commission is recommending conditions to mitigate any potential impacts to these neighbors. The proposal is compatible and conditions are recommended to mitigate any potential adverse effects on the surrounding area. The proposal is consistent with goals of the 2008 Growth Policy and the West Billings Neighborhood Plan specifically the recommendation to encourage re-use of existing property when buildings reach their service life span.

The Zoning Commission is recommending the following conditions for this special review based on the approval criteria for special review uses.

1. The special review approval shall be limited to Lot 3 (as amended), Block 1, Cornerstone Subdivision, generally located at 4519 Grand Avenue.
2. The special review approval is for the construction of a new school building of 46,640 gross square feet and no other use is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the parking or outdoor play areas shall be 20 feet above grade.
5. The site plan will be modified to show an 18 foot setback from the existing Lenhardt Lane easement.
6. No outdoor announcement system is allowed on a permanent or temporary basis.
7. No construction or demolition activity will occur before 8 am or after 8 pm daily.
8. Any new sign will require sign permit approval from the Planning Division. The proposed monument sign will comply with the sign code requirements in place at the time of application.
9. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building location.
10. The applicant will retain all existing healthy trees along Lenhardt Lane. Trees lost through damage within 1 year of final construction will be replaced with the same species.
11. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
12. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

FINANCIAL IMPACT

There should be no impact on city finances from the proposed project. The property pays city fees, but is exempt from property taxes.

BACKGROUND

This is a request for a special review to allow demolition and a rebuild to expand an existing elementary and high school, Billings Christian Academy, at 4519 Grand Avenue. The church and school property were annexed into the city in 2003. At the time of annexation, the city default zoning of R-96 was placed on the property.

The current school building is a modular building in need of expansion. Rather than adding on to the existing structure, the applicant intends to demolish the existing structure and build a new 3-story school setback further from Grand Avenue. The boundary between the current Lot 3 and Lot 1 will be relocated to allow the development of a new playfield and playground behind the new building. The existing school building is 14,695 square feet in a single story building. The proposed new building will have 46,640 square feet with a first floor footprint of 20,880 square feet. The proposed first floor will have a gymnasium space and the two upper floors will have 12,880 square feet each for classroom space. The zoning regulations require a special review for the expansion of the school beyond 10% of what currently exists.

The immediate neighborhood surrounding the parcel is zoned A-S or R-96. The church and school are currently a City island and surrounded by County property so development around the project is currently low density, single family residential homes. The proposed building will be 38 feet to the highest point, which is greater than the 34 feet allowed in the R-96 zone. The zoning does allow for a 10% increase in building height for a roof pitched 7:12 or greater. If the roof is pitched 7:12 or greater the building at 38 feet would still be ½ foot greater in height than allowed. Section 27-310(f) does allow schools and churches to exceed the height limit of the zoning district if the front, rear and side setbacks are increased 2 feet for each foot the building exceeds the height limit. For a roof pitch of less than 7:12, the side setback for the new school would need to be 13 feet. A 10-foot setback to the edge of the Lenhardt Lane easement is shown. The side property line extends to the "center" of Lenhardt Lane or an additional 30 feet for a total side setback of 40 feet to the side property line. If the adjacent parcels were annexed to the city, then a dedicated right of way may be required for Lenhardt Lane. At this future date, the side adjacent to street setback of 10 feet would be less than the required 18-foot side adjacent to street setback for a building 38 feet in height. The Zoning Commission has proposed a condition to address this potential future setback issue. The new school will be able to accommodate a greater number of students and will have concomitant increased use of the outdoor play areas. Additional traffic might also occur with a larger student body.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on December 6, 2011, and received the Planning staff recommendation and testimony from the applicant's agent, Alex Tommerup of AT Architecture. No other persons testified at the hearing. The Planning Division did not receive any written testimony or outside communication on the application.

Mr. Tommerup testified that the current structure is an original modular building that has reached its useful life. He stated the new school would likely be constructed in phases as funding becomes available. Mr. Tommerup stated he would like the Commission to consider modifying proposed condition number 10 to exclude the word "disease" so the applicant is only responsible for damage to existing trees along Lenhardt Lane as well as putting a time limit on the replacement of such trees to 1 year or less from the date of final construction. Mr. Tommerup stated the new school could have up to 300 students from preschool to grade 12. He stated the school is interested in having a full size gymnasium so students did not have to travel to other locations for physical education or practices. He stated a gymnasium is not required but would be well used if provided. The existing school will remain in place until the new school building is completed.

Commission Member Dan Wagner moved to recommend conditional approval to the City Council and to modify proposed condition 10 to remove the word "disease" and limit the replacement time period to 1 year or less from final construction. The motion was seconded by Commission Member Edward Workman and the Commission voted 5-0 in favor of the motion.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The consistency with adopted plans and policies is discussed in the Alternatives Analyzed section above.

RECOMMENDATION

The Zoning Commission recommends conditional approval of Special Review #894 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

