

**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**

**February 11, 2013**

**6:30 P.M.**

**CALL TO ORDER:** Mayor Hanel

**PLEDGE OF ALLEGIANCE:** Mayor Hanel

**INVOCATION:** Councilmember Bird

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

**MINUTES:** January 28, 2013

**COURTESIES:**

**PROCLAMATIONS:**

**ADMINISTRATOR REPORTS - TINA VOLEK**

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and #4 ONLY. Speaker sign-in required.** (Comments offered here are limited to one (1) minute. Please sign in at the cart located at the back of the council chambers or at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda.)

**1. CONSENT AGENDA -- Separations:**

**A. Bid Awards:**

- 1. W.O. 13-03: #1 City Overlay.** (Opened 1/22/13)(Delayed from 1/28/13) Recommend Knife River; \$1,311,255.89.
- 2. Polyaluminum Hydroxychloride (PACL) for Water Treatment Division.** (Opened 1/29/2013). Recommend Kemira Water Solutions, Inc. (1-year); \$0.363/lb. delivered by railcar.
- 3. Two (2) - 2013 37,000 GVW Axle Trucks with Dump/Sander Spreaders.** (Opened 1/29/2013). Recommend I-State; \$288,525 (includes \$2,585 5-year warranty).

**B. W.O. 12-05, Five Mile Lift Station**

- 1. W.O. 12-05, Five Mile Lift Station Construction Bid Award.** (Opened 1/29/2013) Recommend Western Municipal Construction; \$2,010,821.
- 2. Approval of License Agreement** with BCJM Properties for W.O. 12-05, Five Mile Lift Station construction access and staging.

- C. **Professional Architectural and Engineering Services Contract** for Parks Department Restroom Facility Improvements; A&E Architects PC; \$64,197.50.
- D. **Professional Services Agreement** for W.O. 12-42, Water Treatment Plant Laboratory Renovation; A&E Architects; not to exceed \$117,100.
- E. **Park 1 Lease Agreement** with BILAW LLC, dba Mann Mortgage Billings (1/1/13 - 12/31/15) with one, 3-year renewal option; revenue first year - \$27,264.60; revenue subsequent years adjusted by CPI.
- F. **Approval** of application for an AmeriCorps VISTA Project; approximately \$15,000 - \$30,000 annually; and **authorization** for staff to negotiate and finalize the project, if awarded.
- G. **Acknowledging Receipt of Petition to Annex #13-01**: two parcels totalling approximately 93 acres in Tract 1, C/S 2587, and Tract 1, C/S 3329, generally located on the northwest corner of the intersection of Hesper Road and Gabel Road; Industrial Planning Associates, L.P, owner and petitioner; and setting a public hearing date for 2/25/13.
- H. **Acceptance** of Recreational Trails Program (RTP) grant award for Aronson Connector Trail; \$27,000.
- I. **Grant Application Request** to submit to Montana Department of Transportation for Section 5310, Section 5311 and Section 5339 Transit Grants for operating assistance and purchase of vehicles; \$650,600 total.
- J. **Resolution of Intent** to sell property at 502 South 33rd Street, Billings, Montana, and setting a public hearing date for March 25, 2013.
- K. **Bills and Payroll:**
  - 1. January 22, 2013

**REGULAR AGENDA:**

- 2. **PUBLIC HEARING AND RESOLUTION** assessing the annual fee for five additional 2012 encumbrances, obstructions, or encroachments on, over, across or above the streets, avenues, sidewalks, or alleys of the City of Billings. Staff recommends approval. (Action: approval or disapproval of staff recommendation).
- 3. **PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #CC-2013-01**: A variance from Section 1208(h)(5), pertaining to the number of curb cuts allowed by regulation; and a variance from Section 1208(i)(4), pertaining to allowable distance of a curb cut at a signalized intersection of two arterial streets for property generally located on the northwest corner of Grand Avenue and 24th Street West currently occupied by Western Security Bank. Glacier Bank, Owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
- 4. **APPROVAL OF REPAYMENT** of the appraised value of Lots 23-24, Block 184, and Lots 4-8, Block 226, to the US Department of Housing and Urban Development (HUD) estimated at \$128,625; and reimbursement of property management administrative costs for Block 245 to the Community Development Division estimated at \$52,954 using program income received from the sale of Block 245. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

**PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the council chambers or 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:** 02/11/2013  
**TITLE:** Bid Award: W.O. 13-03 #1 City Overlay  
**PRESENTED BY:** David Mumford  
**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Staff opened bids on January 22, 2013, for the 2013 Street Maintenance Program, City Overlay Contract. The contract was advertised on January 3rd, 10th, and 17th in the Billings Times and on the City's website. Knife River submitted the lowest responsible bid.

This project is part of the on-going Street Preventative Maintenance Program supported by the City Council since 1985. Annually, staff identifies streets proposed for preventative maintenance. Staff bids this work in three contracts: chip seal resurfacing, overlay resurfacing and crack sealing. This contract will provide an overlay on approximately 3 miles of streets throughout the City.

The streets being addressed with this contract are portions of Monad Road, Broadwater Avenue, 19th Street West and Aronson Avenue. Location of work maps for this project are attached.

**ALTERNATIVES ANALYZED**

The Council may:

- Award W.O. 13-03 to Knife River in the amount of \$1,311,255.89; or
- Not award the contract to Knife River and reject all bids. If the contract is not awarded, the streets planned for maintenance will continue to degrade.

**FINANCIAL IMPACT**

The following bids were received and evaluated:

<b>Contractor</b>	<b>Base Bid</b>
Knife River	\$1,311,255.89
Riverside Contracting	\$1,366,136.38
CMG Construction	\$1,489,169.30

The funding for the project was budgeted in FY13 and the source is gas tax funds.

Project Budget	\$2,600,000.00
Previously Encumbered	\$180,455.61
This Contract	\$1,311,255.89
Budget Remaining	\$1,108,288.11

**RECOMMENDATION**

Staff recommends the City Council award a contract for W.O. 13-03 to Knife River in the amount of \$1,311,255.89.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

2013 Overlay Location of Work Maps

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W.O. 13-03 -- 2013 City Overlay  
748,964 S.F.

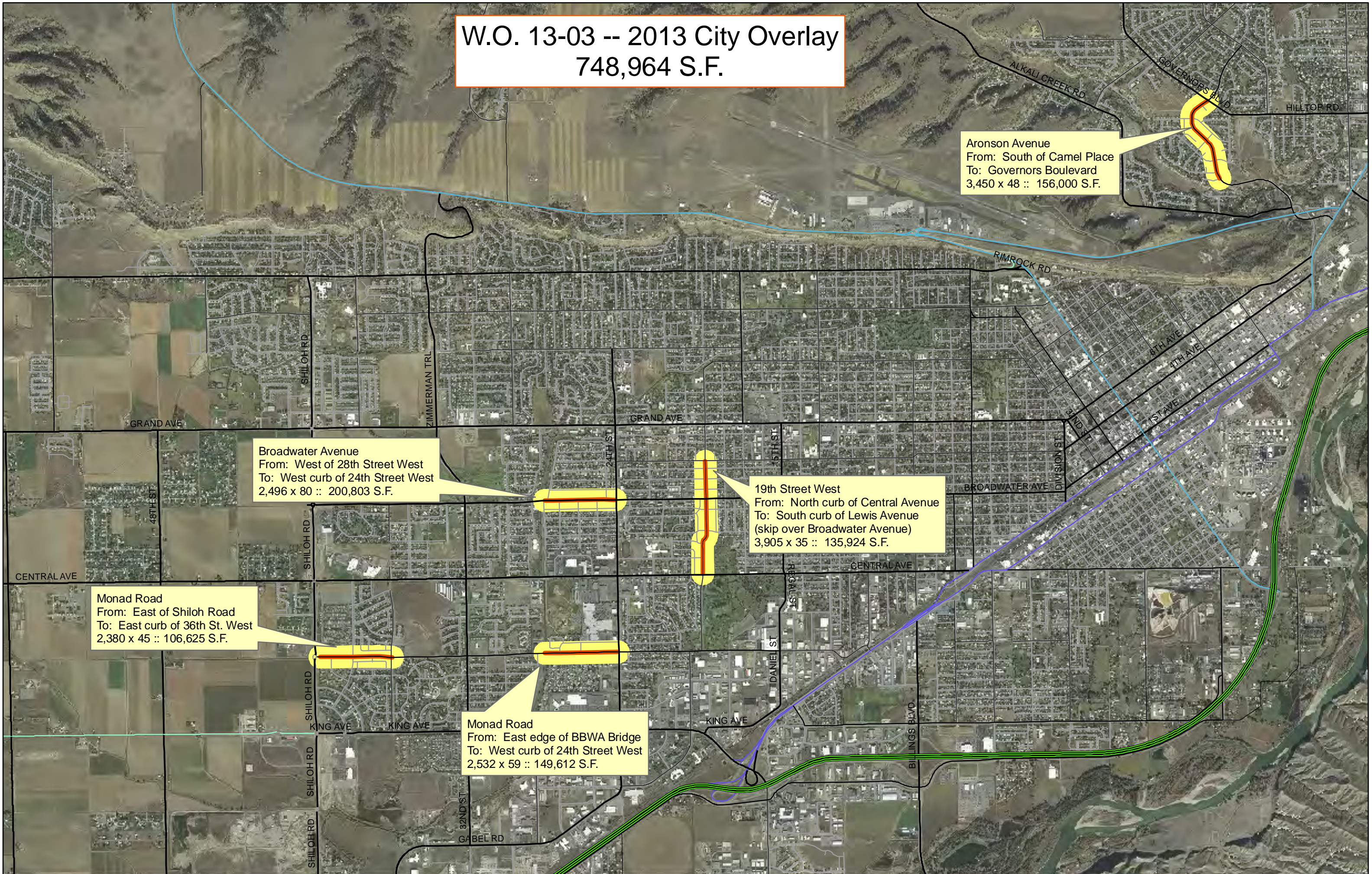
Aronson Avenue  
From: South of Camel Place  
To: Governors Boulevard  
3,450 x 48 :: 156,000 S.F.

Broadwater Avenue  
From: West of 28th Street West  
To: West curb of 24th Street West  
2,496 x 80 :: 200,803 S.F.

19th Street West  
From: North curb of Central Avenue  
To: South curb of Lewis Avenue  
(skip over Broadwater Avenue)  
3,905 x 35 :: 135,924 S.F.

Monad Road  
From: East of Shiloh Road  
To: East curb of 36th St. West  
2,380 x 45 :: 106,625 S.F.

Monad Road  
From: East edge of BBWA Bridge  
To: West curb of 24th Street West  
2,532 x 59 :: 149,612 S.F.



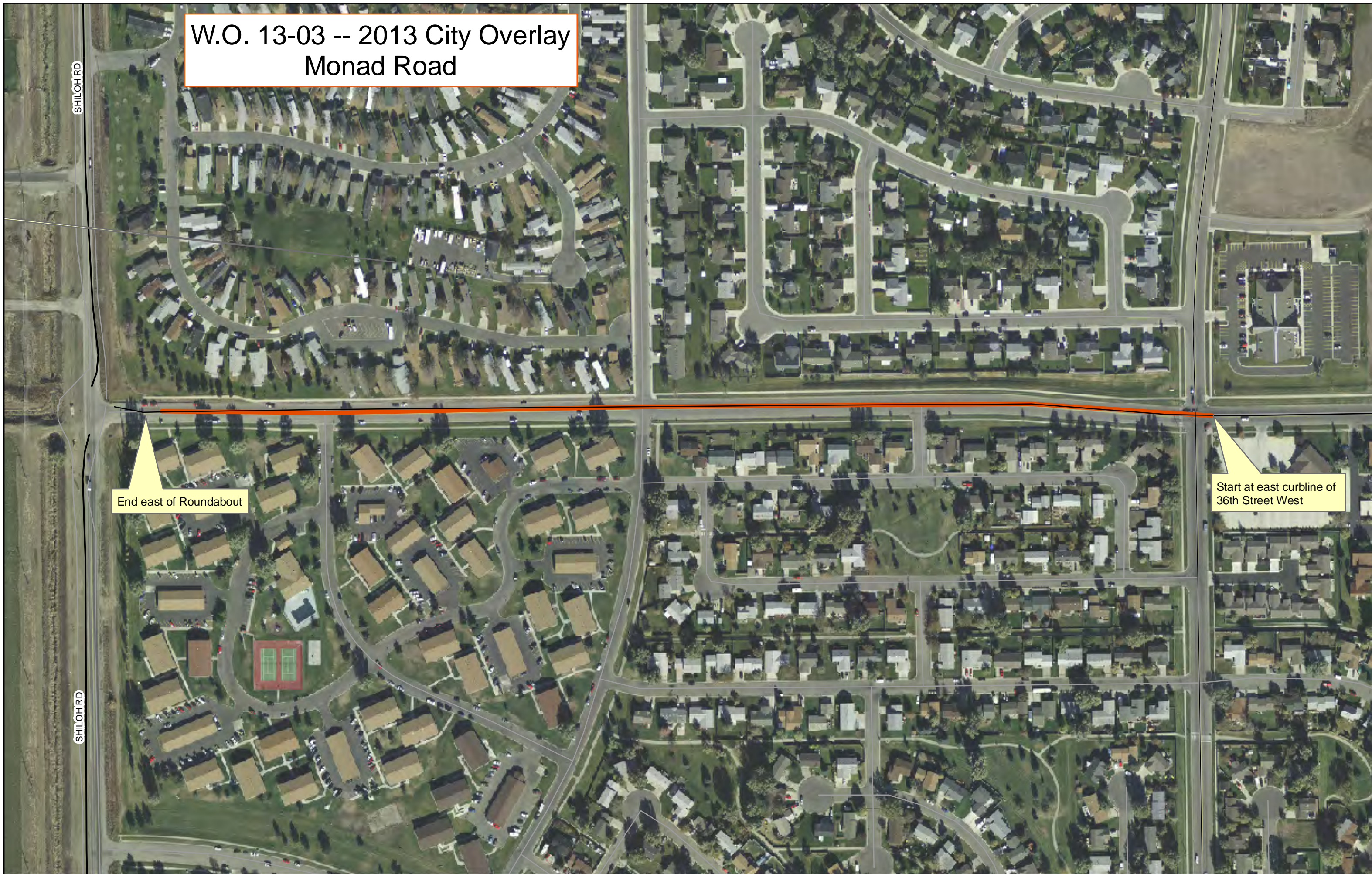
W.O. 13-03 -- 2013 City Overlay  
Monad Road

SHILOH RD

SHILOH RD

End east of Roundabout

Start at east curbline of  
36th Street West

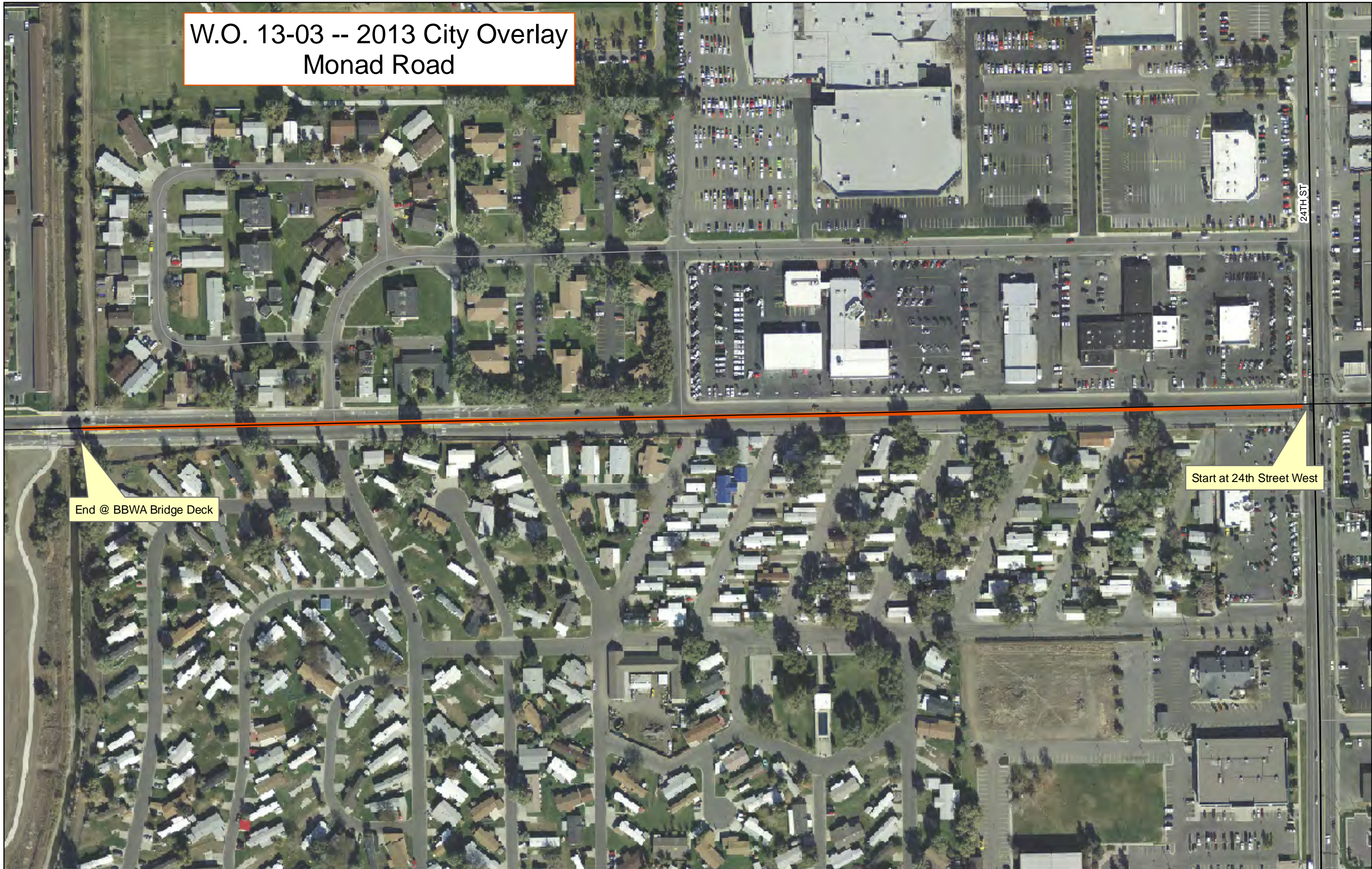


W.O. 13-03 -- 2013 City Overlay  
Monad Road

24TH ST

Start at 24th Street West

End @ BBWA Bridge Deck



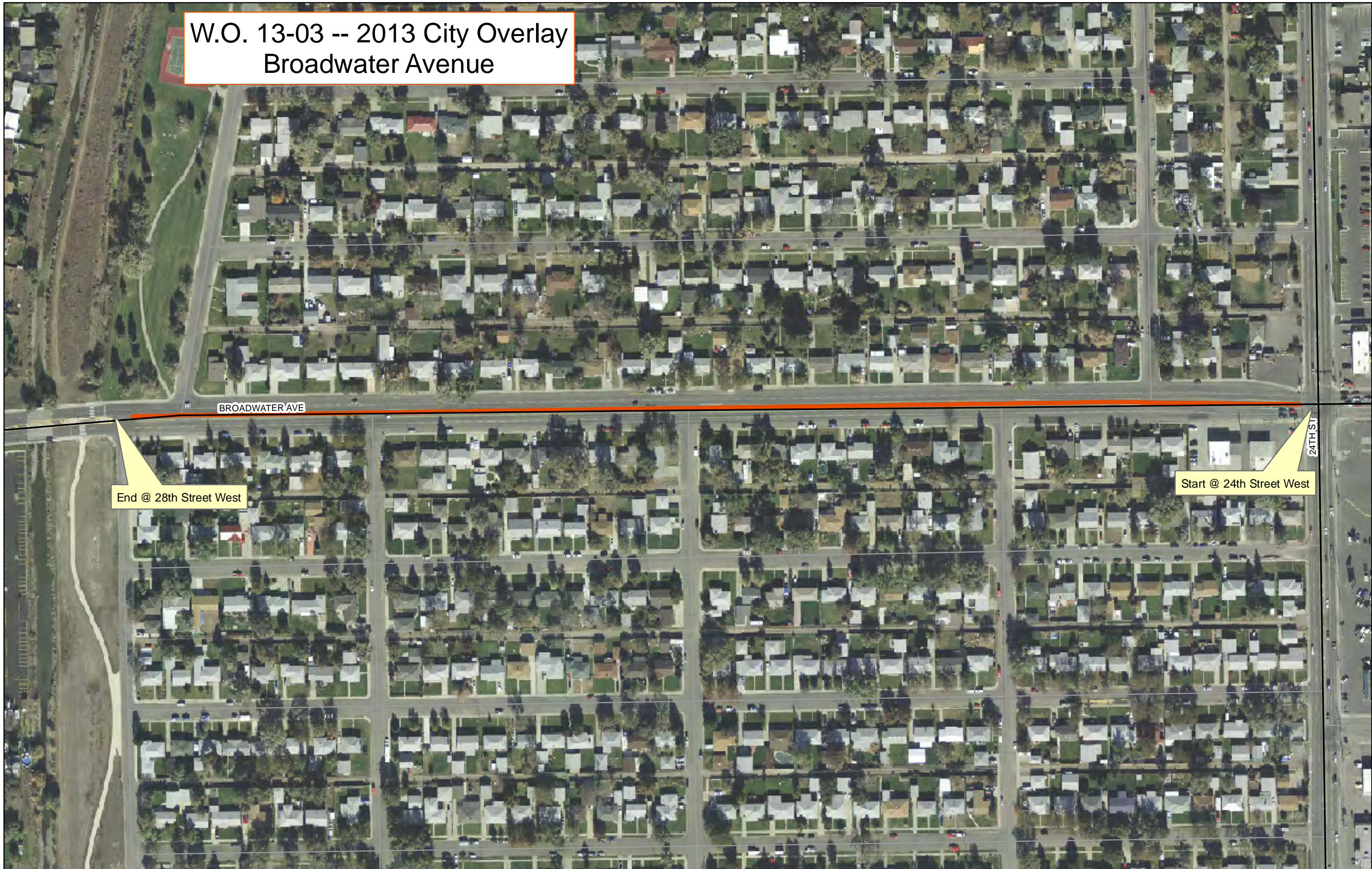
W.O. 13-03 -- 2013 City Overlay  
Broadwater Avenue

