CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS **February 25, 2013** **6:30 P.M.**

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember McCall

ROLL CALL: Councilmembers present on roll call were:

MINUTES: February 11, 2013

COURTESIES:

PROCLAMATIONS:

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1 and #8A, #8B 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. 12-39, Newman Lane Improvements (curb and gutter, sidewalk, street reconstruction, ADA corners, and approaches)** (Opened 2/12/13) Recommend CMG Construction, Inc.; $245,730.

   B. **Airport Improvement Program (AIP) Runway 10L/28R Rehabilitation Project**

      1. **Bid Award: Airport Runway 10L/28R Rehabilitation** (Opened 2/12/2013) Recommend Riverside Contracting; $7,167,213.

2. **Amendment #5, Engineering Services for Airport Runway 10L/28R Rehabilitation;** Morrison-Maierle, Inc.; $548,450.

C. **Amendment #6, Engineering Services for Airport Cargo Ramp Slot 4;** Morrison-Maierle, Inc.; $339,550.

D. **Approval of Amendment to Special Improvements Agreement** for Vintage Estates Subdivision.

E. **Memorandum of Understanding** between the Police Department and Montana Board of Crime Control accepting $3,200 in allotted funds for purchase of a hostage negotiations trailer.

F. **Grant Application Request** to submit FY2013-2014 Montana State Historic Preservation Office Certified Local Government Grant application; $5,500.

G. **Acceptance** of 2013 Federal Aviation Administration Airport Improvement Grants.

H. **Acceptance** of State Homeland Security Program Grant for replacement of two Fire Department VHF narrow-band radio repeaters; $36,000.

I. **Acceptance** of 2013 High Intensity Drug Traffic Area (HIDTA) Award from Executive Office of the President, Office of National Drug Control Policy, $191,289.

J. **Resolution** relating to $4,100,000 Refunding Certificates of Participation, Series 2013; Authorizing execution and delivery of Ground Lease, Lease Purchase Agreement, Declaration of Trust and related documents for Billings Operations Center.

K. **Preliminary Subsequent Minor Plat** of Amended Lot 4, Block 1, Montana Sapphire Subdivision, generally located just south of the intersection of King Avenue West and Montana Sapphire Drive; Montana Sapphire, LLC, owner; Affinity at Billings, LLC, subdivider; Sanderson Stewart, agent; conditional approval of the plat and adoption of the Findings of Fact.

L. **Final Plat** of Western Subdivision.

M. **Bills and Payroll:**

1. January 28, 2013

REGULAR AGENDA:

2. **TRACT 1, CERTIFICATE OF SURVEY 2587 & TRACT 1, CERTIFICATE OF SURVEY 3329**

A. **PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #13-01:** two parcels totaling approximately 93 acres in Tract 1, C/S 2587, and Tract 1, C/S 3329, generally located northwest of the intersection of Hesper Road and Gabel Road; Industrial Planning Associates, L.P, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

B. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #907:** A zone change from Agriculture Open-Space (A-1) to Controlled Industrial on 2 parcels of land described as Tract 1, C/S 2587 and Tract 1, C/S 3329, generally located northwest of the intersection of Hesper Road and Gabel Road; Industrial Planning Associates, LP, owner; Dowl HKM, agent. On a 2-2 vote, Zoning Commission forwards no recommendation.

3. **PUBLIC HEARING AND RESOLUTION** ordering construction of improvements identified in W.O. 09-20, Rimrock Road from Forsythia Boulevard to Shiloh Road. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

4. **PUBLIC HEARING AND RESOLUTION** assessing the cost of cutting and/or exterminating weeds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

5. **PUBLIC HEARING AND RESOLUTION** assessing the cost of abatement for properties located at 23 Rhea Lane and 1250 Princeton Avenue. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

6. **PUBLIC HEARING AND FIRST READING ORDINANCE:** A text amendment to Section 2-207 of the Billings, Montana, City Code providing that the Office of Mayor or Councilmember shall be forfeited under certain circumstances. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

7. **PUBLIC HEARING AND FIRST READING ORDINANCE** establishing new boundaries for the City of Billings five election wards. Staff recommends adoption of a plan for new ward boundaries. (Action: approval or disapproval of staff recommendation.)

8. **ROSE PARK POOL IMPROVEMENTS**

A. **Resolution** allocating $27,650 of Council Contingency Funds toward construction of a 31-foot-high speed slide at Rose Park Pool to be repaid over the next two years with revenue generated from slide admissions.

B. **Change Order #1 - Construction of 31-foot-high speed slide at Rose Park Pool;** High Tech Engineering; $87,650.

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.