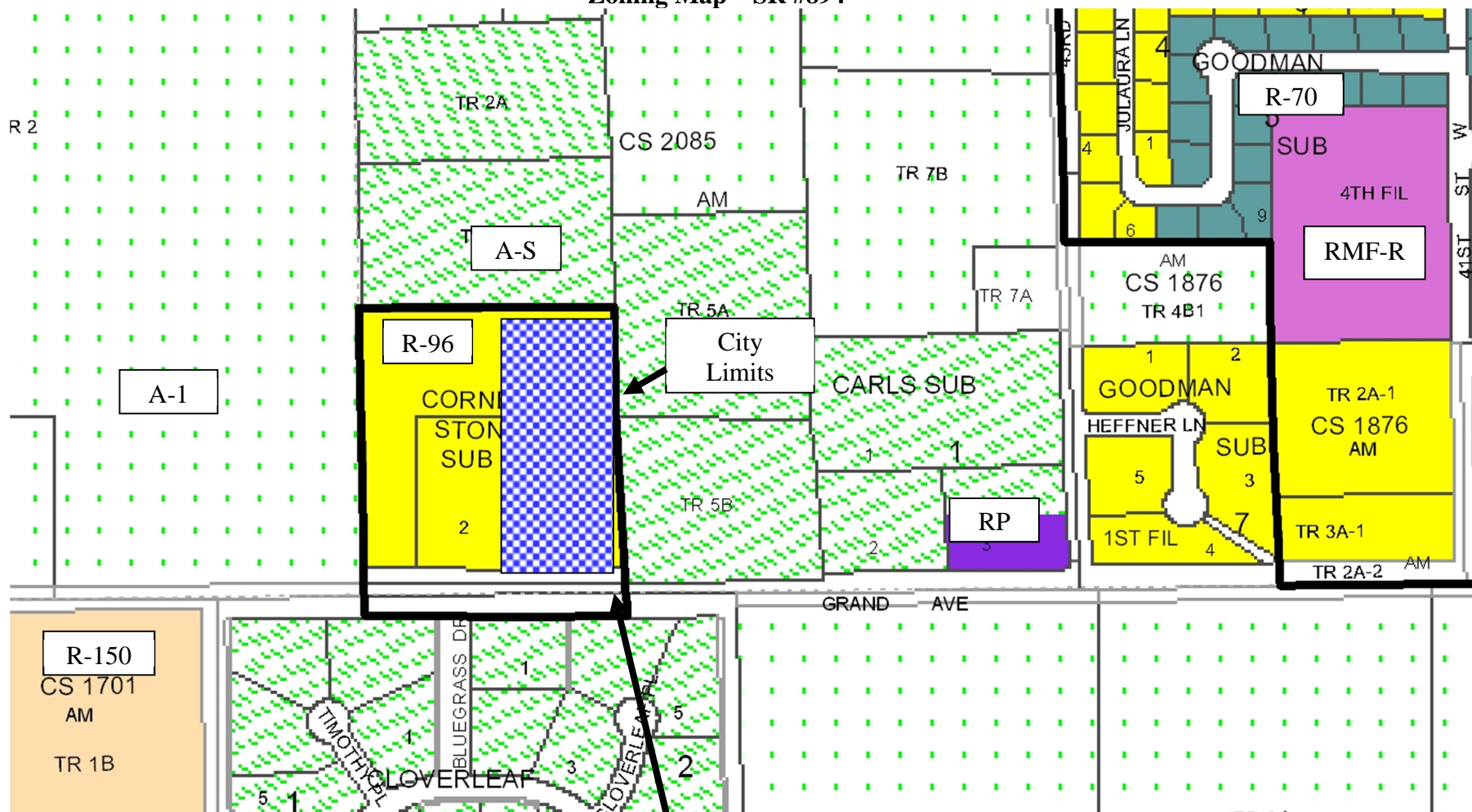
Zoning Map

Site photos

Site Plan

Applicant Letter

Attachment A
Zoning Map – SR #894

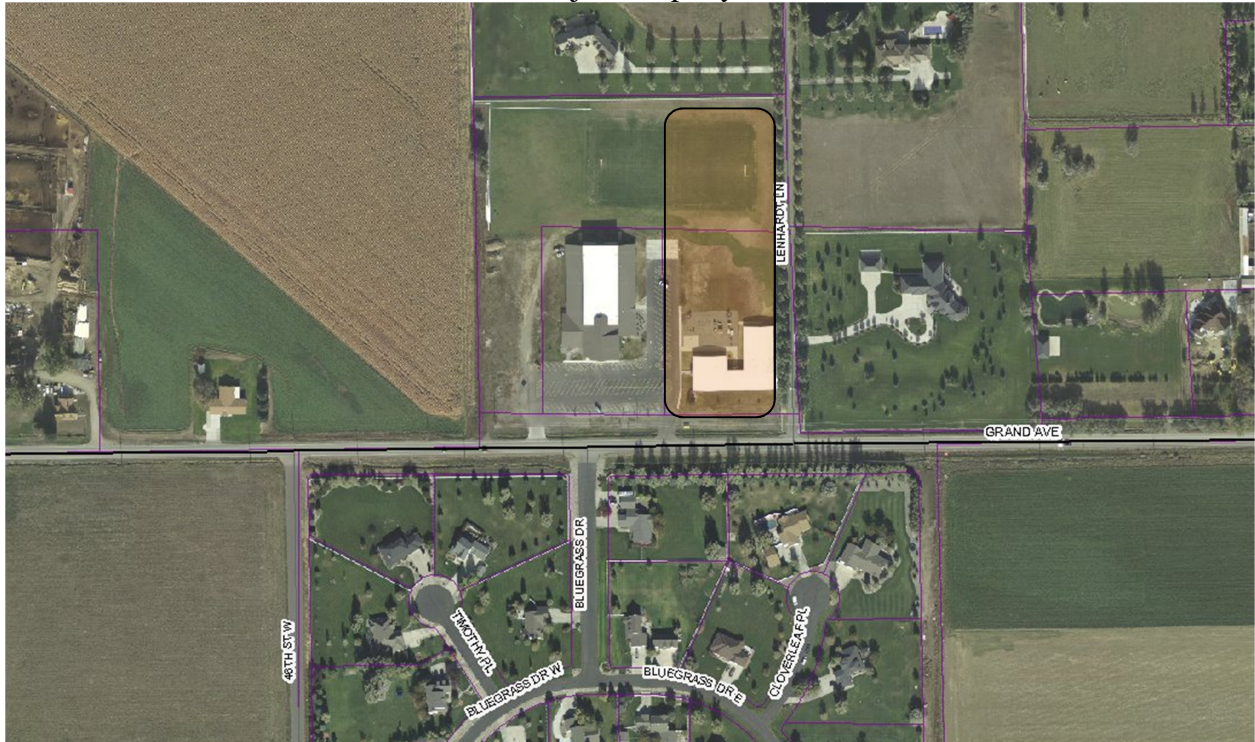


Subject Property – 4519 Grand Avenue

Attachment B
Site photos – SR #894



Subject Property



Subject Property

Attachment B, continued
Site photos – SR #894



View north from building entrance



View east across property frontage

Attachment B, continued
Site photos – SR #894



View west on Grand Avenue



View of south across Grand Avenue to Cloverleaf Subdivision

Attachment D
Applicant Letter – SR #894



October 20, 2011

Planning & Community Services Department
4th Floor, Parmly Library
510 North Broadway
Billings, Mt. 59102

RE: Request for Special Review
Billings Christian School
4519 Grand Avenue
Billings, MT 59106

Planning Staff:

Billings Christian School presently occupies the existing building at this site. See attached Location Map – Exhibit I. The following outlines the data requested by your application instructions.

A. Forward:

This land consists of 156,960 square feet, and is zoned Residential 9600. The existing school building on the site is approximately 14,695 square feet and will be removed completely. The proposed new facility will be 46,640 square feet on three floors, with approximately 20,880 square feet on the main floor. The two upper floors will consist of 12,880 square feet of classrooms. Approximately 8,000 square feet of the main floor will consist of a gymnasium.

1. Questions:

A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy? (Answer to Instructions 1.A)

1. Economic Development - This new school building will eventually create 8 to 12 new, full time jobs. BCS employs over 20 people at this facility and needs additional space for its increasing classes and athletic activities. This facility will help strengthen the area economy through the creation of new jobs and bolstering the existing jobs at BCS along with the numerous local suppliers and services that support the School's operations.

Billings Christian School
Special Review Application
October 20, 2011

2. Aesthetics - The area around the existing building and grounds will be well landscaped and is kept in good condition. The existing modular building will be removed. A new sign is scheduled to be installed and the existing sign will be removed at that time.
3. Natural Resources – BCS keeps their site area free of weeds, etc which helps with fire management. Also the play fields are irrigated.
4. Public Services – The new facility will replace the old run down school so public safety will be increased.
5. Land Use Element – BCS is working to improve the existing school in facility as well as education to help improve the quality of life in the area.

- B. Why is there a need for the intended use of the property on this location.
(Answer to Instructions 1.B)

BCS was started in 1981. The proposed facility will replace the existing modular building. The proposed building will be 46,640 square feet on 3 floors and is necessary to provide for much needed upgrades for the school and provide room for indoor activities. The building will be located towards the center of the site and should not create any noise concerns. The existing school operates there now in a similar manner.

- C. How will the public interest be served if this application is approved.
(Answer to Instructions 1.C)

BCS has been in the Billings area since 1981 and has created many jobs for the community, a place for excellent private Christian education and a facility for the community to use. They would like to expand and modernize their school to meet increased needs for the students and teachers. The expansion will create 8 to 12 new jobs, improve the aesthetics of the property and will help increase the availability for facilities in the area. They have a good reputation in their neighborhood and have a well kept but worn facility.