BROADWATER AVE

End @ 28th Street West

Start @ 24th Street West

24TH ST



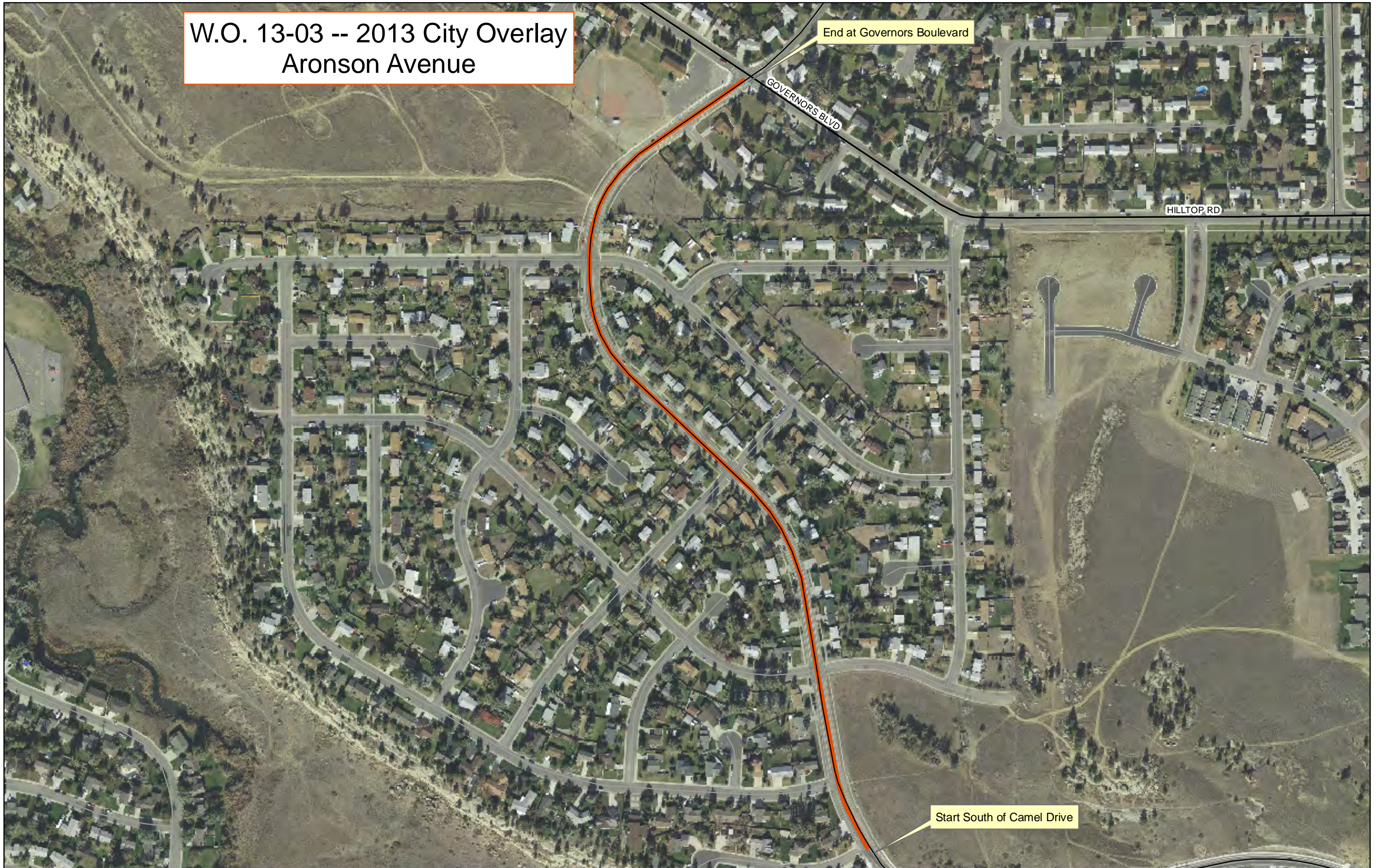
W.O. 13-03 -- 2013 City Overlay  
Aronson Avenue

End at Governors Boulevard

GOVERNORS BLVD

HILLTOP RD

Start South of Camel Drive



W.O. 13-03 -- 2013 City Overlay  
19th Street West

End at south curbline of  
Lewis Avenue

Jump over intersection with Broadwater  
From just south of the south curbline  
To the alley just north of Broadwater

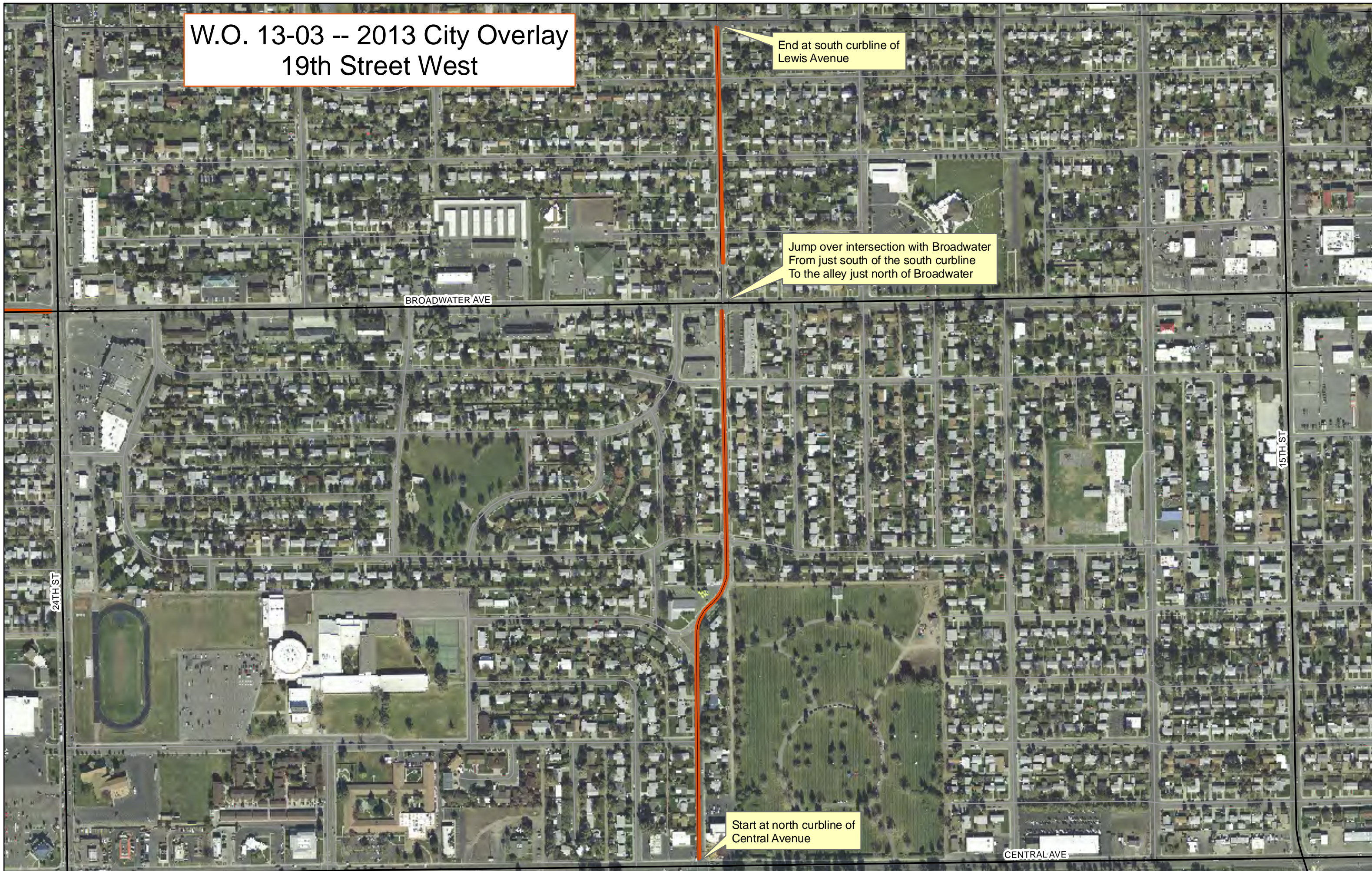
Start at north curbline of  
Central Avenue

BROADWATER AVE

24TH ST

15TH ST

CENTRAL AVE



**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Bid Award - Polyaluminum Hydroxychloride for Water Treatment Division

**PRESENTED BY:** David Mumford

**Department:** Public Works

**Information**

**PROBLEM/ISSUE STATEMENT**

The present contract for polyaluminum hydroxychloride (PACL) blend expires on March 8, 2013. PACL is used as a coagulant at the water treatment plant to remove suspended material in the water as part of the total treatment process. Letters to potential suppliers outlining the testing requirements and requesting that they prequalify their products were sent out in April 2010 and December 2011 in preparation for this bid cycle. The letters are required to be sent very early prior to bidding the potential products to allow the products to be tested extensively to insure their performance meets the requirements for treatment in the water treatment plant. PACL blends must be pre-approved through bench and plant scale testing before a bid for the product will be accepted. PACL blends are proprietary products and these blends supplied by different vendors have differences in composition and efficacy.

The purpose of this bid is to obtain a fixed unit price in terms of price per pound (\$/lbs) for a one (1) year period, with an option to extend the contract one (1) year at a time, for up to a total of three (3) years.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the award for the PACL Blend to Kemira Water Solutions, Inc.; or
- Reject all bids and not award the chemicals contract.

**FINANCIAL IMPACT**

There are sufficient funds in the FY2013 Water Treatment Plant Chemicals account to cover purchases of this chemical. Bid award is based upon the railcar price which is the primary method of delivery. One bid was received on January 29, 2013, as follows:

Supplier	Product	Pricing		
		Railcar	Truck	Tote (275 gal.)
Kemira Water Solutions Inc.	PAX-CL3920LX	\$0.363/lb	\$0.383	No Bid

**RECOMMENDATION**

Staff recommends that Council award the contract to supply PACL to Kemira Water Solutions, Inc. for one year with an option to renew the contract, one year at a time, for up to three years at a purchase price during the first year of \$0.363/lb when delivered by railcar.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Bid Award for Two 2013 37,000 GVW Axle Trucks with Dump/Sander Spreaders

**PRESENTED BY:** David Mumford

**Department:** Public Works

**Information**

**PROBLEM/ISSUE STATEMENT**

Bids were received by the Street/Traffic Division for the Public Works Department on January 29, 2013 to purchase two, 2013 37,000 GVW Axle Trucks with Dump/Sander Spreaders. This purchase was approved by the City Council in the FY 2013 budget for replacement of existing trucks as part of the Equipment Replacement Plan (ERP). The existing trucks will be traded in to the company providing the new trucks. The new trucks will also have a 5-year warranty that will be included in the bid price.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the award of the two, 2013 37,000 GVW Axle Trucks with Dump/Sander spreaders to I-State, in the amount of \$285,940.00, plus a 5-year warranty of \$2585.00; or
- Reject all bids and do not award the purchase of the trucks.

**FINANCIAL IMPACT**

The City received four bids for these dump trucks. In reviewing the bids submitted, two bids did not meet the specifications set forth in the bid documents and as such were not considered. As a result, staff is recommending award to the lowest and most responsive bid to the specifications. The bids are shown below:

Vendor	Bid	Trade-In	Net Bid	Warranty
Peterbilt	\$132,645.00 Ea (x2)	\$10,500 Unit 1186 \$ 9,000 Unit 1187	Does not meet Specs	
Motor Power	\$155,240.00 Ea (x2)	\$10,000 Unit 1186 \$10,000 Unit 1187	\$290,480.00	\$2685
I-State #1	\$153,970.00 Ea (x2)	\$12,000 Unit 1186 \$10,000 Unit 1187	\$285,940.00	\$2585
I-State #2	\$125,982.00 Ea (x2)	\$12,000 Unit 1186 \$10,000 Unit 1187	Does not meet Specs	

**RECOMMENDATION**

Staff recommends awarding the bid for the purchase of two, 2013 37,000 GVW Single Axle Trucks with Dump/Sander Spreaders in the amount of \$285,940.00 plus the 5 year warranty of \$2,585.00 to I-State for a total of \$288,525.00. Staff also recommends trading the existing dump trucks (Unit #1186 & #1187) to I-State.

**APPROVED BY CITY ADMINISTRATOR**

**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** W.O. 12-05, Five Mile Lift Station Bid Award

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

W.O. 12-05 will replace the City's existing Five Mile Lift Station which is located near Bitterroot Drive north of Mary Street and just south of Five Mile Creek. The new lift station will be constructed almost 1/4-mile to the west in Bitterroot Heights Park. Work consists of demolishing the old lift station structures and constructing the new access road, wet well, valve vault and control building. In addition to also installing ancillary manholes, the project will build two combination air release valve vaults, approximately 1,300 feet of 12-inch sewer force main, 1,000 feet of 24-inch gravity sewer main, and 100 feet of 8-inch gravity sewer main.

The existing Five Mile Lift Station is nearly 30 years old and in need of replacement. The wet well is highly corroded, which has reduced the structural integrity of the concrete and led to failure of the electrical infrastructure inside the wet well. The wet well has significant infiltration and exfiltration problems which has reduced the wastewater pumping capacity and increased operation costs. Groundwater infiltrates into the valve vault which has increased deterioration of that structure. The lift station pumping capacity is stressed to handle the current service population and does not have enough wastewater storage to allow adequate staff response time in an emergency overflow event which would threaten Five Mile Creek. The new lift station is designed to more easily deliver current flows and has expansion capacity to double its peak flow capacity.

Staff identified a number of advantages to siting the new lift station within Bitterroot Heights Park. First, the potentially difficult process of acquiring private land and obtaining permanent and temporary construction easements was avoided. Second, the new lift station is located further away from homes than the existing facility which minimizes nuisance complaints. Third, a costly new bridge does not need to be built over Five Mile Creek for access; and finally, the new access road alignment is within potential future street right-of-way and possible secondary station access coincides with planned park maintenance roads. The Public Works and Parks & Recreation Departments are currently finalizing a compensation agreement for siting the lift station within Bitterroot Heights Park.

**ALTERNATIVES ANALYZED**

The Council may:

- Award a construction contract for W.O. 12-05 to Western Municipal Construction, Inc. in the amount of \$2,010,821.00; or
- Not award a construction contract for W.O. 12-05. If this project is not constructed, Five Mile Lift Station will continue to deteriorate, experience further operation and maintenance problems, and future flows will eventually exceed current capacity.

**FINANCIAL IMPACT**

The following bids were received and opened on January 29, 2013, as follows:

Western Municipal Construction, Inc.	\$2,010,821
COP Construction, Inc.	\$2,287,748

The funding for the project was budgeted in FY12 and FY13 and the source is wastewater revenues. A summary of the funding is as follows:

FY 12 Project Budget	\$3,413,513
Previously Encumbered	\$536,544
Awarded Contract	\$2,287,748
Budget Remaining	\$589,221

**RECOMMENDATION**

Staff recommends that Council award a construction contract for W.O. 12-05 to Western Municipal Construction in the amount of \$2,010,821.00.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** W.O. 12-05; Five Mile Lift Station; License Agreement

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

In order to facilitate construction of the new W.O. 12-05, Five Mile Lift Station Project, staff has pursued a license agreement (see attached Agreement) with a private land owner, BCJM Properties (Matt Brosovich). The license agreement would allow the City's project construction contractor to occupy and use approximately 0.5 acre of the BCJM property (see attached Exhibit) adjacent to the project site for the purpose of vehicular and construction access and for equipment and materials staging during project construction.

Staff believes that securing use of the private land will reduce the project bid price since contractors bidding the project would not have to include the estimated costs to secure their own project access routes and staging sites in their bids.

In exchange for use of the land, BCJM Properties will receive all excess fill material generated during project construction that would otherwise be hauled off site, further reducing the project cost. The City will also agree to apply weed control to the disturbed portions of BCJM's land immediately after the project and at the 1-year project warranty inspection.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve the license agreement between the City and BCJM Properties; or
- Not approve the license agreement between the City and BCJM Properties.

If the City is unable to obtain the License Agreement from BCJM Properties, project bidders will need to include their projected costs for securing their own private land agreements for project access and staging in their bid prices. A substantial amount of excess fill material generated during the project, mostly from the installation of a 30-foot deep lift station wet well, would also have to be hauled off-site by the City's contractor.

**FINANCIAL IMPACT**

Entering into a license agreement to use BCJM Properties land during the lift station project will save the City an indeterminate amount of costs for securing land agreements during project bidding. More significantly, the City can eliminate hauling off-site as much as 2,500 cy of excess fill at an estimated cost of approximately \$10,000.

**RECOMMENDATION**

Staff recommends approval of the License Agreement between the City and BCJM Properties.

**APPROVED BY CITY ADMINISTRATOR**

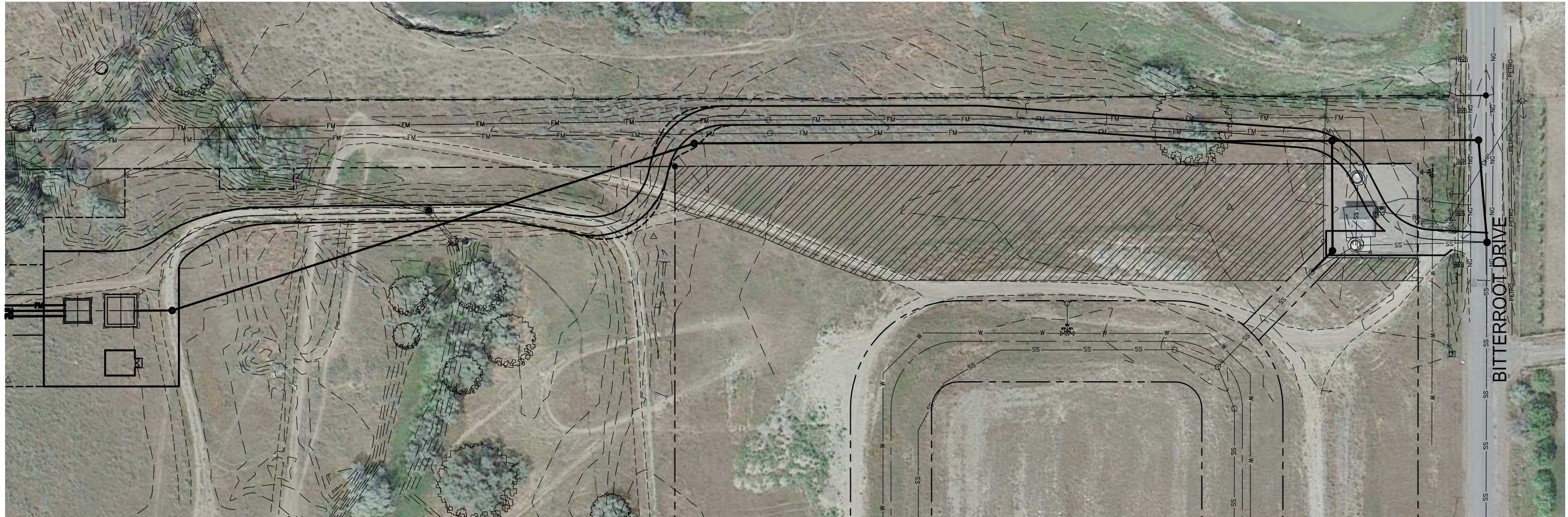
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## Attachments

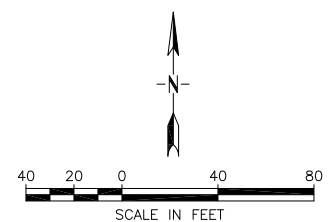
Exhibit A

WO 12-05 License Agreement

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 - SPOIL AREA/CONSTRUCTION ACTIVITIES  
TEMPORARY CONSTRUCTION ACCESS



<p><b>VERIFY SCALE!</b> THESE PRINTS MAY BE REDUCED. LINE BELOW MEASURES ONE INCH ON ORIGINAL DRAWING.</p> <p>—</p> <p>MODIFY SCALE ACCORDINGLY!</p>	REVISIONS			
	NO.	DESCRIPTION	DATE	BY


**MORRISON MAIERLE, INC.**  
 An Employee-Owned Company

Engineers  
 Surveyors  
 Scientists  
 Planners

315 N. 25th Street, Suite 102  
 Billings, MT 59101  
 Phone: (406) 656-6000  
 Fax: (406) 237-1201

COPYRIGHT © MORRISON-MAIERLE, INC., 2012

DRAWN BY: RLL DSGN. BY: KDD APPR. BY: CMH DATE:	<b>BILLINGS</b>	<b>FIVE MILE LIFT STATION PROJECT</b>	<b>MONTANA</b>	PROJECT NUMBER 0686.181
Q.C. REVIEW BY: DATE:				<b>EXHIBIT A</b>
				DRAWING NUMBER

**LICENSE AGREEMENT  
ACCESS FOR SANITARY SEWER LIFT STATION PROJECT**

This Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between **BCJM PROPERTIES, LLC**, of P.O. Box 20318, Billings, Montana, 59104 (hereinafter referred to as 'Licensor'), and the **CITY OF BILLINGS**, a Montana Municipal Corporation, of P.O. Box 1178, Billings, Montana 59103 (hereinafter referred to as 'Licensee').

