

**CITY OF BILLINGS**

**CITY OF BILLINGS VISION STATEMENT:**

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

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**AGENDA**

**COUNCIL CHAMBERS**

**July 23, 2012**

**6:30 P.M.**

**CALL TO ORDER:** Mayor Hanel

**PLEDGE OF ALLEGIANCE:** Mayor Hanel

**INVOCATION:** Councilmember Ronquillo

**ROLL CALL:** Councilmembers present on roll call were:

**MINUTES:** July 9, 2012

**COURTESIES:**

**PROCLAMATIONS:** Disabilities Act Awareness Day, July 26, 2012

**ADMINISTRATOR REPORTS - TINA VOLEK**

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

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	John Moorhouse	Soil Conservation District	07/01/12	06/30/15

**B. Bid Awards:**

1. **South Park Gazebo** (Opened 7/10/2012) Recommend Fisher Construction, Inc.; \$140,775.

2. **MET Transit Building and Bus Maintenance Area Upgrades (FTA Funded).**  
Recommend Fisher Construction, Inc.; \$374,000.
- C. **Approval** of new 25-year Commercial Aviation Ground Lease with Edwards Jet Center (7/1/2012 - 6/30/2037); annual revenue first year - \$18,273.48; revenue for subsequent years to be adjusted annually by Consumer Price Index for all Urban Consumers (CPI-U); and **approval** of the Lessor's Consent to Assignment to Stockman Bank.
- D. **Approval** of Scheduled Airline Operating Permit with Pinnacle Airlines; estimated annual revenue - \$4,000 to \$5,000.
- E. **Revolving Fund Loan** to Bootleg Distillery, Inc. dba Trailhead Spirits; not to exceed \$100,000.
- F. **Acknowledge receipt of petition to vacate** the south 15 feet of Hesper Road right-of-way in Tract 3-A1, Rockwood Subdivision, 2nd Filing, generally located near South 30th Street West; Bristlecone, Inc., petitioner; and set a public hearing for August 13, 2012.
- G. **Acknowledge receipt of petition to vacate** street rights-of-way in Ironwood Subdivision, 4th Filing; Regal Land Development, Inc., petitioner; and set a public hearing date of August 13, 2012
- H. **Grant Application Request** to submit a Montana Tourism Infrastructure Investment Program application to provide an interpretive site and redevelop the Yellowstone Kelly gravesite at Swords Park and accept award; \$125,000.
- I. **Grant Application Request** to submit a Recreational Trails Program grant application for a portion of the Aronson Trail Link and accept award; \$45,000.
- J. **Resolution** authorizing the Mayor to execute the City's Acknowledgement and Acceptance of Conveyance on the estimated 160 right-of-way deeds for the Bench Boulevard project.
- K. **Resolution** authorizing the Parking Division to use the alternative project delivery contract process of design/build for construction of the Empire Parking Garage.
- L. **Resolution** fixing the form and terms of the bond sale for the new library general obligation bonds.
- M. **Second/Final reading ordinance expanding Ward IV** for two parcels totalling approximately 4.06 acres legally described as Tracts 2A and 2B, C/S 2577, generally located south of Highway 3 west of Hickok Circle; Timothy and Sheryl Dernbach and Jeff and Dana Sorenson, owners.
- N. **Bills and Payroll:**

1. June 25, 2012

## **REGULAR AGENDA:**

2. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #899:** A text amendment to Section 27-305, Section 27-306, and Section 27-607 deleting language and adding language to allow the keeping of hens within residential zones and on property developed with residential uses; adopting the revision as an amendment to the Zoning Regulations; and setting a time period for the regulation to be effective. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.)
3. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #900:** A zone change from Residential 5,000 to Residential Multi-family-Restricted on a 22.3-acre portion of Lots 1 and 2, Block 1, Western Sky Subdivision, generally located west of the intersection of 44th Street West and King Avenue West. King Meadows, LLC, owner; Sanderson Stewart, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
4. **PUBLIC HEARING AND RESOLUTION** amending downtown parking rates. Parking Advisory Board and staff recommend approval. (Action: approval or disapproval of Parking Advisory Board and staff recommendation.)
5. **PUBLIC HEARING AND FIRST READING ORDINANCE** naming the expansion of Park 2 as an Expanded North 27th Street Urban Renewal Area project to allow financing with tax increment bonds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
6. **PUBLIC HEARING AND RESOLUTION** authorizing the sale of city-owned property described as the Galles Filter Building located at 10 S. 26th Street. Staff recommendation to be made at July 23, 2012, meeting.
7. **RESOLUTION** approving and adopting the Fiscal Year 2013 City of Billings Budget for Personal Services, Operations and Maintenance, Debt Service and Transfers. (Postponed from June 11, 2012) Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
8. **RATIFICATION** of the City Administrator's approval of the grant application for \$98,280 from the Institute of Museum Services Office of Strategic Partnerships in Washington, D.C. for the Parmly Billings Library Foundation. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)  
**(Councilmember McCall moved to add to agenda as Item 8, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.)**

**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:** 07/23/2012  
**TITLE:** Boards & Commissions Appointment  
**PRESENTED BY:** Tina Volek  
**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Mayor is requesting that the City Council confirm an appointment to the the Soil Conservation District Board that is vacant due to term end.

**ALTERNATIVES ANALYZED**

- Council may:
- Confirm the proposed appointment; or
  - Not confirm the appointment.

**FINANCIAL IMPACT**

The proposed action has no financial impact.

**RECOMMENDATION**

Mayor Hanel recommends that Council confirm the following appointment:

	Name	Board/Commission	Term	
			Begins	Ends
1	John Moorhouse	Soil Conservation District	07/01/12	06/30/15

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** South Park Gazebo Construction Bid Award

**PRESENTED BY:** Mike Whitaker

**Department:** Parks/Rec/Public Lands

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**Information**

**PROBLEM/ISSUE STATEMENT**

The South Park Gazebo project was funded for \$180,000 as part of the Fiscal Year 2012 Budget. This project will locate a new gazebo close to the old gazebo that was demolished the spring of 2010. The construction period will be for 90 days beginning on or about August 15th. Bids were opened on July 10, 2012. There were 5 bidders and Fisher Construction Inc. is the apparent low bidder with a bid of \$140,775.00. See Bid Tabulation Attachment A for more detailed cost and project information.

**ALTERNATIVES ANALYZED**

The City Council may:

- Accept the bid for \$ 140,775.00; or
- Reject all bids and provide direction to staff.

**FINANCIAL IMPACT**

The \$180,000.00 was appropriated in the FY2012 Budget for the purpose of constructing a new gazebo at South Park. This contract will be paid for out of these funds.

**RECOMMENDATION**

The Billings Parks, Recreation and Public Lands Department recommends awarding the bid to Fisher Construction Inc. for the amount of \$ 140,775.00.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Bid Tab Sout Park Gazebo

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## Bid Tab Form South Park Gazebo

<b>PROJECT</b>	SOUTH PARK GAZEBO BILLINGS, MONTANA
<b>ARCHITECT'S PROJECT NUMBER</b>	21106
<b>ARCHITECT/ENGINEER</b>	HGFA-ARCHITECTS 222 NORTH 32 <sup>ND</sup> STREET, STE. 800 BILLINGS, MONTANA 59101
<b>BID OPENING DATE</b>	JULY 10, 2012

CONTRACTOR	General Contractors	Fisher Construction	Hanna Construction	S-Bar-S	Hardy Construction	HGFA Estimate
<b>Bid Security</b>	(X)	(X)	(X)	(X)	(X)	
<b>Addenda Acknowledgment</b>	#1 (X)	#1 (X)	#1 (X)	#1 (X)	#1 (X)	
<b>BASE BID:</b>	\$158,068	\$140,775	\$156,700	\$190,200	\$192,500	\$140,592
<b>Alternate #1</b>	\$ 12,836	\$ 25,000	\$ 12,500	\$ 9,288	\$ 14,600	\$ 9,914
<b>Alternate #2</b>	\$ 20,823	\$ 10,000	\$ 24,500	\$ 12,556	\$ 31,600	\$ 21,902
<b>Alternate #3</b>	\$ 5,587	\$ 3,570	\$ 2,200	\$ 6,130	\$ 4,400	\$ 6,480
<b>Alternate #4</b>	\$ 8,067	\$ 10,500	\$ 8,400	\$ 10,240	\$ 9,500	\$ 6,831
<b>TOTAL:</b>	\$205,381	\$189,845	\$204,300	\$228,414	\$252,600	\$185,719
<b>Trades</b>	Summit Billings Concrete	Treasure State Morgan Contractors	Action American Concrete	Circuit Billings Concrete	Treasure State Summit American Concrete	

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Award of the Federal Transportation Administration (FTA) Funded MET Transit Building and Bus Maintenance Area Upgrades Project

**PRESENTED BY:** Tom Binford

**Department:** Airport

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**Information**

**PROBLEM/ISSUE STATEMENT**

Included in the City's Capital Improvement Plan is the Federal Transportation Administration (FTA) funded MET Transit Building and Bus Maintenance Area Upgrades Project. The existing Metroplex building was built in 1983 and needs upgrades to the existing HVAC systems and the overhead garage doors. This project will replace three boilers, two pumps, and two roof top HVAC units with a new energy efficient boiler and roof top HVAC unit, as well as replacing the existing maintenance bay ceiling mounted fan coil units with energy efficient radiant heat units. Additionally, the 20 overhead garage doors in the bus maintenance and storage area will be replaced with new insulated doors and operators. This project was advertised in the *Billings Times* for three weeks and was posted on the City's Web Site. On July 10, 2012 the following bids were received for this project:

CONTRACTOR	BID
Fisher Construction, Inc.	\$374,000
General Contractors Construction Co., Inc.	\$388,709
High Tech Construction	\$408,429
Cucancic Construction	\$390,000
Hardy Construction	\$429,000
Keystone Construction Co.	\$440,000
ESTIMATE	\$450,000

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the award of the FTA funded MET Transit Building and Bus Maintenance Area Upgrades Project; or
- Decline to award the project, subsequently delaying the project.

**FINANCIAL IMPACT**

The total cost of the FTA funded MET Transit Building and Bus Maintenance Area Upgrades Project is \$374,000, and will be funded 80% with FTA grant funds and 20% with local match funds. The FTA portion will be \$299,200 and the local match will be \$74,800. This project is included in the current budget and local matching funds are budgeted and available in the MET Transit's capital fund.

**RECOMMENDATION**

Staff recommends the City Council award the MET Transit Building and Bus Maintenance Area Upgrades to the the low bidder, Fisher Construction, Inc., for the amount of \$374,000.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Commercial Aviation Ground Lease with Edwards Jet Center – Lot 8

**PRESENTED BY:** Tom Binford

**Department:** Airport

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**Information**

**PROBLEM/ISSUE STATEMENT**

Edwards Jet Center (EJC) desires to construct a new large aircraft hangar on a currently vacant parcel known as Commercial Lot 8 located at the east end of the Airport. This twenty-five (25) year ground Lease would be for 73,094 square feet. The Airport averages two or three leases per year using this type of lease, either for a new lease or for a lease renewal. The Lease identifies that the tenant is responsible for maintaining the leasehold, and includes the appropriate insurance coverage requirements and indemnification language. Additionally, EJC will be financing the construction of this new hangar through Stockman Bank. Stockman Bank is requesting an Assignment of EJC's interest in the Lease to secure the new financing arrangements.

The assignment language has been reviewed by both staff and the City Attorney, and is similar to language used in the past. The City has approved a number of these financing assignments over the years as a means for the banks to secure the loans they provide to the Airport tenants for either construction or purchase of their onsite facilities.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the Commercial Aviation Ground Lease on Lot 8 with Edwards Jet Center; or
- Not approve the Commercial Aviation Ground Lease on Lot 8 with Edwards Jet Center.

**FINANCIAL IMPACT**

This ground Lease will generate \$18,273.48 in the first year of the Lease. The ground Lease rate of \$0.25 per square foot per annum is in line with the rate being paid by other ground lease tenants located in this area. Future lease year rentals will be adjusted annually by the Consumer Price Index for All Urban Consumers (CPI-U).

**RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute a new twenty-five year Commercial Aviation Ground Lease at Billings Logan International Airport with Edwards Jet Center that commences July 1, 2012 and terminates on June 30, 2037, and the Lessor's Consent to Assignment to Stockman Bank to secure the bank's financing to Edwards Jet Center for EJC's new hangar construction at the Airport. Copies of the Lease and Lessor's Consent to Assignment are on file in the City Clerk's Office.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Airline Operating Permit with Pinnacle Airlines

**PRESENTED BY:** Tom Binford

**Department:** Airport

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**Information**

**PROBLEM/ISSUE STATEMENT**

Pinnacle Airlines will be supplementing airline operations for Delta Air Lines at various times throughout the travel seasons, mostly during the times of heavy summer traffic and the holidays when extra flights are brought in to accommodate the larger number of travelers. To ensure that specific operating requirements will be met, a Scheduled Airline Operating Permit should be entered into between the City of Billings and Pinnacle. This is a standard Operating Permit that is used for various airlines that operate occasionally for the Signatory Airlines that are based in Billings. The Operating Permit ensures that the airline follows certain Airport operating parameters and procedures, including providing proof that the proper insurance coverage is in place.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the Operating Permit with Pinnacle Airlines; or
- Not approve the Operating Permit with Pinnacle Airlines.

**FINANCIAL IMPACT**

The City will benefit from the additional landing fees that will be generated by the Pinnacle operations. It is difficult to determine what the actual financial benefit might be, but it is estimated to be approximately \$4,000 to \$5,000 annually.

**RECOMMENDATION**

Staff recommends that Council approve and the Mayor execute the Scheduled Airline Operating Permit with Pinnacle Airlines. A copy of the Operating Permit is on file with the City Clerk.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Approval of Downtown Revolving Loan Fund Recommendation for the Bootleg Distillery, Inc., d/b/a Trailhead Spirits

**PRESENTED BY:** Patrick M. Weber

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Downtown Revolving Loan Committee met on May 31, 2012, and gave conditional approval of a loan to Casey McGowan of the Trailhead Spirits. The applicant met the conditions required by the Committee including the 20% equity. The loan may not exceed \$100,000.

Mr. McGowan will be renovating the building located at 2314 Montana Ave (formerly The Beanery) for use as a distillery, spirits tasting bar, and retail sales. Mr. McGowan has secured a five year lease with a five year renewal option for the property. The cost of the renovation and start up is estimated at \$775,000, with the Downtown Revolving Loan Fund financing up to \$100,000. It was discussed that Mr. McGowan has \$270,000 of personal investment, and secured a \$500,000 SBA loan through Yellowstone Bank. Mr. McGowan has also agreed to offer a personal guarantee for the loan. The Downtown Revolving Loan Fund would be second to the Yellowstone Bank loan financing the remainder of the costs. The loan will have a seven year term and amortization.

**ALTERNATIVES ANALYZED**

The Council may approve or not approve the loan recommendation. Approval will allow Mr. McGowan to proceed with the project and disapproval means that completion of the project may be difficult and the building could remain vacant.

**FINANCIAL IMPACT**

The loan fund will have a balance of \$578,000 of loans payable to the banks after this loan and pending loans of \$616,000 previously approved by the Council.

**RECOMMENDATION**

The Downtown Revolving Loan Fund Committee recommends Council approve the loan to the Bootleg Distillery, Inc., d/b/a Trailhead Spirits.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Attachment

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Revolving Loan Fund Loan

Monday, July 23, 2012

The Bootleg Distillery, Inc., d/b/a Trailhead Spirits, loan terms are as follows:

Loan	Not to exceed \$100,000.
Interest Rate	5% Adjusted annually.
Term	Amortized over seven years.
Payments	Minimum Payments calculated at a rate of 5% over a seven year term.
Collateral	Personal guarantee of Casey McGowan.
Disbursement	The City will disburse funds after it receives documentation supporting the actual project costs.

This loan is for the purpose of remodeling 2314 Montana Ave, formerly The Beanery.

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Acknowledge Receipt of Petition to Vacate a portion of Hesper Road and Set a Public Hearing

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Bristlecone, Inc. has petitioned to vacate the south 15 feet of Hesper Road right of way in front of their property, Rockwood Subdivision, 2nd Filing, Tract 3-A1. The subdivision for Rockwood Subdivision, 2nd Filing, was completed in 1979 and dedicated an additional 20 feet of right of way on Hesper Road. This totaled 50 feet of half right of way, which at the time was required for an arterial street. This portion of Hesper Road, which is located near South 30th Street West is classified as a local commercial street and not the arterial envisioned in 1979. The right of way required for a local commercial street is 70 feet or 35 foot half right of way. There are no plans to change the classification of Hesper Road to an arterial or collector and 35 feet of half right of way is wide enough to construct a full commercial street in the future. In 2001, Tract 3-A1 was annexed into the city. A condition of annexation stated that the property owner would petition the City to vacate the south 15 feet of right of way fronting their property and the city would approve it at no cost. Unfortunately, an agreement can only be found in draft form and no one is able to find a signed copy of the agreement. City policy on right of way vacation allows a petitioner to vacate property at no cost if they are the original dedicator. In this case, Bristlecone, Inc. is not the original developer. Rockwood Sons, Inc. dedicated the right of way on Hesper Road. Bristlecone, Inc. has the same family as Rockwood Sons, Inc. The area of the street proposed to be vacated is 10,324 square feet.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve acknowledgment of petition to vacate the above-mentioned right-of-way and set a public hearing for August 13, 2012; or
- Do not acknowledge the petition and terminate the right-of-way vacation process.

**FINANCIAL IMPACT**

The petitioners are requesting that the right of way be gifted to them, however, they did provide a letter of value by a realtor for the right of way. Daniel Monahan from Metro Realtors has established the value of the right of way at \$2.50/sf. At \$2.50/sf, the right of way would be valued at \$25,810.00. If Council declines to approve the right of way vacation as a gift, the petitioner would have to pay the city this amount for the right of way.

**RECOMMENDATION**

Staff recommends that Council acknowledge the receipt of a petition to vacate a portion of Hesper Road and set a public hearing for August 13, 2012.

**APPROVED BY CITY ADMINISTRATOR**

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## Attachments

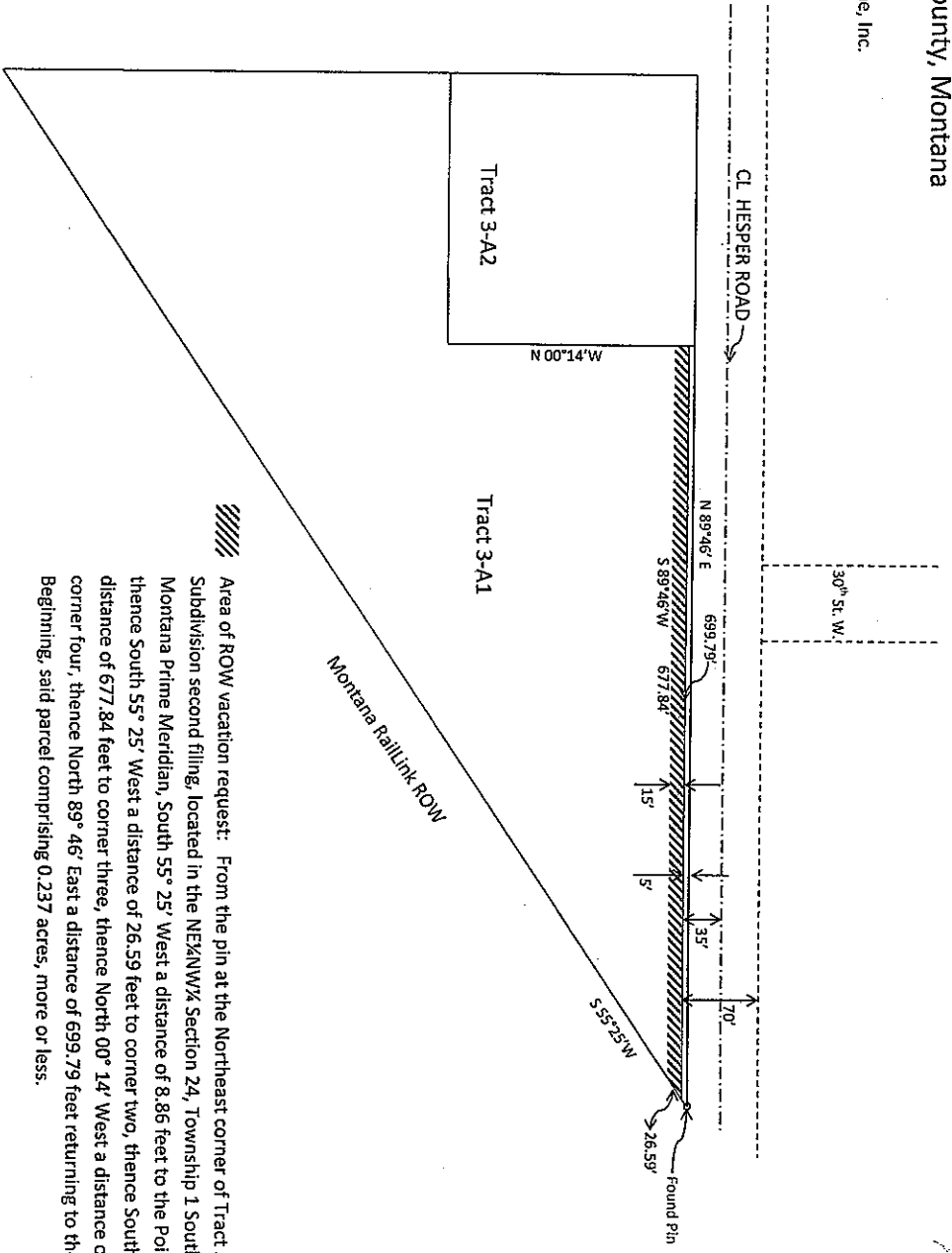
Map of ROW Vacation

Letter from Realtor

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**REQUEST TO VACATE PUBLIC RIGHT-OF-WAY**  
**Tract 3-A1 Rockwood Subdivision – 2<sup>nd</sup> Filing**  
 Located in the NW¼, Section 24, T. 1 S., R. 25 E., P.M.M.  
 Yellowstone County, Montana

Request by Bristlecone, Inc.



**Area of ROW vacation request:** From the pin at the Northeast corner of Tract 3-A1, Rockwood Subdivision second filing, located in the NE¼NW¼ Section 24, Township 1 South, Range 25 East, Montana Prime Meridian, South 55° 25' West a distance of 8.86 feet to the Point of Beginning, thence South 55° 25' West a distance of 26.59 feet to corner two, thence South 89° 46' West a distance of 677.84 feet to corner three, thence North 00° 14' West a distance of 15.0 feet to corner four, thence North 89° 46' East a distance of 699.79 feet returning to the Point of Beginning, said parcel comprising 0.237 acres, more or less.

Scale: 1 inch = 100 feet



# METRO REALTORS, P.C.

DAN MONAHAN  
BROKERAGE

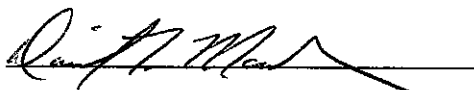
Area of ROW vacation request: From the pin at the Northeast corner of Tract 3-A1, Rockwood Subdivision second filing, located in the NE1/4NW1/4 Section 24, Township 1 South, Range 25 East, Montana Prime Meridian, South 55° 25' West a distance of 88.6 feet to the Point of Beginning, thence South 55° 25' West a distance of 26.59 feet to corner two, thence South 89° 46' West a distance of 677.84 feet to corner three, thence North 00° 14' West a distance of 15.0 feet to corner four, thence North 89° 46' East a distance of 699.79 feet returning to the Point of Beginning, said parcel comprising 0.237 acres, more or less.

6/25/2012

**Property Description:** A strip of land bordering Hesper road referenced in the above description. See attached plat map.

**BROKERS OPINION OF VALUE AS OF 6/22/2012:**

\$2.50 per sq. ft.