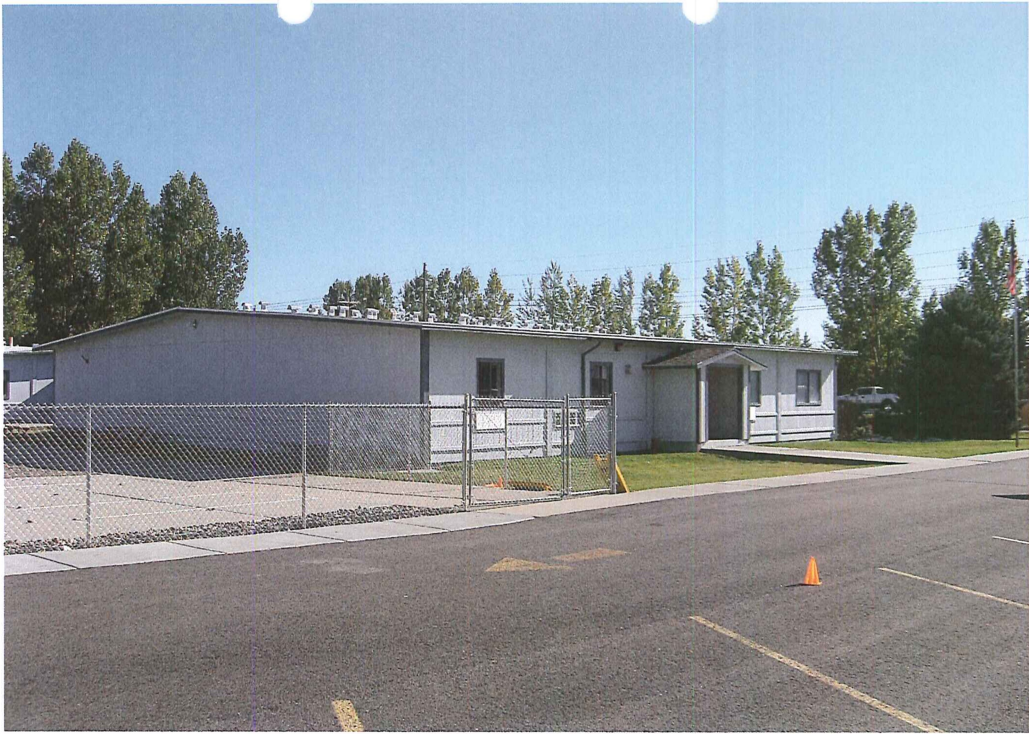
- D. Prepare a written statement addressing what is intended to be done with the property, and why the special review is being sought. (Answer to Instructions 1.D)

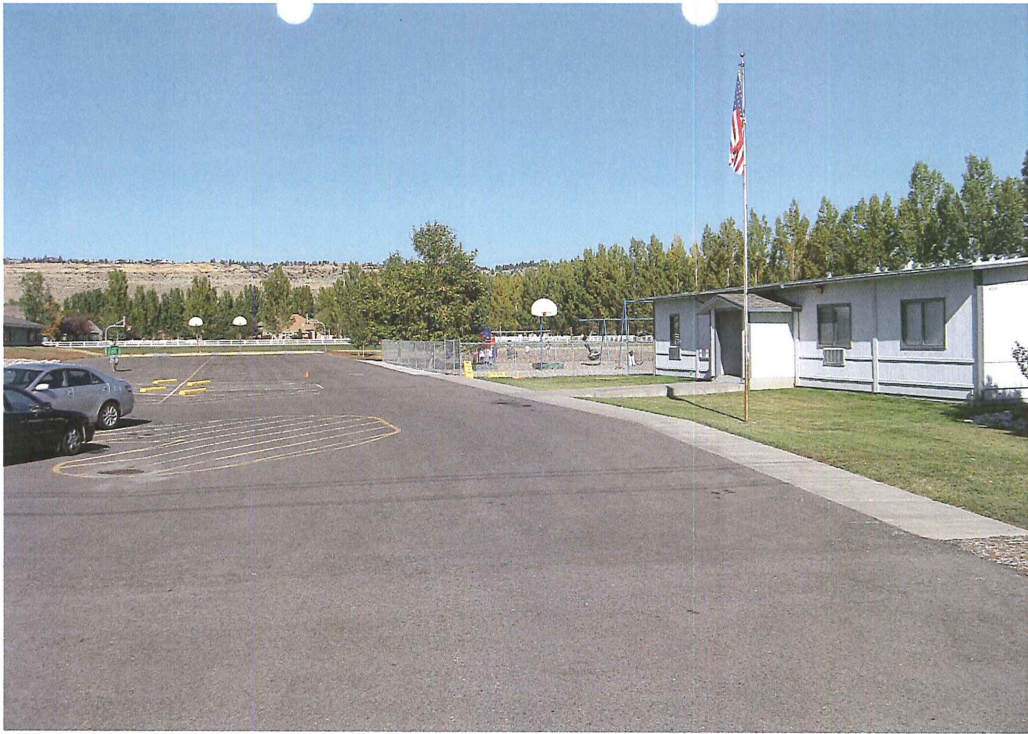
BCS will build a 3-story school building to replace the existing 1-story school and add a much needed gymnasium. The proposed building will be an attractive structure. The proposed building will be 20,880 square feet on the main floor and 46,640 sf total. The front will need to be a parking lot and landscaping as required. The building will be located towards the center of the site. The back of the lot will be a playground and a play field which should not change much from the way that it is now.













Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Special Review #895 - Public Hearing - 1911 King Ave West - Asian Sea Grill

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a request for a special review to allow the location of an all beverage license (gaming attached) in a Controlled Industrial (CI) zone on Lot 11A-1, Block 1, CBH Industrial Park Subdivision, a 2.3 acre parcel of land generally located at 1911 King Avenue West. The Asian Sea Grill currently operates in Suite 4 & 5 with a beer and wine license that does not have gaming attached to the license. The owners obtained an all-beverage license at a recent auction and the license has gaming attached. The Asian Sea Grill does not intend to offer gaming at this time but would like to use the all-beverage license and expand into an adjacent suite (Suite 3) to accommodate its current business. The location will not require a waiver of the 600 foot separation from this location as there are no churches, schools or public parks with playground equipment within 600 feet of this property. The Zoning Commission conducted a public hearing on December 6, 2011, and is forwarding a recommendation of conditional approval on a 5-0 vote.

ALTERNATIVES ANALYZED

The Planning Division reviewed the application and recommended conditional approval to the Zoning Commission. The Zoning Commission concurred with this recommendation. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria, and conforms to all parts of the Unified Zoning Regulations. The location is in one of the zoning districts that allows an all-beverage license by special review approval. The application is conforming to the purposes of the regulations and the 2008 Growth Policy. The location of an all-beverage license will allow an existing restaurant to expand and provide all beverage service.

The application also conforms to the second and third criteria. The submitted drawing shows the existing conditions and no substantial changes to the exterior except for changes in signage are contemplated. This is an opportunity to re-use an existing vacant tenant space and allow expansion of a thriving restaurant. Planning staff is recommending conditions for this special review based on the approval criteria for special review uses.

The Zoning Commission is forwarding the following conditions for approval for Special Review #895:

1. The special review approval shall be limited to Lot 11A-1, Block 1 CBH Industrial Park.
2. Any expansion of the proposed interior space greater than 10 percent of 5,000 square feet (Suites 3, 4 & 5), building occupancy or parking lot greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
3. There shall be no outdoor public address system or outside announcement system of any kind.
4. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
5. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

FINANCIAL IMPACT

There should be no impact to city finances from the proposed special review. The taxable value of the property may increase if the tenant spaces in the building are all occupied.

BACKGROUND

This is a request for a special review to allow the location of an all-beverage license with gaming attached at the Asian Sea Grill at 1911 King Avenue West in Suite 3, 4 and 5. The Asian Sea Grill obtained the license at auction and does not intend to exercise the gaming portion of the license but would like to have an all beverage service at the existing and expanded restaurant.

This property has received several special review approvals over the past 5 years to locate assorted alcoholic beverage licenses and gaming. Each instance requires a new special review if the original approval was specific for location or size of the building location. The location is not within 600 feet of any church, school, or public park with a playground. Most of the property surrounding this site has been developed for services such as the Holiday gas station to the west, the Springhill Suites Hotel, the Texas Roadhouse restaurant, the Hu Hot Mongolian Grill as well as several car dealerships and other service-oriented commercial establishments.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on December 6, 2011, and received the Planning staff recommendation and testimony from the applicant's agent, Bob Pulley. No other testimony was received at the hearing. The Planning staff did not receive any written testimony or phone calls on the application.