In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

**SECTION ONE  
GRANT OF LICENSE AND DESCRIPTION OF PREMISES**

Licensor grants to Licensee a license to occupy and use, subject to all of the terms and conditions of this Agreement, certain real property approximately 0.5 acre in size as depicted in Exhibit A, and located in Section 11, Township 1 North, Range 26 East, P.M.M., Yellowstone County, Montana, more particularly located within the following described property:

Remainder Tract 3A-1 of Certificate of Survey No. 2317, NE of Bitterroot Heights Subdivision, 1<sup>st</sup> Filing, Recorded June 29, 2007 under Document No. 3428551, Records of Yellowstone County, Montana

It is understood that the Licensor shall allow Licensee to occupy and use the described property for vehicular and construction equipment access and for equipment and materials staging in order to facilitate the Licensee constructing a new sanitary sewer lift station in adjacent Bitterroot Heights Park. The specific location of the access route(s) and staging area(s) may be changed at the discretion of the Licensor.

**SECTION TWO  
LIMITATION TO DESCRIBED PURPOSE**

The above-described property may be occupied and used by Licensee solely for the purpose of allowing Licensee to construct a new sanitary sewer lift station in adjacent Bitterroot Heights Park. Occupation and use of the property shall be limited to vehicular and construction equipment access, equipment and materials staging and incidental purposes related to constructing the lift station.

It is further understood that this access license is not a license for general public travel.

### **SECTION THREE DURATION**

This license shall commence on the date this Agreement is signed and shall continue until both parties expressly agree to terminate it.

### **SECTION FOUR CONSIDERATION**

The parties agree that the consideration given by Licensee to Licensor shall be delivery of all excess native fill material generated during construction of the sanitary sewer lift station project to an existing fill stockpile located on the Tract 3A-1 property unless and until Licensor gives other written instructions to Licensee. Licensee may deliver fill to other stockpile locations on the aforementioned Tract 3A-1 property designated by Licensor if Licensee is notified in writing no less than 48 hours in advance. When Licensor instructs Licensee in writing that it does not desire Licensee to deliver any more fill material to any location on Tract 3A-1, Licensee shall haul fill material off-site unless and until otherwise instructed in writing by Licensor. Licensee shall deliver fill material at its sole cost and expense.

Licensee shall control weeds in the portions of the property disturbed, occupied and used by Licensee during the term of this Agreement. Disturbed areas shall be restored or reseeded, as Licensee deems appropriate, at the conclusion of the construction project. Restoration of disturbed areas shall be inspected approximately one (1) year after the date of substantial project completion. Unsatisfactory site restoration observed at this inspection shall be corrected by Licensee to the satisfaction of Licensor. Licensee shall conduct an additional weed control application in the portions of the property disturbed by the project approximately one year after the date of substantial project completion.

### **SECTION FIVE TERMINATION**

If Licensee fails to comply with any condition of this Agreement at the time or in the manner provided for, the Licensor may, at its option, terminate this Agreement and be released from all obligations if the default is not cured within sixty (60) calendar days after the date Licensor provides written notice to the Licensee. Said notice shall set forth the items to be cured. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

**SECTION SIX  
LICENSE RUNS WITH THE LAND**

This license shall run with the land and shall be binding on and shall inure to the benefit of the parties to this Agreement, their respective heirs, successors, or assigns.

**SECTION SEVEN  
GOVERNING LAW**

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

**SECTION EIGHT  
NOTICES**

Any notice provided for or concerning this agreement shall be in writing and shall be deemed sufficiently given when sent by United States Mail, First Class postage prepaid, if sent to the respective address of each party as set forth at the beginning of this agreement.

**SECTION NINE  
ASSIGNMENTS**

The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior written consent of the other party, which consent shall not be unreasonably denied.

**SECTION TEN  
ENTIRE AGREEMENT**

This Agreement constitutes the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this agreement, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

***IN WITNESS WHEREOF*** the parties have hereunto affixed their hands and seals the date first hereinabove written.

**CITY OF BILLINGS, a Montana  
Municipal Corporation**

By: \_\_\_\_\_  
**THOMAS W. HANEL,**

**Mayor**

**ATTEST:**

By: \_\_\_\_\_  
**CARI MARTIN, City Clerk**

STATE OF MONTANA)

: ss.

County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013 before me, a Notary Public for the State of Montana, personally appeared **THOMAS W. HANEL** and **CARI MARTIN**, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, and acknowledged to me that they executed the foregoing instrument.

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

\_\_\_\_\_  
(Signature)

(NOTARIAL SEAL)

\_\_\_\_\_  
(Printed Name)  
Notary Public for the State of Montana  
Residing in \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

BCJM PROPERTIES, LLC

*[Handwritten Signature]*

By: Matt Brosovich

Its Authorized Agent

STATE OF MONTANA)

:SS

County of Yellowstone )

On this 30<sup>th</sup> day of January, 2013, before me, personally appeared **MATT BROSOVICH**, known to me to be the person who signed the foregoing instrument and who acknowledged to me that he executed the same as the duly appointed and authorized agent of **BCJM PROPERTIES, LLC**.

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

Notarial Seal

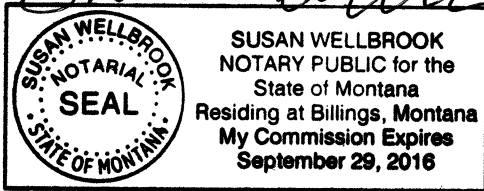
\_\_\_\_\_  
Notary Public for the State of Montana

Printed Name: \_\_\_\_\_

Residing at Billings, Montana

My Commission Expires: \_\_\_\_\_

*[Handwritten Signature: Susan Wellbrook]*



**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Nine Restroom Facility Improvements Contract for Professional Architectural and Engineering Services

**PRESENTED BY:** Mike Whitaker

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

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Nine Restroom Facility Improvements project was funded as part of the Park District #1 in June of 2012. This project is intended to refurbish and/or replace 9 restrooms in various City parks as identified by Council. Architectural services are needed for the project. A Request for Proposals was issued September 2012 and 9 firms responded. In October 2012, a selection committee met to evaluate the submittals and A&E Architects PC of Billings was selected. A contract for professional services was negotiated with A&E Architects PC for \$64,197.50. The Contract for Services is available in the City Clerk's Office for review. Upon approval, evaluation and design will commence immediately. Construction is projected to take place throughout the summer and fall with an anticipated substantial completion date of October 15, 2013.

**ALTERNATIVES ANALYZED**

The Council may:

1. Approve the contract for Architectural and Engineering Services with A&E Architects PC for \$64,197.50, or,
2. Not approve the contract and provide guidance to staff.

**FINANCIAL IMPACT**

In the FY13 Budget, Council approved funding of \$1.855 million for Park District #1. This project will be funded through that revenue source and has an estimated total cost of \$450,000.

**RECOMMENDATION**

Staff recommends Council approve the Contract for Professional Architectural and Engineering Services with A&E Architects PC for \$64,197.50.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** W.O. 12-42--Water Treatment Plant Laboratory Renovation, Professional Services Agreement with A&E Architects

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

The laboratory at the Water Treatment Plant (WTP) is located in the original portion of the Operations Building. The facility is old, does not maximize all available space, and utilizes some aged equipment and fixtures. Therefore, the lab is in need of some major renovations. W.O. 12-42 consists of architectural, lab consultant, and mechanical/electrical engineering services to remodel the existing WTP Laboratory. Tasks include evaluating existing conditions, developing and presenting a design proposal, coordinating with City personnel to finalize design, creating a bid package for construction, and providing bidding and construction administration services. A copy of the contract draft is available for viewing at the City Clerk's office.

An RFP was advertised in the Billings Times requesting professional services for this project. A&E Architects was chosen as the preferred consultant from the firms that submitted proposals.

**ALTERNATIVES ANALYZED**

The Council may:

- Award a Professional Services Agreement to A&E Architects; or
- Not award a Professional Services Agreement to A&E Architects. If the contract is not awarded, the lab will continue to function in a less than optimal manner.

**FINANCIAL IMPACT**

The project is being funded by water funds approved in the FY13 budget. There are sufficient funds available to cover the costs of the Professional Services Contract in the not-to-exceed amount of \$117,100.00.

**RECOMMENDATION**

Staff recommends that Council authorize the Mayor to execute the Professional Services Agreement with A&E Architects for W.O. 12-42, Water Treatment Plant Laboratory Renovation; not to exceed \$117,100.00.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Park 1 Lease Agreement for BILAW LLC, DBA Mann Mortgage Billings

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

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The ground level of the Park 1 garage has six tenants that lease retail/office space. The current lease agreement for BILAW LLC, DBA Mann Mortgage Billings, expired on December 31, 2012. Staff is requesting that the City Council approve and authorize signing a new space lease agreement with Park 1 Garage tenant, BILAW LLC., DBA Mann Mortgage Billings, for three years with an option to renew the lease for an additional three years.

**ALTERNATIVES ANALYZED**

Staff has analyzed the following alternatives:

- Approve lease with BILAW LLC, DBA Mann Mortgage Billings.;
- Seek a different tenant; or
- Leave space vacant.

**FINANCIAL IMPACT**

The revenues are projected in the FY13 budget. The office space consists of 3,060 square feet. Revenue for the first year will be \$27,264.60 (3,060 square feet x \$8.91). Rent for all subsequent years will be the base rent amount plus or minus the percentage change in the Consumer Price Index – all urban consumers.

**RECOMMENDATION**

Staff recommends Council approval of the lease agreement with BILAW, dba Mann Mortgage.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Agreement

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## **PARK ONE LEASE AGREEMENT**

THIS INDENTURE, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the **CITY OF BILLINGS, MONTANA**, hereinafter referred to as "Landlord" and **BILAW LLC. (comprised of Trina Besel, Roland Iverson, Doug Lovely, Greg Ando, and Jim Weidman), DBA Mann Mortgage Billings**, City of Billings, County of Yellowstone, Montana, hereinafter referred to as "Tenant."

That in consideration of the covenants hereinafter contained on the part of the Landlord and Tenant to be observed and performed, the parties hereby agree:

### **1. LEASE**

The Landlord does hereby grant, demise and lease unto the Tenant, for and in consideration of the rents, covenants, and agreements hereinafter specified to be paid, kept and performed by the Tenant, premises at 219 North 30<sup>th</sup> Street consisting of 3,060 square feet of integrated part of building known as "Park I" parking garage located between 29<sup>th</sup> and 30<sup>th</sup> Streets on 3<sup>rd</sup> Ave North, in Billings, Montana. Exact location and size of premises to be shown on Exhibit "A" which is attached and made a part of this agreement.

### **2. TERM, POSSESSION, AND RENEWAL**

The term of this lease shall be from January 1<sup>st</sup>, 2013, through December 31<sup>st</sup>, 2015. Landlord grants to Tenant the four (3) consecutive options to renew this lease for a further term of one (1) year commencing on January 1<sup>st</sup>, 2016, and ending December 31<sup>st</sup>, 2018, both inclusive, subject to the provisions of this lease. However, written notice of the exercise of this option shall be given by Tenant to Landlord at least ninety (90) days before expiration of the original term of this lease and provided further, that this option may be exercised by Tenant only in event all rents have been fully paid and that all provisions of this lease on the part of the Tenant to be observed have been fully and faithfully observed.

### **3. RENT**

Rent for the first 12 months of this lease shall be \$27,264.60 (3060 square feet x \$8.91) payable in twelve (12) equal monthly installments of \$2272.05.

Rent for the subsequent years, including for any renewal option years, beginning January 1<sup>st</sup>, 2016, shall be the current rent plus or minus the percentage change in the Consumer Price Index – all urban consumers, from June of the previous calendar year to June of the current calendar year that rent payments were made. Rent for each year shall be paid in twelve (12) equal monthly installments.

All rents shall be paid in advance by the first day of each month.

#### **4. INSURANCE**

Tenant shall provide fire and hazard property insurance for the protection of the premises and the contents and shall be solely responsible liable for said protection. Provided, however, that in case said premises shall be damaged by fire or other casualty for some cause not related to tenant's business or operation so as to render the premises untenable, in which case the Landlord shall at its cost repair the same. During the period the premises remain untenable, the rent shall not be assessed, and provided further, if such repairs cannot be or are not completed within 120 days, Tenant may elect to terminate its interest in this lease and the premises by giving notice thereof to Landlord. Tenant shall not be required to provide plate glass window insurance coverage.

Tenant shall obtain and maintain at all times during the term hereof, with a responsible insurer, naming the Landlord as an additional insured, comprehensive general liability insurance against any loss or liability, personal injury or property damages, and against any expenses of the parties from any claim, liabilities, demands, payments, suits, actions, recoveries or judgments for damages which might result from the use, occupation or condition of the premises in the minimum amount of \$750,000 for each claim and \$1.5 million per occurrence. Tenant shall furnish a copy of such insurance policy and renewals thereof to the Landlord and such policy shall not be canceled without a 30-day written notice to the Landlord.

#### **5. UTILITIES SERVICES**

Tenant agrees, at his own expense to pay for all utilities used by the Tenant on the premises during the term of this lease.

#### **6. IDEMNIFICATION OF LANDLORD BY TENANT**

Tenant hereby agrees to indemnify and hold the Landlord harmless at all times from and against all actions, claims, liabilities, demands and all costs, expenses and fees, including attorney's fees, incurred by the Landlord, arising from the use, occupancy or non-use of the premises by the Tenant, or arising from the failure of the Tenant to maintain the premises as required by this lease. Such indemnification shall include but not be limited to carelessness, negligence, improper conduct or breach of this lease by Tenant or its agents, employees, customers, suppliers or licensees.

#### **7. ADVERTISING SIGNS**

The Tenant shall be allowed to provide, at his own expense, such advertising displays on the exterior of the building as may be appurtenant to his business, provided however that such displays will be in accordance with the laws and regulations of the State of Montana and the City of Billings, Montana, and that such displays will not

deface, damage or devalue the demised property during their use or after their removal, reasonable wear and tear expected. All signs must be approved in writing by the Landlord prior to installation which approval shall not be unreasonably withheld.

## **8. IMPROVEMENTS BY TENANTS**

All improvements, alterations, additions and all such work shall be done at Tenant's expense and shall, unless Landlord elects otherwise, become the property of the Landlord at the conclusion of the lease, and shall remain upon and be surrendered with said premises, as a part thereof, at the end of the term or renewal of this lease. No improvements, alterations or additions shall be made by Tenant without the written consent of Landlord, which consent shall not be unreasonably withheld.

## **9. FIXTURES AND PERSONAL PROPERTY**

All trade fixtures, equipment, signs, cabinets, shelves, showcases, counters, mirrors and other moveable personal property, shall remain the property of the Tenant and may be removed by Tenant at any time during, or at the termination of this lease agreement, provided, however, that the same can be removed without serious injury to the leased premises.

## **10. ASSIGNING AND SUBLETTING**

Landlord accepts Office Lease Agreement between Tenant and Mann Mortgage, LLC, as submitted. Tenant shall not further assign this agreement or sublet the premises in whole or in part without first obtaining the concurrence in writing from Landlord which shall not be unreasonably withheld.

## **11. LANDLORD'S ACCESS TO INSPECT**

Landlord or its agent, at all reasonable times during business hours, shall have free access to the demised premises, for the purpose of examining and inspecting the same and making any needed repairs or alterations thereon which Landlord may see fit to make. In such case Landlord will make every reasonable effort not to interfere with the Tenant's operation of business.

## **12. TENANT TO HAVE PEACEABLE POSSESSION**

Landlord covenants that Tenant shall peaceably hold and enjoy the premises so long as they are in faithful compliance with the terms hereof and the covenants thereof.

## **13. TRASH AND RUBBISH**

The Landlord shall at its expense provide an area for the collection of and pickup of all trash and rubbish. The tenant shall provide containers for the collection of said rubbish. Said area may be a common area within or outside the premises.

#### **14. ATTORNEY FEES AND COSTS ON VIOLATION OF LEASE**

In the event that either party shall be required to commence any action, retain an attorney, or use in-house council to enforce the covenants or agreements of this lease, the party whose failure to perform occasioned such action shall pay and discharge all reasonable costs, expenses, and attorney fees, including fees of in-house council, which shall be made or incurred by the other party.

#### **15. DEFAULT AND RE-ENTRY**

If the Tenant shall neglect or fail to perform or observe any of the covenants contained herein on their part to be observed and performed for thirty (30) days after notice by the Landlord of such breach, or if tenant shall be adjudicated bankrupt or insolvent, or shall make an assignment for the benefit of creditors, or permit any mechanics or material man's liens to be filed against the demised premises for labor or material furnished, which Tenant does not in good faith defend against, then and in any of said cases the Landlord may lawfully enter into and upon said premises or any part thereof and repossess the same, and expel the Tenant and those claiming under and through them and remove their effects, forcibly if necessary, without being deemed guilty of any manner of trespass, without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenant, and upon entry of the aforesaid, this Lease shall terminate and wholly expire.

#### **16. CONDUCT OF BUSINESS BY TENANT**

Recognizing that it is in the interest of Tenant's successful operation of his business, Landlord shall allow Tenant at Tenant's election to be open for business daily, including Sundays and Holidays, and Landlord shall not interfere, by regulation or other imposition, with the hours or the days of business operation by the Tenant. The Tenant covenants and agrees that from and after its initial opening for business, it will operate and conduct within the premises the business which it has been licensed and permitted to operate or such other lawful business licensed and permitted by Landlord.

#### **17. NOTICES**

All notices to be given hereunder by either party hereto shall be in writing and given by personal service or by first class mailing by registered or certified mail, return receipt requested. Said method of notice is deemed sufficient service thereof, and shall be deemed given as to the date when served or deposited in any post office. Either party may change address by written notice by certified or registered mail to the other. The initial address for receipt of notices is as follows:

BILAW LLC.  
DBA Mann Mortgage  
219 North 30<sup>th</sup> Street  
Billings, MT 59101

Parking Supervisor  
City of Billings  
P.O. Box 1178  
Billings, MT 59103

## **18. MUTUAL RELEASE FOR HAZARDS COVERED BY INSURANCE**

The Landlord and Tenant and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance on the leased property, or covered by insurance, in connection with the property on or activities conducted on the leased property, regardless of the cause of the damage or loss to the extent such waiver of subrogation can be reasonably obtained.

## **19. COMPLIANCE WITH ALL EXISTING FEDERAL, STATE AND CITY LAWS AND POLICE, FIRE, AND SANITARY MEASURES**

Tenant agrees to use and occupy the above described premises in accordance with all lawful police, fire and sanitary regulations imposed by a municipal, state or federal authority, or made by fire insurance underwriters as the basis for insurance for said Landlord's interest in said building, and will observe and obey the laws, City ordinances and other requirements governing the conduct of Tenant's business with respect to the use of said premises.

## **20. SMOKE FREE CITY-OWNED OR LEASED BUILDINGS**

All buildings owned or leased by the City of Billings are being designated as smoke free. The Tenant agrees to comply with all requirements of this ordinance.