DANIEL L. MONAHAN BROKER/OWNER

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Acknowledge Receipt of Petition to Vacate Portions of Streets within Ironwood 4th Filing and set a Public Hearing

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Regal Land Development, Inc., the developer of Ironwood Subdivision 4th Filing, is replatting a portion of Ironwood 4th Filing. With the new plat, which will be Ironwood Subdivision 5th Filing, the streets will be realigned. This requires the street right of way to be vacated and new right of way to be dedicated. None of the streets have been constructed. Regal Land Development, Inc. is the original developer, therefore, the vacated right of way to be vacated is granted at no cost to the developer. Attached is a map showing the right of way to be vacated. This Council action acknowledges the street vacation application and sets a public hearing date of August 13, 2012. The new plat for Ironwood Subdivision 5th Filing, which will dedicate new rights of way, will be presented for approval at either the August 13 or August 27, 2012 City Council meeting.

**ALTERNATIVES ANALYZED**

The Council may:

- Acknowledge receipt of the petition to vacate the above mentioned right of way and set a public hearing for August 13, 2012; or
- Do not acknowledge the petition to vacate the right of way.

**FINANCIAL IMPACT**

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

**RECOMMENDATION**

Staff recommends that Council acknowledge receipt of the petition to vacate portions of right of way within Ironwood Subdivision 4th Filing and set a public hearing for August 13, 2012.

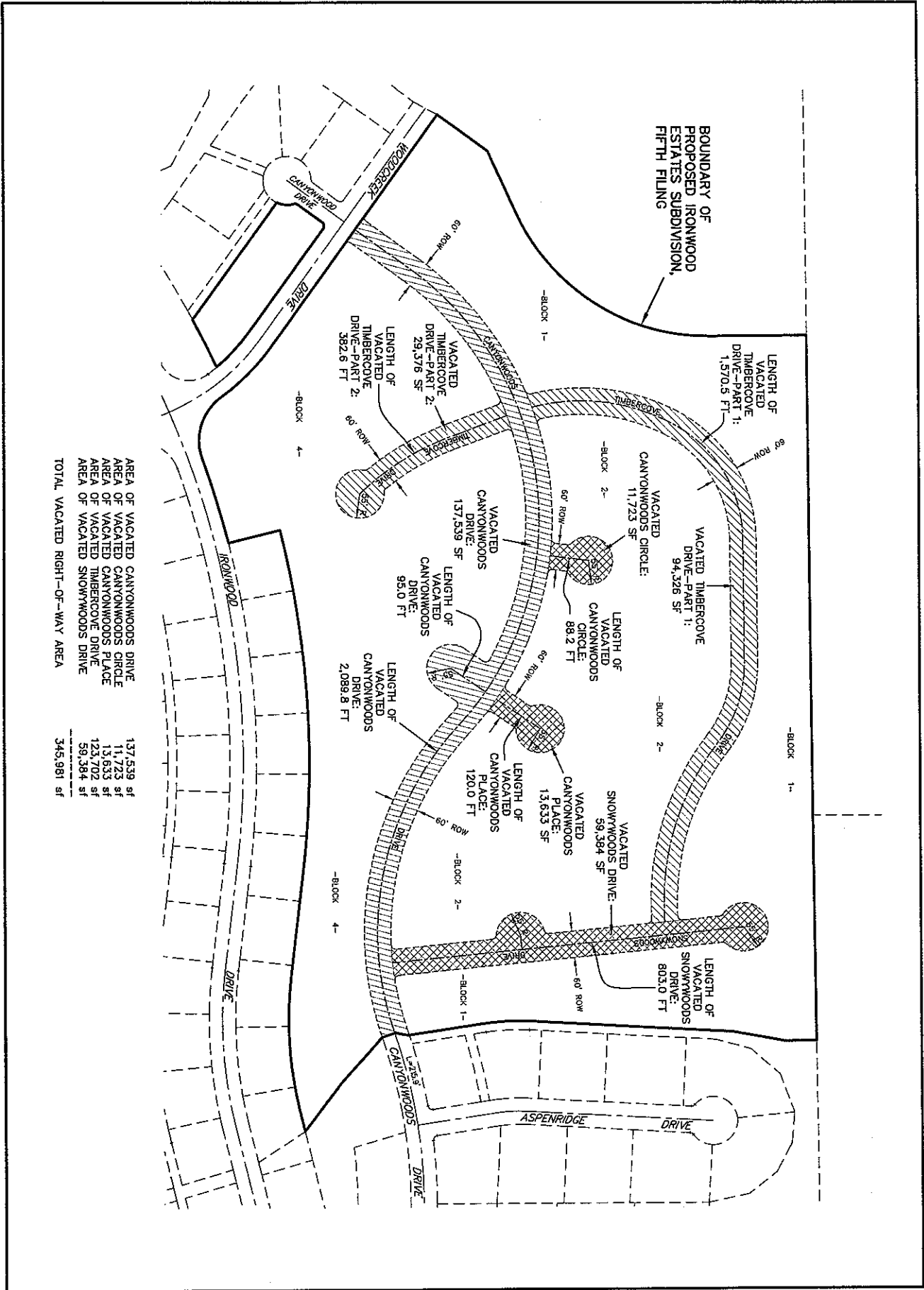
**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Map of Area to be Vacated

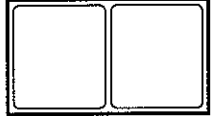
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DATE	1/26/11
REVISION	
APPROVED BY	
QUANT ASSUMES	
SCALE	AS SHOWN
THE ABOVE VAC. EX. IS SUBJECT TO RECORDS	

PROPOSED IRONWOOD ESTATES SUBDIVISION, FIFTH FILING SITUATED IN THE SE1/4, SECTION 24, T1N, R24E & SW1/4, SECTION 19, T1N, R23E, PMM IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

RIGHT-OF-WAY VACATION WITHIN IRONWOOD ESTATES SUBDIVISION, FOURTH FILING



**SANDERSON STEWART**

www.sandersonstewart.com

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Tourism Infrastructure Investment Program Grant Application for Reconstructing Yellowstone Kelly Gravesite as part of Swords Park Master Plan

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings is seeking grant funds of \$125,000 from the Tourism Infrastructure Investment Program to provide an interpretive site and redevelopment of the Yellowstone Kelly gravesite at Swords Park. The gravesite reconstruction is part of the Swords Park Master Plan that has been adopted by the City Council and has been supported by the Billings Chamber of Commerce and CVB. It is also identified in the Parks, Recreation and Public Lands Swords Park brochure as one of the amenities seeking donations for improvements. The deadline for the Tourism Grant is August 1, 2012.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve submittal of the grant application; or
- Not approve submittal of the grant application. If the City does not submit this application for the Montana Tourism Infrastructure Investment Program grant, it will need to seek funds from other sources such as private foundations and individuals.

**FINANCIAL IMPACT**

It is estimated that the total cost for the Yellowstone Kelly Gravesite is approximately \$139,000. The Tourism Grant (TIIP) requires a 2:1 match, but allows monies that have been spent in the past year for this project to be used as the match requirement. Yellowstone Kelly Gravesite is one aspect of the Swords Park Master Plan and this past year, the City of Billings completed the Swords Park Trail Phase 2 which is also part of the total master plan, so the funds spent on the trail can be used as the required local match.

**RECOMMENDATION**

Staff recommends that Council approve the application submittal to the Montana Tourism Infrastructure Investment Program for the Yellowstone Kelly Gravesite reconstruction as part of the Swords Park Master Plan.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Application

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**TOURISM INFRASTRUCTURE INVESTMENT PROGRAM  
APPLICATION  
2012**

Applicant/Sponsor \_\_\_\_\_

Sponsor's Chief Official \_\_\_\_\_

Title \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Contact Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Fax # \_\_\_\_\_

Email: \_\_\_\_\_

Federal Identification Number \_\_\_\_\_

Name of Project \_\_\_\_\_

Amount of TIIP Grant Funds requested \_\_\_\_\_

Date you will begin grant portion of the project (month/year) \_\_\_\_\_

Date you will complete the work on the grant portion of the project (month/year) \_\_\_\_\_

**General Instructions:**

**DEADLINE: Completed Applications must be received at the Montana Office of Tourism, Department of Commerce, 301 South Park Avenue (Mail: Box 200533), Helena, MT 59620-0533 by 5:00 P.M. WEDNESDAY, AUGUST 1, 2012. Late or Incomplete Applications will not be considered.**

**SUBMIT 9 COMPLETE COPIES OF YOUR PROPOSAL INCLUDING ATTACHED LETTERS OF SUPPORT.**

**Complete the front page of the application as it appears.**

**Complete all four sections of the application and certification page.** The 4 sections are: I – Project Description & Operating Plans, II – Financial Profile , III – Project Compatibility and Appeal, IV – Need for Project. Proposals must be prepared and presented in a professional manner.

**Number and letter your responses to correspond with the number and letter of the application section and question you are responding to.** Applications not following this format will receive lower scores and may be disqualified.

**Responses should be comprehensive, but concise, thorough and limited to no more than 2 type-written pages per each of the 4 sections.** Smallest Font Size Accepted is 12.

**The applicant must respond to all questions as asked.** Failure to respond to a question will eliminate the application from further consideration.

**The minimum grant available through this program is \$20,000. The maximum grant is the available grant pool. Check with the Montana Office of Tourism if you are not aware what the grant pool amount is. TIIP Grant Program information is available at [www.travelmontana.mt.gov/forms/](http://www.travelmontana.mt.gov/forms/) or by contacting Victor A. Bjornberg, Montana Office of Tourism, (406-841-2795, vbjornberg@mt.gov)**

Completed application forms are to be returned to:

Victor A. Bjornberg  
Montana Office of Tourism  
301 South Park Avenue  
(Mail: PO Box 200533)  
Helena, MT 59620-0533

Some Montana information sources that may be helpful in completing your application are listed on Page 7.

Selection Criteria: (A maximum of 500 points to be awarded for the application’s sections I-IV) **LATE or INCOMPLETE applications will not be considered.**

**I. Project Description & Operating Plans** (150 total points for this section)

A) Provide a clear, concise description of your project. Be sure to include project location, project sponsor, facility owner (if different than sponsor), what TIIP and required hard match funds will be used for (\$1 hard match for every \$2 in TIIP Grant Funds requested/awarded), and how the project complies with the purpose of TIIP Grants which is to strengthen Montana as a tourism destination and encourage Montana visitors to stay longer. You may include project description documents such as architectural drawings as an addendum to the application.

B) Provide budget and timeline details requested by B1-B6.

- 1) A development and implementation timeline for your project and the investment of TIIP Grant Funds in it.
- 2) A development and implementation budget for the entire project, specifically identifying the amount of TIIP funds to be used for each phase of your project.
- 3) A budget of all other funds for the entire project, specifically identifying the amounts to be used for each phase of the project.
- 4) Budget totals.

**Example of one way to complete questions B1-B4**

<u>B1</u> <u>Timeline</u>	<u>Task</u>	<u>B2</u> <u>TIIP \$</u>	<u>B3</u> <u>Other \$</u>	<u>B4</u> <u>Total</u>
13 Jan-Feb	Phase I Architectural fees & inspections, install new wiring to code, install 6” ceiling insulation	\$12,000	\$9,400	\$21,400
13 Mar- May	Phase II Roofing, raise and install door on south wall	\$3,400	\$18,000	\$21,400
13 Jun-Aug	Phase III Install Tract Lighting, Install new carpet and floor coverings, Complete design and construction of displays	\$66,700	\$33,300	\$99,000
<b>Project Total</b>		<b>\$82,100</b>	<b>\$60,700</b>	<b>\$141,800</b>

5) Present an operating budget for the facility’s ongoing costs (staffing, maintenance, utilities, supplies, insurance, marketing, etc) once this project is complete and explain how these ongoing expenses will be paid

for. Identify any increased ongoing operation and maintenance costs expected because of the project and how those costs will be covered.

- 6) Describe the marketing strategies used to promote the attraction or facility now and once the project is completed, and how the marketing is financed. Provide details of the types of media used, target markets (geographic, demographic), any marketing partnerships or cooperative efforts involved.

**II. Financial Profile** (100 total points for this section)

- A) Proof that the project sponsor has current IRS non-profit status or that the sponsor is operating under the non-profit status of a city, county or Montana Indian tribe.
- B) Provide a detailed explanation of how the project sponsor will be financially involved in the project; the sponsor’s role in fundraising for the project, administration of the project, and in the ongoing operations and maintenance of the attraction or facility once the project is completed.
- C) Sources of Funding: In the form below **list only funding sources that are secured for this project at the time of application. DO NOT** include funding sources that **ARE NOT SECURED** by the Aug. TIIP Application deadline:

Total Project Cost	\$ _____	
Local Share (Hard Match Funding)		
Government Appropriations i.e. City, County, CTEP Funds; Fish, Wildlife & Parks; etc	\$ _____	_____ %
Bonds (Public/Private)	\$ _____	_____ %
Tax Levies (City, County)	\$ _____	_____ %
Cash Donations	\$ _____	_____ %
Foundation/Business Investment	\$ _____	_____ %
Other Grants (Identify Source, Amount, Date Awarded)		
\$ _____		_____ %
Other (Identify Source, Amount)	\$ _____	
_____ %		

<u>Subtotal of Local Share</u>	\$_____.	_____ %
TIIP Grant Request	\$_____	_____ %

D) If you receive full TIIP Grant Funding, list the amount of money you still need to raise to fully finance your project and explain how you will raise these funds?

\$\_\_\_\_\_ %

E) If you only receive partial TIIP funding, how would this affect the project?

**III. Project Compatibility & Appeal** (100 total points for this section)

- A) Describe how the project provides broad, long term tourism appeal. In this section include information about your facility’s annual visitation numbers, percentage of out-of-state and Montana visitors, hours and season of operation, and if you expect any changes in these areas once the project is complete.
- B) Describe how this project is compatible with and enhances other existing or planned tourism development and marketing efforts in your community.

**IV. Need for Project** (150 total points for this section)

- A) Describe the current economic situation of the area and how the proposed project will have an economic benefit on the local area, region and state (jobs created, payroll generated, increased tax base, more visitors attracted or stay longer, more visitor spending, etc.).
- B) Describe what social benefit, “quality of life,” the proposed project will have on the local area, region, and state (values, life-styles, traditions, cultural heritage, psychological well-being, shifts in economic and political power structure and balance of community, etc.).
- C) A description of how the proposed project fits into the goals of local and/or regional tourism development plans and the 10 goals of the Montana Tourism & Recreation Strategic Plan 2008-2012 (Copy of state’s strategic plan goals are on the following page).
- D) Letters of support from local and regional community, civic, business and other stakeholders expressing support and commitment for the development of the proposed project. **These letters of support must be current and specific to the TIIP application being submitted. These letters of support must be submitted with your application and NOT sent directly to the Montana Office of Tourism.**

## ***Montana Tourism & Recreation Strategic Plan 2008-2012 Goals***

The following are the goals for Montana's Tourism and Recreation Stakeholders from 2008 to 2012, The goals are based on top priority issues and opportunities identified by Montanans during public meetings and a statewide online survey. Complete Strategic Plan information is available at [www.travelmontana.mt.gov/2008strategicplan/](http://www.travelmontana.mt.gov/2008strategicplan/).

**Goal 1:** Increase four-season tourism revenues statewide through effective marketing and promotions, focusing on high-value, low-impact visitors.\*

**Goal 2:** Attain public policy and citizen support for sustainable tourism and recreation.

**Goal 3:** Address management and access issues for sustainable tourism and recreation on state and federal lands.

**Goal 4:** Enhance and preserve Montana's culture and history (historic sites, museums, art, music, etc.).

**Goal 5:** Support appropriate business growth, including new tourism products and services for target customer markets.

**Goal 6:** Address tourism and recreation professional development, workforce availability, and affordable housing issues.

**Goal 7:** Improve Montana's transportation system for both residents and visitors.

**Goal 8:** Enhance the "curb appeal" of Montana communities to attract visitors.

**Goal 9:** Enhance funding to maintain sustainable tourism and recreation in Montana.

**Goal 10:** Build an effective "team" to implement the Strategic Plan, and report results.

\* "High value, low impact visitors" are defined as visitors who contribute to Montana's economic and social prosperity while respecting and appreciating Montana's authentic natural and cultural assets.

## **Information Sources that may be helpful in developing responses to the TIIP Grant Application Questions:**

### Visitor Profiles, Visitation Numbers, Visitor Spending and Economic Benefit of Tourism Reports:

- Institute for Tourism & Recreation Research, <http://www.itrr.umt.edu/> (University of Montana)
  - Niche News:
    - 05/08 Nonresident Studies
    - Resident Studies
    - Specialized Studies
  - ITRR Reports:
    - By Geographic Location
  - MT Tourism Economics:
    - Expenditures & Visitation
  - Customize Your Report (Build Your Own Report Tool)

### MT Census and Economic Information:

- MT Census and Economic Information Center, <http://ceic.mt.gov/MTFacts.asp> (MT Department of Commerce, Business Resources Division), Montana Facts

### State, Regional, Local Marketing Information & Partners:

- MT Office of Tourism (MTOT, MT Department of Commerce), <http://travelmontana.mt.gov>
  - Marketing Plan Page: State, Region and Convention and Visitor Bureau Marketing Plans
  - News and Updates Page:
    - MT Tourism Industry Highlights
    - MTOT Updates
    - MTOT Applications, Regulations and Forms (No & Low Cost Marketing, Tourism-Related Technical & Financial Assistance)
    - MT Brand Initiative
    - MT Lodging Tax Revenues by state, region, county, city
  - Research Page: Marketing and Economic Research from various sources

CERTIFICATION

On behalf of the organization identified on this application, I certify that the submitted application meets all the eligibility requirements for the Tourism Infrastructure Investment Program (TIIP).

I understand that that no funds will be awarded to a project prior to written approval by the Montana Office of Tourism, Montana Department of Commerce.

The applicant hereby certifies:

- A. That the applicant will comply with all applicable laws and regulations prohibiting discrimination on the basis of race, sex, religion, national origin, age, or handicap.
- B. The applicant is aware the Department must comply with certain state requirements which may impact proposed projects. Department funded projects must comply with all federal, state and community licenses, permits, laws and regulations.
- C. To the best of my knowledge and belief the information contained in this application is true and correct and the documentation has been duly authorized by the governing body of the applicant.

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Signature (required)

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Name (printed)

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Title

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Date

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Recreational Trails Program Grant Application for the Trail Link under Aronson Bridge

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings is seeking funding for the trail link under Aronson Bridge and back out to the Swords Lane by Airport Road. The Recreational Trails Program (RTP) grant for the year 2013 is due on August 1, 2012, so the City Council is being asked for approval to submit this grant application. The RTP grant is designated for the development of trails and grants are available for up to \$45,000 with this application. The RTP grant provides reimbursement after monies have been expended for construction and requires a 20% local match. The match of \$9,000 for the \$45,000 is expected to be provided through a BikeNet contribution.

The Aronson Bridge trail link project would construct a hard surface, ADA accessible, 10-foot wide hard surfaced trail for bicycle and pedestrian traffic (See attached site plan). The trail is approximately 1,500 linear feet in length. This connection will provide a link from the trail on the west side of Swords Park north to the sidewalk just east of Swords Lane on the north side of Airport Road. This project was approved for CTEP funding as follows: CTEP Funds: \$205,498; City of Billings/Local Match: \$31,852; Total Project Cost: \$237,350. The local CTEP match is expected to come from BikeNet and any grant funding like this RTP grant. If this RTP grant is awarded, it is likely to reduce both the total CTEP funds needed for the project as well as the total BikeNet contribution needed for local match. Staff will not know exactly how much reduction there may be until after a grant award.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the submittal of a Recreational Trails Program Grant for a portion of the Aronson trail link project
- Not approve the submittal of a Recreational Trails Program Grant for a portion of the Aronson trail link project. While local match funding for this project is expected through BikeNet, any additional grant funding from the RTP grant could off-set some local match and/or reduce the overall CTEP contribution.

**FINANCIAL IMPACT**

This Recreational Trails Program Grant application is being written to provide some funding for the link from the trail along Swords Park north, under the Aronson Bridge and up to the Swords Bypass cul-de-sac on the east side of Aronson. The application will request \$45,000 which is the maximum amount the City could receive. This grant provides reimbursement after monies have been expended for the development and requires a 20% match. The match, which will not exceed \$9,000, can be awarded from BikeNet. This project has been approved for CTEP

exceed \$5,000, can be awarded from BikeNet. This project has been approved for CTEP funding as follows: CTEP Funds: \$205,498; City of Billings/Local Match: \$31,852; Total Project Cost: \$237,350. The local match is expected to come from BikeNet and any grant funding like this RTP grant. RTP funds could help offset the BikeNet contribution and potentially reduce the overall CTEP amount designated for this project.

### **RECOMMENDATION**

Staff recommends that Council approve the submittal of a Recreational Trails Program grant for a portion of the Aronson trail link and authorize the Mayor to sign the grant application.

### **APPROVED BY CITY ADMINISTRATOR**

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#### **Attachments**

[RTP Grant Application Signature Page](#)

[Aronson Trail Site Plan](#)

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**Recreational Trails Grant**

**Signature**

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Typed Name and Title of Authorized Official

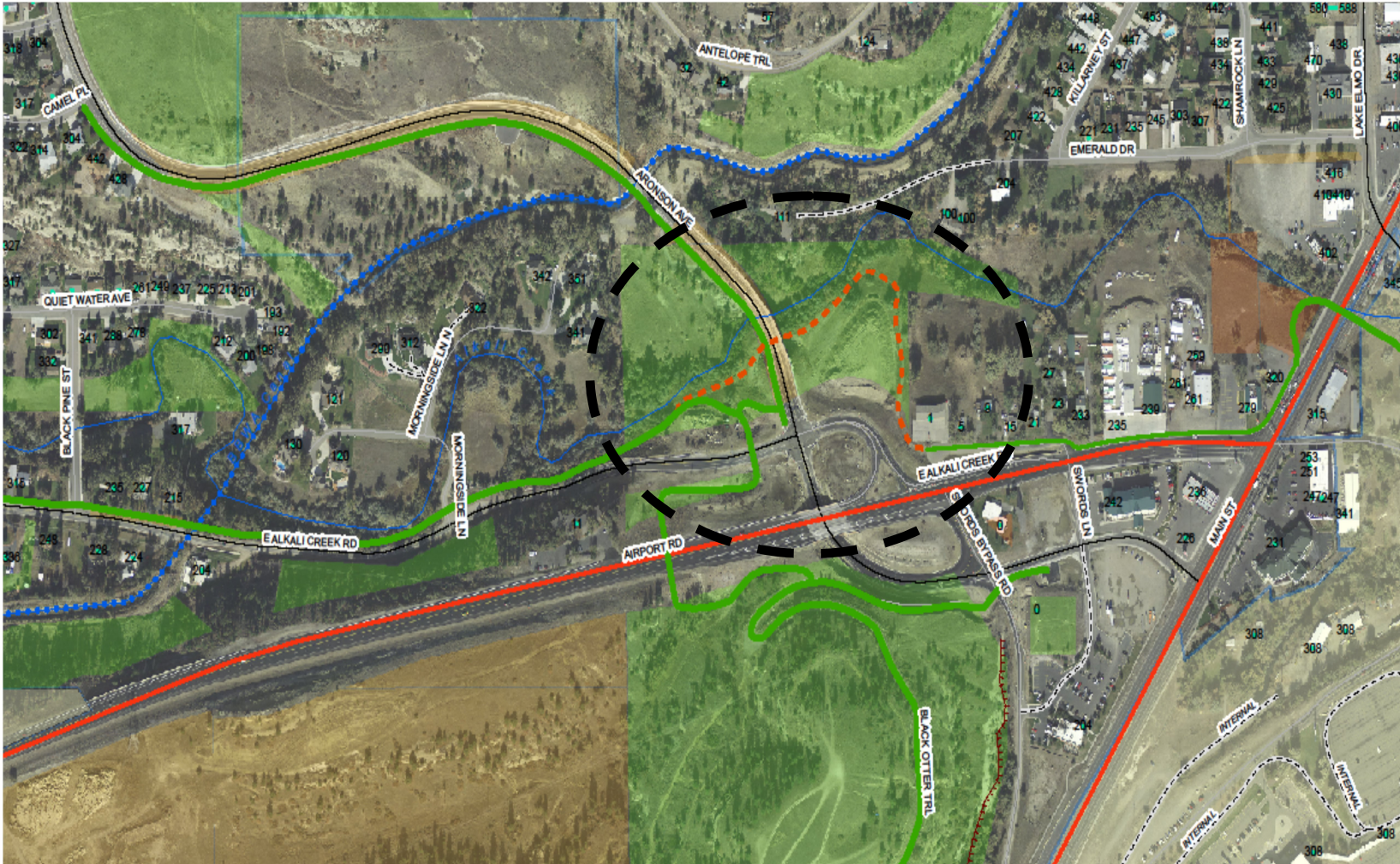
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Signature of Authorized Official

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Date

# Aronson By Pass Trail



**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Resolution Establishing a Procedure for Accepting Right-of-Way Conveyances for Bench Boulevard Right of Way From the State of Montana

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Bench Boulevard will be reconstructed from Lincoln Lane to the north side of Hilltop Road by the Montana Department of Transportation (MDT). The estimated start date for construction is later in 2012. MDT is purchasing additional right-of-way for completion of this work. MDT will convey the right-of-way properties it acquires to the City of Billings if the property lies within the boundaries of the City or to Yellowstone County if the property lies outside of those boundaries. This phase of the Bench Connector Project will result in the transfer of approximately 160 separate parcels of right-of-way from MDT to the City of Billings. Current City policy dictates that each of these requires council approval and acceptance.