Mr. Pulley stated the application will allow the Asian Sea Grill to have a full beverage offering at their restaurant and to expand in to the vacant tenant space in Suite 3. Mr. Pulley stated the applicant is not at all interested in exercising the gaming attached to the all beverage license and the tenant agreements would prevent gaming in any case. Mr. Pulley stated there is a "no compete" clause for all tenant spaces since there is already one casino in the building. Mr. Pulley testified this license was bought at a foreclosure auction for \$400,000. He stated just a few years ago, this type of license would have cost \$1,000,000, but the indoor smoking ban combined with the economy have reduced the market rates for these licenses with gaming. Mr. Pulley stated the restaurant looked for a license without gaming attached but none were available.

Commission Member Barbara Hawkins moved to forward a recommendation of conditional approval to the City Council. Commission Member Dan Wagner seconded the motion and the Commission voted 5-0 in favor of the motion.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The consistency with adopted plans and policies is discussed in the Alternatives Analyzed section above.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval for Special Review #895 on 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

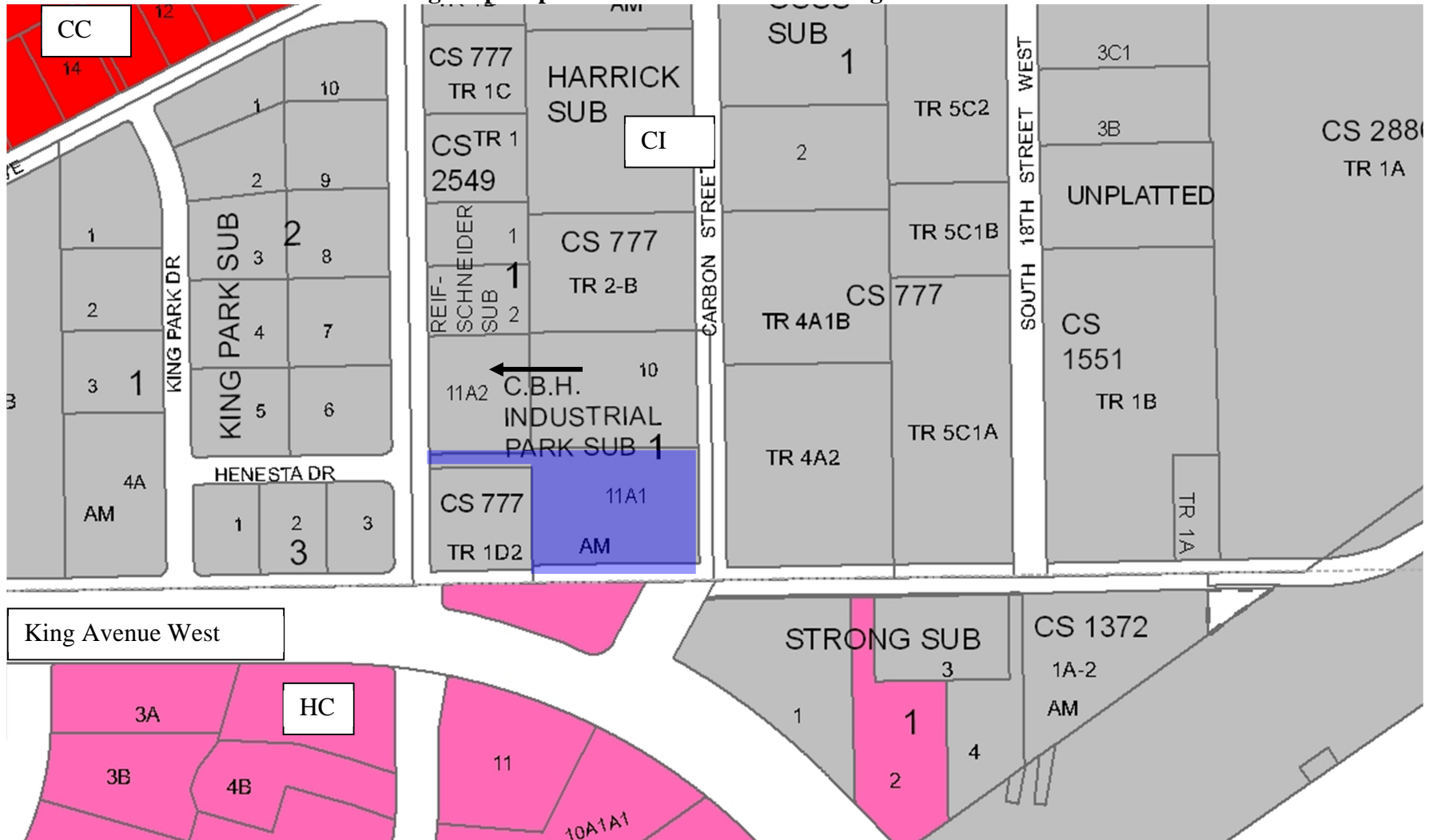
Zoning Map

Site photos

Site plan

Applicant Letter

Attachment A
Zoning Map – Special Review #895 – 1911 King Avenue West



Attachment B
Site photos – Special Review #895 – 1911 King Avenue West



Subject property



Attachment B, continued
Site photos – Special Review #895 – 1911 King Avenue West



View south and east across King Avenue West



View of subject property from parking lot

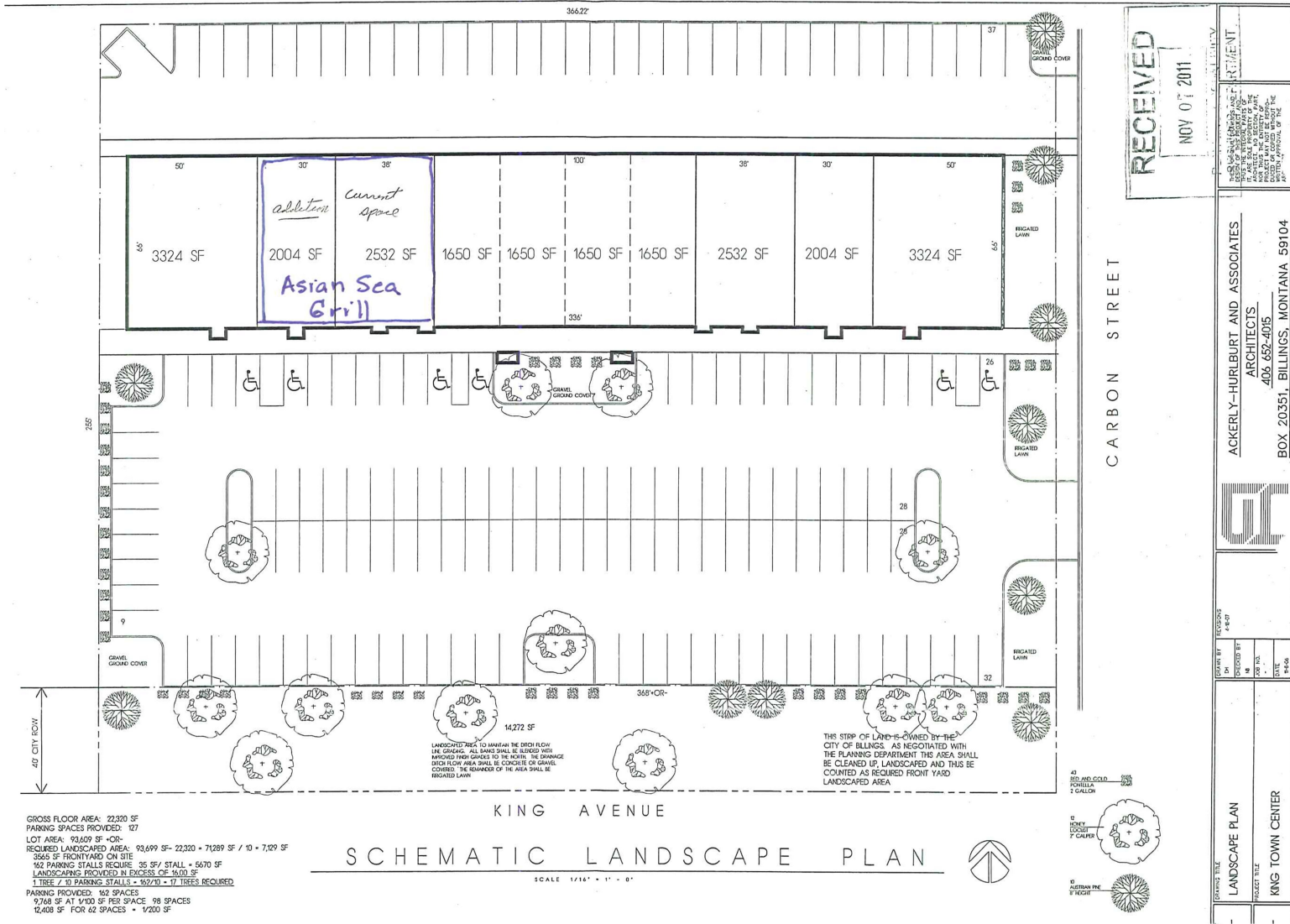
Attachment B, continued
Site photos – Special Review #895 – 1911 King Avenue West