Consent **1. A. 1.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Bid Award: W.O. 12-39 Newman Lane Improvements
PRESENTED BY: David Mumford
Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

W.O. 12-39 Newman Lane Improvements is a project to install missing improvements on Newman Lane and address a storm drainage problem on Stone St. The improvements on Newman Lane include curb and gutter, sidewalk, street reconstruction, ADA corners, and approaches. The storm drainage repair on Stone St. is between South Billings Boulevard and Newman and includes replacing the curb and gutter and approaches on the south side of the street.

Newman Lane is included in the approved CIP. Stone Street is being funded from the yearly Miscellaneous Storm Drain Repair Program which is also included in the approved CIP.

The project was advertised on January 24, 31, and February 7, 2013, in the Billings Times and on the City's Website. Bids were opened on February 12, 2013, and seven bids were received. CMG Construction, Inc. submitted the lowest responsible bid.

ALTERNATIVES ANALYZED

The Council may:

- Award W.O. 12-39 to CMG Construction, Inc. in the amount of $245,730.00; or
- Not award the contract to CMG Construction and reject all bids. If this project is not constructed, Newman Lane will not be improved and TIF funds will not be directed in accordance with the TIF District's priority list.

FINANCIAL IMPACT

The following bids were received and evaluated:

Contractor	Base Bid
Asphalt Plus, Inc.	$251,446.50
Knife River	$249,741.50
CMG Construction, Inc.	$245,730.00
H.L. Ostermiller Construction, Inc.	$309,807.00
Winkler Excavating, Inc.	$259,380.00
JEM Contracting, Inc.	$296,442.00
Hardrives Construction, Inc.	$313,993.47

The funding for the project was budgeted in FY13 and the sources are SBURD revenues, gas tax, and storm drain funds.

Project Budget	$300,000.00
Encumbered Funds	$0.00
This Contract	$245,730.00
Project Budget Remaining	$54,270.00

RECOMMENDATION

Staff recommends the City Council award a contract for W.O. 12-39 to CMG Construction, Inc. in the amount of $245,730.00.

APPROVED BY CITY ADMINISTRATOR

Consent **1. B. 1.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Bid Award for the Airport Improvement Program (AIP) Runway 10L/28R Rehabilitation Project

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

The Airport's approved Capital Improvement Program includes the Runway 10L/28R Rehabilitation Project. Runway 10L/28R is the Airport's only runway that has the strength and is long enough to accommodate the commercial air carriers' large aircraft. The project will be constructed over six weekends in July and August, during which the runway will be closed at 9:00 a.m. Friday and reopened at 6:00 p.m. Sunday. During each of these 57-hour closures the contractor will work continuously to mill off 2-4 inches of the existing pavement surface, replace the milled off surface with 3-5 inches of new asphalt, install new runway edge lights and electrical cabling, and paint the runway markings (edge stripes, centerline, etc.) as required by the FAA before the runway can be reopened. Additionally, during the 6 closures, old Taxiway G will be removed, and a new in pavement temperature sensing system will be installed to assist staff during winter operations with determining the proper surface temperature to apply deicing fluid to the runway surface to prevent ice buildup. The project was advertised in the *Billings Times* on January 10, 17, 24, 31, and February 7, and was posted on the City's Web site. On Tuesday, February 12, 2013, the following bids for this project were received.

CONTRACTOR	BID
Knife River	$7,811,153.90
Riverside Contracting	$7,167,213.00
Engineer's Estimate	$8,921,200.00

ALTERNATIVES ANALYZED

The City Council may:

- Approve the bid award for the Runway 10L/28R Rehabilitation Project; or
- Decline to approve the bid award for the project, reject all bids, and delay the Runway Rehabilitation Project.

FINANCIAL IMPACT

The total low bid cost for this project is $7,167,213. The project includes $22,682 for hold line painting that is an Airport maintenance item and is not eligible for Federal funding. It was included in this project because the hold lines needed painting and given the large amount of other painting in this project, better pricing was anticipated. The remaining $7,144,531 is eligible for 90% Federal funding or $6,430,078, and the remaining 10% Local Share plus the $22,682 for the hold line painting will provide a total local share amount of $737,135. The local share match funds are budgeted and available in the Airport's Passenger Facility Charge (PFC) Capital account.

RECOMMENDATION

Staff recommends that the City Council approve the bid award for the Runway 10L/28R Rehabilitation Project to the low bidder, Riverside Contracting, for the amount of $7,167,213.

APPROVED BY CITY ADMINISTRATOR

Consent **1. B. 2.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Amendment 5 with Morrison-Maierle, Inc. to provide Engineering Services for the Airport's Runway 10L/28R Rehabilitation Project

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

Due to the specialized nature of engineering services required for airfield infrastructure design, including knowledge of the Federal Aviation Administration (FAA) design and grant funding process, the City has historically entered into a five-year term contract to provide engineering services at the Airport. On April 9, 2012, the City approved a five-year contract with Morrison-Maierle, Inc. to provide all the project designs, surveys, development of project plans, specifications and bidding documents, contract administration, construction meeting coordination, pay requests, etc. The contract also includes full time on site inspection, construction surveys, and development and submittal of the final project closeout documents, as required. The five-year term contract is amended each time a project is undertaken.