This resolution would authorize the Mayor to execute the City of Billings Acknowledgment and Acceptance of Conveyance endorsement that is included in the deed for each parcel so that it can be recorded in the name of the City of Billings. This will greatly accelerate the right-of-way purchase process for the Bench project. It will also save City staff time in preparing Council staff reports for each parcel. The deed and title commitment for each parcel will be reviewed and approved by the City Attorney's office before presenting the endorsements for the Mayor's signature.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve the resolution authorizing the Mayor to execute the City of Billings Acknowledgment and Acceptance of Conveyance endorsement included in the deed for each right-of-way parcel so that it may be recorded in the name of the City of Billings, or:
- Do not approve the resolution. This would require the City Council act on each of the estimated 160 City of Billings Acknowledgment and Acceptance of Conveyance endorsements included in each deed.

**FINANCIAL IMPACT**

There is no financial impact to the City. The City will be maintaining the roadway once it is constructed.

**RECOMMENDATION**

Staff recommends that the City Council approve the resolution authorizing the Mayor to execute the City of Billings Acknowledgment and Acceptance of Conveyance endorsement of the deed for each right-of-way parcel for the Bench Boulevard reconstruction project so that it may be recorded in the name of the City of Billings.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Bench ROW transfer resolution

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RESOLUTION NO. 12- \_\_\_\_\_

A RESOLUTION OF THE BILLINGS, MONTANA CITY COUNCIL ESTABLISHING A PROCEDURE FOR ACCEPTING RIGHT-OF-WAY CONVEYANCES FOR BENCH BOULEVARD PROPERTIES FROM THE STATE OF MONTANA DEPARTMENT OF TRANSPORTATION

WHEREAS, the State of Montana Department of Transportation is the managing agency on the Bench Boulevard widening project now underway for approximately 0.8 miles of roadway, tying directly into the recently constructed 6th Avenue North to Bench-Billings project, running from just southwest of the intersection of Bench Boulevard and Lincoln Lane, behind the Heights Target Center, extending north through the intersection of Bench Boulevard with Hilltop Road and Yellowstone River Road; and

WHEREAS, the existing roadway along this portion of Bench Boulevard is a two-lane, mostly straight, mostly rural facility with lane widths that vary from 11 to 12 feet and shoulder widths that vary from zero to 12 inches and pre-existing right-of-way widths varying from 60 to 100 feet; and

WHEREAS, the Bench Connector project is designed with typical section widths proposed between Lincoln Lane and Hilltop Road with two 14 foot travel lanes, plus, typically, a 5 foot boulevard in the center of the roadway, a 5 foot sidewalk on both sides of the roadway, a two way left turn lane at most intersections, and curb and gutter; and

WHEREAS, the State of Montana Department of Transportation is using funds available for the project to purchase additional right-of-way for completion of this work and will convey the properties it acquires to the City of Billings if the property lies within the exterior boundaries of the city limits, or to Yellowstone County if the property lies outside those boundaries, and

WHEREAS, this phase of the Bench Connector Project will result in the transfer of 160 separate parcels of right-of-way properties from the State of Montana to the City of Billings, each of which would have to be considered by and approved by the City Council of the City of Billings if its current policy were followed with regard to these transfers; and

WHEREAS, the City Council concurs and has concurred that the additional parcels that will become additions to the Bench Boulevard right-of-way should be accepted by the City of Billings; and

WHEREAS, it is therefore desirable for the City Council to provide a procedure pursuant to which City staff may review each parcel transfer and recommend acceptance without requiring the question for each separate parcel to be staffed and processed at a Regular Meeting of the City Council.

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

1. The Mayor is authorized and instructed to execute the City of Billings Acknowledgment and Acceptance of Conveyance endorsement of the deed for each parcel so that it can be recorded in the name of the City of Billings if:

- a. It is a parcel that is being acquired to make possible the completion of Phase II of the Bench Connector Project, PROJECT ID: MT 1036(1),
- b. The State of Montana has
  - (1) negotiated the purchase price with the property owner,
  - (2) obtained a title report reflecting the names all persons or entities that have a legal interest in and to the property,
  - (3)
    - (a) has obtained the signature of all owners on a deed naming the City of Billings as the Grantee and specifying that the recorded deed is to be returned by the Yellowstone County Clerk and Recorder to the Billings, Montana City Clerk, and
    - (b) obtained the written consent of all secured creditors and easement holders to the conveyance of the property to the City of Billings for the purpose of maintaining and operating an Urban Collector or Principal Arterial on the right-of-way,
  - (4) forwarded the original deed, all necessary written consents, a completed Realty Transfer Certificate and the title report to the City for legal review, and
- c. The City has obtained an opinion from the Office of the City Attorney that all necessary parties have signed the right-of-way deed and consented to the transfer.

2. Upon the satisfaction of these requirements and after the Mayor has signed the Acknowledgment and Acceptance, the City Clerk is authorized and instructed to transmit the deed to the Clerk and Recorder of Yellowstone County with instructions to authorize payment of all Clerk and Recorder fees for recording the documents out of the State of Montana Department of Transportation account at that office, and to transmit an electronic copy of the recorded deed to the State of Montana Department of Transportation.

**APPROVED AND PASSED** by the City Council of the City of Billings, this \_\_\_\_  
day of \_\_\_\_\_, 2012.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
THOMAS W. HANEL, MAYOR

ATTEST:

BY: \_\_\_\_\_  
CARI MARTIN, CITY CLERK

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Resolution Authorizing an Alternative Project Delivery Contract Process for the Empire Parking Garage

**PRESENTED BY:** Bruce McCandless, Asst. City Administrator

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

Montana State law usually requires cities to use a design/bid/build process for constructing public facilities. In 2005, the Legislature authorized cities and counties to use "alternative project delivery contracts" instead of the traditional process if the governing body makes certain findings. The Empire Parking Garage is proposed for construction in 2013. In order to meet the Northern Hotel parking needs, the garage must be available near the end of the year. Completing the structure by that deadline may not be possible if Billings uses the traditional construction method. On June 28, the City issued a Request for Qualifications for design/build teams but staff cannot proceed past this point without Council authorization. Therefore, staff is proposing that the Council adopt the attached Resolution that provides the justification to use the design/build process.

**ALTERNATIVES ANALYZED**

The City Council may approve or not approve the Resolution. The Resolution is necessary for the City to use the design/build process to construct the proposed parking structure by December, 2013. Using the traditional design/bid/build process may not produce a finished parking garage by the end of 2013. The result is that the garage will not be available for the remodeled Northern Hotel and valet parking will be provided for its guests as part of the project cost. The cost for this valet parking is estimated to be up to \$200,000.

**FINANCIAL IMPACT**

Adopting the Resolution has no direct financial impact. Not adopting the Resolution may increase the project cost due to less collaboration between the designer and contractor and later delivery of the garage.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached Resolution Authorizing an Alternative Project Delivery Contract process for constructing the Empire Parking Garage.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Resolution

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**RESOLUTION NO. 12-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
BILLINGS, MONTANA, AUTHORIZING THE USE OF AN  
ALTERNATIVE PROJECT DELIVERY METHOD FOR  
CONSTRUCTING THE EMPIRE PARKING GARAGE**

**WHEREAS**, § 18-2-502, MCA, authorizes the City to use an alternative project delivery contract method when constructing public improvements. A governing body that uses an alternative project delivery contract shall determine that the proposal meets at least two of the criteria described in §18-2-502, MCA, subsections (2)(a) through (2)(c) and the provisions of subsection (3).

**WHEREAS**, the City of Billings has determined that in order to accommodate and encourage downtown development and redevelopment, it intends to construct a mixed-use parking structure on Montana Avenue between N. 27<sup>th</sup> Street and N. 28<sup>th</sup> Street (Broadway) that will contain approximately 525 parking stalls and 17,000 sq ft of ground-level retail space, also known as the Empire Parking Garage and “the Project”.

**WHEREAS**, the City Council has determined that it desires to use the alternative project delivery method that is commonly called design/build to construct the Project and therefore makes the following findings, in conformance with the referenced state law.

**FINDINGS**

1. The City Council approved a contract for construction project management services from OAC Services, Inc., a professional project management consulting firm with extensive alternative project delivery experience. Previous relevant experience includes the Billings Federal Courthouse, the Olympia, Washington City Hall, and the Washington State University Visitor Center.

2. Procurement of design-build services shall be through an open public process. All qualified contractors are eligible to compete, following Montana statutes and City of Billings ordinances. A Request for Qualifications has been prepared and distributed and will be used to short-list three qualified competitors, using a scoring system to rate: 1) relevant experience, 2) proposed staff and 3) proposed approach. A City-appointed Selection Committee will score and rank Statements of Qualifications using the stated scoring criteria. The three selected competitors will prepare design and fixed-price solutions based on a detailed Request for Proposal. Design and price proposals will then be judged and scored by the Selection Committee against scoring criteria stated in the RFP. Formal presentations by the competitors will be held to further clarify the design solutions developed and address Selection Committee questions. The highest scored design and qualified team will be awarded the Design Build contract. Design Build competitors are free to select subcontractors and consultants as they see fit, similar to traditional delivery methods. Competitors will be encouraged to seek the most competitive, qualified consultants, subcontractors and local providers in order to provide the best overall value to the City.
3. The Northern Hotel, one of the primary project occupants, is scheduled to reopen by November, 2013 and the City has time-sensitive contractual obligations to the Northern and other potential occupants of the garage and proposed retail spaces. An alternative project delivery contract is necessary to meet critical deadlines by designing and building the project as early as possible. As demonstrated by the Design Build Institute of America, design build delivery offers the fastest schedule by allowing design, materials procurement and permitting to occur in a fast-track manner, speeding overall delivery to

meet parking obligations to neighboring properties.

4. There are at least five advantages that are associated with the alternative project delivery process which produce cost savings as well as design, quality and schedule

improvements:

- **Single responsibility** – The design/build approach provides both architecture/engineering and construction under a single contract. Therefore, the owner’s control of the entire design/build process is strengthened and financial risk is reduced by contracting with a single firm that is unconditionally committed to project success.
- **Early knowledge of the firm price** –A design/build team, working closely with its client, accurately conceptualizes the completed project at an early stage. Continuous and concurrent estimating during the development of design results in accurate, guaranteed construction costs and schedule far sooner than a traditional design/bid/build delivery. This permits the firm establishment of project feasibility and financing well in advance of the drafting of final construction documents.
- **Value-engineering** – Design and construction personnel – working as a team – evaluate alternative systems, materials and methods efficiently and accurately. From the outset of the project, both design and construction expertise is brought to bear upon all components of a project. Operating expense is evaluated against capital cost to optimize lifecycle costs.
- **Time strategies** – The design and construction processes can be overlapped, bidding periods and redesign time are eliminated, and long lead time purchases can be made early

on in the design phase. The total project duration is significantly reduced, resulting in earlier utilization and superior total project economics.

- **Quality enhancement** – Design/build inherently provides higher quality than the separate, often conflicting architect vs. contractor approach. Because the design/builder has responsibility for performance, it is motivated to build with quality. Design/build eliminates the traditional finger pointing among the architect, engineer and contractor, and allows resources and attention to be productively focused on cost-effective solutions that reflect best value and quality.
5. The procurement methodology employed by Billings and OAC for this design/build contract will encourage broad, aggressive design and pricing competition. Design Build competitors are free to select subcontractors and consultants as they see fit, similar to traditional delivery methods. Competitors will be encouraged to seek the most competitive, qualified consultants, subcontractors and local providers in order to provide the best overall value to the City. Unsuccessful competitors will be given the opportunity to review the selected team’s materials, Selection Committee scoring and other materials once a contract has been awarded.

**NOW, THEREFORE, BE IT RESOLVED BY** the City Council of the City of Billings, Montana:

The City Council hereby adopts the above stated findings of fact and determines that using the Alternative Project Delivery Contract is warranted and necessary for the proposed construction of the Empire Parking Garage. These findings establish compliance with the requirements of 18-2-502 (2) and 18-2-502 (3), MCA.



**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Resolution Fixing the form and detail of the General Obligation Library Bonds

**PRESENTED BY:** Patrick M. Weber

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

In November 2011, Billings voters approved the issuance of general obligation bonds to finance the construction of a new library building . The City has been working with DA Davidson regarding the purchase and sale of the bonds. This resolution outlines the bond terms. The final numbers for the bond sale will be inserted after the pricing and provided to the City Council prior to the meeting.

**ALTERNATIVES ANALYZED**

Upon approval of the resolution, the City and DA Davidson will proceed with the sale of the bonds. If the Council does not approve the resolution there would be a delay in the closing and receiving the bond proceeds, which could lead to the inability to timely pay the contractor and stopping or slowing project completion.

**FINANCIAL IMPACT**

The financial impact will be determined when staff reports the bond pricing to the Council.

**RECOMMENDATION**

Staff recommends that the City Council approve the attached resolution setting the form and terms for the library general obligation bonds

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Resolution

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CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. \_\_\_\_\_, entitled: "RESOLUTION RELATING TO \$15,460,000 GENERAL OBLIGATION BONDS, SERIES 2012; DETERMINING THE FORM AND DETAILS, AUTHORIZING THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE PAYMENT THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on July 23, 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 23rd day of July, 2012.

(SEAL)

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RELATING TO \$15,460,000 GENERAL OBLIGATION BONDS, SERIES 2012; DETERMINING THE FORM AND DETAILS, AUTHORIZING THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE PAYMENT THEREOF

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

Section 1. Authorization and Sale; Recitals.

1.01. Authorization. At an election duly called and held November 8, 2011, the electors of the City authorized this Council to issue and sell general obligation bonds of the City in the maximum principal amount of \$16,300,000 for the purpose of paying the costs of designing, constructing and equipping a new library building (the “Library”) in replacement of the Parmly Billings Library and related improvements (the “Project”) and costs associated with the sale and issuance of the bonds. This Council has determined that it is in the best interests of the City, upon the terms hereinafter set forth, to D.A. Davidson & Co., of Great Falls, Montana (the “Original Purchaser”), by private negotiated sale, its general obligation bonds, pursuant to Montana Code Annotated, Sections 7-7-4254 and 17-5-107, in order to pay costs of the Project and costs associated with the sale and issuance of such general obligation.

1.02. Purchase and Sale. The Original Purchaser and the City have entered into a Bond Purchase Agreement, dated as of July 17, 2012, regarding the purchase and sale of general obligation bonds of the City-County, to be denominated “General Obligation Bonds, Series 2012” (the “Bonds”), in the aggregate principal amount of \$15,460,000 at a purchase price of \$16,407,808.50 (representing the par amount of the Bonds plus original issue premium of \$1,071,488.50 and less underwriter’s discount of \$123,680.00). The Bonds bear interest at the rates and mature on the dates and in the amounts and contain the further terms and conditions set forth in this Resolution. The net interest cost of the Bonds is 2.85%. The sale of the Bonds to the Original Purchaser is hereby ratified and confirmed. The indebtedness to be evidenced by the Bonds and all other indebtedness of the City does not exceed the limitation set forth in Section 7-7-4201, Montana Code Annotated. Costs of the Project in excess of the proceeds of the Bonds, and in particular the costs of the Project attributable to the Coffee Shop (as hereinafter defined), will be paid from funds the City has on hand therefor in the approximate amount of \$1,133,225.

1.03. Foundation Gift. The Foundation and the City have entered into the Parmly Billings Library Foundation Gift Memorandum of Agreement, dated July 9, 2012 (the “Memorandum of Agreement”), pursuant to which the Foundation has agreed to donate \$3,000,000 to the City in the form of a pledge to be fulfilled over a ten year period, commencing August 1, 2012 (the “Foundation Gift”); provided that the Foundation actually collects pledges or donations in amounts sufficient to pay the Foundation Gift. The Foundation Gift is to be used to pay principal of and interest on the Bonds.

1.04. Coffee Shop. The plans for the Library call for a 900 square foot coffee shop (the “Coffee Shop”), which will be leased to and operated by a private business. The Coffee Shop constitutes private business use and, when aggregated with a proportionate share of the Library’s common space, totals approximately 3.4% of the total square footage of the Library.

1.05. Recitals. All acts, conditions and things required by the Constitution and laws of the State of Montana, including Montana Code Annotated, Title 7, Chapter 7, Part 42, as amended, in order to make the Bonds valid and binding general obligations in accordance with their terms and in accordance with the terms of this Resolution have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required. The City has full power and authority to issue the Bonds.

Section 2. Bond Terms, Execution and Delivery.

2.01. Term of Bonds. The Bonds shall be designated “General Obligation Bonds, Series 2012.” The Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities. The Bonds shall mature on July 1 in the years and amounts listed below, and Bonds maturing in such years and amounts shall bear interest from date of original issue until paid or duly called for redemption at the rates shown opposite such years and amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2013	\$790,000	2.000%	2022	\$870,000	4.000%
2014	765,000	2.000%	2023	400,000	2.375%
2015	775,000	2.000%	2023	220,000	4.000%
2016	785,000	2.000%	2024	640,000	4.000%
2017	795,000	3.000%	2025	665,000	4.000%
2018	810,000	2.000%	2026	690,000	4.000%
2019	470,000	3.000%	2027	720,000	4.000%
2019	355,000	5.000%	2028	750,000	4.000%
2020	165,000	3.000%	2030*	1,575,000	3.000%
2020	675,000	5.000%	2031	825,000	4.000%
2021	860,000	2.000%	2032	860,000	3.250%

\*Term bond subject to mandatory sinking fund redemption as set forth in Section 2.07 below.

Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

2.02. Registered Form, Interest Payment Dates. The Bonds shall be issuable only in fully registered form, and the ownership of the Bonds shall be transferred only upon the bond register of the City hereinafter described. The interest on the Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2013. Interest on the Bonds shall be payable to the owners of record thereof as such appear on the bond register as of the close of business on the 15th day of the month immediately preceding each interest payment date, whether or not such day is a business day. Interest on, and upon presentation and surrender thereof, the

principal of each Bond shall be payable by check or draft issued by the Registrar described herein.

2.03. Dated Date. Each Bond shall be originally dated as of August 1, 2012, and upon authentication of any Bond the Registrar (as hereinafter defined) shall indicate thereon the date of such authentication.

2.04. Registration. The City shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent (the "Registrar"). The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its principal office a bond register in which the Registrar shall provide for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender to the Registrar for transfer of any Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of the same series of a like aggregate principal amount and maturity, as the case may be, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer of any Bond or portion thereof selected or called for redemption.

(c) Exchange of Bonds. Whenever any Bond is surrendered by the registered owner for exchange, the Registrar shall authenticate and deliver one or more new Bonds of the same series of a like aggregate principal amount, interest rate and maturity, as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. All Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name any Bond is at any time registered in the bond register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon the

owner's order shall be valid and effectual to satisfy and discharge the liability of the City upon such Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Bonds (except for an exchange upon the partial redemption of a Bond), the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Bond of the same series of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Bond has already matured or such Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

2.05. Appointment of Initial Registrar. The City hereby appoints U.S. Bank National Association, in Seattle, Washington, to act as registrar, transfer agent and paying agent (the "Registrar"). The City reserves the right to appoint a successor bond registrar, transfer agent or paying agent, as authorized by the Model Public Obligations Registration Act of Montana, Montana Code Annotated, Title 17, Chapter 5, Part 11, as amended (the "Registration Act"), but the City agrees to pay the reasonable and customary charges of the Registrar for the services performed.

2.06. Optional Redemption.

(a) Bonds with stated maturities in the years 2013 through 2021 are not subject to redemption prior to their stated maturities. Bonds with stated maturities on or after July 1, 2022 are subject to redemption on July 1, 2021 and any date thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof and interest accrued to the redemption date, without premium.

(b) The date of redemption and the principal amount of the Bonds to be redeemed shall be fixed by the City Finance Director who shall give notice thereof to the Registrar at least 45 days prior to the date of redemption or such lesser period as the Registrar accepts. The Registrar, at least 30 days prior to the designated redemption date, shall cause notice of redemption to be mailed, by first class mail, or by other means required by the securities

depository, to the registered owners of each Bond to be redeemed at their addresses as they appear on the bond register described in Section 2.04, but no defect in or failure to give such mailed notice shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. The notice of redemption shall specify the redemption date, redemption price, the numbers, interest rates and CUSIP numbers of the Bonds to be redeemed and the place at which the Bonds are to be surrendered for payment, which is the principal office of the Registrar. Official notice of redemption having been given as aforesaid, the Bonds or portions thereof so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions thereof shall cease to bear interest.

2.07. Mandatory Sinking Fund Redemption. The Bonds having stated maturities in 2030 (the “Term Bonds”) are subject to mandatory sinking fund redemption on July 1 in the respective years and the respective principal amounts set forth below in \$5,000 principal amounts selected by the Registrar, by lot or other manner it deems fair, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date:

Sinking Fund Payment Date ( <u>July 1</u> )	Principal Amount on Sinking Fund Payment Date
2029	775,000
2030*	800,000

\*Final maturity.

The principal amounts of the Term Bonds having a stated maturity in 2030 required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of any such Term Bonds theretofore redeemed at the option of the City and not previously applied to reduce the principal amount of such Term Bonds on a Sinking Fund Payment Date.

If the Term Bond with a stated maturity in 2030 is not previously purchased by the City in the open market or prepaid, \$800,000 in principal amount of such Term Bond would remain to mature in 2030. The principal amount of the Term Bond required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of such Term Bond theretofore redeemed at the option of the Council and as to which the City has not previously applied amounts to reduce the principal amount of such Term Bond on a Sinking Fund Payment Date.

2.08. Execution and Delivery. The Bonds shall be forthwith prepared for execution under the direction of the City Clerk and shall be executed on behalf of the City by the signatures of the Mayor, the City Administrator and the City Clerk, provided that said signatures may be printed, engraved or lithographed facsimiles thereof. The seal of the City need not be imprinted on or affixed to any Bond. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if

such officer had remained in office until delivery. When the Bonds have been so executed by said City officers, they shall be registered by the City Finance Director in accordance with Montana Code Annotated, Section 7-7-4257, as amended. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been fully executed and authenticated, they shall be delivered by the Registrar to the Original Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Original Purchaser shall not be obligated to see to the application of the purchase price.

2.09. Securities Depository for the Bonds.

(a) For purposes of this Section 2.09, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

“Representation Letter” shall mean the Blanket Issuer Letter of Representations pursuant to which the City agrees to comply with DTC’s Operational Arrangements.

(b) The Bonds of each series shall be initially issued as separately authenticated fully registered Bonds, and one Bond shall be issued in the principal amount of each stated maturity of each series of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the Bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Bonds under this Resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any

notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond register as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the City determines to discontinue the book-entry-only system for one or both series of Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds of such series in the form of certificates. In such event, the Bonds of such series will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Bonds of one or both series at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds of such series will be transferable in accordance with paragraph (e) hereof.

(d) The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by registered owners of the Bonds and Beneficial Owners and payments on the Bonds. The Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Resolution.

(e) In the event that any transfer or exchange of Bonds of a series is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Resolution. In the event Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Bonds, or another securities depository as owner of all the Bonds, the provisions of this Resolution shall also apply to all matters relating thereto, including, without limitation, the preparation of

such Bonds in the form of Bond certificates and the method of payment of principal of and interest on such Bonds in the form of Bond certificates.