View west across south side of parking area

Attachment C

Site Plan – Special Review #895 – 1911 King Avenue West



GROSS FLOOR AREA: 22,520 SF
 PARKING SPACES PROVIDED: 97
 LOT AREA: 93,609 SF ± OR
 REQUIRED LANDSCAPED AREA: 93,699 SF - 22,320 = 71,279 SF / 10 = 7,128 SF
 5665 SF FRONTYARD ON SITE
 142 PARKING STALLS REQUIRE 35 SF/STALL = 5,070 SF
 LANDSCAPING PROVIDED IN EXCESS OF 1600 SF
 1 TREE = 33 PARKING STALLS = 8970 = 17 TREES REQUIRED
 PARKING PROVIDED: 142 SPACES
 9,768 SF AT 1/100 SF PER SPACE 98 SPACES
 12,408 SF FOR 62 SPACES = 1/200 SF

Attachment D
Applicant Letter – Special Review #895 – 1911 King Avenue West

October 26, 2011

Planning Department
510 North Broadway
Billings, Mt.
Phone 657-8246

Subject: Special Review all beverage license

Questions :

- A: Growth of any business in a community is a good sign, Asian Sea Grill has obtained very favorable responses, the additional space is needed to accommodate their success.
- B. Expansion, owners wish to expand into a vacated space formally occupied by Silver City Casino, Silver City Casino operated under a beer and wine license.
- C. With the addition of an all beverage license, the Asian Sea Grill can offer customers a full service bar. Occupy a vacated retail space, put an idle license back in use. All positive movements in our Community.
- D. The Asian Sea Grill is expanding into space vacated by The Silver City Casino, Silver City operated a 20 game Casino under a beer and wine license. The space is to be used for additional seating. **(There will be no gaming machines)** The Asian Sea Grill is strictly a food and beverage operation, and will remain as such.

Regards:
Ting Ting Wu (Tina)
President and owner Asian Sea Grill.

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Public Hearing and First Reading of Ordinance Amending Ward IV Boundary

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

City election ward boundaries must be adjusted to conform to city limit amendments resulting from annexation or exclusion of property from the city. The City Council approved the exclusion of property described as Lots 26, 27, the west half of Lot 28 and Lot 38, and Lot 40 of the Sunny Cove Fruit Farms, (Deannexation #11-04) on December 12, 2011 by Resolution #11-19129. This requires a change in the boundaries of Ward IV. Two readings are required for this action. The first reading of the ordinance is scheduled for January 9, 2012 along with a public hearing, and the second reading is scheduled for January 23, 2012.

ALTERNATIVES ANALYZED

City Council may approve or not approve the ordinance to amend the boundary of Ward IV on first reading.

- Approving the ordinance will modify the boundaries of Ward IV to exclude the property described as Lots 26, 27, the west half of Lot 28 and Lot 38, and Lot 40 of the Sunny Cove Fruit Farms.
- Denying the ordinance will not modify the boundaries of Ward IV and create a problem where property outside the City Limits is within one of the City Ward Boundaries.

FINANCIAL IMPACT

There is no budget/financial impact from this action.

RECOMMENDATION

Staff recommends that Council hold a public hearing and approve this ordinance on first reading removing recently excluded property from Ward IV.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ward Boundary Amendment Ordinance

ORDINANCE NO. 12-_____

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

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

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

Ward IV: Portions of the Sunny Cove Fruit Farms, annexed under Resolution No. 06-18392, Recorded March 08, 2006, Under Document No. 3369380, Records of Yellowstone County, Montana;

A tract of land situated in the NE1/4 of Section 36, T.1N., R.24E., and the NW1/4 of Section 31, T.1N., R.25E., P.M.M., Billings, Yellowstone County, Montana, more particularly described as:

Sunny Cove Fruit Farms, Lots 26 and 40, Recorded April 27, 1910, Under Document No. 21540, Records of Yellowstone County, Montana;

Sunny Cove Fruit Farms, Lot 27, the west ½ of Lot 28 and Lot 38, Recorded April 27, 1910, Under Document No. 21540, Records of Yellowstone County, Montana, (now described as, Amended Plat of Sunny Cove Fruit Farms, Lot 27A, Recorded December 29, 2009, Under Document No. 3536038, Records of Yellowstone County, Montana); Including all adjacent right-of-way of 60th Street West and 62nd Street West.
Containing 46.579 gross and 44.135 net acres, more or less.

(# 11-04) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of January, 2012.

PASSED by the City Council on the second reading this 23rd day of January, 2012.

THE CITY OF BILLINGS

BY: _____

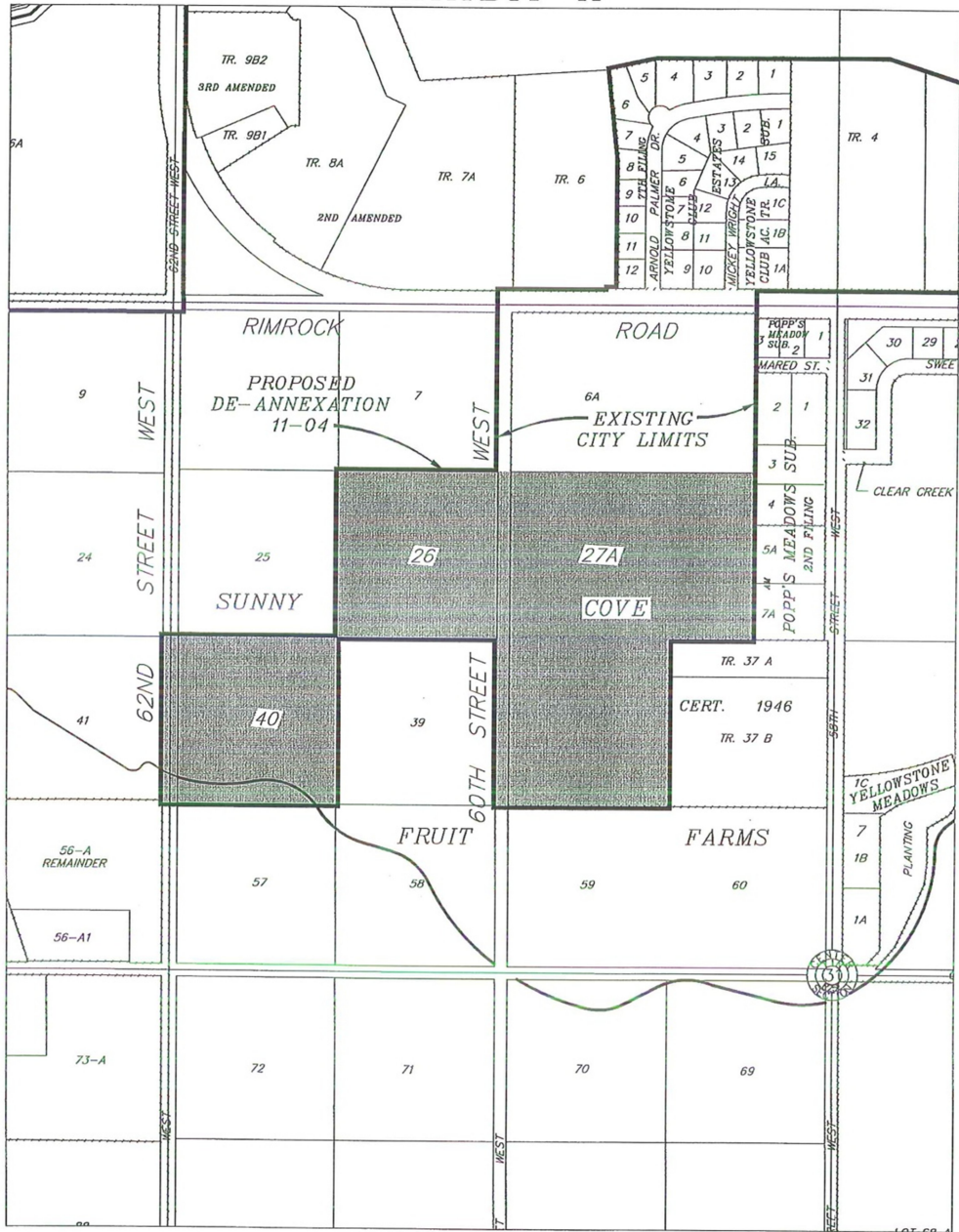
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____