Due to the complexity and scope of the Runway Rehabilitation project the fees for the project's preliminary design, plans and specifications, were included in a previous amendment. Therefore, Amendment 5 for $548,450 includes all the contract administration, construction meeting coordination, pay requests, full time inspection, construction surveys, and closeout document services for this complex project. The scope of work and associated engineering fees have been reviewed and negotiated by staff and approved by the FAA.

ALTERNATIVES ANALYZED

The City Council may:

- Approve Amendment 5 with Morrison-Maierle, Inc. for the Engineering Services for the Runway 10L/28R Rehabilitation Project; or
- Decline to approve Amendment 5, delaying this critical project.

FINANCIAL IMPACT

The total cost of Amendment 5 with Morrison-Maierle, Inc. for the Engineering Services required for the Runway 10L/28R Rehabilitation Project is $548,450, and will be funded with 90% AIP Entitlement and Discretionary Grants and 10% local match funds. The FAA's portion will be $493,605 with the City's match of $54,845. This project is included in the current budget and the local match funds are budgeted and available in the Airport's Passenger Facility Charge (PFC) Capital account.

RECOMMENDATION

Staff recommends the City Council approve Amendment 5 with Morrison-Maierle, Inc. for $548,450 to provide the Engineering Services at the Airport during the Runway 10L/28R Rehabilitation Project.

APPROVED BY CITY ADMINISTRATOR

Consent **1. C.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Amendment 6 with Morrison-Maierle, Inc. for Airport Engineering Services to Construct Cargo Ramp Slot 4

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

On April 9, 2012, the City approved a five-year contract with Morrison-Maierle, Inc. to provide all the project designs, surveys, development of project plans, specifications and bidding documents, contract administration, construction meeting coordination, pay requests, on site inspection, construction surveys, and development and submittal of the final project closeout documents, as required. The five-year term contract is amended each time a project is undertaken, and Amendment 6 for $339,550, includes all of the services indicated above for this project.

FedEx recently changed the aircraft they use at Billings from B-727s to B-757s. The 757 is a larger aircraft and to accommodate its arrival, Airport staff required the shuffling of space on the west end so that both UPS and FedEx could operate in the same area. The current arrangement is not adequate for either cargo carrier, and the best remedy is to build another large aircraft concrete ramp next to the existing west end ramps. This work will be funded with Airport Improvement Program grant funds in the future. Amendment 6 with Morrison-Maierle will provide the design services required to bid and award the Cargo Ramp Slot 4 project, which includes the construction of a new concrete ramp and new asphalt surfaces on the west and south sides of the new ramp. The scope of work and associated fees have been negotiated by staff and are acceptable for this engineering work.

ALTERNATIVES ANALYZED

The City Council may:

- Approve Amendment Six with Morrison-Maierle, Inc. for the Engineering Services for the Cargo Ramp Slot 4 project; or
- Decline to approve Amendment Six, delaying this project.

FINANCIAL IMPACT

The total cost of Amendment Six is $339,550. Funding for this project is available in the Airport's capital account and will be reimbursed with FAA AIP Grant funds at 90% in the future.

RECOMMENDATION

Staff recommends the City Council approve Amendment Six with Morrison-Maierle, Inc. for $339,550 to provide the Engineering Services at the Airport for the Cargo Ramp Slot 4.

APPROVED BY CITY ADMINISTRATOR

Consent **1. D.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Amendment to Subdivision Improvement Agreement for Vintage Estates Subdivision

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

Vintage Estates Subdivision, located on the south side of Grand Avenue, at 54th Street West, was platted and recorded in April 2005. The Subdivision Improvements Agreement (SIA) recorded with the plat states that construction of public improvements, including streets, utilities, and storm water facilities, will be installed in three phases. The owner, Vintage Estates, LLC, and the representing agent, Sanderson Stewart, are requesting that the SIA be amended to allow for development to occur in four phases instead of three. City Engineering, Fire, Parks, Legal and other staff have carefully reviewed the proposed changes and support this modification to the phasing plan. The modifications are attached, and shown as underlined and crossed out text of the appropriate SIA sections.

The City Subdivision Regulations, Section 23-1103, BMCC, describes the procedure for amending recorded SIAs and other supporting plat documents. It indicates that after a request to amend a document is received and reviewed by affected agencies, the Planning Division shall submit a recommendation to the City Council. The City Council may approve the request if it does not significantly alter the original approval and does not conflict with the review criteria set forth in these regulations.

ALTERNATIVES ANALYZED

City Council may:

- Approve the request to amend the SIA for Vintage Estates Subdivision; or
- Deny the request to amend the SIA for Vintage Estates Subdivision.