2.10 Form of Bond. The Bonds shall be prepared in substantially the form set forth in Exhibit A hereto, and by this reference made a part hereof.

### Section 3. Security Provisions.

3.01. Construction Account. There is hereby created a special account to be designated as the “Construction Account” (the “Construction Account”), to be held and administered by the City Finance Director separate and apart from all other funds of the City. The City appropriates to the Construction Account the proceeds of the sale of the Bonds in the amount of (a) \$16,405,250 and (b) all income derived from the investment of amounts on hand in the Construction Account. The Construction Account shall be used solely to defray expenses of the Project, including costs of issuance of the Bonds. Upon completion and payment of all costs and expenses of the Project, any amounts remaining in the Construction Account shall be credited and paid to the Debt Service Account.

3.02. Debt Service Account. There is hereby created a special account to be designated as the “Debt Service Account” (the “Debt Service Account”), to be held and administered by the City Finance Director separate and apart from all other funds of the City, to be used solely to pay principal of and interest on the Bonds. The City irrevocably appropriates to the Debt Service Account: (a) the proceeds of the Bonds in the amount of \$2,558.50, (b) all funds, if any, to be transferred thereto from the Construction Account in accordance with the provisions of Section 4.01, (c) any taxes levied in accordance with this Resolution, (d) all income derived from the investment of amounts on hand in the Debt Service Account, and (e) such other money as shall be received and appropriated to the Debt Service Account from time to time. The City hereby irrevocably appropriates to the Debt Service Account, as and when they are received, (a) the proceeds of the Foundation Gift, and (b) such other money as shall be received and appropriated to the Debt Service Account from time to time.

3.03. Tax Levies. The full faith, credit and taxing powers of the City shall be and are hereby irrevocably pledged to the payment of the Bonds and interest due thereon, and the City shall cause taxes to be levied annually on all taxable property in the City sufficient to pay the interest on the Bonds when it falls due and to pay and discharge the principal at maturity of each and all of the Bonds as they respectively become due.

On or before September 30 of each year and so long as any of the Bonds are outstanding and any principal thereof or interest thereon unpaid, the City Finance Director shall calculate and certify to this Council the total amount of cash on hand in the Debt Service Account and the amount required for the payment of principal of and interest on the outstanding Bonds on or before the next succeeding July 1. This Council shall forthwith cause to be levied for collection in the fiscal year a tax sufficient to pay such principal and interest on the Bonds taking into account the total amount of cash on hand in the Debt Service Account.

### Section 4. Tax Covenants and Certifications.

4.01. Use of the Project. The Project will be owned and operated by the City and available for use by members of the general public on a substantially equal basis. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Project or security for the payment of the Bonds which might cause the Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

4.02. General Covenant. The City covenants and agrees with the owners from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the interest on the Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

4.03. Arbitrage Certification. The Mayor, the City Finance Director and the City Clerk, being the officers of the City charged with the responsibility for issuing the Bonds pursuant to this Resolution, are authorized and directed to execute and deliver to the Original Purchaser a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds, it is reasonably expected that the proceeds of the Bonds will be used in a manner that would not cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

4.04. Arbitrage Rebate. The City acknowledges that the Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes, unless the Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the Mayor, the City Finance Director and the City Clerk are hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

4.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than November 15, 2012, a statement concerning the Bonds containing the information required by Section 149(e) of the Code.

#### Section 5. Defeasance or Discharge.

5.01. General. When the liability of the City on all Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this section, all

pledges, covenants and other rights granted by this Resolution to the Holders of such Bonds shall cease.

5.02. Maturity. The City may discharge its liability with reference to all Bonds and interest thereon which are due on any date by depositing with the Registrar for such Bonds on or before the date a sum sufficient for the payment thereof in full; or if any Bond or interest thereon shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

5.03. Redemption. The City may also discharge its liability with reference to any prepayable Bonds which are called for redemption on any date in accordance with their terms, by depositing with the Registrar on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due thereon, provided that notice of such redemption has been duly given as provided in this Resolution.

5.04. Escrow. The City may also at any time discharge its liability in its entirety with reference to any Bonds subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal, interest and redemption premiums, if any, to become due on such Bonds at their Stated Maturities or, if such Bonds are prepayable and notice of redemption thereof has been given or irrevocably provided for, to such earlier redemption date.

## Section 6. Continuing Disclosure.

(a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "Rule"), the City hereby makes the following covenants and agrees, for the benefit of the Owners (as hereinafter defined) from time to time of the outstanding Bonds, to provide annual reports of specified information and notice of the occurrence of certain events to the Municipal Securities Rulemaking Board ("MSRB") through its Electronic Municipal Market Access system website ("EMMA"), as hereinafter described (the "Disclosure Covenants"). The City is the only "obligated person" in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made.

The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

If the City fails to comply with the Disclosure Covenants, any person aggrieved thereby, including the Owners of any outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of the Disclosure

Covenants, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder. Notwithstanding anything to the contrary contained in the Disclosure Covenants, in no event shall a default under this Section 6 constitute a default under the Bonds or under any other provision of this Resolution.

As used in this Section 6, "Owner" means, in respect of a Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any Beneficial Owner (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used in this Section 6, "Beneficial Owner" means, in respect of a Bond, any person or entity that (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bond (including persons or entities holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(1) on or before 270 days after the end of each fiscal year of the City, commencing with the fiscal year ending June 30, 2012, the following financial information and operating data in respect of the City (the "Disclosure Information"):

(A) the audited financial statements of the City for such fiscal year, accompanied by the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Montana, containing balance sheets as of the end of such fiscal year and a statement of operations, changes in fund balances and cash flows for the fiscal year then ended, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the City Finance Director; and

(B) To the extent not included in the financial statements referred to in paragraph (A) above, the information of the type set forth below, which information may be unaudited, but is to be certified as to accuracy and completeness in all material respects by the City Finance Director to the best of his or her knowledge, which certification may be based on the reliability of information obtained from third party sources:

- (1) updated figures for the City for the then current fiscal year to include general obligation bonds outstanding, market valuation, taxable valuation, estimated City population, and debt capacity;
- (2) a description of any additional borrowing of the City;
- (3) tax levy and collection figures for the then current fiscal year in a format similar to the table in the Official Statement in the section “City Tax Rates, Levies and Collections”; and
- (4) a list of the major taxpayers for the City for the then current fiscal year in a format similar to the table in the Official Statement in the section “City Property Values—Major Taxpayers”.

Notwithstanding anything in this Section 6, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within ten days after the receipt thereof, the City shall provide the audited financial statements.

Any or all of the Disclosure Information may be incorporated, if it is updated as required hereby, by reference from other documents, including official statements, which have been submitted to the MSRB in the manner set forth in subsection (c) hereof. The City shall clearly identify in the Disclosure Information in each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be material (as hereinafter defined), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations.

If the Disclosure Information is changed or the Disclosure Covenants are amended, then the City shall include in the next Disclosure Information to be delivered pursuant to this Section 6, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

- (2) In a timely manner not in excess of ten business days, notice of the occurrence of any of the following events:
  - (A) principal and interest payment delinquencies;
  - (B) non-payment related defaults, if material;

- (C) unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) substitution of credit or liquidity providers, or their failure to perform;
- (F) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds or other material events affecting the tax status of the Bonds;
- (G) modifications to rights of holders of the Bonds, if material;
- (H) bond calls, if material, and tender offers;
- (I) defeasances;
- (J) release, substitution or sale of property securing repayment of the Bonds, if material;
- (K) rating changes;
- (L) bankruptcy, insolvency, receivership, or similar event of the obligated person;
- (M) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (N) appointment of a successor or additional trustee or the change of name of a trustee, if material.

An event is “material” if it is an event as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed in this Bond Resolution or information generally available to the public. Notwithstanding the foregoing sentence, an event is also “material” if it is an event that would be deemed material for purposes of the purchase, holding or sale of a Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

(3) In a timely manner, notice of the occurrence of any of the following events or conditions:

- (A) the failure of the City to provide the Disclosure Information described above under “—Annual Information” at the time specified thereunder;

(B) the amendment or supplementing of the Disclosure Covenants, together with a copy of such amendment or supplement and any explanation provided by the City;

(C) the termination of the obligations of the City under the Disclosure Covenants; and

(D) any change in the fiscal year of the City.

(c) Manner of Disclosure. The City agrees to make available the information described in subsection (b) hereof to the MSRB via EMMA or in a manner as may be otherwise proscribed by the MSRB consistent with the Rule. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(d) Term; Amendments; Interpretation.

(1) The Disclosure Covenants shall remain in effect so long as any Bonds are outstanding.

(2) The Disclosure Covenants (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(3) hereof) or the consent of the Owners of any Bonds, by a resolution of this Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that such amendment or supplement (A) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the City or the type of operations conducted by the City, or (B) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule, assuming that such provisions apply to the Bonds.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

(3) The Disclosure Covenants are entered into to comply with the continuing disclosure provisions of the Rule and should be construed so the undertaking would satisfy the requirements of paragraph (b)(5) of the Rule.

Section 7. Certification of Proceedings. The officers of the City are hereby authorized and directed to prepare and furnish to the Original Purchaser and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records of the City, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies,

certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

Section 8. Repeals and Effective Date.

8.01. Repeal. All provisions of other resolutions and other actions and proceedings of the City and this Council that are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

8.02. Effective Date. This Resolution shall take effect immediately upon its passage and adoption by this Council.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this  
23rd day of July, 2012.

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Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

EXHIBIT A

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF YELLOWSTONE

**CITY OF BILLINGS**

GENERAL OBLIGATION BOND  
SERIES 2012

No. \_\_\_\_\_

\$ \_\_\_\_\_

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	July 1,	August 1, 2012	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

FOR VALUE RECEIVED, the City of Billings, Yellowstone County, State of Montana (the "City"), acknowledges itself to be indebted and hereby promises to pay to the registered owner named above, or registered assigns, the principal amount specified above on the maturity date specified above or, if this Bond is prepayable as stated herein, on any date prior thereto on which this Bond shall have been duly called for redemption, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue set forth above or from such later date to which interest has been paid or duly provided for until this Bond is paid or, if this Bond is prepayable, until it has been duly called for redemption, at the rate specified above. Principal of this Bond is payable upon presentation and surrender hereof to U.S. Bank National Association, of Seattle, Washington, as Bond Registrar, Transfer Agent and Paying Agent, or its successor designated under the Resolution described herein (the "Registrar") at its operations center in St. Paul, Minnesota. The interest on this Bond shall be payable on January 1 and July 1 in each year, commencing January 1, 2013. Interest on the Bonds shall be payable to the owners of record thereof as such appear on the bond register as of the close of business on the 15th day of the month immediately preceding each interest payment date, whether or not such day is a Business Day. Interest on, and upon presentation and surrender thereof, the principal of each Bond shall be payable by check or draft issued by the Registrar described herein. "Business Day" means any day other than a Saturday, Sunday or legal holiday of the State of Montana.

The principal of and interest on this Bond are payable in lawful money of the United States of America. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith, credit and taxing powers of the City have been and are hereby irrevocably pledged.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

This Bond is one of an issue in the total principal amount of \$15,460,000 (the “Series 2012 Bonds”), all of like date of original issue and tenor except as to serial number, denomination, maturity date, interest rate and redemption privilege, all authorized by the favorable vote of more than the requisite majority of the qualified electors of the City voting on the question of the issuance thereof at an election duly held, for the City for the purpose of paying the costs of designing, constructing and equipping a new library building in replacement of the Parmly Billings Library and related improvements (the “Project”) and costs associated with the sale and issuance of the bonds, all pursuant to resolutions duly adopted by the City Council, including a bond resolution adopted on July 23, 2012 (the “Resolution”), and in full conformity with the Constitution and laws of the State of Montana thereunto enabling. The Bonds are issuable only as fully registered bonds of single maturities, in denominations of \$5,000 or any integral multiple thereof.

Bonds with stated maturities in the years 2013 through 2021 are not subject to redemption prior to their stated maturities. Bonds with stated maturities on or after July 1, 2022 are subject to redemption on July 1, 2021 and any date thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a redemption price equal to the principal amount thereof and interest accrued to the redemption date, without premium.

The Bonds having stated maturities in 2030 (the “Term Bonds”) are subject to mandatory sinking fund redemption on July 1 in the respective years and the respective principal amounts set forth below in \$5,000 principal amounts selected by the Registrar, by lot or other manner it deems fair, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date:

Sinking Fund Payment Date (July 1)	Principal Amount on Sinking Fund Payment Date
2029	775,000
2030*	800,000

\*Final maturity.

The principal amounts of the Term Bonds having a stated maturity in 2030 required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of any such Term Bonds theretofore redeemed at the option of the City and not previously applied to reduce the principal amount of such Term Bonds on a Sinking Fund Payment Date.

If the Term Bond with a stated maturity in 2030 is not previously purchased by the City in the open market or prepaid, \$800,000 in principal amount of such Term Bond would remain to mature in 2030. The principal amount of the Term Bond required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of such Term Bond theretofore redeemed at the option of the Council and as to which the City has not previously applied amounts to reduce the principal amount of such Term Bond on a Sinking Fund Payment Date.

At least 30 days prior to the designated redemption date, the City shall cause notice of redemption to be mailed, by first class mail, or by other means required by the securities depository, to the registered owners of each Bond to be redeemed at their addresses as they appear on the bond register. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the registered owner without charge, representing the remaining principal amount outstanding.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City in the principal office of the Registrar, by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney, and may also be surrendered in exchange for Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Montana to be done, to exist, to happen and to be performed precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City according to its terms, have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the City Council will annually levy an ad valorem tax on all of the taxable property in the City sufficient to pay the interest hereon when it falls due and also to pay and discharge the principal of this Bond at maturity; that this Bond, together with all other indebtedness of the City outstanding on the date of original issue hereof and on the date of the

delivery of the Bonds to the Original Purchaser, does not exceed any constitutional or statutory limitation of indebtedness.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Billings, Montana, by its City Council, has caused this Bond to be executed by the facsimile signatures of the Mayor, the City Finance Director and the City Clerk, and by a printed facsimile of the official seal of the City.

CITY OF BILLINGS, MONTANA

(Facsimile Signature)  
MAYOR

(Facsimile Seal)

(Facsimile Signature)  
CITY FINANCE DIRECTOR

(Facsimile Signature)  
CITY CLERK

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned herein.

U.S. BANK NATIONAL ASSOCIATION,  
as Registrar, Transfer Agent, and  
Paying Agent

By \_\_\_\_\_  
Authorized Signature

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM --	as tenants in common	UTMA.....Custodian..... (Cust) (Minor)
TEN ENT --	as tenants by the entireties	
JT TEN --	as joint tenants with right of survivorship and not as tenants in common	under Uniform Gifts to Minor Act..... (State)

Additional abbreviations may also be used.

### ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

\_\_\_\_\_  
/ \_\_\_\_\_ /

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever.

### SIGNATURE GUARANTEED

Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Bond Registrar, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Bond Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Second Reading of Ordinance Amending Ward IV Boundary: Annexation 12-06

**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 of property into the city. The City Council approved the annexation of property described as Tracts 2-A and 2-B, of Amended Tract 2, Certificate of Survey No. 2577; Tract 1-B of Amended Tract 1 of, Certificate of Survey No. 266 Amended; and that portion of un-described land wholly surrounded by said Tract 1-B of Amended Tract 1 of, Certificate of Survey No. 266, Gregory Subdivision, 5th Filing, Park land within Block 5, Brovista Subdivision, Lot 1A, Block 1, of Amended Plat of Lot 1, Block 1, Brovista Subdivision, and Tracts 1-A and 2-A, Amended Tracts 1 and 2 of the Corrected plat of Haggmann Acreage Tracts Subdivision (Annexation #12-06) on June 25, 2012 by Resolution #12-19183. This requires a change in the boundaries of Ward IV. Two readings are required for this action. The first reading of the ordinance was approved on July 9, 2012, and the second reading is scheduled for July 23, 2012.

**ALTERNATIVES ANALYZED**

City Council may approve or not approve the ordinance to amend the boundary of Ward IV on second reading. Approving the ordinance will modify the boundaries of Ward IV to include the recently annexed property. Denying the ordinance will not modify the boundaries of Ward IV and create a problem where property inside the City Limits is not within one of the City Ward Boundaries.

**FINANCIAL IMPACT**

There should be no financial impact from approval of this ordinance.

**RECOMMENDATION**

Staff recommends that Council approve this ordinance on second reading adding recently annexed property to Ward IV.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

Ward Boundary 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 ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO 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 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward IV the following described real property:

A tract of land situated in the SW1/4 of Section 26, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Tracts 2-A and 2-B, of Amended Tract 2, Certificate of Survey No. 2577, Recorded November 29, 2011, under Document No. 3606777, Records of Yellowstone County;

Tract 1-B of Amended Tract 1 of, Certificate of Survey No. 266 Amended, Recorded December 17, 1987, under Document No. 1467493, Records of Yellowstone County;

and that portion of un-described land wholly surrounded by said Tract 1-B of Amended Tract 1 of, Certificate of Survey No. 266, Gregory Subdivision, 5<sup>th</sup> Filing, Park land with in Block 5, Recorded January 16, 1984, under Document No. 1293336, Records of Yellowstone County, Brovista Subdivision, Lot 1A, Block 1, of Amended Plat of Lot 1, Block 1, Brovista Subdivision, Recorded June 01, 2001, under Document No. 3131588, Records of Yellowstone County,

Tracts 1-A and 2-A, Amended Tracts 1 and 2 of the Corrected plat of Hagmann Acreage Tracts Subdivision, Recorded December 16, 1983, under Document No. 1290304, Records of Yellowstone County. Including all adjacent right-of-way of Montana State Highway No. 3.

Containing 4.058 gross acres and 3.783 net acres more or less.  
(# 12-06) 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 9<sup>th</sup> day of July, 2012.

PASSED by the City Council on the second reading this 23<sup>rd</sup> day of July, 2012.

THE CITY OF BILLINGS:

\_\_\_\_\_  
Thomas W. Hanel, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, CITY CLERK

(AN 12-06)



**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Payment of Claims June 25, 2012.

**PRESENTED BY:** Pat M. Weber, Finance Director

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$1,318,035.00 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 25, 2012 is available in the Finance Department.

**ALTERNATIVES ANALYZED**

No other alternatives were analyzed.

**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**

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**Attachments**

Payment of Claims 6-25-2012

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AP Report > \$2,500 for 06/25/2012

Check Date	Check	Name	Amount	Account	Item Desc
06/25/2012	756645	A & E Architects	3,787.20	4980-55360-409390	New Library Building - Construction Management Services
06/25/2012	756646	A-1 Landscaping & Nursery	4,820.00	8400-31840-409310	WO 11-09 Misc Storm Drain; Inv# 4773
06/25/2012	756661	Applied Industrial Technologies	3,054.76	5020-00000-141000	SYSTEMS PO NUM 289850
06/25/2012	756663	Arrow Striping & Manufacturing Inc	5,400.00	2110-31320-402340	glass beads for paint
06/25/2012	756669	Billings Clinic (Police)	600.00	1500-21200-407910	Sane Registration #2012028,
06/25/2012	756669	Billings Clinic (Police)	600.00	1500-21200-407910	Sane Registration #2012031 -
06/25/2012	756669	Billings Clinic (Police)	600.00	1500-21200-407910	Sane Registration 2011Aal,
06/25/2012	756669	Billings Clinic (Police)	600.00	1500-21200-407910	Sane Registration 2012015,
06/25/2012	756669	Billings Clinic (Police)	600.00	1500-21200-407910	Sane Registration 2012029 -
06/25/2012	756673	Billings Tourism	445,150.00	7790-15760-407679	Paid May, distributed June
06/25/2012	756674	Black Box Network Services	9,847.70	6200-19110-409480	Upgrade City Hall Core Network Switches
06/25/2012	756674	Black Box Network Services	3,319.54	6060-19310-409480	Upgrade Network Routers Airport, BOC, PWBelknap
06/25/2012	756679	Brenntag Pacific Inc	3,067.34	2110-31320-404710	pass for road patcher
06/25/2012	756680	Bresnan Communications Lic	5,827.05	4980-55360-409390	Inv 2012-09 Utility relocate
06/25/2012	756681	Bridgewater Tech Inc	2,858.82	5030-73910-409390	GENERATOR
06/25/2012	756681	Bridgewater Tech Inc	2,904.87	5030-73910-409390	GENERATOR DOCKING STATION
06/25/2012	756681	Bridgewater Tech Inc	1,936.58	5130-83910-409390	GENERATOR DOCKING STATION
06/25/2012	756681	Bridgewater Tech Inc	1,905.88	5130-83910-409390	DOCKING STATION
06/25/2012	756688	Castlerock Excavating Inc	6,732.20	5120-85000-403690	6TH AVENUE EMERGENCY REPAIR
06/25/2012	756692	Cummins Rocky Mountain Lic	40.11	5410-31220-402320	004-43684
06/25/2012	756692	Cummins Rocky Mountain Lic	75.86	6010-00000-141000	004-44039 PO NUM 289857
06/25/2012	756692	Cummins Rocky Mountain Lic	271.05	2110-31320-402320	004-44055
06/25/2012	756692	Cummins Rocky Mountain Lic	2,852.00	5410-31220-402320	004-45021
06/25/2012	756692	Cummins Rocky Mountain Lic	303.44	6010-00000-141000	004-45071 PO NUM 289857
06/25/2012	756692	Cummins Rocky Mountain Lic	-500.00	5410-31220-402320	004-45045
06/25/2012	756693	Curb Box Specialists	8,410.05	5030-75910-409340	PBD012 TEMPORARY WATER SERVICE - S 37TH ST - 1ST TO 4TH AVE SOUTH
06/25/2012	756693	Curb Box Specialists	995.00	5030-75910-409340	TEMPORARY WATER CONNECTIONS
06/25/2012	756703	Dell Computer L P	1,322.63	1500-22290-402690	(1) Dell Latitude E6520
06/25/2012	756703	Dell Computer L P	1,199.25	2090-44510-402925	(1) Dell OptiPlex 790
06/25/2012	756703	Dell Computer L P	2,698.48	5410-31210-402925	(2)Dell OptiPlex 790

06/25/2012	756707	Downtown Billings BID, Inc.	95,023.80	7800-15750-407680	Paid May, distributed June
06/25/2012	756708	Downtown Billings Partnership	1,567.50	2030-15130-403547	4th quarter payment and reimbursement of expenses for the gateway signage/billboard project and the empire garage project.
06/25/2012	756708	Downtown Billings Partnership	56,250.00	2030-15130-407946	4th quarter payment and reimbursement of expenses for the gateway signage/billboard project and the empire garage project.
06/25/2012	756714	EOD Robotics, Inc	5,495.00	2580-21280-402120	Raft tool kit for existing bomb squad robot. <input type="checkbox"/> Please ship to: Billings Police Department, Attn: Sgt. Gartner, 220 N 27th, Billings, MT 59101.
06/25/2012	756734	HGFA Architects	16,910.75	7690-51820-403560	Fee overview for South Park Gazebo.
06/25/2012	756735	High Point Networks LLC	2,700.00	6200-19110-405370	Invoice 51938 Exchange Migration
06/25/2012	756735	High Point Networks LLC	900.00	6200-19110-405370	Invoice 51761 Exchange Migration
06/25/2012	756737	IBM Corporation	3,800.00	7180-21600-402290	Intelligence Software needed for CCSIU - i2 Analyst's Notebook English
06/25/2012	756737	IBM Corporation	760.00	7180-21600-402290	i2 Analyst's Notebook English Support
06/25/2012	756740	Industrial Communications &Electron	67,316.30	5620-71200-409490	Airport Operations Paging System Replacement
06/25/2012	756753	Jtl Group Inc Dba Knife River	316.54	2110-31320-404520	3/8" chips and 1 1/2" crushed base
06/25/2012	756753	Jtl Group Inc Dba Knife River	503.80	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	755.40	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	4,960.45	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	655.60	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	2,273.70	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	1,154.45	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	2,560.25	2110-31320-404710	asphalt
06/25/2012	756753	Jtl Group Inc Dba Knife River	562.50	2110-00000-201100	Shiloh Roundabouts; Inv# 2012-044 RefRel#1
06/25/2012	756766	Land Design Inc	5,535.00	4670-51630-409310	Task #7 90% completed for the construction administration.
06/25/2012	756795	Moody's Investors Service	2,900.00	5610-71100-403590	Invoice #M0029802. Airport Enterprise Annual Monitoring Fee 6/1/12 to 5/31/13
06/25/2012	756811	Northwestern Energy	40.74	0100-51270-403410	07123870
06/25/2012	756811	Northwestern Energy	7.15	0100-51120-403410	07231624
06/25/2012	756811	Northwestern Energy	887.31	5020-74000-403410	11164522
06/25/2012	756811	Northwestern Energy	61.31	5610-71170-403410	1264299-7. June 2012 utilities old Hertz car wash facility