Cari Martin, CITY CLERK

EXHIBIT A



Regular City Council Meeting

Meeting Date: 01/09/2012

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

PRESENTED BY: Patrick M. Weber, Finance Director

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Second Quarter Budget amendments for Fiscal year 2011/2012 are requested for the following: The Teamster contract includes a City contribution of \$950 per employee to a qualified retirement plan.

Amendment for a non-bargaining benefit of \$950 per employee to a qualified retirement plan on behalf of the employee from the City.

The Cemetery is requesting a budget amendment to chip seal the Cemetery roads. Reserves from the Cemetery Improvements Fund will be used. This was not in the CIP but the Cemetery was afforded the opportunity in FY 12 to be included in the Public Works City wide Paver bid. This will save Cemetery money by receiving better pricing for the work at the Cemetery..

The parks department would like to purchase a loader and a dump truck to maintain parks. Capital Replacement Fund reserves will be used. This was in the FY 11 ERP and is being re-budgeted.

Public Works is requesting a budget amendment for fuel increases for the Solid Waste Collections Division due to an increase in fuel prices. There is sufficient cash in the Solid Waste Fund for this increase.

Public Works is requesting the budget authority to commence a Solid Waste Master Plan and expand licensing at the landfill. The plan was in the CIP but the scope has changed due to direction by Council at a recent work session. The Solid Waste Fund has sufficient cash reserves for this project.

The Airport is requesting budget amendments to its operating fund for the following items: website redesign costs and the required annual maintenance fee, to replace six tires on the Airport's motor grader, and 800 MHz charges assessed to purchase the new 800 MHz radio system. These items will be paid from funds available in the Airport Operating Fund.

The Airport is requesting budget amendments to its Airport Replacement Capital Fund to replace ceiling tiles in the terminal building, to repave Terminal Circle Drive, to repave the west end office building parking lot and access road, to upgrade the Transportation Security Administration's (TSA's) leased office space, and to make energy efficiency improvements to various buildings and facilities at the Airport. The first three items will be paid from funds available in the Airport Capital Fund, the TSA improvements will be reimbursed by TSA, and the energy efficiency improvements will be paid initially from bank financing and energy credits. The future bank loan payments will be made with operating funds made available through the

energy savings.

The Airport is requesting budget amendments for PFC projects that are included in PFC Application Number 12-07-C-00-BIL, which the FAA approved on October 20, 2011. PFC project 07-003 will update the 1996 storm water master plan for all of the changes to the airport since that time. PFC revenues will be used to pay for the projects.

The Airport is requesting a budget amendment for engineering costs to design the 2013 Main Runway Overlay Project. Due to the complexity of this project the Airport's Engineers need to begin the design and planning far in advance of the construction phase. The fees are 95% paid by an AIP grant and 5% with local funds that are available in the Airport's AIP Construction Fund.

Transit is requesting an amendment to cover website redesign costs and for 800 MHz charges assessed to purchase the new 800 MHz radio system. These amounts will be paid from funds available in the Transit operating fund

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 second quarter budget amendments for Fiscal Year 2011/2012.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

Exhibit A

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 9th day of January, 2012.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A

Revenue Expenditure

Fund 0100 - General Fund - Municipal Court, Finance, Parks, Recreation and Public Lands, Code Enforcement, Fund 1500 - Public Safety - Police and Fire Departments, Fund 2090 - Building Inspection Fund, Fund 2110 - Street and Traffic Fund, Fund 2400 - City-County Planning Fund, Fund 2600 - City-County Library Fund, Fund 502 - Water Fund, Fund 5120 - Wastewater Fund, Fund 5210 - Parking Fund, Fund 5410 - Solid Waste Fund, Fund 5610 - Airport Fund, Fund 5710 - Transit Fund, Fund 6010 - Fleet Services Fund, Fund 6500 - Facilities Management Fund, Fund 6600 - Public Works Administration Fund, Fund 6700 - Public Works Engineering Fund

The Teamster contract includes a benefit of \$950 per employee to a qualified retirement plan on behalf of the employee from the City for a total of \$351,258 per year.

0100-12120	401451	1,900	Contribution to retirement plan expense
0100-12200	401451	6,650	Contribution to retirement plan expense
0100-15120	401451	2,850	Contribution to retirement plan expense
0100-51100	401451	950	Contribution to retirement plan expense
0100-51120	401451	7,600	Contribution to retirement plan expense
0100-51270	401451	950	Contribution to retirement plan expense
0100-51420	401451	2,850	Contribution to retirement plan expense
0100-43210	401451	2,850	Contribution to retirement plan expense
1500-21210	401451	950	Contribution to retirement plan expense
1500-21510	401451	12,351	Contribution to retirement plan expense
1500-21700	401451	950	Contribution to retirement plan expense
1500-21720	401451	4,750	Contribution to retirement plan expense
1500-22250	401451	21,851	Contribution to retirement plan expense
2090-44510	401451	1,900	Contribution to retirement plan expense
2090-44520	401451	3,800	Contribution to retirement plan expense
2110-31320	401451	34,201	Contribution to retirement plan expense
2400-43010	401451	950	Contribution to retirement plan expense
2600-55120	401451	1,900	Contribution to retirement plan expense
2600-55130	401451	7,600	Contribution to retirement plan expense
2600-55140	401451	3,800	Contribution to retirement plan expense
2600-55150	401451	2,850	Contribution to retirement plan expense
2600-55160	401451	2,850	Contribution to retirement plan expense
2600-55170	401451	2,850	Contribution to retirement plan expense
2600-55180	401451	950	Contribution to retirement plan expense
5020-73110	401451	3,420	Contribution to retirement plan expense
5020-73120	401451	7,600	Contribution to retirement plan expense
5020-73140	401451	11,400	Contribution to retirement plan expense
5020-75000	401451	9,500	Contribution to retirement plan expense
5120-83110	401451	2,281	Contribution to retirement plan expense
5120-83140	401451	657	Contribution to retirement plan expense
5120-84000	401451	14,831	Contribution to retirement plan expense
5120-85000	401451	8,224	Contribution to retirement plan expense
5120-87000	401451	95	Contribution to retirement plan expense
5210-15220	401451	2,850	Contribution to retirement plan expense
5210-15230	401451	760	Contribution to retirement plan expense
5210-15910	401451	1,701	Contribution to retirement plan expense
5210-15920	401451	3,658	Contribution to retirement plan expense
5210-15930	401451	1,691	Contribution to retirement plan expense
5210-15940	401451	1,691	Contribution to retirement plan expense
5410-31210	401451	712	Contribution to retirement plan expense
5410-31210	401451	1,009	Contribution to retirement plan expense
5410-31210	401451	179	Contribution to retirement plan expense