## **21. WAIVER**

A waiver of any breach or default by either Landlord or Tenant shall not be a waiver of any other breach or default. Landlord or Tenant approval of any act by the other requiring consent or approval shall not be deemed to waive or render unnecessary Landlord or Tenant consent to or approval of any other subsequent similar act by Landlord or Tenant.

## **22. PREVENTION OR DELAY**

Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restriction, governmental regulations or controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of either party obligated to perform, shall excuse the performance by such part of its obligation hereunder for a period equal to any such prevention, delay or stoppage, provided that Tenant shall be excused from performance only if the premises are rendered untenable or the Tenant is unable to operate their business because of the delay or stoppage.

### **23. PARKING SPACES**

Up to eight (8) covered or basement spaces at the regular monthly rate in the Park 1 Garage are available to Tenant and will be limited to non-reserved and roof spaces. It is Tenant's responsibility to notify Landlord, upon signing the lease, how many parking spaces will be needed by Tenant. If additional spaces are needed during the lease period, Tenant will be placed on a waiting list for that specific garage and spaces will be rented as they are available.

### **24. TAXES AND ASSESSMENTS**

Tenant shall pay and discharge all taxes, assessments, penalties, charges, rates, or liens of any nature whatsoever, that may, during the term hereof or any renewal, be levied, assessed, charged, imposed, or claimed on or against the demised premises or any improvements or fixtures thereon or appurtenances thereto, or any part thereof, or against the owner or owners of such land or the improvements, by reason of such ownership or tenancy, by whatsoever authority levied, assessed, charged, imposed, claimed, and whether the same is on or against the property herein leased, its improvements, fixtures, or appurtenances, or any part thereof, or on or against the income from the property or its improvements.

### **25. BINDING EFFECTS**

The Covenants and agreements herein contained shall be binding upon the parties hereto, their successors and assigns.

This Lease Agreement and all terms and conditions established herein supersedes and revokes all previous agreements between the parties. Therefore, all previous agreements between the parties are declared null and void and inapplicable.

IN WITNESS WHEREOF, the parties have executed this Lease on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

CITY OF BILLINGS (LANDLORD)

BY: \_\_\_\_\_  
ITS (MAYOR)

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
(TENANT)  
BY: \_\_\_\_\_  
ITS \_\_\_\_\_

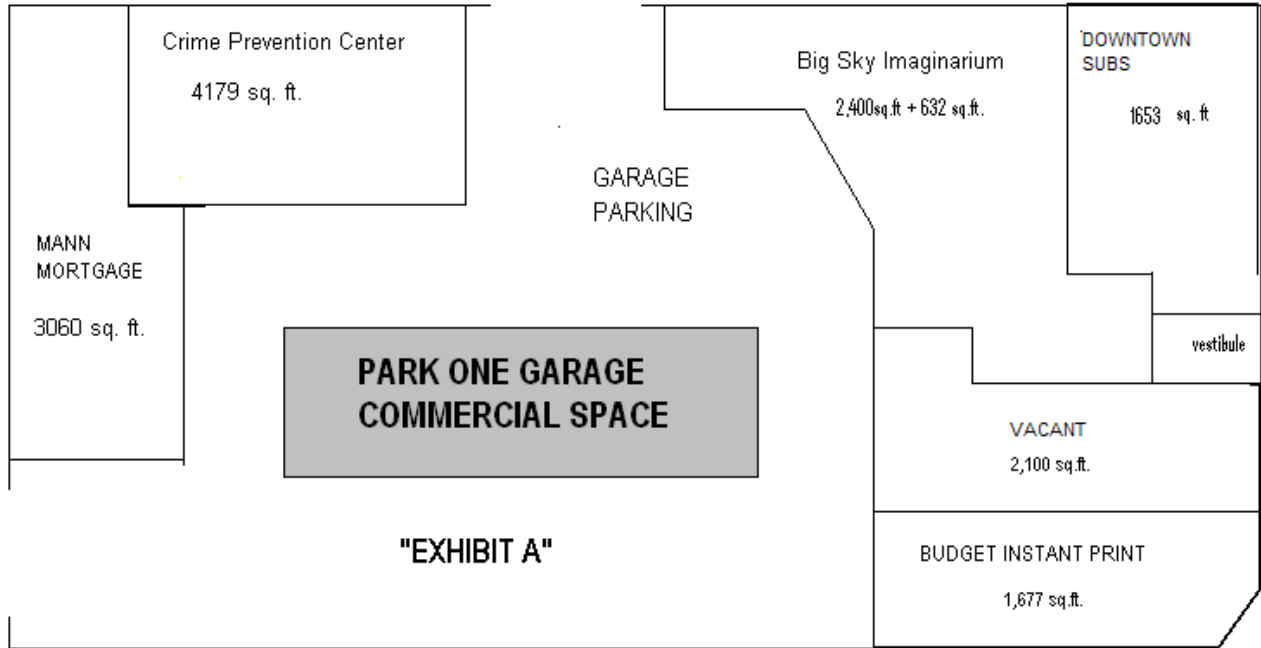
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(TENANT)  
BY: \_\_\_\_\_  
ITS \_\_\_\_\_

# EXHIBIT A



**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

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

**PRESENTED BY:** Brenda Beckett

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Community Development Division has been approached by the Corporation for National and Community Service regarding sponsoring the fifth year of a VISTA project to build capacity in Billings to impact poverty and homelessness. The project would be funded on a year-to-year basis, and is expected to cover a three-five year period. The local submission deadline for the application is in April.

The project aligns with Consolidated Planning goals as an anti-poverty strategy required for the receipt of Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) funds. The project also aligns with the goals of the Mayor's Committee on Homelessness's ten-year plan to impact homelessness, Welcome Home Billings.

The Billings Metro VISTA Project would place AmeriCorps VISTA members to reduce the risk of homelessness and create the tools people in poverty need to build sustainable futures. Priority focus areas include *education, financial literacy, housing, employment, food security, access to healthcare and services benefitting Veterans and military families*. City Council approval for the application would allow the Community Development Division to assist in application preparation and administration of activities on behalf of several community agencies, including agencies such as The HUB, United Way, Family Service, Inc., Volunteers of America, The Salvation Army, and Tumbleweed Runaway Program.

Staff is preparing an application for members who may be placed at varying times throughout the year based on availability, including member opportunities in June for Summer Associates (ten-week placements), July and January (one-year placements). The number of available member positions has decreased across the nation. Therefore, the City may only be allocated a few members directly and additional members if positions are coordinated through another state project.

The Corporation for National and Community Services recommends the City require organizations seeking VISTA members contribute to the overall administration costs for full-year members; \$2,500 for a first year placement, \$4,000 for a second year placement and \$6,500 for a third year placement. Summer Associate Host Sites would be contributing \$600-\$800 per member. Fees may be reduced or waived due to financial hardship or City-sponsored initiative. Funding received helps support cost share position(s), service coordination, expenses to attend mandatory trainings and overall administration for the project. Each VISTA member's personnel value has been estimated at \$30,000 for a year of service.

## **ALTERNATIVES ANALYZED**

The City Council may:

- Approve the submittal of an application for the AmeriCorps VISTA Project; or
- Not approve the submittal of an application for the AmeriCorps VISTA Project.

## **FINANCIAL IMPACT**

The City is not required to commit funding to the project and is anticipating receipt of \$15,000-\$30,000 this year to support project coordination and administration costs from the Corporation for National and Community Services.

The Corporation for National and Community Services may have additional “cost share” positions available. One-two additional VISTA member positions may be available for placement in Billings if a “cost share” requirement is met. This amount is estimated \$11,000 per position, depending on available funding, and would be covered through administrative support and CDBG funds, if allocated. While the City has not been required to financially commit additional funding to the project for the first years, allocating funding toward “cost share” may allow the City to gain one additional member placement in Billings. Additional funding for administrative costs and cost share may be allocated through FY13-14 routine budget processes, within existing CDBG budget caps. Approximately ten VISTA placements and administrative support are being requested (\$330,000) through this application.

## **RECOMMENDATION**

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

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

2013 Priority Focus Areas  
Accomplishments to Date

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FY2013 AmeriCorps VISTA Priority Focus Areas

**Table 2: Goal 1 Focus Areas, Objectives, and Programming Areas Relevant to VISTA**  
 (VISTA will give highest priority to organizations that are working in the following areas)

Focus Area	Objective	Programming Area
Economic Opportunity	Financial Literacy	Providing financial services-related assistance to economically disadvantaged people to improve their financial literacy.
	Housing	Providing housing-related assistance to economically disadvantaged people to improve their housing situation.
	Employment	Providing employment-related assistance to economically disadvantaged people.
Education	School Readiness	<p>Providing services for children living in poverty to make gains in school readiness in terms of social and/or emotional development.</p> <p>Providing services for children living in poverty to make gains in school readiness in terms of literacy skills.</p> <p>Providing services for children living in poverty to make gains in school readiness in terms of numeracy (math) skills.</p>
	K-12 Success	<p>Providing services to students living in poverty to improve academic performance</p> <p>Providing services to students living in poverty to improve academic engagement.</p>
	Post-Secondary Success	<p>Providing services to students living in poverty to increase enrollment in a post-secondary institution.</p> <p>Providing services to students living in poverty to receive a vocational or technical certificate from an accredited postsecondary institution or to continue to another year of post-secondary education.</p>
Healthy Futures	Obesity and Food (Food Security)	<p>Providing services to individuals in underserved community to gain access to food resources.</p> <p>Providing services to individuals in underserved community to gain access to preventative and primary health care services</p>
	Access to Health Care	
Veterans and Military Families	Veterans Served	Providing services to low-income veterans, veterans' family members, family members of active duty military, and military service members.



## COMMUNITY DEVELOPMENT DIVISION

510 NORTH BROADWAY, 4<sup>TH</sup> FLOOR, PO BOX 1178  
BILLINGS, MONTANA 59103



### **BILLINGS METRO VISTA PROJECT**

*CUMULATIVE OUTCOMES AS OF JANUARY 2013*

The City of Billings - Community Development Division began working with the AmeriCorps VISTA program in 2007 specifically to assist with the development and implementation of *Welcome Home Billings*, the City's ten-year plan to impact homelessness. The project also meets the City's obligation to spearhead an anti-poverty strategy in order to receive Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) funding from the US Department of Housing and Urban Development. The City's efforts generated AmeriCorps VISTA project designation, thus the Billings Metro VISTA Project (MVP) officially began in July 2009.

Since 2007, **59 VISTA members** have served on the MVP specifically for poverty impact and homeless initiatives! These members have generated the following outcomes:

- **\$1,172,425 in financial resources** were generated (cash and in-kind) to combat poverty and homelessness, in addition to **\$462,964 in resources** specific to Project Homeless Connect, **totaling \$1,635,389!**
- **111 capacity-building efforts** were implemented within non-profit organizations and / or the City of Billings to support efforts to impact homelessness and poverty, including community gardens, Spare Change for Real Change, the Purple 5k, etc.
- **6,929 new clients** were provided with services designed to impact poverty and eliminate homelessness.
- **50 services** for the homeless were developed or improved.
- A total of **1,779 new community volunteers** were recruited and trained in homeless impact initiatives.
- **39 community assessments** were completed to better identify issues impacting homelessness.
- **67 strategic plans** impacting homelessness / poverty were implemented!
- **38 homeless families** were housed during the course of service!
- **20 organizations** have participated as Host Sites for the City's VISTA members:

*Family Support Network  
United Way Yellowstone County  
Second Chance Homes  
Mental Health Center - The HUB  
Community Housing Resource Board  
Billings Area Resource Network  
MRM - Women & Family Shelter  
Billings Public Schools - Summer Lunch Program  
HRDC District 7  
Billings Public Schools - Backpack Meals Program*

*Tumbleweed Runaway Program, Inc.  
Housing Authority of Billings  
Venture Theatre - Youth Conservatory  
Boys & Girls Club  
The Salvation Army  
VOA - Independence Hall  
Family Service, Inc.  
Head Start  
Friendship House  
Downtown Billings Association*

Should you have questions regarding this information, CDBG/HOME resources, homeless initiatives or the Billings Metro VISTA Project, please contact Brenda Beckett at 406.657.8286, via email at [beckettb@ci.billings.mt.us](mailto:beckettb@ci.billings.mt.us), or visit our websites:

- [www.ci.billings.mt.us/homeless](http://www.ci.billings.mt.us/homeless)
- [www.ci.billings.mt.us/vista](http://www.ci.billings.mt.us/vista)

**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Annexation #13-01: Acknowledge receipt of petition and set a public hearing date

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

Owner Industrial Planning Associates, L.P. has submitted a petition to annex land to the City of Billings under Section 7-2-4600, MCA. The subject property is composed of two parcels totaling about 93 acres. The property is described as Tract 1, C/S 2587 and Tract 1, C/S 3329. It is located on the northwest corner of the intersection of Hesper Road and Gabel Road. The property is vacant but has been used for agricultural production in the past. The property owner is requesting annexation in order to obtain City services for development of the property for a trucking facility. Since the property would default to Residential-9600 (R-96) zoning if it is brought into the City, a concurrent zone change application is being processed to change the zoning from Agricultural Open Space to Controlled Industrial for the proposed commercial use. The property is located within the five-year annexation area of the City's Limits of Annexation Map and appears to meet many of the City's criteria in its Annexation Policy. A detailed review and analysis of the Annexation Policy criteria will be provided in the Council's public hearing memo. The City Council's policy is to consider annexations at two separate Council meetings. At the first meeting, the Council acknowledges receipt of a petition and sets a public hearing date. At the second meeting, the Council conducts the hearing and decides if it will annex the property. The zoning and annexation hearings will occur at the same City Council meeting on February 25.

**ALTERNATIVES ANALYZED**

Section 7-2-4600, MCA, allows owners of more than 50% of the property to petition the City for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date.

**FINANCIAL IMPACT**

Analysis by City staff of how City services may be provided to this property, the potential financial implications of developing the property, and a recommendation on the annexation will be prepared and presented at the public hearing.

**RECOMMENDATION**

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for February 25, 2013 to consider annexing this property.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

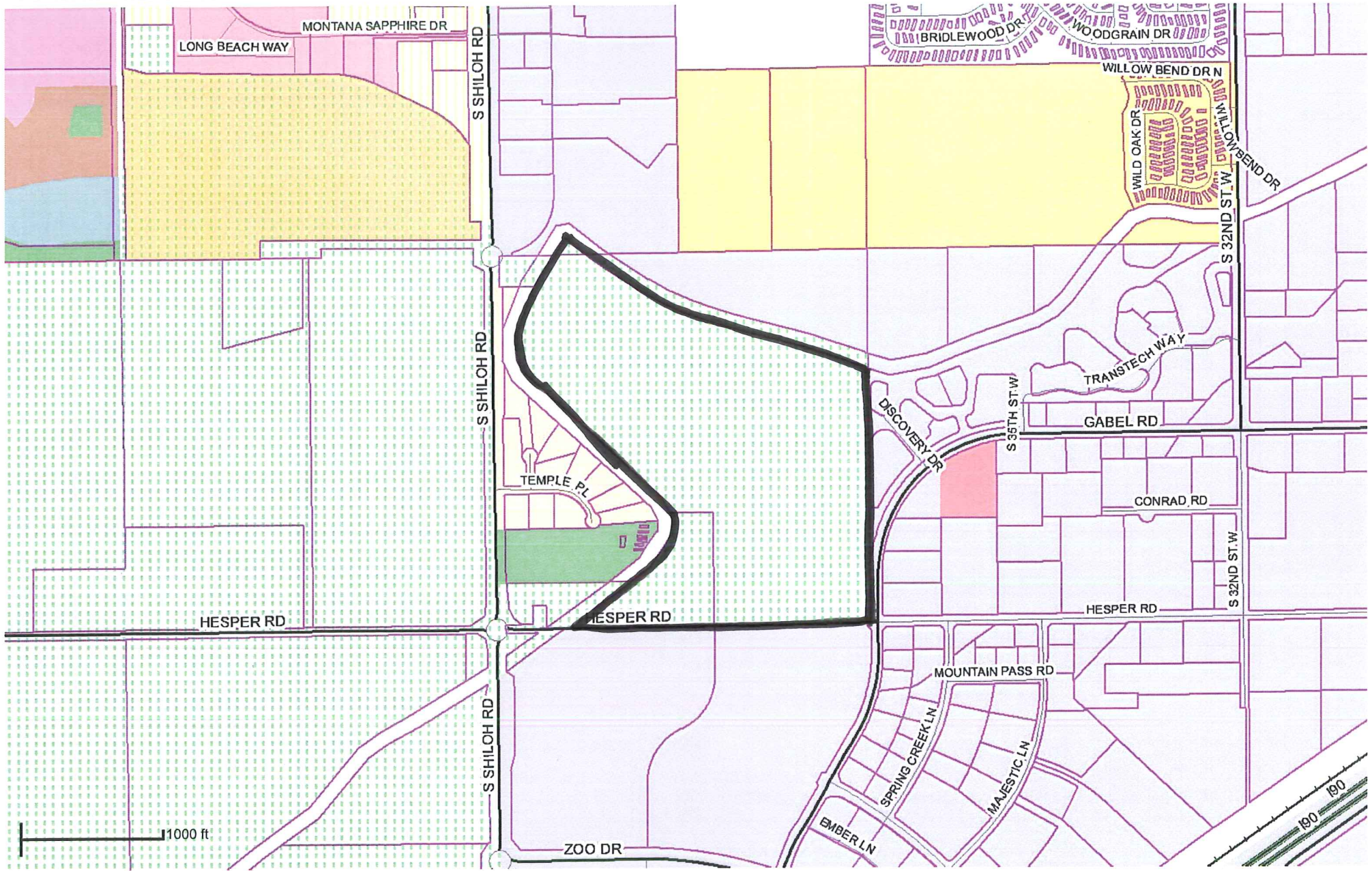
Map

Annexation Petition

Annexation Exhibit

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# City of Billings



Annexation #13-01

13-15

# PETITION FOR ANNEXATION TO THE CITY OF BILLINGS



## NOTICE TO PETITIONER

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

## INSTRUCTIONS

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

The map must show:

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

## RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
1-7-2013	INDUSTRIAL PLANNING ASSOCIATES, L.P.	Gregory C. MacDonald (AUTHORIZED) PARTNER REPRESENTATIVE	2929 3RD AVENUE NORTH SUITE 538 BILLINGS, MT 59101

(continued on separate page)

C 1





**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Recreational Trails Program Grant Agreement for Aronson Connector Trail

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings has been awarded a \$27,000 grant from the Recreational Trails Program (RTP) for the Aronson Connector Trail project. The City applied in August 2012 for the RTP. This trail project was approved as a Community Transportation Enhancement Project (CTEP) in the 2011 CTEP cycle to connect the existing Aronson Trail and Alkali Creek Trail to the east and out to the Swords Bypass Road so users can connect with the sidewalk over to the Main Street Bike/Pedestrian Underpass (See attached map). The trail in this corridor runs through public parkland. Since the grant is to be used for City trail improvements, the City of Billings must accept the RTP grant and the Mayor must sign the grant agreement.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve of the RTP grant agreement and receive the funds for the Aronson Connector Trail; or
- Not approve the RTP grant agreement and not receive this funding for the Aronson Connector Trail. Not accepting the grant will mean the City must rely on more CTEP and local private funding to complete this project.

**FINANCIAL IMPACT**

The RTP grant was written to provide funding for the Aronson Connector Trail. This grant provides reimbursement after monies have been expended and requires a 20% local match, or \$5,400. The match can be provided from CTEP funds already approved for this project and local matching funds of approximately \$5,000 that BikeNet will provide. Overall, this \$27,000 grant will reduce the amount of CTEP *and* local funds needed to complete this project. The total cost of this project is \$237,350.

**RECOMMENDATION**

Staff recommends that Council approve acceptance of the \$27,000 RTP grant and authorize the Mayor to sign the RTP agreement for the Aronson Connector Trail.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

RTP Grant Agreement

Aronson Connector Trail Diagram

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**MONTANA STATE PARKS, A DIVISION OF FISH, WILDLIFE & PARKS  
RECREATIONAL TRAILS PROGRAM PROJECT AGREEMENT 2013-05**

THIS AGREEMENT, entered into this \_\_\_\_ day of January 2013, by and between Montana State Parks, a division of Montana Fish, Wildlife & Parks, the governmental agency of the State of Montana designated to act for the State of Montana, for the purpose of implementing the Recreational Trails Program, with its principal place of business at Helena, Montana, hereafter called the "Department," and, Billings, City of hereinafter referred to as the "Sponsor".

WITNESSETH:

WHEREAS, the Sponsor desires to conduct a trails project called Aronson Connector Trail, and to comply with the reimbursement requirements as a recipient of the amount approved by the Department for this trails project; and,

WHEREAS, it is the desire of the Department to administer the grant to the Sponsor of said project and to determine satisfactory completion and performance;

NOW, THEREFORE, in consideration of the covenants to be performed by each party on behalf of the other, as hereinafter set forth, it is hereby understood and agreed by and between the parties hereto as follows:

1. That the Sponsor will conduct the following described trail project in accordance with the plans and specifications approved with the Project Application submitted to the Department.