06/25/2012	756811	Northwestern Energy	0.19	2110-31320-403410	17403577
06/25/2012	756811	Northwestern Energy	22,097.74	5020-74000-403410	2251 Belknap Ave
06/25/2012	756811	Northwestern Energy	130.18	5120-85000-403410	822 SHILOH CROSSING
06/25/2012	756811	Northwestern Energy	920.14	5020-74000-403410	Airport Rd/17th West/HWY 3
06/25/2012	756810	Northwestern Energy	11,017.46	2110-31320-403410	Signal Bills
06/25/2012	756810	Northwestern Energy	458.60	8100-31830-403410	SILMD 008 ACCT# 0712544-6
06/25/2012	756810	Northwestern Energy	500.90	8100-31830-403410	SILMD 172 ACCT# 0712611-3
06/25/2012	756810	Northwestern Energy	13.73	8100-31830-403410	SILMD 238 ACCT# 0712672-5
06/25/2012	756811	Northwestern Energy	123.76	0100-51220-403410	07125362
06/25/2012	756811	Northwestern Energy	7.15	0100-51120-403410	07236441
06/25/2012	756811	Northwestern Energy	4.89	5610-71170-403410	11389269
06/25/2012	756811	Northwestern Energy	4.11	5610-71170-403410	1341288-7. June 2012 utilities old
					National/Alamo car wash facility
06/25/2012	756811	Northwestern Energy	0.48	2110-31320-403410	17488966
06/25/2012	756811	Northwestern Energy	82,866.50	5020-74000-403410	2251 Belknap Ave
06/25/2012	756810	Northwestern Energy	470.90	8100-31830-403410	SILMD 009 ACCT# 0712545-3
06/25/2012	756810	Northwestern Energy	1,101.34	8100-31830-403410	SILMD 173 ACCT# 0712612-1
06/25/2012	756810	Northwestern Energy	88.11	8100-31830-403410	SILMD 239 ACCT# 0712673-3
06/25/2012	756811	Northwestern Energy	23.16	0100-51220-403410	07208184
06/25/2012	756811	Northwestern Energy	7.36	0100-51120-403410	07236458
06/25/2012	756811	Northwestern Energy	1,043.04	6500-15660-403410	11608023
06/25/2012	756811	Northwestern Energy	7.26	5610-71170-403410	1341289-5. June 2012 utilities old Thrifty/Dollar
					car wash facility
06/25/2012	756811	Northwestern Energy	37.52	0100-51120-403410	18366666
06/25/2012	756811	Northwestern Energy	4,143.33	5020-73140-403410	2251 Belknap Ave
06/25/2012	756810	Northwestern Energy	1,301.10	8100-31830-403410	SILMD 010 ACCT# 0712546-1
06/25/2012	756810	Northwestern Energy	925.12	8100-31830-403410	SILMD 174 ACCT# 0712613-9
06/25/2012	756810	Northwestern Energy	347.38	8100-31830-403410	SILMD 240 ACCT# 0712674-1
06/25/2012	756811	Northwestern Energy	375.92	0100-51260-403410	07208218
06/25/2012	756811	Northwestern Energy	21.18	0100-51120-403410	07894371
06/25/2012	756811	Northwestern Energy	2,556.64	6500-15660-403410	11608049
06/25/2012	756811	Northwestern Energy	94.86	5610-71170-403410	1341291-1. June 2012 utilities old Enterprise car
					wash facility
06/25/2012	756811	Northwestern Energy	1,381.11	5120-83140-403410	2251 Belknap Ave
06/25/2012	756810	Northwestern Energy	3,751.30	8100-31830-403410	SILMD 013 ACCT# 0721276-4
06/25/2012	756810	Northwestern Energy	308.36	8100-31830-403410	SILMD 175 ACCT# 0712614-7
06/25/2012	756810	Northwestern Energy	575.93	8100-31830-403410	SILMD 241 ACCT# 0712675-8

06/25/2012	756811	Northwestern Energy	265.16	6070-22350-403410	07215809
06/25/2012	756811	Northwestern Energy	8.95	2110-31320-403410	08554040
06/25/2012	756811	Northwestern Energy	3,508.24	6500-15660-403410	12693917
06/25/2012	756811	Northwestern Energy	341.55	5610-71170-403410	1341295-2. June 2012 utilities Big Sky Ground Support
06/25/2012	756810	Northwestern Energy	1,848.71	8100-31830-403410	SILMD 014 ACCT# 0721277-2
06/25/2012	756810	Northwestern Energy	40.03	8100-31830-403410	SILMD 176 ACCT# 0712615-4
06/25/2012	756810	Northwestern Energy	77.32	8100-31830-403410	SILMD 242 ACCT# 0712676-6
06/25/2012	756811	Northwestern Energy	13.14	0100-51120-403410	07222375
06/25/2012	756811	Northwestern Energy	443.57	1500-22210-403410	08715468
06/25/2012	756811	Northwestern Energy	1,458.34	5610-71190-403410	1993430-6. June 2012 utilities QTA car wash
06/25/2012	756810	Northwestern Energy	1,137.80	8100-31830-403410	SILMD 017 ACCT# 0712553-7
06/25/2012	756810	Northwestern Energy	242.29	8100-31830-403410	SILMD 178 ACCT# 0712616-2
06/25/2012	756810	Northwestern Energy	103.11	8100-31830-403410	SILMD 244 ACCT# 0712677-4
06/25/2012	756811	Northwestern Energy	7.15	0100-51120-403410	07222474
06/25/2012	756811	Northwestern Energy	289.26	0100-51120-403410	09254962
06/25/2012	756811	Northwestern Energy	357.96	5610-71190-403410	2001846-1. June 2012 utilities QTA mud wash
06/25/2012	756810	Northwestern Energy	86.83	8100-31830-403410	SILMD 018 ACCT# 0712554-5
06/25/2012	756810	Northwestern Energy	484.59	8100-31830-403410	SILMD 179 ACCT# 0712617-0
06/25/2012	756810	Northwestern Energy	79.72	8100-31830-403410	SILMD 245 ACCT# 0712678-2
06/25/2012	756811	Northwestern Energy	240.11	0100-51120-403410	07222516
06/25/2012	756811	Northwestern Energy	446.06	6500-15660-403410	09758087
06/25/2012	756811	Northwestern Energy	171.44	5610-71190-403410	2001848-7. June 2012 utilities QTA Detail Bay #1
06/25/2012	756810	Northwestern Energy	412.88	8100-31830-403410	SILMD 095 ACCT# 0712556-0
06/25/2012	756810	Northwestern Energy	330.40	8100-31830-403410	SILMD 180 ACCT# 0712618-8
06/25/2012	756810	Northwestern Energy	309.31	8100-31830-403410	SILMD 246 ACCT# 0712679-0
06/25/2012	756811	Northwestern Energy	0.09	0100-51120-403410	07222540
06/25/2012	756811	Northwestern Energy	212.21	5610-71190-403410	2001855-2. June 2012 utilities QTA Detail Bay #2
06/25/2012	756810	Northwestern Energy	12,167.18	8100-31830-403410	SILMD 097 ACCT# 0712557-8
06/25/2012	756810	Northwestern Energy	1,572.38	8100-31830-403410	SILMD 181 ACCT# 0712619-6
06/25/2012	756810	Northwestern Energy	1,071.48	8100-31830-403410	SILMD 247 ACCT# 0712680-8
06/25/2012	756811	Northwestern Energy	88.37	0100-51120-403410	07222557
06/25/2012	756811	Northwestern Energy	115.60	5610-71190-403410	2001862-8. June 2012 utilities QTA Detail Bay #3
06/25/2012	756810	Northwestern Energy	1,485.21	8100-31830-403410	SILMD 099 ACCT# 0712558-6

06/25/2012	756810	Northwestern Energy	550.66	8100-31830-403410	SILMD 182	ACCT# 0712620-4
06/25/2012	756810	Northwestern Energy	2,272.42	8100-31830-403410	SILMD 248	ACCT# 0712681-6
06/25/2012	756811	Northwestern Energy	73.29	0100-51120-403410	07222631	
06/25/2012	756811	Northwestern Energy	181.65	5610-71190-403410	2001865-1.	June 2012 utilities QTA Detail Bay #4
06/25/2012	756810	Northwestern Energy	2,434.31	8100-31830-403410	SILMD 100	ACCT# 0712559-4
06/25/2012	756810	Northwestern Energy	1,101.34	8100-31830-403410	SILMD 183	ACCT# 0712621-2
06/25/2012	756810	Northwestern Energy	2,268.07	8100-31830-403410	SILMD 249	ACCT# 0718734-7
06/25/2012	756811	Northwestern Energy	8,948.72	5020-74000-403410	07222649	
06/25/2012	756811	Northwestern Energy	105.28	5610-71190-403410	2001867-7.	June 2012 utilities QTA Detail Bay #5
06/25/2012	756810	Northwestern Energy	1,623.93	8100-31830-403410	SILMD 107	ACCT# 0712560-2
06/25/2012	756810	Northwestern Energy	352.42	8100-31830-403410	SILMD 184	ACCT# 0712622-0
06/25/2012	756810	Northwestern Energy	7.22	8100-31830-403410	SILMD 250	ACCT# 1301786-8
06/25/2012	756811	Northwestern Energy	43.10	0100-51120-403410	07222664	
06/25/2012	756811	Northwestern Energy	23.49	5610-71130-403410	1647695-4.	June 2012 utilities De-icer
06/25/2012	756810	Northwestern Energy	4,072.73	8100-31830-403410	SILMD 109	ACCT# 0712561-0
06/25/2012	756810	Northwestern Energy	132.17	8100-31830-403410	SILMD 185	ACCT# 0712623-8
06/25/2012	756810	Northwestern Energy	175.99	8100-31830-403410	SILMD 250	ACCT# 0719001-00
06/25/2012	756811	Northwestern Energy	1,943.13	5610-71130-403410	0100483-7.	June 2012 utilities Runway lights
06/25/2012	756811	Northwestern Energy	12.82	0100-51120-403410	07222698	
06/25/2012	756810	Northwestern Energy	164.13	8100-31830-403410	SILMD 113	ACCT# 0712562-8
06/25/2012	756810	Northwestern Energy	559.64	8100-31830-403410	SILMD 186	ACCT# 0712624-6
06/25/2012	756810	Northwestern Energy	3,660.98	8100-31830-403410	SILMD 251	ACCT# 0718801-4
06/25/2012	756811	Northwestern Energy	1,212.50	5610-71130-403410	0100484-5.	June 2012 utilities ARFF facility
06/25/2012	756811	Northwestern Energy	1,689.76	0100-51120-403410	07222870	
06/25/2012	756810	Northwestern Energy	876.40	8100-31830-403410	SILMD 114	ACCT# 0712563-6
06/25/2012	756810	Northwestern Energy	220.27	8100-31830-403410	SILMD 187	ACCT# 0712625-3
06/25/2012	756810	Northwestern Energy	515.53	8100-31830-403410	SILMD 252	ACCT# 0719162-0
06/25/2012	756811	Northwestern Energy	11.29	0100-51120-403410	07222920	
06/25/2012	756811	Northwestern Energy	731.29	5610-71170-403410	1669567-8.	June 2012 utilities TSA building
06/25/2012	756810	Northwestern Energy	206.22	8100-31830-403410	SILMD 115	ACCT# 0712564-4
06/25/2012	756810	Northwestern Energy	264.31	8100-31830-403410	SILMD 188	ACCT# 0712626-1
06/25/2012	756810	Northwestern Energy	1,798.49	8100-31830-403410	SILMD 253	ACCT# 0719644-7
06/25/2012	756811	Northwestern Energy	60.31	0100-51120-403410	07222938	
06/25/2012	756810	Northwestern Energy	541.31	8100-31830-403410	SILMD 116	ACCT# 0712565-1
06/25/2012	756810	Northwestern Energy	220.27	8100-31830-403410	SILMD 189	ACCT# 0712627-9









06/25/2012	756810	Northwestern Energy	239.68	8100-31830-403410	SILMD 309 ACCT# 2001311-6
06/25/2012	756810	Northwestern Energy	155.27	8100-31830-403410	SILMD 310 ACCT# 2060519-2
06/25/2012	756810	Northwestern Energy	47.94	8100-31830-403410	SILMD 320 ACCT# 0742569-3
06/25/2012	756812	Octane Addictions Inc	974.12	1500-22260-402320	321: PROVIDE AND INSTALL REFLECTIVE STRIPING & LETTERING ON NEW AIR VAN (\$714.12 DECALS) & (\$260.00 INSTALLATION) - UNIT #4072 - QUOTE #18
06/25/2012	756812	Octane Addictions Inc	1,598.00	1500-21120-402440	Invoice 335, Decals for new police cars
06/25/2012	756815	Ostermiller Const	2,977.00	4980-55360-409390	Inv 1215.1
06/25/2012	756815	Ostermiller Const	17,263.62	4980-55360-409390	WO 12-33 One Way Lane Construction Library
06/25/2012	756823	Portable Computer Systems, Inc.	106.34	0100-43210-403450	NetMotion Maintenance 1 yr.Police, Building, Animal Control, Fire, Code Enf., IT
06/25/2012	756823	Portable Computer Systems, Inc.	4,678.96	1500-21500-403553	NetMotion Maintenance 1 yr.Police, Building, Animal Control, Fire, Code Enf., IT
06/25/2012	756823	Portable Computer Systems, Inc.	265.85	1500-21700-403630	NetMotion Maintenance 1 yr.Police, Building, Animal Control, Fire, Code Enf., IT
06/25/2012	756823	Portable Computer Systems, Inc.	850.72	1500-22210-403450	NetMotion Maintenance 1 yr.Police, Building, Animal Control, Fire, Code Enf., IT
06/25/2012	756823	Portable Computer Systems, Inc.	372.19	2090-44510-403590	NetMotion Maintenance 1 yr.Police, Building, Animal Control, Fire, Code Enf., IT
06/25/2012	756823	Portable Computer Systems, Inc.	638.04	6200-19110-405370	NetMotion Maintenance 1 yr.Police, Building, Animal Control, Fire, Code Enf., IT
06/25/2012	756824	Public Utilities	982.54	5120-84000-403420	187212152
06/25/2012	756824	Public Utilities	48.74	5210-15920-403420	4975819
06/25/2012	756824	Public Utilities	52.97	8720-51980-403420	11139217
06/25/2012	756824	Public Utilities	2,856.35	8720-51980-403420	11498915890
06/25/2012	756824	Public Utilities	8,068.00	8720-51980-403420	11498915891
06/25/2012	756824	Public Utilities	97.10	5210-15910-403420	22414454
06/25/2012	756824	Public Utilities	22.73	5210-15910-403420	22434115
06/25/2012	756824	Public Utilities	813.91	0100-51120-403420	676333936
06/25/2012	756824	Public Utilities	542.61	8720-51980-403420	676333936
06/25/2012	756824	Public Utilities	4,551.07	8720-51980-403420	11828118660
06/25/2012	756824	Public Utilities	90.86	5210-15940-403420	257110001100
06/25/2012	756824	Public Utilities	1,800.48	8720-51980-403420	13019519760
06/25/2012	756824	Public Utilities	676.60	8720-51980-403420	676814300
06/25/2012	756824	Public Utilities	15.57	8720-51980-403420	13019521993
06/25/2012	756824	Public Utilities	85.47	8720-51980-403420	6768310079100

06/25/2012	756824	Public Utilities	1,248.51	8720-51980-403420	13592326953
06/25/2012	756824	Public Utilities	97.53	8720-51980-403420	676853944
06/25/2012	756824	Public Utilities	1,631.58	8720-51980-403420	13592722571
06/25/2012	756824	Public Utilities	215.12	8720-51980-403420	676893237
06/25/2012	756824	Public Utilities	992.95	8720-51980-403420	13592526964
06/25/2012	756824	Public Utilities	289.42	8720-51980-403420	904979321
06/25/2012	756824	Public Utilities	301.70	8720-51980-403420	938591235
06/25/2012	756824	Public Utilities	9.54	8720-51980-403420	10797511406
06/25/2012	756824	Public Utilities	9.54	8720-51980-403420	10797712729
06/25/2012	756824	Public Utilities	137.42	8720-51980-403420	13578527227
06/25/2012	756832	Rimrock Foundation	18,886.72	2760-67500-407236	Q4 FHIP Reimb Req.
06/25/2012	756853	Stevens Brothers Mechanical	2,524.00	5610-71120-402450	Invoice #B12015.CO.s. Repairs to HVAC #6
06/25/2012	756862	Town & Country Supply Association	6,696.80	6010-00000-141714	94777 PO NUM 289854
06/25/2012	756862	Town & Country Supply Association	20,293.00	6010-00000-141000	94966 PO NUM 289855
06/25/2012	756862	Town & Country Supply Association	27,658.88	5610-71180-402313	Invoice #94965. QTA car rental facility fuel
06/25/2012	756862	Town & Country Supply Association	15,931.64	6010-00000-141000	94967 PO NUM 289855
06/25/2012	756863	Tractor & Equipment	24.76	5410-31230-402320	misc bolts for landfill
06/25/2012	756863	Tractor & Equipment	1,291.17	5410-31230-402320	misc parts for landfill element as
06/25/2012	756863	Tractor & Equipment	1,194.83	2110-31320-405333	rental of trench roller
06/25/2012	756878	Yellowstone Co Implement	410.12	0100-51120-402320	840011
06/25/2012	756878	Yellowstone Co Implement	4,182.50	5610-71130-402320	Invoice #854301. Major repairs to A-11 John Deere tractor-hydraulic pump failure. Parts only-mechanics removed system, drained, installed new pump & recharged
06/25/2012	756878	Yellowstone Co Implement	15.00	0100-51120-402320	840011
06/25/2012	756880	Yellowstone Valley Elec	247.22	5120-85000-403410	2229 Blue Creek
06/25/2012	756880	Yellowstone Valley Elec	213.55	6070-22350-403410	41790002:LANDFILL TOWER SITE/ELEC SERVICE
06/25/2012	756880	Yellowstone Valley Elec	144.29	5120-85000-403410	54th St West/Dovetail
06/25/2012	756880	Yellowstone Valley Elec	59.00	5120-84000-403410	Brianwood Blvd/O'Shea Cir
06/25/2012	756880	Yellowstone Valley Elec	781.97	5410-31230-403410	electric at landfill for june 2012
06/25/2012	756880	Yellowstone Valley Elec	642.16	1500-22210-403410	FIRE 7: MONTHLY ELECTRICAL SERVICE TO STATION
06/25/2012	756880	Yellowstone Valley Elec	822.68	5120-84000-403410	Rehberg Ranch North Pond
06/25/2012	756880	Yellowstone Valley Elec	364.67	8100-31830-403410	SILMD 299 Vintage Estates
06/25/2012	756880	Yellowstone Valley Elec	19.00	5120-85000-403410	Winchester Trl/Rod & Gun Club Rd

06/25/2012	756880	Yellowstone Valley Elec	0.00	6070-22350-403410	41790004:TANK(FOX) TOWER SITE/ELEC
					SERVICE
06/25/2012	756880	Yellowstone Valley Elec	149.65	5120-85000-403410	4523 Iron Horse Trl
06/25/2012	756880	Yellowstone Valley Elec	1,720.12	5020-74000-403410	Thomas Pump Station
06/25/2012	756880	Yellowstone Valley Elec	1,149.87	5120-84000-403410	3002 Cattle Dr

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Zone Change #899 - Livestock and Fowl - Allowing Poultry - Text Amendment - Public Hearing and 1st reading

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

This is a zone change that will amend Sections 27-305, 27-306 and 27-607 of the Billings, Montana, City Code (BMCC) to allow the keeping of chickens within the city limits. A separate ordinance will amend the Animal Control regulations to set limits on the number of chickens and how they may be kept on residential property. The Animal Control Division will handle permitting and enforcement of those provisions. The keeping of livestock and fowl, including poultry, is currently not an allowed use within the City of Billings. The current code requires consultation of 3 sections of the code to determine whether poultry is an allowed or prohibited use. The proposed amendment will allow the keeping of poultry but not allow the keeping of other fowl (ducks, geese, turkeys, etc.) or livestock. The City Council initiated this amendment on May 14, 2012. The Zoning Commission conducted a public hearing on July 3, 2012, and is forwarding a recommendation of denial on a 3 to 0 vote.

**ALTERNATIVES ANALYZED**

The City Council may:

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

**FINANCIAL IMPACT**

There should be no financial impact from the proposed amendment.

**BACKGROUND**

The current code was unified with the County Zoning Regulations in 1997 and it appears some language was inadvertently deleted at the time, thereby making the Code difficult to interpret. The City Council and the City Zoning Commission considered requests to amend the zoning code to allow poultry (urban chickens) and both bodies declined to initiate those amendments in 2011. The City Council and City Zoning Commission initiated a zone change – Zone Change #885 – to amend the regulations to clearly prohibit keeping fowl in the city limits. This amendment was postponed for 30 days on March 26, 2012, and then tabled by the City Council on April 23, 2012. On April 16, 2012, the City Council reviewed draft regulations to allow a limited number of chickens on residential property in Billings. On May 14, 2012, the City Council initiated a text amendment to allow chickens within the city limits.

The Planning Staff drafted the amendment to the code and reviewed it with Animal Control and the City Attorney. The planning Staff recommended approval to the Zoning Commission.

## **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on July 3, 2012, and received the staff report and recommendation of approval. Bill Iverson and Doug Rubke provided testimony to the Zoning Commission. Mr. Iverson testified in favor and Mr. Rubke testified in opposition.

The Zoning Commission voiced concerns with the potential of loose animals, transmission of disease and neglect of animals. The Zoning Commission asked how many people might keep chickens if allowed by this change in the zoning regulations. Planning Staff believes less than 100 permits would be issued by the Animal Control Division. The Zoning Commission was also concerned with how the city could reverse the decision once 100 people were permitted to keep chickens if the problems out-weighed the benefits to this small number of people. The Zoning Commission is forwarding a recommendation of denial on a vote of 3-0.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Zoning Text Amendments may be initiated by the City Council, the Board of County Commissioners, the Planning Board, the County Zoning Commission, or the City Zoning Commission. The City Council initiated this amendment on May 14, 2012, and directed staff to develop an ordinance similar to the Missoula code. The Missoula regulations for zoning simply stipulate that up to 6 (six) chicken hens may be kept on residential property within the city limits. The primary regulatory tool in Missoula is the Animal Control code and Dave Klein, Animal Control Supervisor, has prepared a separate ordinance for Billings. The proposed zoning amendments would only affect City property and will leave the livestock requirements in place for property in the 4.5-mile zoning jurisdiction in Yellowstone County.

The proposed amendments are supported by the Billings Backyard Hens group and by the 2008 Growth Policy Element related to Healthy Communities (Page 15). The Growth Policy states it is goal of Billings to provide accessible, affordable and nutritious food for everyone. The goal is to achieved by these objectives:

- Reduce malnutrition, diabetes, heart disease, and other nutrition related diseases.
- Ensure equal opportunities to healthy food sources.
- Support local farm produce.

Allowing City of Billings residents the option to raise up to 6 (six) chicken hens for a healthy food source meets the objectives in the 2008 Growth Policy.