5410-31220	401451	40,000	Contribution to retirement plan expense
5410-31230	401451	9,500	Contribution to retirement plan expense
5610-71100	401451	950	Contribution to retirement plan expense
5610-71120	401451	9,852	Contribution to retirement plan expense
5610-71130	401451	16,150	Contribution to retirement plan expense
5610-71140	401451	8,550	Contribution to retirement plan expense
5610-71190	401451	950	Contribution to retirement plan expense
5710-71420	401451	24,100	Contribution to retirement plan expense
5710-71430	401451	1,805	Contribution to retirement plan expense
5710-71440	401451	1,948	Contribution to retirement plan expense
5710-71470	401451	14,899	Contribution to retirement plan expense
6010-15500	401451	2,375	Contribution to retirement plan expense
6010-15520	401451	7,752	Contribution to retirement plan expense
6010-15530	401451	1,939	Contribution to retirement plan expense
6010-15550	401451	475	Contribution to retirement plan expense
6500-15660	401451	2,565	Contribution to retirement plan expense
6500-15670	401451	2,185	Contribution to retirement plan expense
6600-31100	401451	950	Contribution to retirement plan expense
6700-31410	401451	950	Contribution to retirement plan expense

Fund 0100 - General Fund -City Administrator, Municipal Court, City Attorney, Human Resources, Finance, and Parks, Recreation and Public Lands, Fund 1500 - Public Safety - Police and Fire Departments, Fund 2050 - Gas Tax Fund, Fund 2090 - Building Inspection Fund, Fund 2110 - Street and Traffic Fund, Fund 2400 - City-County Planning Fund, Fund 2600 - City-County Library Fund, Fund 502 - Water Fund, Fund 5120 - Wastewater Fund, Fund 5210 - Parking Fund, Fund 5410 - Solid Waste Fund, Fund 5610 - Airport Fund, Fund 5710 - Transit Fund, Fund 6010 - Fleet Services Fund, Fund 6060 - Central Telephone Fund, Fund 6200 - Information Technology Fund, Fund 6300 - Property Insurance Fund, Fund 6500 - Facilities Management Fund, Fund 6600 - Public Works Administration Fund, Fund 6700 - Public Works Engineering Fund

This amendment is for a non-bargaining benefit of \$950 per employee to a qualified retirement plan on behalf of the employee from the City for a total of \$246,900.

0100-13130	401451	2,750	Contribution to retirement plan expense
0100-13140	401451	950	Contribution to retirement plan expense
0100-12100	401451	1,900	Contribution to retirement plan expense
0100-16110	401451	9,500	Contribution to retirement plan expense
0100-17500	401451	3,800	Contribution to retirement plan expense
0100-15120	401451	7,600	Contribution to retirement plan expense
0100-51100	401451	7,600	Contribution to retirement plan expense
0100-51290	401451	950	Contribution to retirement plan expense
1500-21110	401451	30,400	Contribution to retirement plan expense
1500-22210	401451	7,600	Contribution to retirement plan expense
2050-31310	401451	950	Contribution to retirement plan expense
2090-31510	401451	6,650	Contribution to retirement plan expense
2110-31310	401451	6,650	Contribution to retirement plan expense
2400-43010	401451	38,950	Contribution to retirement plan expense
2600-55110	401451	4,750	Contribution to retirement plan expense
5020-72110	401451	22,800	Contribution to retirement plan expense
5120-82110	401451	20,900	Contribution to retirement plan expense
5210-15210	401451	950	Contribution to retirement plan expense
5410-31210	401451	6,650	Contribution to retirement plan expense
5610-71100	401451	9,500	Contribution to retirement plan expense
5710-71410	401451	7,600	Contribution to retirement plan expense
6010-15500	401451	2,850	Contribution to retirement plan expense
6060-15170	401451	950	Contribution to retirement plan expense
6200-19110	401451	19,000	Contribution to retirement plan expense

6300-17530	401451	950	Contribution to retirement plan expense
6500-15650	401451	950	Contribution to retirement plan expense
6600-31100	401451	5,700	Contribution to retirement plan expense
6700-31410	401451	17,100	Contribution to retirement plan expense

Fund 7020 - Cemetery Improvements Fund

The Cemetery is requesting a budget amendment to chip seal the Cemetery roads. Reserves from the Cemetery Improvements Fund will be used.

7020-51710	409390	85,000	Cost of chip seal
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Fund 6400 - Capital Improvements Fund

The parks department would like to purchase a loader and a dump truck to maintain parks. Capital Replacement Fund reserves will be used. This was in the FY 11 ERP and is being re-budgeted.

6400-51600	409440	173,000	Loader
6400-51600	409440	54,000	Dump truck

Fund 8020 – Street Maintenance District II Fund, Fund 2050 – Gas Tax Fund

Public Works is requesting a budget amendment for the transfer needed to transfer funds from Street Maintenance District II to Gas Tax for the PAVER program. The budget for the expenditure of PAVER out of the gas tax fund was previously approved and this budget amendment is strictly needed for accounting purposes. It is not an increase in expenses, but instead establishes the necessary budget authority for the transfers between funds.

8020-31810	408260	1,300,000	Transfer to Gas Tax
2050-31310	307542	1,300,000	Transfer to Street Maintenance Fund

Fund 5410 – Solid Waste Fund

Public Works is requesting a budget amendment for fuel increases for the Solid Waste Collections Division. We anticipate being \$120,000 over budget due to an increase in fuel prices. There is sufficient cash in the Solid Waste Fund for this increase.

5410-31220	402310	120,000	Fuel expense
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Fund 5440 – Solid Waste Fund

Public Works is requesting the budget authority to commence a Solid Waste Master Plan and expand licensing at the landfill. The Master Plan involves characterizing the waste flow and material types accepted by the landfill and evaluation of solid waste management alternatives including materials recovery, recycling, incineration, plasma, gasification, and landfill expansion. A preliminary investigation on the property to the east of Hillcrest will be conducted and licensing will begin if needed. The plan was in the CIP but the scope has changed due to direction by Council at a recent work session. The Solid Waste Fund has sufficient cash reserves for this project.

5440-31230	409390	500,000	Solid waste master plan & licensing
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Fund 5610 - Airport Fund

The Airport is requesting budget amendments to its operating fund for the following items: website redesign costs of \$6,500 and the required annual maintenance fee of \$600, to replace six tires on Airport's motor grader, and 800 MHz charges assessed to purchase the new 800 MHz radio system. These items will be paid from funds available in the Airport Operating Fund.

5610-71100	403590	7,100	Professional services
5610-71130	402390	7,200	Tires, tubes, etc.
5610-71100	403451	21,758	800 MHz charges

Fund 5620 - Airport Fund

The Airport is requesting budget amendments to its Airport Replacement Capital Fund to replace ceiling tiles in the terminal building, to repave Terminal Circle Drive, to repave the west end office building parking lot and access road, to upgrade the Transportation Security Administration's (TSA's) leased office space, and to make energy efficiency improvements to various buildings and facilities at the Airport. The first three items will be paid from funds available in the Airport Capital Fund, the TSA improvements will be reimbursed by TSA, and the energy efficiency improvements will be paid initially from bank financing and energy credits and the debt service with operating funds made available through energy savings. All the projects were in previous years CIP, current years CIP or in future years CIP.