**This project will consist of Aronson Connector Trail. Specific project details are explained in the attached Project Description and Updated Financial Cost Tables.**

2. That the Sponsor will initiate promptly and diligently complete said project on or before October 15, 2015. Final request for reimbursement must be received no later than December 31, 2015. Any program funds associated with this project that are unexpended and which have not been requested for reimbursement by this date will be lost to the project sponsor.

3. The Sponsor guarantees that it has funds necessary for the implementation of this project, that it will pay for said project, and will request reimbursement for allowable costs only. Upon receipt of satisfactory billing documentation from the Sponsor, the Department agrees to reimburse the Sponsor the allowable funds expended by the Sponsor. The Department will then submit the grantees' documentation to the Federal Highways Administration for

reimbursement. The state share approved at this time shall not exceed \$27,000. The sponsor will provide an amended Part B, Project Cost Information, from their RTP application showing adjustments based upon the grant amount identified herein, and explaining any changes in the scope of the project in the description text following said amended Part B. The amended Part B, if applicable, will be completed by the Sponsor and returned to the Department with the signed Project Agreement.

4. The National Recreational Trails Fund is an 80% recreational trails program/20% Sponsor cost-share program. At the time/s of request for reimbursement by the Sponsor, the Sponsor will account for Sponsor funds expended and value of in-kind contributions, with the Sponsor's share being not less than 20% of costs incurred.

5. It is understood and agreed by both parties hereto that the mandates of the Recreational Trails Program are hereby incorporated into this Agreement by this reference and that the same shall be binding upon both parties hereto, and that modification of this Agreement, and special terms and conditions to the project may be established by the Department upon agreement by the Department and the Sponsor.

6. The Sponsor agrees to provide the Department with all reports and certifications, including accounting reports, receipts and vouchers as requested and in the form and upon the dates requested either prior to commencement of the project or at any time during the project. The Sponsor also agrees to follow accounting procedures satisfactory to the Department and to provide, upon request at any time during the project, a financing commitment indicating that continued funds will be available for completion of the project as proposed in the referenced plans and specifications, and to reimburse the Department for any and all overpayments on this project. In addition, the Sponsor agrees to allow Federal, Legislative, Department or State Auditors access to its records for the purpose of determining that this grant is administered in accordance with grant terms and conditions and, upon request, to provide the Department with a copy of any such audit.

7. Requests for reimbursement by the Sponsor may be made no more than two times per year or at project completion. Financial reimbursement will be contingent upon the Sponsor satisfying the Department that expenditures are consistent with the project agreement. Reimbursement information may be found on the FWP website at: <http://fwp.mt.gov/recreation/grants/rtp/reimbursement.html>

8. Purchase of Goods or Services. Goods and services for trails projects typically include purchase of such things as equipment, equipment parts, equipment repairs, trailhead or trailside facilities, signs, rental of equipment or facilities, contracted labor for grooming, maintaining, rehabilitating, planning, engineering, developing or building trails.

- a. Goods or Services costing \$5,000 or less may be purchased without bids. However, it is recommended that price comparisons be made to ensure the best buy.
- b. Goods or services costing \$5,000 to \$25,000 require limited solicitation. This should include cost proposals, by fax or written format, from at least three prospective vendors if possible. If there are fewer than three potential vendors available, that must be documented. The sponsor must forward documentation of this limited solicitation, results and a copy of the contract/agreement to the Trails Programs Office prior to any request for reimbursement.
- c. For goods or services costing more than \$25,000, the sponsor must solicit for bids or proposals. This includes notifying prospective vendors directly and advertising in a publication of area significance and allowing at least 30 days for submittal of proposals. The sponsor must forward documentation of this solicitation, results and a copy of the contract/agreement to the Trails Programs Office prior to any request for reimbursement.
- d. For any equipment purchased with Recreational Trails Program funds, that equipment may only be used for the specific purposes identified in the project application and agreement for the following five years (see Condition 8f), and the grant sponsor must provide a maintenance schedule for that equipment prior to requesting reimbursement for purchase or operation of that equipment. Prior to purchase, the grant sponsor, in consultation with the Department, must produce a cost-benefit analysis to determine if renting or leasing equipment would provide a cost advantage over purchase.
- e. No employee, officer or agent of the Sponsor shall participate in the selection, award or administration of a contract supported by Recreational Trails Program funds if a real or apparent conflict of interest would be involved. Goods or services may not be purchased by the Sponsor from any business in which the Sponsor, an officer or agent has a financial or other interest.
- f. Equipment purchased with Recreational Trails Program funds will not be used for personal gain or purposes. Equipment that costs more than \$1,000 may not be traded or sold by the Sponsor in less than five (5) years without prior written approval by the Department and immediately reverts back to the Department within a five-year time period of the signed contract agreement date.

9. The Department may unilaterally terminate this agreement upon refusal by the Sponsor to allow access to records necessary to carry out the legislative audit and analysis function set forth in Title 2, Section 7, Part 5, Montana Codes Annotated.

10. The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

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

12. The Sponsor further agrees to permit inspection of the project by the Department or its employees or agents at any and all reasonable times during or after project completion.

13. The Sponsor further agrees that this trail project will be available to the general public.

14. It is understood and agreed by both parties that a failure to comply with any of the points listed above can result in a voiding of this Agreement and a loss of further Recreational Trails Program assistance.

15. The Sponsor further agrees to protect, defend, and save the state, its elected and appointed officials, agents and employees, while acting within the scope of their duties as such, harmless from and against all claims demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Sponsor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of service performed or omissions of services or in any way resulting from the acts or omissions of the Sponsor and/or its agents, employees, subcontractors, representatives, or the state under this Agreement.

IN WITNESS WHEREOF, the Department has caused its name to be subscribed thereunto duly authorized and the Sponsor has caused its name to be subscribed by its proper officers, thereunto duly authorized, on the day and year first above written.

MONTANA STATE PARKS, A DIVISION OF  
FISH, WILDLIFE & PARKS

RTP GRANT SPONSOR

BY: \_\_\_\_\_  
Printed Name of Agency Representative

BY: \_\_\_\_\_  
Printed Name of Sponsor

MONTANA FISH, WILDLIFE & PARKS

RTP GRANT SPONSOR

BY: \_\_\_\_\_  
Signature of Agency Representative

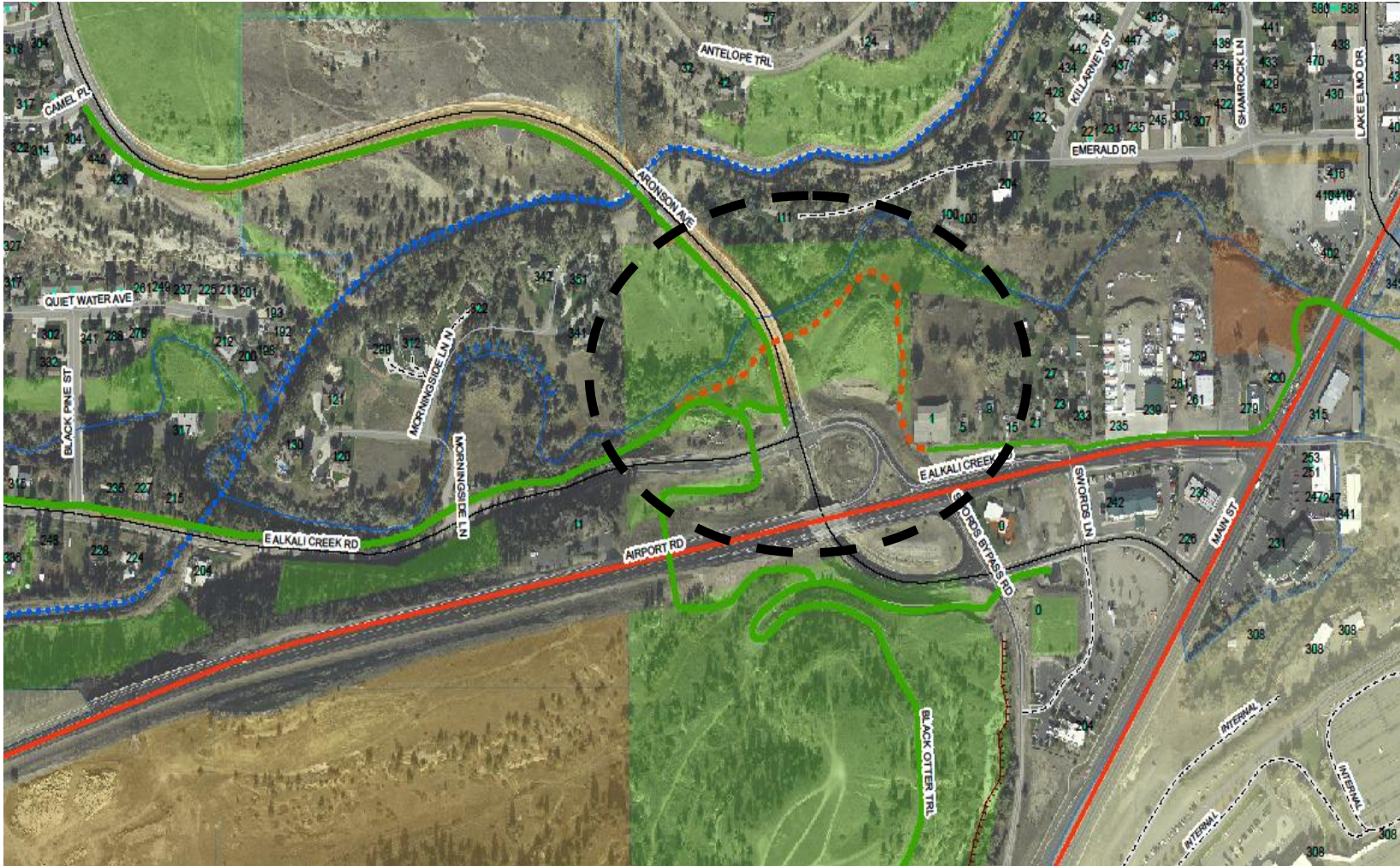
BY: \_\_\_\_\_  
Signature of Grant Sponsor

\_\_\_\_\_  
Date of Signature by Agency

\_\_\_\_\_  
Date of Signature by Sponsor

Sponsor's Federal Tax ID Number: \_\_\_\_\_

# Aronson By Pass Trail



**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Submittal and Acceptance of Grant Application to the Montana Department of Transportation (MDT) for Operating and Capital Assistance

**PRESENTED BY:** Thomas H. Binford

**Department:** Transit

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**Information**

**PROBLEM/ISSUE STATEMENT**

The City of Billings MET Transit Division was advised by the Montana Department of Transportation (MDT) - Transit Section of the availability of Federal grants for operating and capital assistance applied for through the State of Montana. The MDT Transit Section has three grant programs, Section 5310, Section 5311, and Section 5339. Met Transit plans to apply for funding from all three grant programs.

Under the new Transportation Bill, MAP-21, Section 5310 is funding that has been allocated to the State's three larger urban systems (Missoula, Great Falls, and Billings) for capital assistance. This program will be administered by the State and MET Transit will receive funding for one paratransit van. This funding would provide \$65,600 (80%) for the cost of the van. The local match would be \$16,400 (20%). The van will be included in the FY14 Transit capital budget.

Section 5311 are funds that are left over from the old SAFETEA-LU Transportation Bill and is a one time award. The State awarded these funds to offset the changes being implemented to the TransADE program. MET Transit will receive \$390,000, and is intending to utilize this grant for assistance with operating costs. This grant is funded on a 50% Federal, 50% Local basis.

Section 5339 is a new grant created by the MAP-21 Transportation Bill and replaces Section 5309 Discretionary grants received in the past for capital assistance. MET Transit will receive \$195,000 in both FY13 and FY14, and plans to purchase a paratransit van and a 31-foot bus. This grant is funded on a 80% Federal, 20% Local basis.

In order to apply for these grants, it is necessary to include with this Grant Application, a Resolution formally authorizing the Mayor to execute the Grant Agreement with the MDT.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve MET Transit applying for the three grant programs, Section 5310, Section 5311, and Section 5339, for a total amount of \$650,600 to go toward operating assistance and the purchase of vehicles; or
- Not approve MET Transit applying for the three grant programs, Section 5310, Section 5311, and Section 5339, for a total amount of \$650,600 to go toward operating assistance and the purchase of vehicles.

**FINANCIAL IMPACT**

Through these grants, the City's Transit Division could receive \$390,000 of revenue to offset operating costs, and up to \$260,600 of the cost for new paratransit vans and a smaller bus during FY13.

**RECOMMENDATION**

Staff recommends that the City Council approve MET Transit applying to the MDT - Transit Section for Sections 5310, 5311, and 5339 grants, and the execution by the Mayor of any subsequently awarded Grant Agreement(s) provided by the MDT.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Resolution

Application

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AUTHORIZING RESOLUTION

RESOLUTION NO. 13-

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

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

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

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

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

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

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

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

APPROVED this 11th day of February 2013.

THE CITY OF BILLINGS:

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

ATTEST:

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

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CERTIFICATE

The undersigned duly qualified and acting City Clerk of the City of Billings certifies that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Billings City Council held on February 11, 2013.

If applicant has an Official Seal, impress here.

(Seal)

\_\_\_\_\_  
Signature of Recording Officer

\_\_\_\_\_  
Title of Recording Clerk

\_\_\_\_\_  
Date

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

**AGENCY PROFILE**

**A. Organization**

**1. Legal Name of Applicant Agency:**

City of Billings – Aviation and Transit Department – MET Transit

Name of Transit Program: MET Special Transit

Transit Coordinator: Ron Wenger, Transit Manager

Street Address: 1705 Monad Road

Mailing Address: P.O. Box 1178

City: Billings State: MT Zip Code: 59103

County: Yellowstone

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

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

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

Tax ID #: 81-6001237 DUNS #: 801334830

Fiscal Year: July 1, 2013 to June 30, 2014  
(start date) (end date)

Coordination Plan Approval Date: December 13, 2012

**2. Agency Sponsor: check**

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

\*Retain in your file a copy of your IRS 501(c) or 501(a)

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

Name	Term of Office	Affiliation
Mayor Thomas W. Hanel	1 <sup>st</sup> Term	City of Billings
Brent Cromley	1 <sup>st</sup> Term	City of Billings
Jim Ronquillo	2 <sup>nd</sup> Term	City of Billings
Denis Pitman	2 <sup>nd</sup> Term	City of Billings
Angela Cimmino	1 <sup>st</sup> Term	City of Billings
Becky Bird	1 <sup>st</sup> Term	City of Billings
Richard McFadden	1 <sup>st</sup> Term	City of Billings
Jani McCall	2 <sup>nd</sup> Term	City of Billings
Ed Ullendalen	2 <sup>nd</sup> Term	City of Billings
Ken Crouh	1 <sup>st</sup> Term	City of Billings
Mark Astle	1 <sup>st</sup> Term	City of Billings

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

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

➤ Attach a copy of your organizational chart.

**5. Union Affiliation** (if applicable):

Union Name: Teamster Union

Contact: Jim Larson

Address: P.O. Box 50969

City: Billings State: MT Zip Code: 59105

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

## B. System Description

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

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

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

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

\*\*\*If Demand/Response is this:

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

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

### 2. Service Area:

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

### 3. Population:

What is the population of your service area? 105,636

### 4. Connectivity:

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

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

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### C. Level and Use of Service

**1. Ridership:**

Estimate the average number of rides - per day 196, per year 52,056

\*Projected growth over last year: rides per day 207, per year 55,314

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

65% Elderly (60 and over)

35% Disabled

\_\_\_\_\_ Under 60

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

Black

Hispanic

Asian

American Indian/Alaskan Native

\_\_\_\_\_ Other (specify) \_\_\_\_\_

**4. Trip Purpose:** Indicate percent.

1% Nutrition 45% Employment

2% Education 40% Medical

10% Shopping 2% Recreation

\_\_\_\_\_ Other (specify) \_\_\_\_\_

**5. Days/Hours of Service:**

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

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

**6. Marketing or Advertising:**

Explain how people know about or can access your service.

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

**7. Annual Miles of Service:**

Total annual mileage of all vehicles: 301,690

\* Describe Projected Growth in Coordination Plan

## J. Capital Expenses

### 1. List of Suggested Vehicles

Vehicle Description	Pass. No.	Fuel Option	Floor Type	GVWR (Approx.)	W/C Stations	No. Units	Cost Estimate	Total Cost
<b>Vans:</b>								
Minivan	6	Gas	Reg.	6,050#	None		\$29,000	
Accessible Van	5	Gas	Low	5,300#	One		\$45,000	
High-Top	5	Gas	Reg.	9,500#	Two		\$55,000	
High-Top	9	Gas	Reg.	9,500#	One		\$55,000	
Extended	12	Gas	Reg.	9,500#	None		\$45,000	
<b>Body On Van Chassis Cutaway:</b>								
Small - ADA	12	Both	Reg.	9,500#	Six		\$64,000	
Small	13	Both	Reg.	9,500#	Two		\$67,000	
Small	15	Both	Low	14,500#	One		\$120,000	
Medium	17	Both	Reg.	14,500#	Two		\$70,000	
Medium	19	Both	Reg.	14,500#	Two	1	\$75,000	<b>\$75,000</b>
Medium	19	Both	Low	14,500#	Three		\$135,000	
<b>Body On Truck Chassis Cutaway:</b>								
Large	23	Both	Reg.	19,500#	Three		\$90,000	
Large	27	Both	Reg.	19,500#	Three		\$95,000	
<b>Body On Truck Chassis Medium-Duty Bus:</b>								
Small	19	Diesel	Reg.	20,500#	Three		\$90,000	
Medium	23	Diesel	Reg.	20,500#	Three		\$100,000	
Medium	23	Diesel	Low	23,000#	Three		\$185,000	
Medium	27	Diesel	Reg.	20,500#	Three		\$100,000	
Medium	27	Diesel	Low	23,000#	Three		\$190,000	
Large	35	Diesel	Reg.	23,000#	Three		\$110,000	
Large	35	Diesel	Low	23,000#	Three		\$195,000	
<b>Other Equipment:</b>								
Vehicle Passenger Signal System							\$2,000	
Vehicle Front & Side Destination Signs							\$4,000	<b>\$4,000</b>
Passenger Shelters							\$8,800	
Routing Software Package							\$50,000	
Facility							Quote	

**Total Estimated Capital Costs 100%** \$79,000

**Total Federal Capital Assistance Request 86.58 or 80.00%\*** \$63,200

**Total Local Match Capital Assistance Request 13.42 or 20.00%\*** \$15,800

\*5310 is 80/20 and 5311 is 86.58/13.42

### 2. List all Variations to the Capital Requested Above

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AUTHORIZATION TO MAKE APPLICATION

Name of Applicant Agency: City of Billing

BY SIGNING BELOW, I Mayor, Thomas W. Hanel (name), on behalf of the City of Billings (applicant), declare that this **Applicant** has duly authorized me to make these certifications and assurances and bind the applicant's compliance. Thus, the **Applicant** agrees to comply with all state and federal statutes, regulations, executive orders and administrative guidance required by the State of Montana and the Federal Transit Administration.

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

Signature: \_\_\_\_\_

Title: Mayor

Date: \_\_\_\_\_

ASSURANCES  
AND  
CERTIFICATIONS

## **APPLICANT ORGANIZATION ASSURANCES**

*The Montana Department of Transportation (MDT) and the Applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which funding is provided. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of the MAP-21 (Moving Ahead for Progress) Chapter 53 of Title 49 Dated July 06, 2012.*

*The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA (18) for Federal Fiscal Year 2012 at the FTA website. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.*

### **01. FOR EACH APPLICANT**

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

B. Assurance of Authority of the Applicant and Its Representative

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

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

C. Standard Assurances

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

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

#### D. Nondiscrimination Assurance

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

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

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

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

- (h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and
  - (i) Any other nondiscrimination statute(s) that may apply to the project;
  - (j) The Applicant will execute such amendments to third party contracts and subagreements financed with MDT/FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and
  - (k) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;
- (7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;
  - (8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Applicant and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
  - (9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;
  - (10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with MDT/FTA assistance takes place without permission and instructions from MDT/FTA;
  - (11) To the extent required by MDT/FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;
  - (12) To the extent applicable, will comply with MDT/FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;
  - (13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with MDT/FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or MDT;
  - (14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:
    - (a) Institution of environmental quality control measures under the National

- Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;
- (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
  - (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
  - (d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;
  - (e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
  - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
  - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;
  - (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
  - (i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
  - (j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
  - (k) Provision of assistance to MDT/FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c ; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;
- (15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;
- (16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;
- (17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care,

- handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;
- (18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT; and
- (19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that MDT/FTA has expressly approved otherwise in writing.