## **RECOMMENDATION**

The Zoning Commission is recommending denial of Zone Change #899 on a 3 to 0 vote.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

Ordinance

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**ORDINANCE NO. 12 - \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-305 RESIDENTIAL USES; 27-306 – COMMERCIAL AND INDUSTRIAL USES; AND 27- 607 – LIVESTOCK AND FOWL – TO DELETE LANGUAGE AND TO ADD LANGUAGE TO ALLOW THE KEEPING OF A HENS WITHIN RESIDENTIAL ZONES AND ON PROPERTY DEVELOPED WITH RESIDENTIAL USES AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

**Section 1. RECITALS.** Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.

**Section 2. DESCRIPTION.** The zoning regulation shall apply to all land within the City of Billings.

**Section 3. AMENDMENT.** That the Billings, Montana City Code be amended by revising Section 27-305 as follows:

TITLES AND DESCRIPTION OF INDUSTRIES	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family Restricted	Residential Manufactured Home
Livestock <del>And Fowl</del> *	A*	A*	A*	A*			A*						A*
<u>Fowl including Poultry *</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>	<u>A*</u>			<u>A*</u>						<u>A*</u>
<u>Poultry (<i>Gallus gallus domesticus</i>)</u> * (County Only) See BMCC Section 27-607 for Minimum Area Requirements in the County Zoning 4- ½ Mile Jurisdictional Area	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>

**Section 4. That the Billings, Montana City Code is amended to revise language in Section 27-306, which shall read as follows:**

<b>TITLES AND DESCRIPTION OF INDUSTRIES</b>  <b>SR - SPECIAL REVIEW</b> <b>A – ALLOWED</b>	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
Dwellings – Single-Family*_ – Two-Family – Multiple-Family – Modular Home*_ – <del>Rowhouse/Townhouse</del> *Poultry Allowed See Section 27-607	A	A	A	A	A	SR			A
	A	A	A	A	A	SR			A
		SR	SR	SR	SR				SR

**Section 5. That the Billings, Montana City Code is amended to revise language in Section 27-607, which shall read as follows:**

**SEC. 27-607. LIVESTOCK AND FOWL.**

Livestock, as defined in BMCC Section 27-201, shall not be maintained in any zoning district located within the limits of the city except as provided within Section 27-305 or 27-306. (~~see also BMCC Sections 4-501 through 4-505~~). However, hHorses may be permitted in the City when located within a Planned Development, as described in Section 27-1303, that is specifically designed to accommodate horses and/or equestrian centers. Fowl, as defined in BMCC Section 27-201 except poultry, shall not be maintained in any zoning district located within the limits of city. Poultry may be kept within the limits of the city in residential zoning districts or on property used for residential purposes as provided in Section 27-305 or 27-306 subject to limitations and permitting requirements in BMCC Section 4-303. Poultry may be kept outside the city limits as provided in Section 27-305 and subject to the provisions below.

Areas located outside the limits of the City of Billings, but within certain Agricultural or Residential zoning districts, as shown in the Residential District Regulations (see BMCC Section 27-305), shall be permitted to have livestock and/or fowl. In addition, livestock and/or fowl may be permitted as part of a Planned Development, as described in Section 27-1303, and are also exempt from the following animal unit standards, unless specifically referenced within the Planned Development Agreement. However, the standards outlined below must be satisfied, depending upon the size of the property.

The allowance of livestock and/or fowl in commercial or industrial zoning districts, situated outside the limits of the City of Billings, may be permitted when the regulations established in below subsection (b) are met, regardless of the lot size. However, if the number of animals requested exceeds the allowed limit in below subsection (b), then the property must conform to the uses allowed by right or through Special Review, as shown in the Commercial/Industrial District Regulations matrix in BMCC Section 27-306.

**Section 6. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 7. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

**Section 8. EFFECTIVE DATE.** This ordinance shall be effective from September 13, 2012.

PASSED by the City Council on first reading July 23, 2012.

PASSED, ADOPTED AND APPROVED on second reading August 13, 2012.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel

ATTEST:

BY: \_\_\_\_\_

Cari Martin, City Clerk  
ZC #899 – Text – Urban Hens

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Zone Change #900 - Public Hearing and 1st reading

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

This is a zone change request from Residential 5,000 (R-50) to Residential Multi-family-Restricted (RMF-R) on a 22.3 acre portion of Lots 1 and 2, Block 1, Western Sky Subdivision, located west of the intersection of 44th Street West and King Avenue West. The property is owned by King Meadows, LLC and Sanderson Stewart is the agent. The owner conducted a pre-application neighborhood meeting on May 24, 2012. The Zoning Commission conducted a public hearing on July 3, 2012, and is forwarding a recommendation of approval on a 3-0 vote.

**ALTERNATIVES ANALYZED**

State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 10 criteria. Using the 10 criteria to determine the appropriateness of the zone change request, the City Council may:

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

**FINANCIAL IMPACT**

There will be no immediate impact to the City's finances. Once construction has commenced, additional taxes will be realized from the property.

**BACKGROUND**

The applicant is requesting to rezone a 22.3 acre portion of Lots 1 and 2 of Western Sky Subdivision. The property was annexed and zoned in 2007 but the subdivision has remained undeveloped for the past 5 years. The preliminary subdivision that matches the approved zoning (King Meadows) has not been submitted for final approval. The original partnership has dissolved and each owner now controls separate lots in the original subdivision. The owner of Lots 1 and 2 is preparing to sell the lots to a builder who intends to develop multi-family apartments similar to those recently constructed in Lenhardt Square north of King Avenue West and east of this location. Additional multi-family apartments are under construction in the Montana Sapphire Subdivision south of King Avenue West and east of this location. The original zoning for the property was to confine the multi-family dwellings to the King Avenue West frontage. The proposed zone change will extend the multi-family zoning to the south to increase and allow about 50%+ of Lots 1 and 2 to be used for multi-family dwellings. The existing R-50 zoning allows single family and two-family dwellings.

South 44th Street West will provide the primary access to the site until the next phase or phases

of the subdivision are developed. South 44th Street West is a designated collector street on the Billings Urban Area Transportation Plan Functional Classification Map. The portion of the street north of King Avenue West is the first access drive into Lenhardt Square Subdivision. Shiloh Road and King Avenue West are principal arterial streets that have the capacity to handle any additional traffic from development within the subdivision. Shiloh Road carries approximately 8,000 vehicle trips per day at this location and King Avenue West carries 6,250 vehicles per day west of Shiloh Road.

The RMF-R zone requires a maximum building height of 40 feet and a front and rear property line minimum setback of 15 feet. King Avenue West is a principal arterial street and any new residential structure will need to be at least 80 feet from the centerline of the street. The maximum density of dwelling units in the RMF-R zone is 26 units per acre. This is not the typical development density in this area with multi-family zoning. Site development for driveways, access roads, landscaping, building setbacks and off-street parking results in a density of about 14 to 16 units per acre or about 500 to 600 dwelling units on the total RMF-R zoned area of 37 acres (22 acres proposed and 15 acres existing).

The applicant conducted a pre-application neighborhood meeting on May 24, 2012. Several surrounding property owners attended and questions were raised concerning the traffic control for S 44th Street West and King Avenue West, the developer's responsibility for extending city utility lines in King Avenue West, the adequacy of the water supply, and the expected number of new units in the area. A synopsis of the meeting, list of attendees, and the agents' answers to these questions is in Attachment D. No surrounding property owners contacted the Planning Division staff prior to the Zoning Commission public hearing.

The West Billings Neighborhood Plan adopted by the City in 2001 states the purpose of the plan is to guide the long-term growth of West Billings by achieving planned growth. A preferred land use map was developed locating neighborhood, community and regional commercial nodes at major arterial intersections. One of the intersections is Shiloh Road and King Avenue West, located east of the subject property and a regional commercial center has been designated from King Avenue West south to I-90. The completion of the Shiloh Road improvements in 2010 has helped spur development along the corridor. The West Billings Neighborhood Plan indicated higher density housing and professional office space is the preferred land use between arterial street intersections. The existing RMF-R zone that borders King Avenue West conforms to the West Billings Neighborhood Plan and the extension of this zoning is also in conformance with the plan. The proposed RMF-R zone is compatible with the all the surrounding zoning.

The Planning Division reviewed the application and recommended approval based on the ten

(10) criteria for zone changes. The Zoning Commission concurred with the Planning Division recommendation. The subject property is adjacent to multi-family zoning to the north and the Lenhardt Square Planned Development includes multi-family zoning and mixed uses along the King Avenue West street frontage. Zoning to the west is R-50 but is undeveloped. The R-50 zone allows a similar development density (10 units per acre) but allows those units only as single or two-family structures. There is a planned street that separates the two zoning districts. The Entryway Light Industrial (ELI) zone and Agriculture (A-1) zone to the east are compatible with the proposed RMF-R zone. The ELI zone will require buffering and screening when developed. The existing substation in the A-1 zone was approved by special review of the County and requires landscaping and screening. The uses allowed within RMF-R zoning are compatible with the surrounding zoning and neighborhood character. Any development of the property requires compliance with the new zoning and the ability to meet site development requirements and traffic safety standards. The 2008 Growth Policy and the West Billings Neighborhood Plan encourage predictable land use decisions that are consistent with neighborhood character and land use patterns. The existing use and proposed zoning are consistent with this neighborhood and land use pattern.

## **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on July 3, 2012 and received the staff report and recommendation of approval. The agent for the applicant, Will Ralph, P.E. of Sanderson Stewart, provided testimony and answered questions from the Zoning Commission. Gerald Krieg, owner of the adjacent lots in Western Sky Subdivision, testified that he is not opposed to the zone change. Mr. Krieg stated he is concerned with the portion of his lots directly west of the new zoning that would remain in the R-50 zone. He stated it should be on the record that if he proposes a similar zone change from R-50 to RMF-R that he should receive a similar recommendation of approval. Planning Staff stated this would be likely given the shared property line and the similarity of the property.

The Zoning Commission voted 3-0 to recommend approval of the zone change.

## **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Prior to any making a decision on the proposed zone change, the City Council shall consider the following 10 criteria:

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

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

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would permit more land to be used for multi-family dwellings and this is consistent with the neighborhood character and the planned subdivision. The proposed zoning is compatible with the existing uses in Montana Sapphire Subdivision, Lenhardt Square and St. Vincent Healthcare Subdivision to the north.

- More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)

The existing zoning is restrictive of the types of housing available in the subdivision. The proposed zoning will allow more housing in the area including multifamily dwellings.

### **2. Is the new zoning designed to secure from fire and other dangers?**

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The City Fire Department will ensure safe access to the site and provision for minimum fire flow to the new buildings.

3. Whether the new zoning will promote public health, public safety and general welfare? Public health and public safety will be promoted by the proposed zoning. Lower density subdivisions increase response times by police and emergency service providers. The proposed zoning will increase the availability and variety of housing options for Billings's residents and promote the general welfare.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?

Transportation: The proposed zoning may have some impact on the surrounding streets, and a traffic impact study may be required depending on the development that is built on the property in the future. New development that generates 500+ new vehicle trips per day will require a Traffic Accessibility Study (TAS).

Water and Sewer: The City will be able to provide water and sewer to the property by extension of those utilities from King Avenue West. A new Zone 3 Water Reservoir may be built in the future to provide additional storage capacity.

Schools and Parks: There may be impact to schools from the proposed zone change. However, any residential development in the future could affect the schools in the area. The property is in the Elder Grove Elementary and Middle School District and in the West High District (SD #2)

Fire and Police: The subject property is currently served by the city Public Safety Services although construction has not commenced in the subdivision.

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

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

6. Will the new zoning effect motorized and non-motorized transportation?

Traffic generation from a multi-family development of less than 20 units per acre is approximately 8 trips per day per dwelling unit. If the property is developed at 14 units per acre, the traffic increase would be about 4,150 vehicle trips per day on King Avenue West. This is about a 60% increase from the most recent traffic count numbers. The current traffic counts are based on a 3-year rolling average. The traffic count from 2009 for this section of King Avenue West was closer to 8,000 trips per day while the 2011 count was closer to 5,500 trips per day. A TAS will be needed to adequately address the motorized vehicle impact to King Avenue West and S 44th Street West. The TAS may require the developer to invest in traffic control improvements or participate with other land owners in improvements.

The 2011 Bikeway and Trail MasterPlan included a multi-use trail on the north side of King Avenue West. The new residents of this subdivision would need to cross King Avenue West to access this connector trail to the Shiloh Road Multi-Use Trail. A sidewalk will be required on the King Avenue West street frontage however the sidewalk is not continuous from Montana Sapphire to the subject property.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. Lower density development is inefficient and ineffective in recovering the costs to extend city services. Higher densities of development, such as the proposed zoning, will allow the city to grow in a better urban pattern and form.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of district and the suitability of the property for multifamily uses. There are several existing and new multi-family developments in the area. The Growth Policy and the West Billings Neighborhood Plan both encourage higher density housing along arterials between major intersections to avoid the “strip commercial” development typical of older arterial streets in Billings. The increased traffic generation of a multi-family development will not impact existing neighborhoods and will have direct access to a collector street and an arterial street.

9. Will the new zoning conserve the value of buildings?

Surrounding property exhibits higher taxable land value. The property is currently vacant and should increase in value when developed. There are no buildings on the subject property.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit denser development and allow more housing choices in the area. The surrounding development is compatible and this is the most appropriate use of the land.

### **RECOMMENDATION**

The Zoning Commission is recommending approval of Zone Change #900 on a 3-0 vote.

### **APPROVED BY CITY ADMINISTRATOR**

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#### **Attachments**

Zoning Map

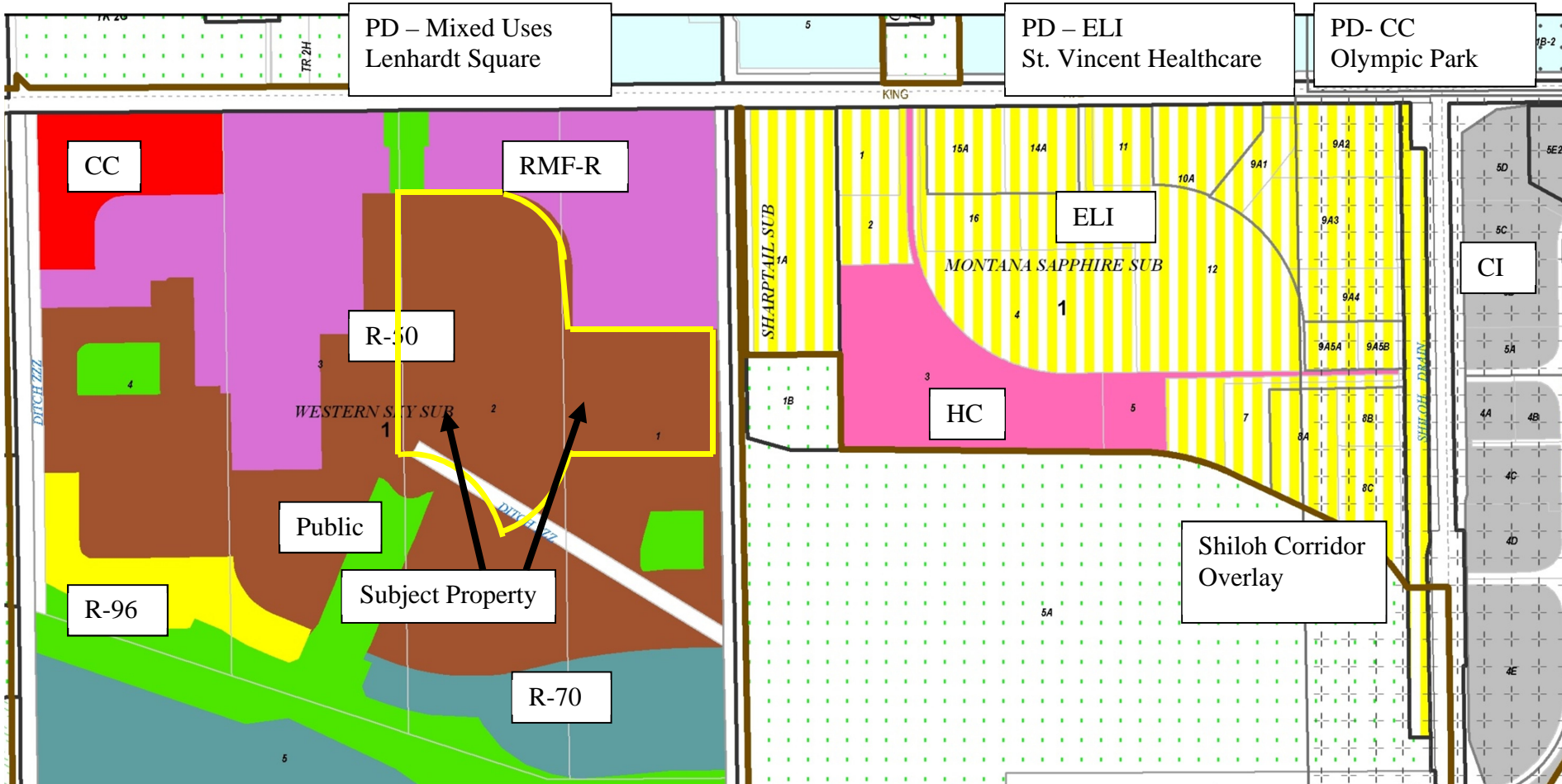
Site Photos

Applicant Letter and pre-application notes

Ordinance

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**Attachment A: Surrounding Zoning**  
Zone Change #900 – Lots 1 and 2 Western Sky Subdivision

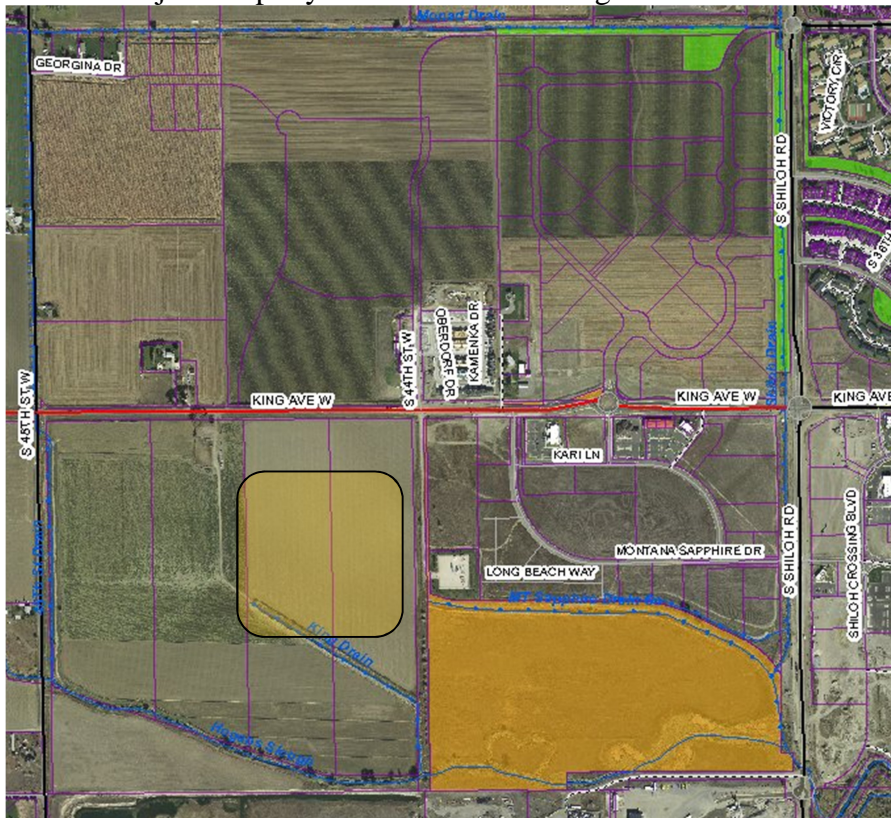


## Attachment B

### Site Photographs, Zone Change #900 – Western Sky Subdivision



Subject Property view south from King Avenue West



Aerial Map

**Attachment B, continued**  
Site Photographs, Zone Change #900 – Western Sky Subdivision



View north and east from S 44<sup>th</sup> Street West



View east along King Avenue West

**Attachment B, continued**  
Site Photographs, Zone Change #900 – Western Sky Subdivision



View west along King Ave West



View south from King Ave West

**Attachment C**  
Applicant's Letter and Pre-Application meeting notes

Zone Change Application for Lots 1 and 2, Block 1, Western Sky Subdivision

Accompanying Responses to Questions in Zoning Application Form

**1A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?**

***Goal 1. Predictable land use decisions that are consistent with neighborhood character and land use patterns.***

The land use of the proposed Residential-Multi-Family Restricted (R-MFR) zoning will be compatible and predictable with the existing multi-family zoning areas to the north and west. In these areas, there is previously approved R-MFR zoning. In addition, the area to the south is expected to have higher density single-family residential (R-5000 and R-7000) and the area to the east is zoned as controlled industrial, which would indicate high density residential or commercial uses are likely. To the north of this subdivision (Lenhardt Square Subdivision), an apartment complex has been completed, and there is currently another apartment complex to the west under construction (Montana Sapphire Subdivision).

***Goal 2. New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites.***

The zoning will be consistent with the adjacent uses to the north and west and to other commercial and high density residential areas along King Avenue. The zoning was chosen to fit with this pattern in the corridor. Assuming the property is developed under the proposed zoning, the property would contain multi-family housing that would consider sensitivities to neighboring residential properties and would provide a transition from higher density residential development along King Avenue to somewhat lower density residential to the south of this area.

***Goal 3. Growth management tools available to rural townsites.***

The new zoning would address the issue of rural townsites not being able to handle increased growth. The proposed zoning uses existing Yellowstone County within the City of Billings city limits and would provide in-fill development. Furthermore, water, sanitary sewer, and storm drain service are available to the north of this property in King Avenue.

***Goal 4. Contiguous development focused in and around existing population centers separated by open space.***

The proposed zoning for this property would be within the Billings City Limits, therefore reducing urban sprawl. By utilizing adjacent water and sewer services to the north, City of Billings resources are used in a cost-effective manner.

***Goal 5. Affordable housing for all income levels dispersed throughout the City and County.***

The new R-MFR zoning would allow densities of development consistent to allow multi-family residences at affordable pricing. The R-MFR will be consistent with

the affordable type of housing already developed and approved to the north and west of the property and along the King Avenue corridor.

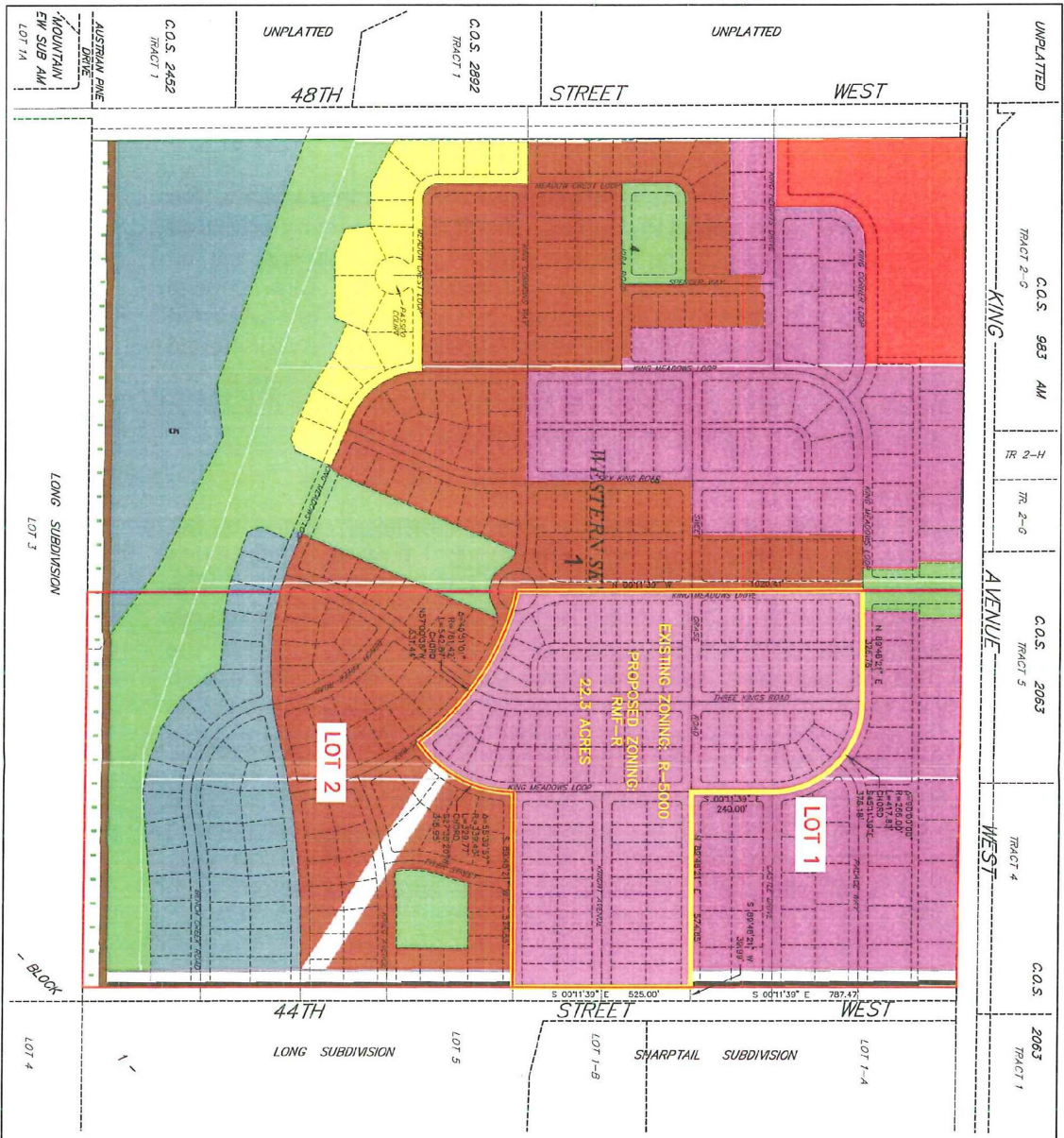
***Goal 6: More housing and business choices with each neighborhood.***

The R-MFR zoning would allow for more workforce type housing choices for workforce employees supporting commercial development in this area. The development of this property would help meet this goal in two ways, it would allow more housing options for people desiring to live in this area and would create roof-tops that could generate more commercial business in this area.