5620-71200	409290		100,000	Building improvements
5620-71200	409310		480,000	Repaving of Terminal Circle
5620-71200	409310		70,000	Repaving of parking lot and access road
5620-71200	377013	50,000		TSA reimbursement
5620-71200	409290		50,000	Improvements to TSA space
5620-71200	386950	1,353,078		Issue of a loan
5620-71200	377012	46,000		Energy credits
5620-71200	402450		43,657	Building/equipment maintenance
5620-71200	909290		1,355,421	Building improvements
5620-71200	406100		30,918	Principal
5620-71200	406200		33,557	Interest
5620-71200	405510		15,000	Loan fees

Fund 4070 - Airport Fund

The Airport is requesting budget amendments for PFC projects that are included in PFC Application Number 12-07-C-00-BIL, which the FAA approved on October 20, 2011.

PFC project 07-003 will update the 1996 storm water master plan for all of the changes to the airport since that time and to evaluate a plan to identify options to enhance the Airport's ability to detain storm water longer when super cell cloud bursts dump large amounts of rain on the Airport. PFC revenues will be used to pay for the projects. The non-building improvements are in the FY 13 CIP.

4070-71280	403590		180,000	PFC professional services
4070-71280	409397		820,000	PFC non-building improvements

Fund 4050 - Airport Fund

The Airport is requesting a budget amendment for engineering costs to design the 2013 Main Runway Overlay Project. Due to the complexity of this project the Airport's Engineers need to begin the design and planning far in advance of the construction phase. The fees are 95% paid by an AIP grant and 5% with local funds that are available in the Airport's AIP Construction Fund. This project is in the FY 12 and FY 13 CIP.

4050-71250	331990	319,213		AIP FY 2012 federal grant
4050-71250	409695		319,213	AIP FY 2012 federal share
4050-71250	409696		16,801	AIP FY2012 local share

Fund 5710 - Transit Fund

This budget amendment is requested to cover website redesign costs and for 800 MHz charges assessed to purchase the new 800 MHz radio system. Website redesign costs include an annual maintenance fee of \$600 and \$2,500 for design fees. These amounts will be paid from funds available in the Transit operating fund

5710-71410	403590		3,100	Professional services
5710-71440	403451		6,693	800 MHz charges
5710-71470	403451		4,462	800 MHz charges

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Downtown Tax Increment District Funding for Trolley/Shuttle Study

PRESENTED BY: Bruce McCandless

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Planning Department, MET Transit, the Downtown Alliance and downtown business and property owners formed a committee to study the feasibility of establishing a trial or test for a downtown public transportation shuttle/circulator. This type of public transportation service was suggested by the 1998 Downtown Framework Plan and repeated in subsequent plans and plan amendments. MET proposes to fund 60% of the estimated \$20,000 study cost (\$12,000) and the Downtown Billings Partnership (DBP) recommends committing \$8,000 of downtown tax increment financing to provide full funding for the project. The study would be conducted by LSC Transportation Consultants, the company that the City contracts with to perform most of its MET route and schedule studies. A detailed description of the tasks is attached. According to the DBP agreement, any program expense over \$50,000 and all new programs require City Council approval.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the \$8,000 tax increment financing request
- Disapprove the request

FINANCIAL IMPACT

\$8,000 would be committed to the project out of the estimated \$1.7 million of fund revenue in tax year 2011. The appropriation should not negatively impact other planned projects.

RECOMMENDATION

The Downtown Billings Partnership Board of Directors recommends that the City Council appropriate \$8,000 of downtown tax increment financing to the downtown shuttle/circulator study.

APPROVED BY CITY ADMINISTRATOR

Attachments

Shuttle study outline

TITLE: Circulator Study – City of Billings Planning

COMMITTEE: Development Committee

PRESENTED BY: DBP Staff

PROBLEM/ISSUE STATEMENT: A downtown trolley and or circulator has been a part of the Framework Plan and the Urban Renewal plans of the N. 27th District as well as the old TIF District since the development of the Framework.

A new committee has been formed to evaluate the project, and it includes: The City of Billings (Planning and MET); the downtown Alliance; property owners; merchants; and other involved citizens. The City of Billings has offered to fund 60% of the cost of a study to evaluate and establish a “trial/test” plan to operate a program that could lead to a permanent circulator system. The project will:

TASK 1: PROJECT ADMINISTRATION AND COORDINATION

LSC Transport Consultants, Inc. (LSC) will meet with the local working group to develop specific goals for the pilot project. This will build on previous discussions and local efforts. LSC will provide monthly updates to the working group regarding the project progress.

TASK 2: DEVELOP OPERATIONS PLAN

LSC will refine the proposed route based on operating parameters such as stop locations, traffic control devices, and running times. The operations plan will focus on developing a system with a minimum frequency of 30 minutes with recommendations for possible different frequencies during peak time periods. We will prepare a draft schedule showing times at key stops.

TASK 3: RESEARCH VEHICLE AND OPERATOR AVAILABILITY

Based on the operations plan we will research the availability of vehicles. We will look at several types of vehicles, but will constrain the research to vehicles which would be appropriate to this service. There are several possible operators in the Billings area. We will contact the operators to determine the possible level of interest in operating the service and possible costs. Other considerations such as driver qualifications will be incorporated into the assessment of possible operators.

TASK 4: OUTLINE MARKETING PLAN

Marketing of the pilot service will be very important. To have a successful test, potential users must be made aware of the service and encouraged to use it. We will outline marketing activities which should be undertaken as part of the pilot project. LSC will not develop specific marketing materials. Cost of marketing pieces will be included in the cost estimates for the pilot project.

TASK 5: DEVELOP MONITORING PROGRAM

Performance of the pilot service should be monitored to provide information regarding the results of the pilot service and to determine the feasibility of starting a permanent service. Recommendations will be provided for collection of operational and ridership data and for reporting of service performance.

TASK 6: PREPARE DRAFT AND FINAL REPORTS

We will prepare a Draft Plan for review by the local working group. We will attend a meeting of the working group to present the recommendations, to answer questions, and to receive input. The Plan will include specific steps for implementing the pilot program based on the service plan, availability of vehicles, potential operators, and marketing activity. The operations plan and a financial plan will be included. We will then prepare a Final Plan for use by the local working group to initiate the pilot program.

FINANCIAL IMPACT: The study will cost \$20,000 with the TIFD contributing \$8,000. Fund 203 can sustain this expense in FY 2012. City Council approval will be required.

Resolution:

The Board approved the request.

Regular City Council Meeting

Meeting Date: 01/09/2012

TITLE: Downtown Tax Increment District Support for N. 25th Street Pedestrian Bridge

PRESENTED BY: Bruce McCandless, Asst City Administrator

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The Downtown Billings Partnership (DBP) has for many years supported the proposed N. 25th Street Pedestrian Bridge over the MRL tracks. At its November meeting, the DBP Board approved allocating \$20,000 to the bridge project in order to fully fund the project. A copy of the funding amounts and sources is attached. The proposed \$20,000 allocation is identified as "City of Billings" on the attachment. The total of \$821,559 is the amount needed for the complete project. According to the DBP/City agreement, the City Council must approve on-going projects exceeding \$50,000 and all new projects.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the recommendation, which will allow the project to proceed with full funding, or
- Not approve the recommendation and project supporters will need to secure the funding from other sources

FINANCIAL IMPACT

The report from the DBP staff to the board indicates that \$1,000,000 has been allocated for development projects in FY 12, so the \$20,000 appropriation will not be detrimental to other projects.

RECOMMENDATION

The Downtown Billings Partnership Board of Directors recommends that the City Council approve \$20,000 of downtown tax increment financing for the proposed N. 25th Street Pedestrian Bridge.

APPROVED BY CITY ADMINISTRATOR

Attachments

Bridge funding summary

25th Street Bridge – CTEP

Funding Sources:

CTEP	\$664,157
TCSP	\$54,457
BikeNet	\$25,000
Sample Foundation	\$3,150
Downtown Business Partnership	\$20,000
City of Billings	\$20,000
Conoco	\$18,000
Scott Fund/US Bank	\$7,500
Cash Donation	\$9,295
Total	\$821,559