## **02. LOBBYING CERTIFICATION**

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

## **03. PROCUREMENT COMPLIANCE**

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

#### **04. PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION**

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

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

#### **05. PUBLIC HEARING**

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

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

#### **06. ACQUISITION OF ROLLING STOCK**

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

#### **07. ACQUISITION OF CAPITAL ASSETS BY LEASE**

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

- (1) It will not use Federal assistance authorized to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and It will complete these

calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and

- (2) It will not enter into a capital lease for which FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

## **08. BUS TESTING**

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

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

## **09. CHARTER SERVICE AGREEMENT**

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

## **10. SCHOOL TRANSPORTATION AGREEMENT**

- A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and each subrecipient or third party contractor at any tier will:
  - (1) Engage in school transportation operations in competition with private school

transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and

- (2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.

B. The Applicant understands that:

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

## **11. DEMAND RESPONSIVE SERVICE**

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

## **12. ALCOHOL MISUSE AND PROHIBITED DRUG USE**

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

## **13. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA GRANT PROGRAM AND PILOT PROGRAM**

The following certifications and assurances apply to each State or State organization serving as Applicant for funding and each subrecipient of funding under the Elderly Individuals and Individuals with Disabilities Formula Grant Program authorized under 49 U.S.C. 5310.

1. The State or State organization Applicant assures that:

a. Each subrecipient is:

- (1) Recognized under State law as a private nonprofit organization with the legal capability to contract with the State to carry out the proposed project, or
- (2) A public body that has met the statutory requirements to receive Federal funding authorized for 49 U.S.C. 5310,

- (1) The projects it has selected or will select for funding under that program were derived from a public transit-human services transportation plan that has been:
- (a) Locally developed, and Coordinated, and
- (2) That locally developed, coordinated plan was produced through a process that included:
- (a) Representatives of public, private, and nonprofit transportation providers, nonprofit human services providers, and
  - (c) Participation by the public.
- a. As required by 49 U.S.C. 5307(d)(1)(A), it and each subrecipient has or will have the:
- (1) Legal capacity to carry out its proposed projects,
  - (2) Financial capacity to carry out its proposed projects,
  - (3) Technical capacity to carry out its proposed projects,
  - (4) Safety aspects of its proposed projects, and
  - (5) Security aspects of its proposed projects.
- b. As required by 49 U.S.C. 5307(d)(1)(B), it and each subrecipient has or will have satisfactory continuing control over the use of project equipment and facilities,
- c. As required by 49 U.S.C. 5307(d)(1)(C), it and each subrecipient will maintain the project equipment and facilities adequately.
- e. As required by 49 U.S.C. 5307(d)(1)(G), it and each subrecipient:
- (1) Has or will have the amount of funds required for the local share,
  - (a) As required by 49 U.S.C. 5310(c), and
  - (2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and
  - (3) Will provide the local share funds when needed, and
- f. As required by 49 U.S.C. 5307(d)(1)(H), it and each subrecipient will comply with:
- (1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:
    - (a) Maximize the safe, secure, and efficient mobility of people,
    - (b) Minimize environmental impacts, and
    - (c) Minimize transportation-related fuel consumption and reliance on foreign oil,
  - (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
    - (a) Design public transportation for elderly individuals and individuals with disabilities, and
    - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
  - (3) The requirements of 49 U.S.C. 5303 – 5306 for:
    - (a) Metropolitan and State Planning, and
    - (b) Private enterprise participation.

#### **14. NONURBANIZED AREA FORMULA PROGRAM**

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

- A. The Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- B. The Applicant assures that the project equipment and facilities will be adequately maintained;
- C. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the Applicant's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
- D. The projects in the state's Nonurbanized Area Formula Program are included in the

- Statewide Transportation Improvement Program and, to the extent applicable, the projects are included in a metropolitan Transportation Improvement Program;
- E. The Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
  - F. The Applicant assures, as a minimum, that insurance coverage will be provided on all vehicles and/or equipment purchased under this program grant sufficient to protect MDT/FTA's matching share for the lifetime of the project;
  - G. The applicant assures that it has or will have available at the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with State or Federal assistance awarded for this project;
  - H. The Applicant has complied or will comply with the transit employee protective provision of 49 U.S.C. 5333(b) and has signed the "Labor Warranty Section 13(c)" certification attached to this document; and
  - I. Unless otherwise noted, each of the Applicant's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c).

Signed by \_\_\_\_\_

Organization Name City of Billings

Date \_\_\_\_\_

## NON-DISCRIMINATION ASSURANCE

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

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

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

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

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

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

**C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**

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

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

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

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

Signed by \_\_\_\_\_

Organization Name City of Billings

Date \_\_\_\_\_

**LABOR WARRANTY  
SECTION 13(c)**

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

Signed by \_\_\_\_\_

Organization Name City of Billings

Date \_\_\_\_\_

**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Resolution of Intent to Dispose of Property in Block 206 Town of Billings

**PRESENTED BY:** Candi Beaudry

**Department:** Planning & Community Services

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**Information**

**PROBLEM/ISSUE STATEMENT**

The City Council will consider adopting a Resolution of Intent to sell property located at 502 South 33rd Street, Billings, Montana. The property was the former Irma House II, a non-compliant U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnership (HOME) project.

Irma House, Inc. and the City of Billings signed a Voluntary Agreement, dated September 6, 2012, for Irma House, Inc. to vacate said property by January 2, 2013, and transfer ownership by Warranty Deed to the City of Billings. This allows the City to pursue property sale to recoup the HOME funding of \$130,146 provided to Irma House, Inc. for the development of a 6-unit transitional home for Irma House II clients. The property transfer was completed January 2, 2013.

If the property sells for more than \$130,146, plus the cost of the appraisal, closing costs, recording fees, and other directly related expenses, the remainder will be transmitted to Irma House, Inc. to enable the organization to recoup some or all of their equity investment in the property.

The City will recoup from the sale the amount the City paid for the appraisal, closing costs, recording fees, and any other directly related expenses.

Staff recommends offering the property for sale. If the City Council adopts the Resolution of Intent to dispose of the property, staff will advertise for sealed bids, notify surrounding property owners about the pending sale, and schedule a public hearing for March 25, 2013, at which time the Council would consider the bids and hear comments on the proposed property sale.

**ALTERNATIVES ANALYZED**

The City Council may:

- Adopt the Resolution of Intent to sell the property, request and accept sealed bids, and conduct a public hearing on March 25, 2013, to consider selling the property to bidders, or
- Not adopt the Resolution of Intent. The City would continue owning the property and will be responsible for repaying HUD the full \$130,146, plus the City would be responsible for maintaining the property, insuring the property, paying utilities, etc.

## **FINANCIAL IMPACT**

There is no financial impact from adopting the Resolution of Intent. Notifying surrounding property owners and publishing the notice of public hearing costs will be offset by the property purchase price. A more thorough analysis of pricing and costs will be provided at the time of the public hearing.

## **BACKGROUND**

The City of Billings and Irma House, Inc. signed and recorded a series of legally enforceable documents between January 2003 and April 2005. These documents included:

- Deed Restriction Agreement stating the City of Billings loaned \$30,000 in HOME funds to Irma House, Inc. for the purpose of providing assistance for the acquisition and site clearance costs for the property located at 502 South 33rd Street, Billings.
- Montana Trust Indentures.
- HOME Community Housing Development Organization (CHDO) Construction Development Agreement that states Irma House, Inc. received a loan of \$98,966 to build affordable transitional housing on property at 502 South 33rd Street.
- Deed Restriction Agreement stating the City of Billings loaned \$98,966 in HOME funds to Irma House, Inc. for the purpose of new construction of a 6-bedroom transitional housing project commonly known and addressed as Irma House II, located at 502 South 33rd Street.

Although the City of Billings only provided loans to Irma House for a total of \$128,966 (\$30,000 in 2003 plus \$98,966 in 2005), it is the total HOME investment of \$130,146 that must be repaid to HUD as a result of non-compliance with HOME regulations. See attached list of Irma House II project expenditures.

There are no “forgiveness provisions” included within the Deed Restriction or Trust Indenture documents. Therefore, notwithstanding the non-compliance issues outlined below, these zero interest, deferred loans become due and payable to the City of Billings under one or more of following conditions:

- The properties are no longer used as Irma House transitional housing for men with alcohol and/or other substance abuse issues,
- The facility is not in compliance with HOME Program requirements,
- The properties are refinanced, and/or
- The properties are sold.

Irma House, Inc. was notified via certified mail on May 17, 2012, that the City of Billings Community Development Division considered Irma House II to be in substantial non-compliance with HOME program regulations for the following reasons:

1. The original 6-rental units in the home have not been completed to date, and
2. Irma House’s Executive Director is the only resident of the home.

As a result, the Community Development Division required Irma House to make the following changes within 90 days (by August 17, 2012):

1. Finish the 6-rental units as specified within the HOME Development Agreement, and
2. Move eligible low-income tenants into the units.

On August 14, 2012, City Staff comprised of the City Administrator, the City Attorney, the

Director of Planning & Community Services Department, the Community Development Division Manager, and two Community Development Division staff members met with Jake Romero, President of Irma House, Inc., and their attorney, Benjamin C. Sanchez, to discuss the non-compliance issues. As a result of this meeting, it was agreed by all parties that Irma House, Inc. would voluntarily vacate the property so the City could pursue the sale of the property to repay HUD the HOME funds provided.

A Voluntary Agreement dated September 6, 2012, was signed by all parties. The agreement stipulates the following:

Irma House, Inc. voluntarily offers to vacate said property by January 2, 2013, and transfer ownership of the property by Warranty Deed to the City of Billings. The City would then pursue the sale of the property to recoup the U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnership Program (HOME) funding of \$130,146 for the development of a 6-unit transitional home for Irma House clients.

With the signing of this Voluntary Agreement by the parties to this transaction, the following was acknowledged:

- The City of Billings does not have the right of condemnation of eminent domain, and therefore, will not acquire the property through the use of eminent domain if negotiations fail to result in an amicable agreement; and
- An estimate of the Fair Market Value of the property will be established by appraisal and the fair market value will be provided to both parties. Irma House, Inc. will provide the appraiser access to the property and all structures on the property with 48 hours notice; and
- The City will advertise and sell the property using established City policies and procedures. If the property is sold for more than \$130,146 plus the cost of the appraisal, closing costs, and expenses incurred by the City to sell the property, the remainder will be transmitted to Irma House, Inc.; and
- Irma House, Inc. will remove all personal property from all buildings on the property by January 2, 2013. Any remaining items on the property after this date become the sole property of the City to dispose of in any manner deemed appropriate by the City; and
- Both parties desire to maximize the property sales price to ensure full repayment of the HOME obligation and return Irma House, Inc.'s equity investment in the property. Therefore, Irma House, Inc. will not remove appliances, cabinets, light fixtures, siding, or any other items currently affixed to the house and steel building nor will Irma House, Inc. damage the property and/or structures prior to transferring the property to the City of Billings; and
- City staff will prepare a Warranty Deed to transfer the property from Irma House, Inc. to the City of Billings that will be signed, notarized, and recorded on January 2, 2013; and
- Irma House, Inc. will pay all utilities, property taxes, insurance, and maintenances costs until the Warranty Deed is executed.

Irma House, Inc. signed the Warranty Deed and Realty Transfer Certificate on January 2, 2013, and the City took possession of the property.

The Community Development Division is following established City policies and procedures to dispose of this property. The Resolution of Intent to Dispose of Property is the first step toward this end.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The Community Development Division will adhere to Billings Municipal City Code (BMCC) Section 22-900 - sale, disposal or lease of city property.

**RECOMMENDATION**

Staff recommends that the City Council adopt the Resolution of Intent to sell the property at 502 South 33rd Street.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Irma House II Total Expenditures List

Resolution of Intent to Sell

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# Attachment A

Resolution of Intent to Dispose of Property in Block 206 Town of Billings  
2/11/2013 City Council Meeting

## Irma House II Expenditures

<u>Date</u>	<u>Amount</u>	<u>Payment To / For</u>
1/8/03	20,175.12	1 <sup>st</sup> Montana Title & Jacob Hess / property acquisition
2/7/03	625.00	Poulson Tree Service / remove two trees, stumps, debris
7/29/03	181.50	Interfund transfer / solid waste container, landfill fees
7/31/03	166.05	Interfund transfer / 2 <sup>nd</sup> container, landfill fees
4/1/04	100.00	Francis Claude / clean up & haul away
11/3/04	1,800.00	Ace Hardware Center / generator
1/6/05	500.00	CRL Consulting, management Plan
9/15/05	100.00	Streeter Brothers / Policy #147412 / demolition bond
10/7/05	135.55	Interfund transfer / temporary drop box, landfill fees
3/6/06	325.00	Interfund transfer / zoning variance application fee
5/24/06	5300.00	Irma House II / plans for storage garage
6/15/06	336.50	Interfund transfer / foundation & mechanical permits
6/15/06	55.00	Adjustment / Irma House business license
7/18/06	1500.00	Palm Tree Construction / removal of old foundation
7/20/06	4000.00	Majestic Homes, down payment
8/30/06	10390.00	EH Fleury Concrete / installing basement
9/7/06	6371.33	Jake Romero--Irma House / steel building
9/7/06	6528.67	Jake Romero--Irma House / steel building
9/21/06	14263.00	Majestic Homes / modular
9/21/06	57293.17	Majestic Homes / modular
TOTAL	\$130,145.89	

RESOLUTION 13-\_\_\_\_\_

A RESOLUTION PURSUANT TO BILLINGS, MONTANA CITY CODE, ARTICLE 22-900: SALE, DISPOSAL OR LEASE OF CITY PROPERTY; DESCRIBING THE PROPERTY TO BE SOLD; DECLARING THE INTENT OF THE CITY TO DISPOSE OF THE PROPERTY; AND ESTABLISHING A PUBLIC HEARING DATE

WHEREAS, the City of Billings finds it desirable to dispose of property it currently owns, located at 502 South 33<sup>rd</sup> Street, in the City of Billings, Yellowstone County, Montana, as follows;

The north 4' of Lot 10 and all of Lots 11 and 12, Block 206 of Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file and of record in the office of the Clerk and Recorder of said County, under Document #16312.

WHEREAS, Article 22-900 BMCC requires the City to declare its intention to dispose of such lands, giving the public the opportunity to be heard regarding such action, and

WHEREAS, Article 22-900 BMCC also requires that all property owners within three hundred (300) feet of the exterior boundaries of said property, be notified by mail, fifteen (15) days in advance of the time, date, place of public hearing and the City property's existing and proposed use.

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

PUBLIC HEARING. The Billings City Council will conduct a PUBLIC HEARING on Monday, March 25, 2013, at 6:30 o'clock p.m. in the Council Chambers, located on the Second Floor of the Police Facility, 220 North 27th Street, Billings, Montana. The City Clerk is hereby directed to publish notice of the public hearing in The Billings Times in its regular issues on February 28, 2013, and March 7, 2013, and to mail a copy of such notice to all property owners within the three hundred (300) foot notification area.

APPROVED AND PASSED by the City Council of the City of Billings this 11th day of February, 2013.

THE CITY OF BILLINGS:

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

ATTEST:

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

**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Payment of Claims January 22, 2013

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

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$1,235,311.17 have been audited and are presented for your approval for payment. A complete listing of the claims dated January 22, 2013 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**

List of claims greater than \$2500

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AP Report > \$2500 for 01/22/2013

Check Date	Check	Name	Amount	Account	Item Desc
01/22/2013	762675	Yellowstone County Gis	27,500.00	2250-22320-403590	GIS SERVICES FOR 911 CENTER FY2013
01/22/2013	762671	Western Systems Inc	7,000.00	2110-31320-402430	R920 Solar Engine with 2 1/2" square telspar mount
01/22/2013	762671	Western Systems Inc	1,260.00	2110-31320-402430	Light Bar with confirmation light - one end (3 lights total)
01/22/2013	762671	Western Systems Inc	580.00	2110-31320-402430	push button kit, polare bulldog with square pole mount
01/22/2013	762671	Western Systems Inc	114.90	2110-31320-402430	Freight
01/22/2013	762657	Town & Country Supply Association	5,611.80	6010-00000-141714	106714 PO NUM 291615
01/22/2013	762657	Town & Country Supply Association	11,631.49	6010-00000-141000	104929 PO NUM 291614
01/22/2013	762657	Town & Country Supply Association	10,890.24	6010-00000-141000	102510 PO NUM 291607
01/22/2013	762655	Tire-Rama	402.37	2110-31320-402390	1050208086
01/22/2013	762655	Tire-Rama	449.92	1500-21120-402390	1050208130
01/22/2013	762655	Tire-Rama	15.00	2110-31320-402320	1050209041
01/22/2013	762655	Tire-Rama	2,143.50	5410-31220-402390	recaps
01/22/2013	762655	Tire-Rama	2,217.80	5410-31220-402390	recaps
01/22/2013	762655	Tire-Rama	2,278.50	5410-31220-402390	recaps
01/22/2013	762655	Tire-Rama	2,898.50	5410-31220-402390	recaps
01/22/2013	762655	Tire-Rama	2,991.50	5410-31220-402390	recaps
01/22/2013	762655	Tire-Rama	840.00	5410-31220-402390	repairs
01/22/2013	762655	Tire-Rama	377.95	5410-31230-402390	new tire at landfill
01/22/2013	762655	Tire-Rama	1,487.80	5410-31220-402390	new tires
01/22/2013	762655	Tire-Rama	370.00	5410-31220-402390	tire repairs
01/22/2013	762655	Tire-Rama	530.00	5410-31220-402390	tire repairs
01/22/2013	762655	Tire-Rama	1,380.00	5410-31220-402390	tire repairs
01/22/2013	762655	Tire-Rama	743.00	5410-31230-402390	tire repairs at landfill
01/22/2013	762655	Tire-Rama	35.00	2110-31320-402390	1050208696
01/22/2013	762655	Tire-Rama	15.00	2110-31320-402320	1050209319
01/22/2013	762655	Tire-Rama	40.00	2110-31320-402390	1050208697
01/22/2013	762651	Sunset Excavation	725.00	5050-75150-403671	1610 St Johns
01/22/2013	762651	Sunset Excavation	3,500.00	5050-75150-403671	319 S 38
01/22/2013	762648	Stevens Brothers, Inc.	5,075.24	0100-00000-201100	City Hall Boiler Retainage Release
01/22/2013	762648	Stevens Brothers, Inc.	2,430.45	0100-14120-409291	City Hall Boilers Replacement

01/22/2013	762648	Stevens Brothers, Inc.	154.04	1500-22260-403670	FIRE5: SERVICE/REPLACED P-TRAP & POPUP W/GRID STRAINER. SIZZLE TO CLEAR SLOW DRAIN (DON MYERS) 01/09/2013
01/22/2013	762639	Rimrock Foundation	3,781.64	0100-12530-403575	Drug Court.December 2012
01/22/2013	762639	Rimrock Foundation	3,395.18	7380-12640-403560	SAMHSA.December 2012
01/22/2013	762639	Rimrock Foundation	3,968.52	7380-12640-403590	SAMHSA.December 2012
01/22/2013	762639	Rimrock Foundation	3,202.18	7380-12640-403990	SAMHSA.December 2012
01/22/2013	762634	Qwest Communications	45.65	2250-22320-403450	Qwest 406-245-3107 911 Qwest
01/22/2013	762634	Qwest Communications	45.88	2110-31320-403450	Qwest 406-259-3298 PW Traffic 3728 McDougall
01/22/2013	762634	Qwest Communications	39.44	5020-74000-403450	Qwest 406-245-3659 PUD Alarm Water Tower
01/22/2013	762634	Qwest Communications	45.65	2250-22320-403450	Qwest 406-245-3108 911 Qwest
01/22/2013	762634	Qwest Communications	41.86	5610-71190-403450	Bill Date Dec. 28, 2012. QTA Phone
01/22/2013	762634	Qwest Communications	50.33	2250-22320-403450	Qwest 406-245-2296 911 Qwest
01/22/2013	762634	Qwest Communications	29.99	5120-85000-403450	Qwest 406-259-2328 PUD Sahara Sand Lift Station
01/22/2013	762634	Qwest Communications	45.66	5610-71100-403450	Qwest 406-245-5834 Airport Alarm
01/22/2013	762634	Qwest Communications	39.44	2600-55120-403450	Qwest 406-245-7337 Library Alarm CKT
01/22/2013	762634	Qwest Communications	119.32	1500-22250-403450	Qwest 406-245-7469 Fire
01/22/2013	762634	Qwest Communications	45.66	1500-21110-403450	Qwest 406-245-7481 Police
01/22/2013	762634	Qwest Communications	490.20	6060-19310-403450	Qwest 406-248-3049 Main System T1 City/County Tie
01/22/2013	762634	Qwest Communications	311.26	6070-22350-403450	Qwest 406-248-3635 Fire Airport Radio Tower WCK
01/22/2013	762634	Qwest Communications	311.26	6070-22350-403450	Qwest 406-248-3636 Fire Airport Radio Tower Jellison
01/22/2013	762634	Qwest Communications	52.47	6600-31100-403450	Qwest 406-259-7758 Measured Lines Depot 60% 6700 31410 403450 40% 6600 31100 403450
01/22/2013	762634	Qwest Communications	78.71	6700-31410-403450	Qwest 406-259-7758 Measured Lines Depot 60% 6700 31410 403450 40% 6600 31100 403450
01/22/2013	762634	Qwest Communications	118.32	1500-22250-403450	Qwest 406-373-3742 Fire RR Crossing Alarm
01/22/2013	762634	Qwest Communications	311.26	2250-22320-403450	Qwest 406-245-7101 9-1-1 Center Landfill #2
01/22/2013	762634	Qwest Communications	311.26	2250-22320-403450	Qwest 406-245-7102 9-1-1 Center Fox Reservoir #2