***1B. Explain the need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area.***

The new zoning is needed to provide another option or choice of housing in the west King Avenue Corridor Area. The R-MFR would provide the density for affordable homes for the West Billings housing market. The density of R-MFR zoning would allow for creation of affordable housing by spreading the costs of improvements over a larger number of units.

The proposed zoning for this property would be consistent with zoning to the north and west of this property along with other zoning along the west King Avenue corridor. This proposed zoning fits with other approved land uses in this corridor. In addition, as the City of Billings expands, it is likely the areas immediately east of this site would be developed in a higher density or commercial manner.



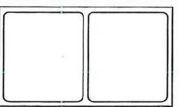
- Zone Classifications**
- Public
  - Residential 15000
  - Residential 5000
  - Residential 8000
  - Residential 7000
  - Residential 7000 Restricted
  - Residential 6000
  - Residential 6000 Restricted
  - Residential 5000
  - Residential Multi-Family
  - Residential Multi-Family Restricted
  - Residential Professional Home
  - Residential Professional
  - Neighborhood Commercial
  - Community Commercial
  - Central Business District
  - Planned Unit Development
  - Highway Commercial
  - Heavy Industrial
  - Conventional Industrial
  - Medical Corridor Permit Zoning District
  - S. 27th Street Permit Zoning District
  - Agricultural Open
  - Agricultural Suburban
  - Entirely or Light Commercial
  - Entirely or General Commercial
  - Entirely or Mixed Use
  - Entirely or Light Industrial
  - Residential Suburban (Laurie)
  - Residential Tracts (Laurie)
  - Residential 17000 (Laurie)
  - Residential Limited Multi-Family (Laurie)
  - Light Industrial (Laurie)
  - Single Corner Overlay District
  - South Slope Corner Overlay District
  - East Billings Parking District
  - Entirely or Zoning District (Laurie)
- Special Zoning Districts**
- 12
  - 14
  - 15
  - 16
  - 17
  - 18
  - 20



FILE NO. 2009-003  
 PREPARED BY SANDERSON STEWART  
 DATE 5/27/12  
 TITLE ZONING EXHIBIT  
 PROJECT NO. 0903000001

KING MEADOWS SUBDIVISION  
 TRACTS 1 & 2, WESTERN SKY SUBDIVISION  
 BILLINGS, MONTANA

ZONING EXHIBIT



**SANDERSON STEWART**  
 www.sanderSONstewart.com



## Meeting Minutes

### Zone Change Application for Lots 1 and 2, Block 1, Western Sky Subdivision

May 24, 2012 – 6:00 PM

- The meeting was called to order at 6:00 PM by Will Ralph
- Will described the purpose of the meeting and gave a general overview of the area, including existing zoning and the location.
- Will discussed the process of the zone change and the associated schedule.
- Will discussed some of the land uses in the area
- Will opened the meeting up to questions
- Gareld Kreig noted that he was concerned about a small string of R-5000 lots between the proposed RMF-R zoning and the RMF-R zoning to the west of the lots on his property. Will noted this was a good observation. There was some discussion about possibly including those lots in the zone change, but it was never finalized.
- Jan Rehberg asked several questions regarding the developer's responsibility for utility extensions in King Avenue and possible participation for a traffic signal at the 44<sup>th</sup> Avenue West/King Avenue intersection. Will noted that the developer would likely be required to either extend the utilities in King Avenue adjacent to his first phase development or provide a cash-in-lieu payment. Will also noted that there is no mechanism in place for contribution to the signal at the subject intersection because it is under MDT jurisdiction. Will recommended that all parties try to come together and reach a cost sharing agreement for the future signal.
- Jan Rehberg asked if unit restrictions would be placed on the property because of water availability. Will responded that he didn't know for sure if that would be the case. Jan noted she thought restrictions should be placed on property in the area so that it doesn't adversely affect her property.
- Jan also asked if the new reservoir was on the CIP. Will responded he wasn't sure if it was on the CIP. Myles Egan said he thought there were currently land negotiations under way between the City and multiple parties for land to build the new reservoir.
- Gene Culver asked if 44<sup>th</sup> Street West would be a public street. Will indicated it would. Gene also asked approximately how many roof-tops might be allowed in the area based on water restrictions. Will mentioned he thought it might be around 2500, but it was very dependent on a number of different factors.

- Jan Rehberg asked if a roundabout or a signal would be placed at the 44<sup>th</sup> Street West/King Avenue intersection. Will said he wasn't sure what would ultimately be placed at the intersection, but that MDT has indicated that a roundabout would at least be considered since it was in a "roundabout corridor"
- Blaine Poppler asked about the utility requirements in King Avenue and about the City contribution. Will noted that typically the City pays for about 90% of the costs, not including engineering. Blaine asked Will if he was comfortable with that statement, and Will indicated he was.
- Jan Rehberg noted she was sent a meeting notice. Will told her they were sent to the addresses provided by City planning and department of revenue. After the meeting adjourned, Will told Jan he would try to include Allen and Lorraine on any future mailings

The meeting was adjourned at approximately 6:45 PM.

**ORDINANCE NO. 12-\_\_\_\_\_**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR a 22.3 acre portion of Lots 1 and 2, Block 1, Western Sky Subdivision generally located at 44<sup>th</sup> Street West and King Avenue West

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

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.
2. DESCRIPTION That 22.3 acre portion of Lots 1 and 2, Block 1 of Western Sky Subdivision as shown in Exhibit A are presently zoned **Residential 5,000 (R-50)** and is shown on the official zoning maps within this zone.
3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcels** is hereby changed from **Residential 5,000 (R-50) to Residential Multi-family-Restricted (RMF-R)** as shown in Exhibit A attached hereto on a 22.3 acre portion of Lots 1 and 2, Block 1 of Western Sky Subdivision from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Presidential Multi-family-Restricted (RMF-R)** as set out in the Billings, Montana City Code.
4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading July 23, 2012.

PASSED, ADOPTED AND APPROVED on second reading August 13, 2012.

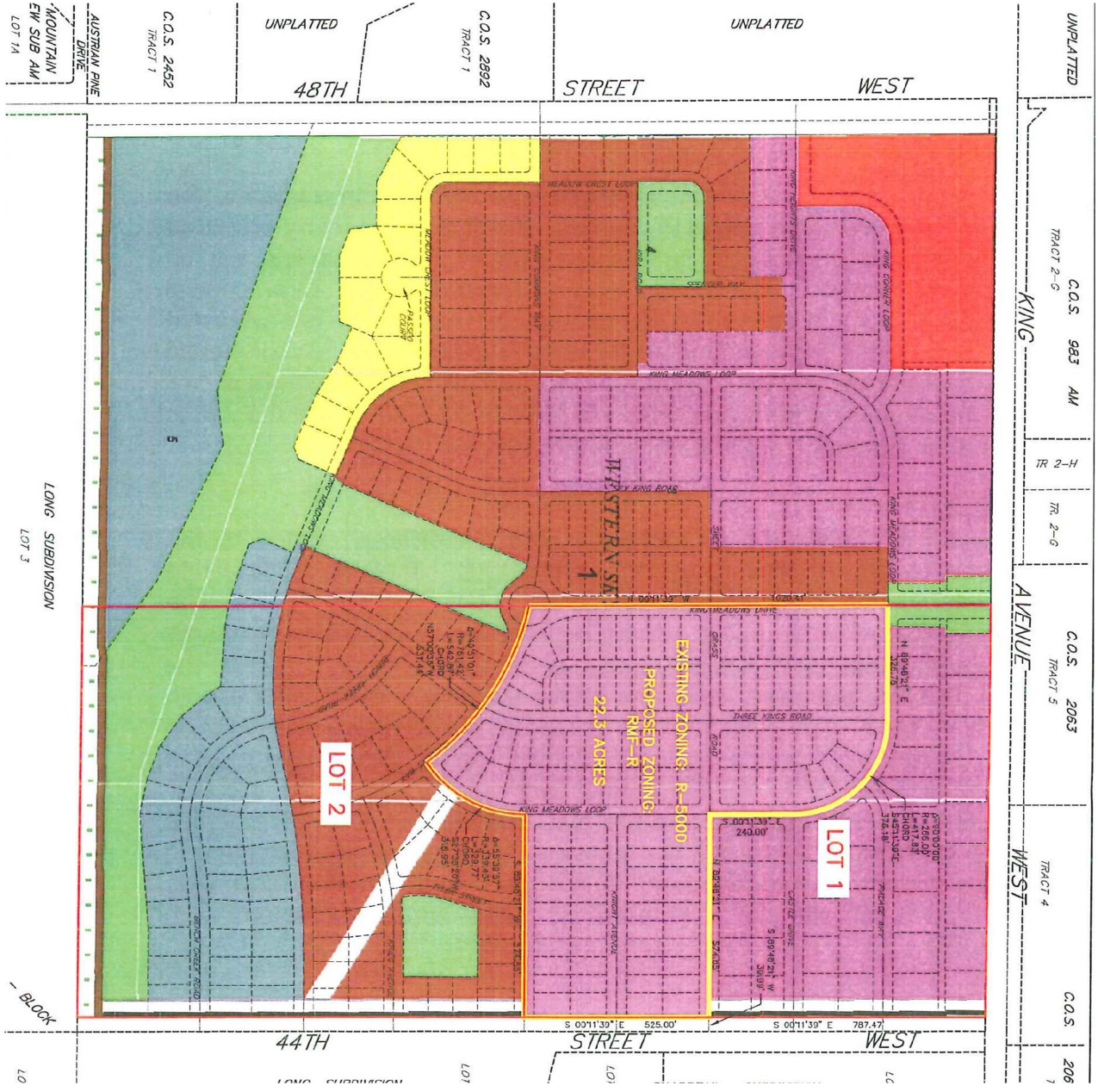
CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk  
Zone Change #900 – Lots 1 and 2, Block 1, Western Sky Subdivision

# EXHIBIT "A"



**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Public Hearing and Resolution Amending Fees and Rates for City-Owned Parking Lots and Meters

**PRESENTED BY:** Chris Mallow, Parking Supervisor

**Department:** City Hall Administration

**Information**

**PROBLEM/ISSUE STATEMENT**

The Parking Advisory Board and City staff are proposing modest parking meter and lot rental rate increases. They are part of a comprehensive plan to balance the FY 13 and future budgets. These rate increases help to accomplish the following goals:

1. revenue that exceeds expenses in an amount that is necessary to refinance the Park 2 expansion debt,
2. encourage drivers who need to park for more than 2 or 3 hours in the downtown to use the parking garages or on-street spaces outside of the downtown core,
3. grow the Parking Fund reserve, which will be used for major maintenance and capital expenditures.

The City Council should conduct a public hearing to receive comments about the proposal and then may consider adopting the attached rate resolution.

**ALTERNATIVES ANALYZED**

The City Council may:

1. Accept the recommend changes approved by the Parking Advisory Board and City staff and approve the attached rate resolution. This alternative will increase revenue by \$122,745/year. More details are available in the "Financial Impact" and "Background" sections of this report.
2. Do not approve the rate resolution and leave rates unchanged. More details are available in the "Financial Impact" and "Background" sections of this report
3. Make other changes to the Parking Division's rate structure to generate the same amount of revenue as alternative 1. This alternative would leave the on-street meter rate at \$.35/hour and the parking lot monthly rate unchanged at \$50 per month.

Increase Garage Rates at Park 2 and Park 3 only:

- |  |   |          |
|--|---|----------|
| 1. Monthly Roof Rates increase from \$25 to \$30:      | = | \$14,709 |
| 2. Monthly Covered Rates increase from \$50 to \$60    | = | \$67,800 |
| 3. Monthly Assigned Rates increase from \$100 to \$105 | = | \$ 8,130 |
| 4. Garage Hourly Rate increase                         | = | \$36,242 |
| a. Current Hourly Garage Rate:                         |   |          |
| \$.25/hour for 1st 2 hours                             |   |          |
| \$1.00/hour for each add. hour to \$5 daily max.       |   |          |
| b. Proposed Hourly Garage Rate:                        |   |          |
| \$.25/hour for 1st 2 hours                             |   |          |
| \$1.25/hour for each add. hour to \$7 daily max.       |   |          |

Total Additional Garage Revenue = \$126,881

## FINANCIAL IMPACT

The proposed changes are expected to generate an additional \$122,745 in parking revenue as follows:

A. Meter Rate Increase to \$.50/hour	=	\$114,345*
B. Surface Lot Monthly Fee to \$75/mo.	=	8,400

\* The parking meter revenue estimate is discounted by approximately 30% in order to account for price sensitivity.

In addition to the rate increase, the FY 13 budget anticipates increasing parking violation fines, which should increase revenue by \$78,684 and transferring \$100,000 from the Expanded N. 27th Street Tax Increment District Fund to the Parking Fund.

If the current rate structure remains, the Parking Division will not be able to provide the needed coverage for the planned refinancing of the Park II Expansion and bonds will not be sold. This will leave the debt service payment at \$495,395. That is about \$195,000/year higher than planned in the FY 13 budget. The Parking Division will be unable to make the payments required under the existing Park II Expansion lease purchase agreement and may default on that debt obligation. Finally, a much larger than anticipated rate increase will be presented for City Council consideration when preparing the FY14 budget.

## BACKGROUND

The last parking rate increase was in 2006. Staff recommended that rates be increased to produce about \$700,000 per year but Council ultimately approved rates that were projected to generate about half of that amount. The approved amount was about seventy percent (70%) of the estimated annual cost of the debt payment for the Park 2 Garage expansion. Prior to this expansion, all parking garages had been built with tax increment from the downtown Tax Increment District. The Park 2 expansion could not be financed with increment, so Parking Revenue Bonds were issued to pay for the construction. The Parking Fund had reserves, which were used over the past six (6) years to balance the annual operating and capital budget. The Parking Fund has expended almost all of its reserves, so financial changes must occur.

The Parking Advisory Board and City staff have been working together for several months to determine the best solutions to balance the FY2013 budget. The elements that create the recommended, balanced budget are:

1. Eliminate 3 FTE positions in the Parking Division. These reductions are possible due to the impending sale of the Park 4 garage, by converting the Park 1 garage to "Monthly Parking Only", and by reducing the number of Parking Enforcement Officers from 4 to 3 in anticipation of a smaller enforcement area to be patrolled.
2. Pre-pay a portion and refinance the remaining Park 2 Expansion debt. Staff proposes to use the Park 4 sale proceeds to pay a portion of the Park 2 Expansion debt and to issue new bonds at a lower interest rate in order to reduce the annual debt service payment paid by the Parking Division. This action should save at least \$195,000/year.
3. Transfer \$100,000 from the Expanded N. 27th Street Urban Renewal Area to the Parking Fund to pay for a portion of the refinanced Park 2 Expansion debt.
4. Use one-time lighting rebates of approximately \$160,000, paid by Northwestern Energy, from lighting upgrades in two of the parking garages.
5. Eliminate the \$233,308/yr transfer from the Parking Fund to the General Fund.

A critical element of the balanced budget is refinancing the Park 2 debt. The Parking Fund has to generate considerably more revenue than it has in expenses in order to reassure prospective bond purchasers that the Parking Fund can and will repay the debt. This amount of revenue over expenses is called "coverage." Staff and the City's financial adviser believe that it will be necessary to generate about 2X coverage, or double the estimated annual debt payment of \$300,000. Current rates and fines do not generate this amount of net revenue. Given the expense reductions and revenue increases that are described above, the only way to increase Parking Fund net revenue is to increase the rates and fines collected by the Parking Division.

Fines are increased by Administrative Order but rates must be approved by the City Council. Staff and the Parking Advisory Board are recommending a modest, 15¢ per hour increase in the short term parking meter rate. This has been portrayed by some as a 40% increase, which exaggerates the impact of the change. Most core downtown meters zones have a 2 hour limit, so the proposed meter rate increase will cost an additional 30¢ for those two hours. 30¢ is: equal to a 15% tip on a \$2 cup of coffee; less than the price of a 5 stick pack of gum; about 1/3 of a doughnut; the price of 1 photocopy; less than the cost of adding cheese to a burger.

The City owns and operates two parking lots on N. 27th Street, located between 1st and 2nd Avenue North. 31 spaces are metered and 28 are rented by the month. These spaces are considerably more convenient than garage spaces and each space is assigned, which guarantees that the renter will be able to park in the same spot each day. The current rental rate is \$50/month and the proposal is to increase that amount to \$75.

## **STAKEHOLDERS**

The Parking Advisory Board is composed of downtown business owners and property owners or their representatives. They advise the City Council about all matters dealing with downtown parking. Their meetings are open to the public and rates have been discussed at each monthly board meeting since March. Staff presented the PAB approved rate and fine proposal at three (3) public forums and a Downtown Business Association Merchants Meeting. The City Council will conduct a public hearing when it considers the rate changes.

## **RECOMMENDATION**

The Parking Advisory Board and City staff recommend that Council approve the resolution amending the fees and rates for City owned parking lots and meters.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

Resolution

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RESOLUTION NO. 12- \_\_\_\_\_

A RESOLUTION INCREASING CERTAIN FEES AND RATES FOR CITY OWNED PARKING GARAGES, PARKING LOTS AND PARKING METERS AND REPEALING RESOLUTION NO. 06-18443

WHEREAS, the fees for parking in metered, City owned parking spaces and parking garages were last set in June 2006 by Council Resolution No. 06-18443; and,

WHEREAS, the fees should be increased to more accurately reflect the cost of services, construction, and maintenance, and to reflect the increased inflation costs since 2006; and

WHEREAS, the City Council has duly considered the matter.

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

1. The monthly reserved parking fees for all City owned parking shall be as follows:

General Reserved	\$50.00
Basement/Assigned	\$100.00
Roof Reserved	\$25.00
Surface Lot Assigned Parking	<u>\$75.00</u>

Monthly discount per space for volume renters shall be as follows:

Five or more spaces	5%
Twenty-five or more spaces	10%
One hundred or more spaces	15%

The hourly rate for all City owned parking garages shall be \$.25 per hour for the first two hours and \$1.00 per hour for each subsequent hour or part of an hour with a maximum charge of \$5.00 per day.

2. The hourly rate for on street parking meters and all meters currently \$.35 per hour shall be \$.50 per hour.

3. The City Administrator or designee may establish parking meter rates as low as \$.10 per hour for meters located outside the core of the Central Business District as defined by the Parking Advisory Board.

4. The Parking Division may sell monthly permits for parking at parking meters that have been designated for 10 hour parking. The City Administrator or designee may establish the rates of the monthly permits.

5. The "Green Meter Project" proposed by the Downtown Billings Association (DBA) is approved so that one parking meter on each side of each block may be designated a "green meter". The hourly rate at a green meter shall be \$.50 per hour and the City and the DBA will equally share revenues from green meters. The DBA will provide signage for green meters. The signage is subject to approval of the Parking Advisory Board.

6. All revenues from parking fines and parking meters shall be deposited in the Parking Enterprise Fund, and parking enforcement costs will be paid from the Parking Enforcement Fund. Transfers to the General Fund will stop as of July 1, 2012.

6. The fees in this Resolution supersede fees previously set by the City Council and may be changed by subsequent council action.

7. In January and July of each year, City staff shall review with the Parking Advisory Board and the City Council the Parking Enterprise Fund's revenues and expenses, parking enforcement, and other downtown parking issues.

8. REPEALER. Resolution No. 06-18443 is hereby repealed.

9. EFFECTIVE DATE. This Resolution shall be effective upon passage by the Billings City Council.

PASSED by the City Council and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Public Hearing and 1st Reading Ordinance Designating Park 2 garage expansion as an Urban Renewal Project and Approving the Use of Tax Increment Funds

**PRESENTED BY:** Chris Mallow -- Parking Supervisor

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Park 2 expansion project was financed with Parking Revenue Bonds in 2006. Despite the longstanding practice of paying for parking facilities with Tax Increment Financing, the Park 2 expansion project could not be financed that way because the 1976 Downtown Tax Increment Finance District would sunset in March 2008 and that TIFD did not have sufficient funds or time to pay for the project before the TIFD expired.

The City Council created the Expanded N. 27th Street Urban Renewal Area in 2005 and expanded the boundaries of the district in November, 2006, and December, 2008. The Urban Renewal Plan indicated that public parking would be needed to promote revitalization and that tax increment finance would be used to finance projects in part or in whole.

Staff has developed a plan to restructure the debt that resulted from financing the Park 2 expansion. Staff recommends using the proceeds from selling the Park 4 garage to reduce the outstanding debt balance on the Park 2 expansion, to issue new bonds for the remaining amount and apply \$100,000 of tax increment annually from the Expanded N. 27th Street Urban Renewal Area to help pay for the restructured debt.

Staff requests that the City Council conduct a public hearing on the proposal and consider adopting the ordinance on first reading.

**ALTERNATIVES ANALYZED**

The City Council may conduct the public hearing and:

\* Approve the ordinance naming the Park 2 Expansion as an Expanded N. 27th Street Urban Renewal Area project and authorizing tax increment revenue to be used for repayment of the refunding bonds, or

\* Not approve the ordinance. If the ordinance is not approved, bond counsel may refuse to give an unqualified opinion on the authority for and taxability of bonds issued for this purpose. That may make it impossible to sell the bonds and to restructure the Park 2 expansion debt.

**FINANCIAL IMPACT**

There is no direct financial impact from adopting the ordinance. However, if Council adopts the ordinance, it will allow staff to work with bond counsel and financial advisors to prepare for a bond sale. Staff has estimated that refinancing the Park 2 Debt will decrease the annual payment from \$495,395.00 to approximately \$300,000. The Parking Division's finances will improve by about \$295,000, based on \$195,000 of annual savings by refinancing the debt and using \$100,000 per year of Tax Increment from the Expanded N. 27th Street Urban Renewal Area.

**RECOMMENDATION**

Staff recommends that the City Council conduct a public hearing and adopt the ordinance on first reading.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Ordinance

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CERTIFICATE AS TO ORDINANCE 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 ordinance is a true copy of an Ordinance entitled: "ORDINANCE APPROVING THE PARK 2 EXPANSION AS AN URBAN RENEWAL PROJECT IN THE EXPANDED NORTH 27TH STREET URBAN RENEWAL AREA - 2008; AND AUTHORIZING A PORTION OF THE FINANCING THEREOF WITH TAX INCREMENT REVENUES" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly presented for first reading by the City Council of the City at a regular meeting on July 23, 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 Ordinance has not as of the date hereof been amended or repealed.

WITNESS my hand and seal officially this 23rd day of July, 2012.