01/22/2013	762627	One Eighty Communications	259.00	2600-55180-403590	Library Internet Connection
01/22/2013	762627	One Eighty Communications	79.95	6200-19110-403452	IT Internet Connection
01/22/2013	762627	One Eighty Communications	326.56	6600-31100-403450	Depot 60% 6700 31410 403450 Depot 40% 6600 31100 403450
01/22/2013	762627	One Eighty Communications	489.86	6700-31410-403450	Depot 60% 6700 31410 403450 Depot 40% 6600 31100 403450
01/22/2013	762627	One Eighty Communications	40.60	5610-71100-403450	Airport 2948370 Airport Alarm
01/22/2013	762627	One Eighty Communications	195.67	6060-19310-403450	Main Bill T-1 Account 00018768
01/22/2013	762627	One Eighty Communications	39.00	1500-21110-403450	CPC line 247-8592 Account 00018768
01/22/2013	762627	One Eighty Communications	46.00	0100-51120-403450	Dehler Park line 867-7275
01/22/2013	762627	One Eighty Communications	3,525.23	6060-19310-403450	Main Bill Acct 00001906
01/22/2013	762625	NorthWestern Energy	146.64	5610-71170-403410	11389269
01/22/2013	762625	NorthWestern Energy	36.06	0100-51120-403410	18366666
01/22/2013	762625	NorthWestern Energy	608.78	5710-71430-403410	07192255
01/22/2013	762625	NorthWestern Energy	146.83	0100-51120-403410	09254962
01/22/2013	762625	NorthWestern Energy	47.69	0100-51220-403410	07208184
01/22/2013	762625	NorthWestern Energy	923.13	6500-15660-403410	11608023
01/22/2013	762625	NorthWestern Energy	67.11	0100-51120-403410	19049444
01/22/2013	762625	NorthWestern Energy	286.65	1500-22210-403410	07208176
01/22/2013	762625	NorthWestern Energy	588.64	6500-15660-403410	09758087
01/22/2013	762625	NorthWestern Energy	173.72	5020-74000-403410	11422532
01/22/2013	762625	NorthWestern Energy	65.21	0100-51120-403410	18494088
01/22/2013	762625	NorthWestern Energy	460.55	5020-74000-403410	11164522
01/22/2013	762625	NorthWestern Energy	7.70	2110-31320-403410	17488966
01/22/2013	762625	NorthWestern Energy	1,910.57	5020-74000-403410	3116 17th St West
01/22/2013	762625	NorthWestern Energy	216.78	0100-51220-403410	07125362
01/22/2013	762625	NorthWestern Energy	721.63	1500-22210-403410	08715468
01/22/2013	762625	NorthWestern Energy	7.75	8720-51980-403410	10458131
01/22/2013	762625	NorthWestern Energy	2,337.78	5020-74000-403410	5809 Canyon Woods
01/22/2013	762625	NorthWestern Energy	187.52	5120-85000-403410	62nd St W at Ironwood
01/22/2013	762625	NorthWestern Energy	168.16	5120-85000-403410	822 SHiloh Crossing
01/22/2013	762625	NorthWestern Energy	7.37	2110-31320-403410	17403577
01/22/2013	762625	NorthWestern Energy	1,910.57	5020-74000-403410	3116 17th St West
01/22/2013	762625	NorthWestern Energy	41.47	0100-51270-403410	07123870
01/22/2013	762625	NorthWestern Energy	38.54	0100-51120-403410	08134892
01/22/2013	762625	NorthWestern Energy	38.95	6200-19110-405370	Pole Attachment Rental 1/1/2013-12/31/2013
01/22/2013	762625	NorthWestern Energy	72.50	0100-51260-403410	07208218

01/22/2013	762625	NorthWestern Energy	3,769.79	6500-15660-403410	11608049
01/22/2013	762625	NorthWestern Energy	8.11	8720-51980-403410	19486679
01/22/2013	762625	NorthWestern Energy	2,042.10	5020-74000-403410	07230402
01/22/2013	762625	NorthWestern Energy	120.36	0100-51120-403410	07222870
01/22/2013	762625	NorthWestern Energy	5.88	8720-51980-403410	20558177
01/22/2013	762625	NorthWestern Energy	2,900.32	5020-74000-403410	07222649
01/22/2013	762625	NorthWestern Energy	3,840.57	6500-15660-403410	12693917
01/22/2013	762625	NorthWestern Energy	7.22	2110-31320-403410	20470191
01/22/2013	762625	NorthWestern Energy	7.15	5020-74000-403410	07230592
01/22/2013	762625	NorthWestern Energy	43.78	0100-51120-403410	07230451
01/22/2013	762620	MT Waterworks	1,149.58	5030-75910-409340	Parts/supplies
01/22/2013	762620	MT Waterworks	30.00	5030-75910-409340	PVC pipe
01/22/2013	762620	MT Waterworks	83.58	5020-75000-402330	Drain plug
01/22/2013	762620	MT Waterworks	3,789.16	5020-00000-141000	SYSTEMS PO NUM 291585
01/22/2013	762619	Mt Dept Of Labor & Industry	3,346.77	2090-44510-407637	I13-015985 Second half of 2012 payment to the State Building Code Education Fund.
01/22/2013	762613	Morrison Maierle Inc	15,960.67	4050-71250-409695	Invoice #130052. AIP 42 Project Overlay of Runway 10L/28R-Federal
01/22/2013	762613	Morrison Maierle Inc	840.03	4050-71250-409696	Invoice #130052. AIP 42 Project Overlay of Runway 10L28R-Local
01/22/2013	762612	Montana State Fireman's Assoc	2,886.23	9000-00000-209924	PAYROLL SUMMARY
01/22/2013	762609	Montana Public Employees Assoc	9,377.86	1500-21130-401460	Cardillo USERRA Absence - Contributions 7/2008 to 8/2009
01/22/2013	762608	Montana Law Enforcement Academy	1,200.00	1500-21400-403822	Invoice 6441, Montana Law Enforcement Academy for Rober Miller
01/22/2013	762608	Montana Law Enforcement Academy	1,200.00	1500-21400-403822	Invoice 6443, Montana Law Enforcement Academy for Spencer Snelling
01/22/2013	762608	Montana Law Enforcement Academy	1,200.00	1500-21400-403822	Invoice 6445 - Montana Law Enforcement Academy for Matthew Widdekind
01/22/2013	762605	Montana Dakota Utilities Co	582.12	0100-51220-403440	05552021
01/22/2013	762605	Montana Dakota Utilities Co	1,358.96	1500-22210-403440	05597121
01/22/2013	762605	Montana Dakota Utilities Co	162.27	5020-74000-403440	05780623
01/22/2013	762605	Montana Dakota Utilities Co	253.39	0100-51220-403440	05863221
01/22/2013	762605	Montana Dakota Utilities Co	22.05	0100-51260-403440	05839223
01/22/2013	762605	Montana Dakota Utilities Co	427.91	1500-22210-403440	05937321
01/22/2013	762605	Montana Dakota Utilities Co	480.07	1500-22210-403440	06637925
01/22/2013	762599	Mes-Nw	10.25	1500-22290-402290	ESTIMATE SHIPPING CHARGES

01/22/2013	762599	Mes-Nw	370.00	1500-22290-402290	SCBA REPAIR PARTS: RETAINER PACKING, O-RING, REGULATOR PURGE KNOB, HEAD NET, CLIPS, PISTON SHAFTS, LED ASSY, NOSE CUPS, DUST CAP, VALVE & HOSE
01/22/2013	762599	Mes-Nw	1,242.75	1500-22290-402290	00374913: SCBA PARTS (BACKORDERED FROM INVOICE #00372483). RETAINER PACKING, O-RING TOP COVER, PRESSURE TRANSDUCER NXG2
01/22/2013	762599	Mes-Nw	4,584.45	1500-22290-402290	00272483: SCBA PARTS FOR ANNUAL SERVICE/REPAIRS - VALVES, HOSE ASSEMBLY, BATTERY HOLDERS, REPLACEMENT CONSOLE BOARDS, ETC. ORDERED 12/28/2012
01/22/2013	762599	Mes-Nw	74.00	1500-22210-403110	OHD, FIT TEST ADAPTER FOR FIRE BUREAU HALF MASK 7400 SERIES (SC805816)
01/22/2013	762599	Mes-Nw	395.00	1500-22230-402290	OHD, FIT TEST ADAPTER FOR FIRE BUREAU HALF MASK 7400 SERIES (SC805816)
01/22/2013	762595	MC Real Estate Holdings Inc	52,959.00	4160-74930-409120	WO 04-26 Zone 4,5 West Resvrs & Pump Station; Tract B of C/S 3030
01/22/2013	762592	Mailing Technical Services	165.24	5210-15210-403110	parking - special inserts only
01/22/2013	762592	Mailing Technical Services	3,582.33	0100-15120-403110	Finance
01/22/2013	762592	Mailing Technical Services	271.55	2600-55110-403110	December 2012 mailing service
01/22/2013	762583	Knife River (JTL Group Inc.)	4,059.05	2110-31320-404520	winter traction material
01/22/2013	762575	Jacobs Consultancy Inc	5,062.50	5610-71100-403590	Preparation of Fiscal Year 2012 Airline Rates & Charges.
01/22/2013	762573	Jackson Contractor Group Inc	415,770.30	4980-55110-409220	Construction of new Library, demolition of existing building & site development features.
01/22/2013	762567	IBM Corporation	7,821.00	6200-19110-409480	IBM System x3630 M4 Quote 149621104
01/22/2013	762566	Iaff	4,567.65	9000-00000-209920	PAYROLL SUMMARY
01/22/2013	762560	HDR, Inc.	1,978.00	5020-72110-403540	DRINKING WATER SOURCE STUDY
01/22/2013	762560	HDR, Inc.	12,071.37	5030-74910-409390	WO 12-44 WTP High Svc Pump H2-3
01/22/2013	762560	HDR, Inc.	1,137.55	5120-82110-403540	WO 12-13 IWPI Reuse and Reclamation Study

01/22/2013	762560	HDR, Inc.	3,338.12	5020-74000-403540	WO 12-21 WTP Chemical Bldg/Disinfection Improvements
01/22/2013	762560	HDR, Inc.	7,506.97	5030-00000-201100	WO 10-11 WTP High Service Pump Station H2-1
01/22/2013	762560	HDR, Inc.	1,722.52	5130-84910-409390	WO 10-29 WWTP WEST MECHANICAL MCC; CO#1 Apprvd by 04/23/12
01/22/2013	762560	HDR, Inc.	1,599.53	5030-74910-409390	WO 11-08 WTP High Service Pump Station 2011;
01/22/2013	762560	HDR, Inc.	10,353.48	5120-82110-403540	Wastewater Discharge Permit
01/22/2013	762560	HDR, Inc.	620.48	5020-72110-403540	WO 12-13 IWPI Reuse and Reclamation Study
01/22/2013	762560	HDR, Inc.	310.25	8400-31840-403590	WO 12-13 IWPI Reuse and Reclamation Study
01/22/2013	762556	Great West Engineering, Inc	3,173.50	5440-31230-409390	WO 11-19 Landfill Phase 5 Expansion
01/22/2013	762556	Great West Engineering, Inc	34,358.85	5440-31230-409390	WO 12-29 Solid Waste Management Plan
01/22/2013	762552	Gillig Corporation	335.08	5710-71440-402320	4859495
01/22/2013	762552	Gillig Corporation	527.84	5710-71440-402320	4859495
01/22/2013	762552	Gillig Corporation	2,381.46	6010-00000-141714	4859495 PO NUM 291606
01/22/2013	762552	Gillig Corporation	248.70	6010-00000-141714	4862273 PO NUM 291579
01/22/2013	762551	Gallagher Benefit Services Inc	25,375.00	6270-17520-403560	January - June 2013 Semi-Annual Consulting Fees
01/22/2013	762544	Fisher Construction, Inc	6,265.71	1500-22260-409250	Fire Station2 & 3 Accommodation Remodels
01/22/2013	762544	Fisher Construction, Inc	3,021.13	1500-00000-201100	Retainage Release Flre 2 & 3
01/22/2013	762543	First Montana Title Co	15,000.00	2810-65810-407277	FTHB Ginger Perkins 4043 King's Green Drive
01/22/2013	762542	First Montana Title Co	10,000.00	2810-65810-407277	FTHB Angela Robertson 945 Jackson Street
01/22/2013	762540	Fehr & Peers	2,841.99	2400-43010-407214	Inv 22618
01/22/2013	762528	Downtown Billings BID, Inc.	6,103.21	7800-15750-407680	Paid Dec 2012, distributed Jan 2013
01/22/2013	762527	Dowl Hkm	666.53	5030-00000-201100	WO 12-01 2012 Water & Sewer Projects
01/22/2013	762527	Dowl Hkm	8,053.57	5130-00000-201100	WO 12-01 2012 Water & Sewer Projects
01/22/2013	762527	Dowl Hkm	59,956.06	8450-31860-409310	WO 09-20 Rimrck Rd Forsythia Blvd to Shiloh Rd; Amend#1 apprvd 03-23-12
01/22/2013	762526	Donaldson Construction and Roofing	20,549.92	5020-74000-402450	Water Treatment Facility Roof Repair; Payment #2
01/22/2013	762523	Dell Computer L P	1,173.26	0100-13140-402925	(1) Dell OptiPlex 390
01/22/2013	762523	Dell Computer L P	1,286.99	5410-31210-402925	(1) Dell OptiPlex 390
01/22/2013	762523	Dell Computer L P	337.60	0100-15120-402925	(2) Dell 22 inch monitors
01/22/2013	762523	Dell Computer L P	2,346.52	5410-31210-402925	(2) Dell OptiPlex 390
01/22/2013	762523	Dell Computer L P	3,519.78	0100-16110-402925	(3) Dell OptiPlex 390
01/22/2013	762523	Dell Computer L P	3,519.78	2400-43010-402925	(3) Dell OptiPlex 390

01/22/2013	762521	CTA Architects	23,426.30	2030-15130-409224	Empire Garage utility relocation design and engineering services
01/22/2013	762520	Csg Systems Inc	7,316.14	5020-73110-403110	Statement mailings
01/22/2013	762520	Csg Systems Inc	5,831.71	5020-73110-403111	Statement mailings
01/22/2013	762520	Csg Systems Inc	3,887.80	5120-83110-403111	Statement mailings
01/22/2013	762520	Csg Systems Inc	4,877.43	5120-83110-403110	Statement mailings
01/22/2013	762512	Columbine Control Company	2,649.84	5020-00000-141000	WASTEWATER PARTS & SUPPLY PO NUM 291586
01/22/2013	762511	Colstrip Electric Inc	175,541.85	5030-74910-409390	WO 12-28 WTP Transformer Replacement
01/22/2013	762510	Business Tax Section	1,773.15	5030-74910-409390	WO 12-28 WTP Transformer Replacement
01/22/2013	762510	Business Tax Section	207.58	5020-74000-402450	Water Treatment Facility Roof Repair; Payment #2
01/22/2013	762510	Business Tax Section	24.55	0100-14120-409291	City Hall Boiler Replacement
01/22/2013	762510	Business Tax Section	4,199.70	4980-55110-409220	Construction of new Library, demolition of existing building & site development features
01/22/2013	762510	Business Tax Section	63.29	1500-22260-409250	Fisher Construction Fire Stations 2 & 3 Accommodation Remodels - State 1%
01/22/2013	762510	Business Tax Section	51.27	0100-00000-201100	Retainage Release
01/22/2013	762510	Business Tax Section	30.52	1500-00000-201100	Retainage Release Fire 2 & 3
01/22/2013	762505	Billings Community Cable	25,000.00	0100-14110-407266	Quarterly Disbursement January - March 2013
01/22/2013	762505	Billings Community Cable	250.00	0100-14110-407265	Work Session Live Broadcasts October - December 2012

**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Public Hearing & Resolution on Encroachments

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

**Department:** City Hall Administration

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**Information**

**PROBLEM/ISSUE STATEMENT**

The annual encroachment assessment for 5 tax codes were inadvertently missed in November of 2012. These 5 will be assessed in May of 2013.

Encroachment - Pursuant to BMCC Section 13-301, every person maintaining or owning any structure, encumbrance, obstruction or encroachment, in or upon or extending or projecting on, over, across or above and within seven (7) feet of the grade of any public property, public street, avenue, sidewalk or alley in the City, shall obtain an encroachment permit and shall pay to the City an annual encroachment rental fee of \$1.00 per square foot of encroachment area.

**ALTERNATIVES ANALYZED**

The Council may:

- Approve the resolution; or
- Not approve the resolution, and the Public Works Engineering Fund would be responsible to pay for the assessments.

**FINANCIAL IMPACT**

A list of the assessments is attached as part of the resolution.

**RECOMMENDATION**

Staff recommends the City Council conduct a public hearing and adopt the encroachment assessment resolution.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Encroachment Resolution

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RESOLUTION 12 \_\_\_\_\_

A RESOLUTION FIXING THE AMOUNT OF THE ANNUAL SPECIAL ASSESSMENT TAX FOR THE FISCAL YEAR 2013 TO BE PAID BY PERSONS, FIRMS, AND CORPORATIONS, MAINTAINING ENCUMBRANCES, OBSTRUCTIONS, OR ENCROACHMENTS ON, OVER, ACROSS, OR ABOVE THE STREETS, AVENUES, SIDEWALKS, OR ALLEYS OF THE CITY OF BILLINGS AND LEVYING AND ASSESSING SAID SPECIAL ASSESSMENT TAX.

WHEREAS, Chapter 13 of the Billings, Montana City Code provides that every person, firm, or corporation that has or maintains any encumbrances, obstructions, or encroachments on, over, across, or above any street, avenue, sidewalk, or alley shall pay an annual rental fee, and

WHEREAS, Billings, Montana City Code, Section 13-303 provides that the City Council shall annually, by resolution, make a special assessment for such rental upon certain lots abutting on that part of the street, avenue, sidewalk, or alley upon which encumbrance, obstruction, or encroachment on the owner of such abutting lot or lots.

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

1. ANNUAL ASSESSMENT FOR RENTAL: That for the purposes of collecting said rents for the fiscal year 2013 for said encumbrances, obstructions, and encroachments on, over, across, or above the streets, avenues, alleys, and sidewalks of the City of Billings, there is hereby fixed, levied and assessed a special assessment tax upon the lots or parcels of land provided in the schedule attached, described as EXHIBIT "A" and by this reference made a part hereof.

2. DISPOSITION OF COLLECTIONS. All monies collected from said taxes shall be paid to the General Fund of the City of Billings, Montana.

3. NOTICE OF HEARING. That on Monday the 11<sup>th</sup> day of February, 2013 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the city hall, billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on January, 24<sup>th</sup> and January, 31<sup>st</sup> 2013 in the Billings Times.

4. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 11<sup>th</sup> day of **February**,  
**2013**

CITY OF BILLINGS:

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

ATTEST:

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

**Exhibit A**

2624 Minnesota Ave	BLG 189 018	A01273	ENCH	135.00
L & L Development Venture LP	1061 10127300	RE		
302 S 23 ST	BLG 173 011-12	A01180	ENCH	160.00
CONOCO PHILLIPS COMPANY	969 10117400	RE		
2303 Montana Ave	BLG 113 001-2	A00832	ENCH	607.50
D.B. Squared LLC	683 10083200	RE		
175 N 27ST	BLG 091 013	A00624	ENCH	13.00
SFG II LLC	505 10062400	RE		
801 N 29 <sup>th</sup> ST	BSC 001 001	A07131	ENCH	1123.00
Billings Clinic	6748 28971	RE		

**Regular City Council Meeting**

**Meeting Date:** 02/11/2013

**TITLE:** Public Hearing for Curb Cut Variance Request for Western Security Bank Remodel & Expansion - Variance # CC - 2013 -01

**PRESENTED BY:** David Mumford

**Department:** Public Works

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**Information**

**PROBLEM/ISSUE STATEMENT**

Glacier Bank is proposing a remodel and expansion project for one of its branch bank affiliates Western Security Bank, located at 2401 Grand Avenue which is the northwest corner of Grand Avenue and 24th Street West. They have purchased property to the west of the current bank property for the expansion. The property owner is requesting a variance from Section 1208(h)(5) of the site development ordinance pertaining to the number of curb cuts allowed by regulation. Two curb cuts are currently allowed by code across the Grand Avenue property frontage. Currently, there are seven curb cuts onto Grand Avenue taking into account the purchased property. The proposed development will reduce the number of curb cuts to three on Grand Avenue.