(SEAL)

\_\_\_\_\_  
City Clerk

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a special meeting on August 13, 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 Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance 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 and seal officially this 13th day of August, 2012.

(SEAL)

\_\_\_\_\_  
City Clerk

ORDINANCE NO. \_\_\_\_\_

ORDINANCE APPROVING THE PARK 2 EXPANSION AS AN URBAN RENEWAL PROJECT IN THE EXPANDED NORTH 27TH STREET URBAN RENEWAL AREA - 2008; AND AUTHORIZING A PORTION OF THE FINANCING THEREOF WITH TAX INCREMENT REVENUES

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

WHEREAS, on July 11, 2005, the City Council adopted Ordinance No. 05-5333, which created the North 27th Street District Urban Renewal Area as an urban renewal district and approved the North 27 Street Urban Renewal Plan (the “North 27th Street Plan”) containing a tax increment financing provision.

WHEREAS, on November 13, 2006 and December 8, 2008, the City Council adopted Ordinance Nos. 06-5394 and 08-5483, respectively, which expanded the boundaries of the North 27th Street Urban Renewal Area and amended the North 27th Street Plan to create the Expanded North 27th Street Urban Renewal Area – 2008 (the “District”).

WHEREAS, in adopting the North 27th Street Plan, the City noted the need for additional public parking in the District, and the North 27th Street Plan contemplates the development of additional parking in the District.

WHEREAS, the North 27th Street Plan determined it necessary to use tax increment financing to encourage private reinvestment within the District, and provided for the segregation of the tax increment; and the North 27th Street Plan further contemplates the use of tax increment received in the District to finance the costs of development projects approved by the Council, including issuing bonds secured by the tax increment, as a way of encouraging private investment, and development and redevelopment in the District.

WHEREAS, this Council on July 23, 2012, conducted a public hearing on a proposal with respect to an urban renewal project in the District and to finance a portion of the costs thereof with tax increment revenues under Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “Act”).

Section 1. Recitals.

1.01 The City is a party to that certain Lease Purchase Agreement (the “Park 2 Lease Purchase Agreement”), dated August 31, 2006, between the City and Capital One, N.A., as successor to Koch Financial Corporation. The Park 2 Lease Purchase Agreement was entered into in order to finance the 2006 expansion of the City’s Park 2 parking garage (the “Project”), located in the District at the intersection of 2nd Avenue North and North 26th Street (“Park 2”). Amounts due under the Park 2 Lease Purchase Agreement are secured by and payable solely from parking revenues of the City. The original aggregate principal amount payable under the Park 2 Lease Purchase Agreement was \$5,930,000, of which \$4,979,186 remains outstanding.

1.02 Parking revenues of the City are insufficient to pay the annual lease payments under the Park 2 Lease Purchase Agreement and reserves in the City Parking Fund have been used for such purposes. The City Parking Fund has been further depleted as a result of increased operating costs and capital expenditures.

1.03 The City Parking Advisory Board has requested that the City refinance the Park 2 Lease Purchase Agreement in order to achieve lower annual payments with respect to amounts owing thereunder. Such refinancing would be achieved by (i) applying proceeds of the sale of the City's Park 4 parking garage, located in the District at the intersection of 6th Avenue North and North 31st Street ("Park 4"), to the repayment of amounts due under the Park 2 Lease Purchase Agreement and (ii) applying the proceeds of parking revenue refunding bonds to the repayment of the remaining amounts due under the Park 2 Lease Purchase Agreement. The parking revenue refunding bonds would be issued by the City and be payable primarily from parking revenues. The City Parking Advisory Board has also requested that the City declare the Project as an urban renewal project under the Act in order to apply \$100,000 annually of tax increment from the District toward the repayment of such parking revenue refunding bonds.

1.04. Pursuant to the Act and the procedures contained in the North 27th Street Plan, and Resolution No. 12-19185, adopted July 9, 2012, the City has set forth its intention to use tax increment in an amount sufficient to finance a portion of the Project.

1.05. Pursuant to Resolution No. 12-19185, a public hearing was duly noticed and held on July 23, 2012, at which all persons wishing to speak were given the opportunity to address the Council with respect to approval of the Project as an urban renewal project and to finance a portion of the costs thereof with tax increment revenues.

Section 2. Findings. The Council hereby finds, with respect to the Project, as follows:

(a) the Project enhances rehabilitation and redevelopment of the District by private enterprise, and the construction of the Project eliminated blight in the Sunsetting District and the District;

(b) the taxable value of property in the District is increased by the availability of sufficient public parking for employees and customers;

the loss of Park 2, including the Project, will substantially negatively affect the rehabilitation and redevelopment of the District by significantly reducing public parking in the primary downtown Billings business corridor;

(c) no persons were displaced from their housing by the construction of the Project;

(d) the Urban Renewal Plan and the Project conform to the comprehensive plan and growth policy of the City;

(e) the Urban Renewal Plan and the Project afford maximum opportunity consistent with the needs of the City as a whole for the rehabilitation and redevelopment of the District by private enterprise;

(f) there is a workable and feasible plan of financing for the Project as more particularly described in Section 4 hereof; and

(g) the Project constitutes an urban renewal project within the meaning of the Act and the Urban Renewal Plan and the Project is eligible for financing from the tax increment of the District.

Section 3. Approval of Project and Financing. The Project is hereby approved as an urban renewal project. The Council further approves the use of \$100,000 annually of tax increment from the District to finance a portion of the costs of the Project.

Section 4. Effective Date. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, on the second reading this 13th day of August, 2012.

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Mayor

Attest: \_\_\_\_\_  
City Clerk

[Signature page to Ordinance Approving  
the Park 2 Expansion as an Urban Renewal Project]

**Regular City Council Meeting****Meeting Date:** 07/23/2012**TITLE:** Public Hearing and Galles Building Sale**PRESENTED BY:** Bruce McCandless, Asst. City Administrator**Department:** City Hall Administration

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**Information****PROBLEM/ISSUE STATEMENT**

On June 11, 2012 the City Council adopted a Resolution of Intent to sell property located at 10 S. 26th Street, also known as the former Galles Filter Building. Staff advertised a public hearing for this date, notified surrounding owners about the possibility of the sale and requested sealed bids from interested buyers. The City received 2 bids on July 13, but neither bidder met all requirements. Staff will continue reviewing the bids and attempt to resolve irregularities and will make a sale recommendation at the Council meeting.

**ALTERNATIVES ANALYZED**

Council may:

- Approve the sale of the Galles Filter Building located at 10 S. 26th Street; or
- Not approve the sale of the Galles Filter Building located at 10 S. 26th Street.

**FINANCIAL IMPACT**

The City used Tax Increment Financing to purchase this property in 1999 for \$73,786.70, which could have included some relocation payments to the former owners. It was added to property that the City already owned on the block, leaving only the former Arcade Bar, or L&L building in private hands. The intention was to assemble an entire city block of land for redevelopment. Since that time, the L&L sold to an individual who partially restored and redeveloped it into offices and retail space. One half of the block was developed into the skatepark and associated amenities. The remaining ten (10) lots were paved for free, downtown parking. Priorities have changed in the past 13 years and it is no longer feasible to assemble the entire block for redevelopment. Therefore, staff recommends that the Council sell the subject property for the highest possible price and retain the remainder of the property for their present uses.

The City Council adopted an informal minimum price of \$5/sq ft. minimum for south side City property. Staff recommended that an invitation for sealed bids allow bidders to purchase the building and up to two full lots (130' X 50') in order to accommodate on-site parking, green space or other amenities for future building tenants/owners. If \$5/sq. ft. is applied to the entire land area, the minimum purchase price is \$32,500. This amount assumes that the building has no value.

The Community Development Division obtained a Broker Property Opinion in early 2011 that valued the property at \$59,000 - \$75,000. The land was valued at \$5.50/sq. ft. (lot 7 only), therefore, the building value was estimated to be \$41,125 - \$57,125. If the appraised land value of \$5.50/sq ft is applied to the available two lots (6,500 sq. ft.), the land would be worth \$35,750 plus the building value, equals a total of \$76,875 - \$92,875.

The City will have some costs if it sells anything more than the building and the original acquisition of the S. 66' of lot 7. Immediately north of the building there is an entrance to the surface parking lot. That entrance would be closed and new curbing would need to be installed along the new east boundary of the parking lot and City land. The estimated cost is \$4,000. Community Development Block Grant (CDBG) funds were used to buy lot 17, a lot at the other (west) end of the block and nearest to the L&L building. CDBG attaches some disposal restrictions that may hamper a future land sale. If the City Council wants to maximize its flexibility to entertain future redevelopment proposals for the remainder of the property, the proceeds from this land sale could be used to "buy" lot 17 and thereby consolidate it with others that were purchased through the tax increment district. The original purchase price for lot 17 was \$16,125, but if \$5/sq. ft. is applied to this property, it is valued at \$17,500. There will also be minor legal and transfer costs.

The actual bid price could be higher or lower than these estimates based on perceived competition in the bidding, the estimated rehabilitation costs of the building and how much land is acquired in addition to the building. Regardless of the final net price, staff recommends that the funds be used to restore the adjacent parking lot to its present condition and to "purchase" lot 17 from CDBG and aggregate it with other TIF lots. Any remaining funds could be deposited in the N. 27th Street tax increment district account and used for projects that benefit downtown property and business owners.

## **RECOMMENDATION**

A sale recommendation will be made at the City Council meeting.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

[Galles building location map](#)

[Galles building photo](#)

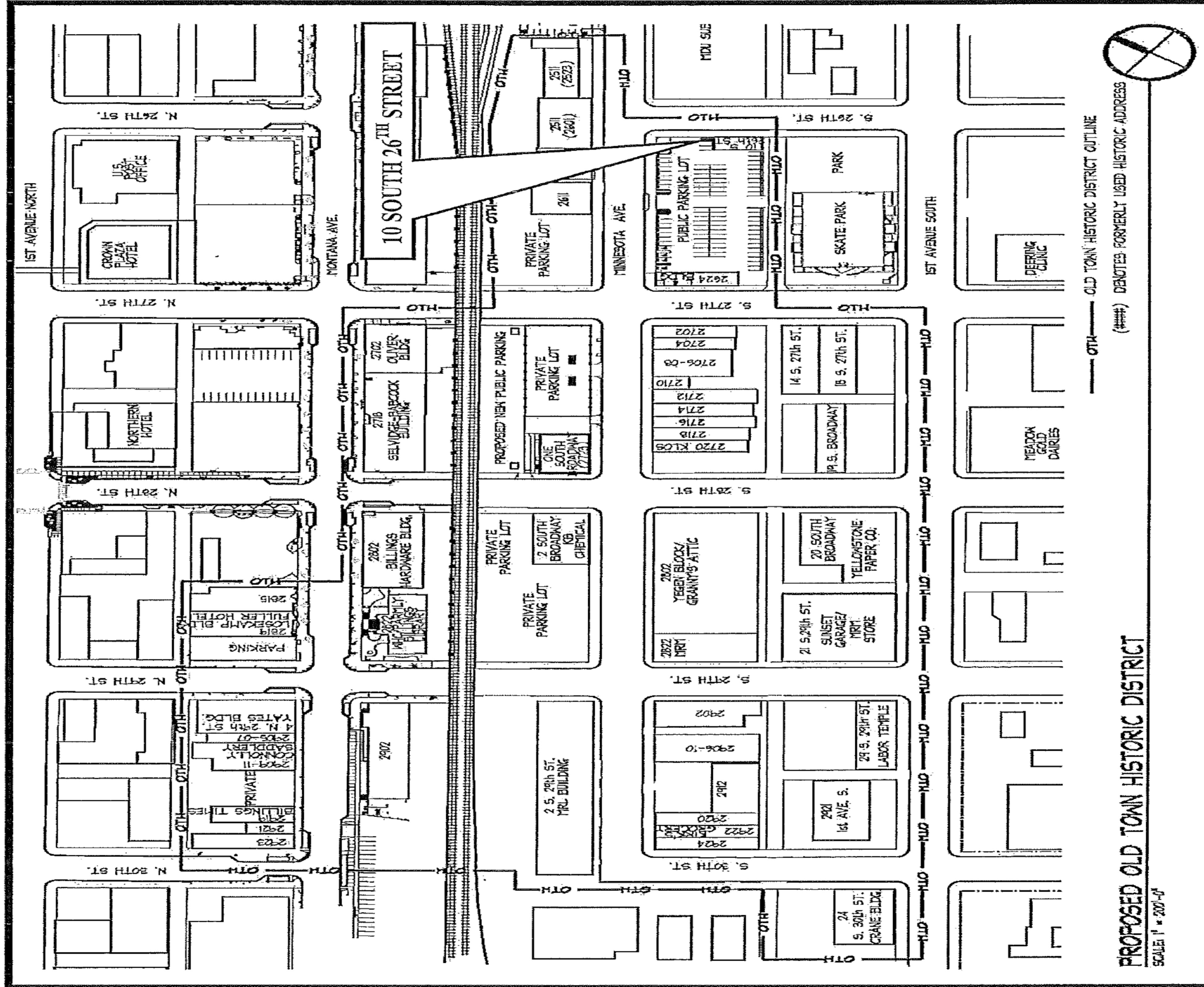
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# MONTANA HISTORIC PROPERTY RECORD

## SITE MAP

Property Name: **Maple Leaf Club**

Site Number: **24YL1824**





**Regular City Council Meeting**

**Meeting Date:** 07/23/2012

**TITLE:** Resolution Approving and Adopting FY13 Budget Personal Services, Operations and Maintenance, Debt Service and Transfers

**PRESENTED BY:** Patrick M. Weber Finance Director

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

At its June 11 meeting, the City Council delayed until July 25 it's consideration of the Fiscal Year (FY) 2012-13 budget for Personal Services, Operations and Maintenance, Debt Service and Transfers. State law requires that the tax assessments for the fiscal year must be set by the Council after adoption of the final budget and no later than 30 calendar days after receiving certified taxable values from the State Department of Revenue or the first Thursday in September. Certified taxable values are expected to be delivered by the State Department of Revenue on August 1st, which would mean the assessments have to be set no later than the regular Council meeting on August 27th, and the budget must be adopted no later than that date. A public hearing was advertised in The Billings Times on May 24th and 31st, and the public hearing was held on June 11, 2012. A simple majority of the Council votes is needed for approval.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve the resolution; or
- Not approve the resolution; or
- Delay adoption of the resolution to a date certain.

**FINANCIAL IMPACT**

The resolution sets the spending limits for all City Funds. Amendments during the year are accomplished in exactly the same way as the original adoption, with the few exceptions noted in the resolution. The total Personal Services, Operations and Maintenance, Debt Service and Transfers budget for FY 2013 is \$181,094,629.

**RECOMMENDATION**

Staff recommends that City Council approve the resolution approving and adopting the FY 13 Budget for Personal Services, Operations and Maintenance, Debt Service and Transfers.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Resolution

Exhibit A

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**AGENDA ITEM:**

**Attachment A**



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING AND ADOPTING THE BUDGET FOR THE CITY OF BILLINGS, MONTANA FOR FISCAL YEAR 2012-2013**

WHEREAS, the City Administrator of the City of Billings has regularly and lawfully submitted to the City Council of the City of Billings, Montana, the budget for Fiscal Year 2012-2013; and

WHEREAS, the proper notice was published stating that said City Council has completed the PRELIMINARY MUNICIPAL BUDGET for said Fiscal Year, and that said budget has been placed on file and is open to inspection in the office of the City Clerk; and that said City Council would meet for the purpose of annually determining, approving and adopting the budget, and any taxpayer might appear and be heard.

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

Section 1: That the Revenue Budget for Fiscal year 2012-2013, as detailed in the Budget Report, and as amended by the City Council, and the Expenditure Budget for Fiscal year 2012-2013 as detailed in the budget report and as amended by the City Council and further detailed on EXHIBIT "A", be, and the same is hereby finally determined, approved, and adopted.

Section 2: That the City Administrator is authorized to amend this budget for the expenditure of additional funds from the following: Debt Service Funds, Federal, State Grants, special assessments and donations accepted and approved by the City Council.

PASSED AND APPROVED by the City Council this 23<sup>rd</sup> day of July, 2012.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Thomas W. Hanel, Mayor

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk

**Exhibit A**

<b><u>Fund/Department</u></b>	<b><u>Original Proposal</u></b>	<b><u>Additions 7/23/2012</u></b>	<b><u>Deletions 7/23/2012</u></b>	<b><u>Final Budget</u></b>
<b>General Operating Fund:</b>				
Mayor & City Council	274,481			274,481
City Administrator	633,684			633,684
Human Resources	618,617			618,617
City Attorney	1,349,773			1,349,773
Municipal Court	1,226,743			1,226,743
Finance	1,320,746			1,320,746
Code Enforcement	251,332			251,332
Parks, Recreation & Public Lands	4,125,832			4,125,832
Non-Departmental	21,329,945	356,752		21,686,697
Council Contingency	65,000	1,238,096		1,303,096
<b>Total General Fund</b>	<b>31,196,153</b>	<b>1,594,848</b>	<b>-</b>	<b>32,791,001</b>
<b>Public Safety Fund:</b>				
Police	19,858,778			19,858,778
Fire	15,318,538	356,752	15,000	15,660,290
<b>Total Public Safety Fund</b>	<b>35,177,316</b>	<b>356,752</b>	<b>15,000</b>	<b>35,519,068</b>
<b>Special Revenue Fund:</b>				
Miller Crossing Tax Increment	298,500			298,500
South Tax Increment	84,064			84,064
East Tax Increment	340,988			340,988
Downtown Tax Increment	-			-
North 27th Street Tax Increment	1,268,885			1,268,885
Street Gas Tax	438,535			438,535
Building Inspection	1,371,525			1,371,525
Transportation Enhancement	-			-
Street & Traffic Operating	6,279,329			6,279,329
Fire Programs	114,819			114,819
EOC 9-1-1 Grant	769,058			769,058
City/County Planning	1,376,162			1,376,162
City Attorney Grants	281,856			281,856
Municipal Court Grants	106,125			106,125
Administration Grants	-			-
Police Programs	1,155,895			1,155,895
City County Library	3,145,661			3,145,661
Development Services Grants	1,432,538			1,432,538
Park Programs	309,595			309,595
Downtown Revolving Loan Program	1,680,083			1,680,083
Cemetery Improvement	10,000			10,000
Trail/Bike Path Donations	-			-
Animal Shelter Donations	39,854			39,854
Street Maint. Districts	6,547,952			6,547,952
Fire Hydrant	2,494,537			2,494,537
Street Light Districts	2,210,358			2,210,358
Storm Sewer Operating	1,360,845			1,360,845
Park Maintenance District	816,910			816,910
Park District 1	720,000			720,000
Arterial Street Fees Operating	1,776,286			1,776,286
Amend Park	46,690			46,690
Ballfield Stadium Donations	20,442			20,442
<b>Total Special Revenue Fund</b>	<b>36,497,492</b>	<b>-</b>	<b>-</b>	<b>36,497,492</b>

**Exhibit A cont.**

<b><u>Fund/Department</u></b>	<b><u>Original Proposal</u></b>	<b><u>Additions 7/23/2012</u></b>	<b><u>Deletions 7/23/2012</u></b>	<b><u>Final Budget</u></b>
<b>Debt Service Fund:</b>				
Special Improvement Debt	2,455,115			2,455,115
Series 2010 Parks Debt	130,590			130,590
Series 2004A Street Debt	364,743			364,743
Storm Sewer Debt	201,338			201,338
Sidewalk, Curb & Gutter Debt	403,550			403,550
Series 2007A Baseball Field/Stadium Debt	819,991			819,991
Series 2007B Baseball Field/Stadium Debt	220,032			220,032
Series 2012 Library	281,000			281,000
<b>Total Debt Service Fund</b>	<b>4,876,359</b>	<b>-</b>	<b>-</b>	<b>4,876,359</b>
<b>Capital Projects Fund:</b>				
Urban Renewal Land Development	11,366			11,366
Sidewalk Construction	6,425			6,425
Special Improvement Districts	35,204			35,204
Capital Replacement	1,310			1,310
Dog Park Construction	-			-
New Library Construction	-			-
<b>Total Capital Project Fund</b>	<b>54,305</b>	<b>-</b>	<b>-</b>	<b>54,305</b>
<b>Enterprise Fund:</b>				
Water	14,614,055			14,614,055
Wastewater	8,734,138			8,734,138
Parking	1,674,882		183,308	1,491,574
Solid Waste	8,845,658			8,845,658
Airport	9,429,578			9,429,578
Transit	5,030,668			5,030,668
<b>Total Enterprise Fund</b>	<b>48,328,979</b>	<b>-</b>	<b>183,308</b>	<b>48,145,671</b>
<b>Internal Service Fund:</b>				
Fleet Services	1,529,850			1,529,850
Central Services	97,950			97,950
Information Resources	1,908,283			1,908,283
City Health Benefits	13,588,186			13,588,186
Central Telephone	340,756			340,756
Radio Communications	192,092	-		192,092
Property Insurance	2,324,788			2,324,788
Facilities Management	1,526,862			1,526,862
Public Works Administration	971,460			971,460
Public Works Engineering	2,323,814			2,323,814
<b>Total Internal Service Fund</b>	<b>24,804,041</b>	<b>-</b>	<b>-</b>	<b>24,804,041</b>
<b>Permanent Fund</b>				
Cemetery Perpetual Care	1,540			1,540
<b>Total Permanent Fund</b>	<b>1,540</b>	<b>-</b>	<b>-</b>	<b>1,540</b>
<b>Total All Funds</b>	<b>180,936,185</b>	<b>1,951,600</b>	<b>198,308</b>	<b>182,689,477</b>

**Regular City Council Meeting**

**Meeting Date:** 07/23/2012  
**TITLE:** Ratifying Grant Application  
**PRESENTED BY:** Tina Volek  
**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Parmly Billings Library Foundation is a finalist for a new, \$98,280 grant from the Institute of Museum Services Office of Strategic Partnerships in Washington, D.C. The grant will be used for a Learning Labs in Libraries and Museums installation in the new Library soon to be under construction.

However, the Institute notified the City on July 16 that it required written documentation that the Foundation has the ability to apply for the grant. It also wanted documentation that the Library, as a public entity, would perform the statements and meet the assurances made in the grant application. The written confirmation had to be in the Institute's hands by 5 p.m. EST on Monday, July 23.

Because there was no time to place the item on the Council agenda in advance, the City Administrator signed a memorandum of agreement with the Foundation, and it was forwarded to Washington on an emergency basis. The Council now is being asked to ratify the application.

**ALTERNATIVES ANALYZED**

The City Council may add the item to the Council agenda of July 23 by a three-quarters vote of those present and them may:

- Approve the item, allowing the grant to proceed; or
- Deny the item, ending the grant process and making the City find other sources for the new facility.

**FINANCIAL IMPACT**

There is no grant match. If the Foundation does not receive the grant, the City may have to find alternative funding or abandon the project in the new Library.

**RECOMMENDATION**

The staff recommends that the Council add the item to the July 23rd agenda and ratify the City Administrator's approval of the grant application.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

IMSO Grant

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**MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement is made and entered into by and between the City of Billings/Parmly Billings Library (hereinafter Library) and the Parmly Billings Library Foundation, Inc. (hereinafter Foundation).

**WITNESS THAT:**

Whereas, the Foundation has collaborated with the Library to prepare and submit a proposal to the Institute of Museum and Library Services (hereinafter IMLS) for a Learning Labs in Libraries and Museums grant, and

Whereas, the Foundation will serve as the fiscal and administrative agent for the proposed project, and

Whereas, the Library will provide leadership, space, technology support, and staffing for the implementation of the project and to sustain it,

Therefore, in consideration of the stipulations contained herein, the Library and the Foundation agree that the Library will perform the statements and assurances made in the grant application and will comply with all IMLS assurances and certifications, in the event that the Foundation receives the grant.

IN WITNESS WHEREOF, the Development Director of the Parmly Billings Library Foundation, Inc. has signed on behalf of the Foundation, and the City Administrator has signed on behalf of the Library and affixed the seal of the City.

By Leslie Modrow Date 7/23/12  
Leslie Modrow  
Development Director  
Parmly Billings Library Foundation, Inc.

By Christina F. Volek Date 7/23/12  
Christina F. Volek  
City Administrator  
City of Billings, Montana