The property owner is also requesting a variance from Section 1208(i)(4) of the site development ordinance pertaining to the allowable distance of a curb cut at a signalized intersection of two arterial streets. Code requires a minimum distance of one hundred feet of separation from points of curvature of any curb radius and the curb cut. The proposed design is showing a separation of eighty-two feet. In addition, the proposed curb cut is actually being reduced to a sixteen foot width, which is fourteen feet narrower than the existing curb cut to accommodate one way traffic.

The City Engineer's Office has reviewed this proposal and recommends approval of the curb cut variances. The proposed layout is a vast improvement over what is existing today.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the variances; or
- Not approve the variances. If this variances are denied, the owner's options to meet the requirements of the Site Development Ordinance will require redesign of the facility to meet City Code.

**FINANCIAL IMPACT**

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

**RECOMMENDATION**

Staff recommends that the City Council approve the variances.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Attach A-1 Variance

Attach A-2 Variance2

Attach B - Letter

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Attachment A-1

APPLICATION FOR VARIANCE

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

1. Legal description of property: GRAND VISTA SUBD, S35, T01 N, R25 E, BLOCK 3, Lot 1 - 8, LESS ST ON S & E SIDES (09)

Tax ID# geocode: 03-1032-35-4-02-06-0000 Assessment code: 000A081170

2. Address (If unknown, contact the City Engineer's office) or general location: 2401 Grand Avenue (northwest corner of 24th Street West and Grand Avenue)

3. Owner (s): Glacier Bank; Mary Jo Devenor-Owner's Representative

(Recorded Owner)

2812 1st Avenue Ste 324; Billings, MT 59101-2392

(Address)

406-324-8210

mjdevener@westernsecuritybank.com

(Phone Number)

(Email)

4. Agent (s): Eric Simonsen, Chad Schreiner-A&E Architects, P.C.

(Name)

608 North 29th Street; Billings, MT 59101

(Address)

406-248-2633

esimonsen@aearchitects.com

(Phone Number)

(Email)

5. Section of the Site Development Ordinance that this request for variance applies to:

Section 6-1208 (h) (5) ; to allow three driveways serving a development with between 60 - 600 feet. of street frontage.

6. Reason for request: Owner requests variance required frontage to allow three approaches to serve three specific

different functions on the property to customer entry parking, drive-up teller lanes and staff/tenant parking and reduce

total number of approaches from existing count of 6 drive approaches to three.

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

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

Signature: Mary Jo Devenor, SUP Date: 1/21/13 (Recorded Owner)

Fee: 200.00 Receipt #: 025784 Hearing Date: Application #

Attachment A-2

APPLICATION FOR VARIANCE

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

1. Legal description of property: GRAND VISTA SUBD, S35, T01 N, R25 E, BLOCK 3, Lot 1 - 8, LESS ST ON S & E SIDES (09)
Tax ID# geocode: 03-1032-35-4-02-06-0000 Assessment code: 000A081170

2. Address (If unknown, contact the City Engineer's office) or general location:
2401 Grand Avenue (northwest corner of 24th Street West and Grand Avenue)

3. Owner (s): Glacier Bank; Mary Jo Devener-Owner's Representative
(Recorded Owner)
2812 1st Avenue Ste 324; Billings, MT 59101-2392
(Address)
406-324-8210 mjdevener@westernsecuritybank.com
(Phone Number) (Email)

4. Agent (s): Eric Simonsen, Chad Schreiner-A&E Architects, P.C.
(Name)
608 North 29th Street; Billings, MT 59101
(Address)
406-248-2633 esimonsen@aearchitects.com
(Phone Number) (Email)

5. Section of the Site Development Ordinance that this request for variance applies to:
Section 6-1208 (i)(4) ; drive approach distance to a corner at two arterial street corner in a community commercial zone.

6. Reason for request: Owner requests variance from the required distance a drive approach is allowed from a corner at the intersection of two arterial streets to allow a drive approach 82 feet from property corner to taper of approach.

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

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

Signature: Mary Jo Devener (Recorded Owner) Date: 1/21/13

Fee: \_\_\_\_\_ Receipt #: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Application # \_\_\_\_\_

January 22, 2013

## Attachment B

Billings City Council  
210 North 27<sup>th</sup> Street  
Billings, MT 59101

Dear Council Members;

Thank you for your consideration of our request for variance from city code sections 6-1208(i)(4) and 6-1208(h)(5). I would like to take this opportunity to clarify the rationale behind our application for variance.

The existing conditions on site are not ideal and are the result of the property being built in 1974. At the time, the intersection of Grand and 24<sup>th</sup> was at the far west end of Billings and did not have the traffic volume it experiences today. The design easily accommodated the traffic the bank generated at the time and did not cause any traffic issues. Fast forward 40 years....couple the increase in bank customer activity with the traffic volume at the intersection and we have less than ideal circumstances.

Through our planned remodel we are shifting the majority of our ingress traffic, generated by the drive-up and ATM, much further away from the intersection. Additionally, we are providing for significantly more on-site stacking that will move traffic much more quickly off of Grand Avenue and on to our property. Lastly, we are providing for traffic flow on the property rather than on and off Grand Avenue. By making all of these changes, we will be significantly reducing the safety concerns.

Following is our reasoning for each variance request:

**6-1208(i)(4); drive approach distance to a corner at two arterial street corners in a community commercial zone.**

1. Our building, with its unusual footprint, was constructed in 1974 within 85'-0" of the intersection of Grand and 24th Street West. We have key functions that operate within the east portion of the building that need to be accessed from the 24<sup>th</sup> Street side. To eliminate the drive approach located within the minimum required distance of 100'-0" from the intersection would cripple our ability to retain function of the East side of the building.
2. Removing the drive approach within the minimum 100'-0" would create congestion on Grand Avenue by forcing both lobby and drive-up traffic to ingress through the same drive approach. This would nullify many of the benefits of the improvements we are making by shifting the majority of the traffic further west on Grand Avenue. Drive-up and lobby traffic would be competing for access as they attempt to maneuver on the site to their respective areas. This could shift traffic back on to Grand Avenue during busy banking hours.

3. In retaining the current drive approach location, we intend to improve it in every conceivable way. Most significantly by reducing the traffic into the approach. It will remain an ingress only with a reduced width of 16'-0" and will be reconstructed to meet code. Additionally, there will be appropriate signage to indicate "No Exit".

**6-1208(h)(5); to allow three drive approaches serving a development with between 60-600 feet of street frontage.**

1. The existing property encompasses the entire south half of the block between 24<sup>th</sup> and 25<sup>th</sup> Street West. It has (7) existing drive approaches on Grand Avenue. Our intention is to improve upon this condition by reducing the total number of drive approaches to (3). Each drive approach will provide ingress to the property for specific types of traffic; employee/tenant parking, drive-up customers, and lobby customers.
2. By providing (3) drive approaches to serve the individual traffic needs, we mitigate conflicts and congestion that would result from the stacking of drive-up customers at the new drive-up teller line and lobby customers maneuvering to the lobby parking lot.
3. Additionally, the (3) distinct drive approaches allows for traffic flow on the property rather than on and off of Grand Avenue.

I've attached pictures with notes to help you better view the requests that we are asking you to consider. I hope that this letter along with the pictures helps further clarify our need for the two variances and the value they will bring to traffic flow on Grand Avenue. I would welcome the opportunity to answer any questions you may have concerning our request or the planned improvements.

Thank you for your consideration.

Sincerely,



Mary Jo Devenier  
SVP of Operations  
Western Security Bank



**This is the view of our building looking east on Grand Avenue.**

This is the existing approach into our drive-up. We are requesting a variance of code 6-1208(i)(4) to be less than the minimum 100' from the intersection. This will become the entrance to our customer parking.

This is the existing drive approach to our customer parking area. This will become the new approach to the drive-up.



**This is the view of our building looking north across Grand Avenue.**

This is the existing approach to our drive-up. The area will become our customer parking. If the variance isn't granted, all traffic would have to flow through the new drive-up approach with all customer parking funneling through the narrow drive on the south side of the building.



**This is a view of our building from the corner of 24<sup>th</sup> Street West and Grand Avenue.**

This picture provides a perspective of the distance from the corner to the approach we are requesting the variance for.

**Regular City Council Meeting****Meeting Date:** 02/11/2013**TITLE:** Remediation of HUD Finding for South 27th Street Redevelopment Project**PRESENTED BY:** Brenda Beckett**Department:** Planning & Community Services

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

The City of Billings purchased seven (7) lots located along South 27th Street and between 5th and 8th Avenues South utilizing Community Development Block Grant (CDBG) funding as part of a large-scale urban redevelopment project (see attachment). CDBG funding has been utilized to pay for maintenance of the lots and they remain listed as available properties for sale on the City of Billings website at [www.ci.billings.mt.us/cdland](http://www.ci.billings.mt.us/cdland).

On December 17, 2012, the United States Department of Housing and Urban Development (HUD) notified the City of Billings of a finding of non-compliance with regulations relating to the maintenance of these lots. Under 24 CFR 570.201(b), disposition is for property acquired through the sale, lease or donation of property acquired with CDBG funding or its retention for public purposes including reasonable costs of *temporarily* managing such property or property acquired under urban renewal. These properties subsequently must meet a HUD objective, such as *low income client benefit*.

As the property was acquired from 1980-1984, continued management of the property is no longer a valid use of CDBG funds as HUD considers the City's involvement as *long-term rather than temporary*. Further, the City is prohibited from utilizing CDBG funding to maintain the lots and is required to sell the property at market value as established by a certified appraisal. Staff has ordered an appraisal and should have the report by the end of February 2013.

***Proposed Remediation***

The City received \$257,250, or \$5.25/square foot, for the sale of Lots 1-12, 20 and 21 in Block 245 in August 2012. Proceeds from this sale have been set aside in the General Fund for future allocation by the City Council. Although the lots on Block 245 were not purchased with CDBG funds, the lots were included in a large-scale effort to redevelop the neighborhood in which CDBG funds played a significant part in funding the overall project. Immediately following the sale, Community Development staff was asked to prepare an estimate of staff/maintenance costs specific to Block 245. The Division's total investment was estimated at \$52,954 (see attachment); this includes \$44,128 in maintenance costs and \$8,826 in staff costs to manage the properties.

In order to resolve the immediate finding with HUD, and prevent further findings with this project, staff recommends reserving the program income received from the sale of Block 245 and authorizing repayment to HUD for the appraised value of the remaining CDBG lots to immediately clear the finding (estimated at \$128,625 based on \$5.25/square foot). Staff also requests allocation of \$52,954 to reimburse the Division for the maintenance and management of Block 245 lots. These actions should clear all findings due to project management for the South 27th Street Redevelopment project.

### ***Future Use of Lots***

Repayment to HUD alleviates the City's CDBG restrictions on the lots and they can be sold at any time for use deemed appropriate by the City Council.

### **ALTERNATIVES ANALYZED**

The City is required to respond to this finding within 60 days, or by February 14, 2013.

The City Council may:

- Approve repayment to HUD and Community Development with proceeds from Block 245,  
or
- Not repay the funds and provide other guidance for remediation to staff.

### **FINANCIAL IMPACT**

The City purchased the lots on Blocks 184 and 226 utilizing \$103,800 in CDBG funds and utilized an estimated \$51,462 in maintenance and staff costs to manage the land; totalling \$155,262. Should the City receive an appraised value at \$5.25/square foot, CDBG would have maintained a loss overall for the land sale.

Proceeds from the transfer of funds will be submitted to HUD for deposit and later added to the Billings CDBG line of credit for allocation to eligible projects. The City would retain the lots as an asset for future sale without HUD restriction.

### **RECOMMENDATION**

City staff recommends allocating program income received from the sale of Block 245 totalling up to \$257,250 to the Community Development Division. Funds will be utilized to remit the appraised value of Block 184 Lots 23-24, Block 226 Lots 4-5 and 6-8 to HUD and repay administrative costs for property management for Block 245.

### **APPROVED BY CITY ADMINISTRATOR**

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#### **Attachments**

Community Development Lots for Sale

Block 245 Maintenance & Management Costs




CDBG Lots Maintenance & Management Costs


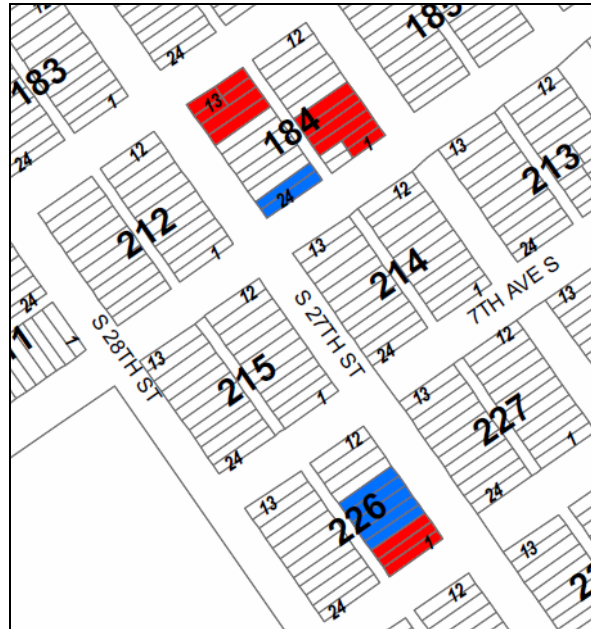
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# COMMUNITY DEVELOPMENT DIVISION

## Remaining Lots for Sale

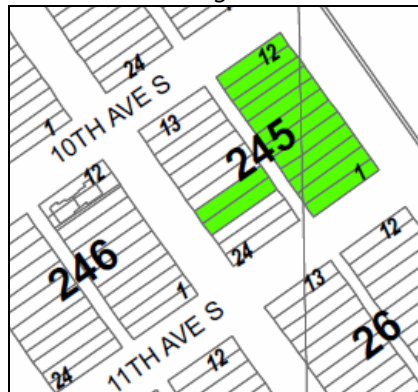
Source of Funding:

Community Development	
	Comm Dev Block Grant
	General Fund
	Tax Increment District

REMAINING CDBG LOTS				
Block	Lot(s)	Square Feet	Address	Tax ID
184	Lots 23-24	7,000	523 South 27th Street	A01245
226	Lots 4-5	7,000	716 South 27th Street	A01690
226	Lots 6-8	10,500	South 27th Street	A01691

Sold in August 2012:



**Blocks included in South 27th Street Maintenance Costs:**

Block	Lot #s	Total Lots	Fund	# TID Lots	# CDBG	# GF/TID
184	1/2 Lots 1 & 2	1	TID	12	7	14
	Lots 3 - 6	4	TID	36%	21%	42%
	Lots 13 - 16	4	TID			
	Lots 23 - 24	2	CDBG			
226	Lots 1 - 3	3	TID			
	Lots 4 - 8	5	CDBG			
245	Lots 1 - 12	12	GF/TID			
	Lots 20-21	2	GF/TID			
<b>TOTAL # LOTS:</b>		<b>33</b>				

Fund	# Lots	% Total
428	26	79%
290s	7	21%

**Weed Costs:**

Fiscal Year	TID Lots	CDBG	GF/TID	Total	Average	Avg GF/TID
2008-2009	\$1,743.04	\$1,016.77	\$2,033.54	\$4,793.35	\$4,147.35	\$1,759.48
2009-2010	\$1,895.85	\$1,105.92	\$2,211.83	\$5,213.60		
2010-2011	\$885.49	\$516.54	\$1,033.07	\$2,435.10		

<b>Snow:</b>	\$1,000	Per Year
<b>TID Lots</b>	<b>CDBG</b>	<b>GF/TID</b>
\$363.64	\$212.12	\$424.24

**Taxes for Block 245:**

Lot #s	Tax ID	Address	2004	2005	2006	2007	2008	2009	2010	2011	2012
Lots 1 - 2	A16020	South 27th	\$46.28	\$46.28	\$49.24	\$55.08	\$55.08	\$55.08	\$48.10	\$48.10	\$48.10
Lots 3 - 10	A01866	1006 South	\$292.42	\$304.24	\$327.62	\$339.32	\$339.32	\$339.32	\$315.84	\$400.74	\$315.84
Lots 11 - 12	A01867	1002 South	\$88.12	\$91.08	\$96.92	\$99.84	\$99.84	\$99.84	\$93.98	\$115.20	\$93.98
Lots 20 - 21	A01870	1006 South	\$119.14	\$119.14	\$119.14	\$122.06	\$122.06	\$122.06	\$123.18	\$153.22	\$123.18
<b>Average:</b>	<b>\$603.11</b>	<b>Total Paid:</b>	<b>\$545.96</b>	<b>\$560.74</b>	<b>\$592.92</b>	<b>\$616.30</b>	<b>\$616.30</b>	<b>\$616.30</b>	<b>\$581.10</b>	<b>\$717.26</b>	<b>\$581.10</b>

City Ownership Calculations	
Nov-96	Start Date
Sep-12	End Date
190	# Months City Owned
<b>16</b>	<b># Years City Owned</b>

**Total Estimated Annual Cost for Block 245 Maintenance:**

Weeds	\$1,760.00
Snow	\$424.00
Taxes	\$603.00
<b>TOTAL:</b>	<b>\$2,787.00</b>

**\$44,128** Maintenance Costs Cost to Maintain Block 245 from 1996 to 2012 Sale

**\$8,826** Staff Costs @ 20%

**Total Cost to Maintain Block 245 from 1996 to 2012 Sale**

**\$52,954**

# Costs to Maintain CDBG Lots

Fiscal Year	Weed Costs	Total	Average
2008-2009	\$1,016.77	\$1,016.77	\$879.74
2009-2010	\$1,105.92	\$1,105.92	
2010-2011	\$516.54	\$516.54	

<b>Snow</b>	\$1,000	Per Year
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TID Lots	CDBG	GF/TID
\$363.64	\$212.12	\$424.24

Block	Lot #s	Tax ID	Address	2004	2005	2006	2007	2008	2009	2010	2011	2012
184	Lots 23-24	A01245	23 South 27th	\$91.08	\$91.08	\$91.08	\$96.92	\$99.84	\$99.84	\$99.84	\$93.98	\$93.98
226	Lots 4-5	A01690	16 South 27th	\$91.08	\$91.08	\$91.08	\$96.92	\$99.84	\$99.84	\$99.84	\$93.98	\$93.98
226	Lots 6-8	A01691	South 27th St	\$126.60	\$126.60	\$126.60	\$135.36	\$139.76	\$139.76	\$139.76	\$130.96	\$130.96
	<b>Average:</b>	<b>\$323.52</b>	<b>Total Paid:</b>	<b>\$308.76</b>	<b>\$308.76</b>	<b>\$308.76</b>	<b>\$329.20</b>	<b>\$339.44</b>	<b>\$339.44</b>	<b>\$339.44</b>	<b>\$318.92</b>	<b>\$318.92</b>

## Total Estimated Annual Cost for CDBG Lots Maintenance:

Weeds	\$880	
Snow	\$212	
Taxes	\$324	<b>Cost per Lot Per Year</b>
<b>TOTAL:</b>	<b>\$1,416</b>	<b>\$202</b>

Block	Lot(s)	Square Feet	Address	Tax ID	Date Purchased
184	Lots 23, 24	7000	South 27th St	A01245	4/19/1984
226	Lots 4, 5	7000	South 27th St	A01690	1/1/1984
226	Lots 6, 7, 8	10500	South 27th Street	A01691	11/1/1980

City Ownership Calculations	
Nov-80	Start Date
Feb-13	End Date
387	# Months City Owned
<b>32</b>	<b># Years City Owned</b>

City Ownership Calculations	
Apr-84	Start Date
Feb-13	End Date
346	# Months City Owned
<b>29</b>	<b># Years City Owned</b>

City owned 3 lots for 32 years, Block 226  
 Cost for 3 lots per year  
 \$607 X 32 Years

**Total Maintenance Costs for Block 226, Lots 6, 7, 8:**  
**\$19,419**

**Cost to Maintain CDBG Lots for 29+ Years:**  
**\$42,885**

City owned 4 lots for 29 years, Block 184 & 226  
 Cost for 4 lots per year  
 \$809 X 29 Years

**Total Maintenance Costs for Block 184, Lots 23, 24 and Block 226, Lots 4, 5:**  
**\$23,465**

**Staff Admin @ 20%:**  
**\$8,577**

**Total Maintenance / Staff Costs: \$51,462**