FINANCIAL IMPACT

Approval of the amendment to the SIA would not have a financial impact to the City.

RECOMMENDATION

Staff recommends that City Council approve the request to amend the Subdivision Improvements Agreement for Vintage Estates Subdivision.

APPROVED BY CITY ADMINISTRATOR

Attachments

Letter of Request

New Phasing Plan

Proposed SIA Amendments

SANDERSON STEWART

December 12, 2012

Ms. Juliet Spalding
City of Billings Planning Department
510 North Broadway
Billings, MT 59102

Reference: Revised Subdivision Improvement Agreement
Vintage Estates Subdivision
Project No. 79017.23

Ms. Spalding:

This letter is to explain the reasons for revising the Subdivision Improvements Agreement (SIA) recorded with Vintage Estates Subdivision. The phasing within the subdivision has been modified and it has become necessary to revise the SIA to match. The revised SIA redefines the need and timing of required improvements and also the amount and timing of when financial guarantees and cash contributions will be required with each phase. The proposed revisions to the SIA have been discussed with Planning Department, Engineering and still meet recommendations made in the original traffic study for the subdivision. Please review the SIA and let me know if you have any questions or if you need any additional information, please contact me at 406/656-5255.

Sincerely,

Gary T. Owen, PE

GTO/hg
Enc.
P:79017_23_Spalding_Letter_121212

1300 North Transtech Way
Billings, Montana 59102
Phone 406.656.5255
Fax 406.656.0967
www.sandersonstewart.com

PHASING EXHIBIT FOR

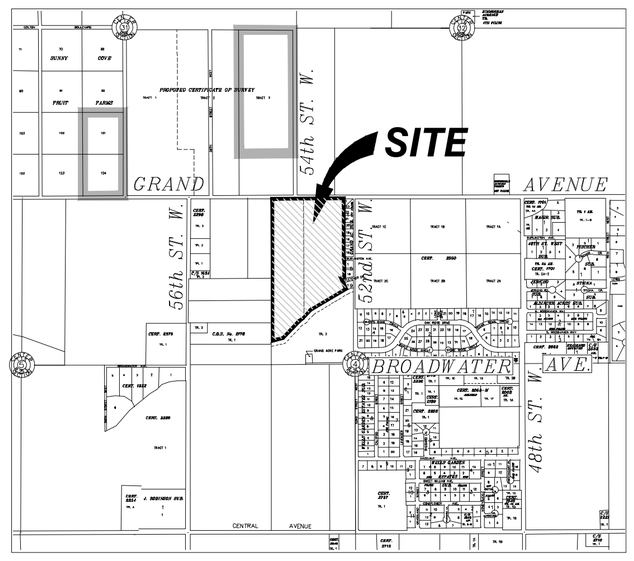
VINTAGE ESTATES SUBDIVISION

BEING TRACTS 1 AND 2 OF CERTIFICATE OF SURVEY No. 1877
SITUATED IN THE NW 1/4 OF SECTION 4 T. 1 S. R. 25 E. P.M.M.
YELLOWSTONE COUNTY MONTANA

PREPARED FOR : VINTAGE ESTATES LLC
PREPARED BY : SANDERSON STEWART
SCALE : 1" = 100'

DECEMBER, 2012
BILLINGS MONTANA

100' 50' 0 100' 200'



VICINITY MAP
NOT TO SCALE

SUNNY COVE FRUIT FARMS
AMENDED LOT 65A

-UNPLATTED-

54TH ST. WEST

SW COR, SECT. 32, T1N, R25E, PMM
FOUND BRASS CAP MON BOX

GRAND AVENUE

N 89°59'46" E 1167.86'

POINT OF BEGINNING:
S89°59'46"W 149.41' FROM THE
N1/4 COR, SECT 4, T1S, R25E

Section Line

30'

N1/4 COR, SECT. 4, T1S, R25E, PMM
FOUND BRASS CAP

LOT 1

8' WIDE UTILITY EASEMENT
1' NO-VEHICULAR ACCESS STRIP

- BLOCK 1 -
- BLOCK 2 -
- BLOCK 3 -
- BLOCK 4 -
- BLOCK 5 -
- BLOCK 6 -
- BLOCK 7 -
- BLOCK 8 -

VINTAGE LANE
MERLOT LANE
BURLINGTON AVE.
CABERNET LANE
RIESLING LANE
BERINGER LANE
VINEYARD WAY
BERINGER WAY
VINEYARD CIRCLE

8' WIDE PEDESTRIAN EASEMENT
16' WIDE UTILITY EASEMENT
5' WIDE SIDEWALK STREETLIGHT & FIRE HYDRANT EASEMENT

PARK (STORMWATER DETENTION AREA) 61216 SF

PARK (HERITAGE TRAIL) 17929 SF
10' WIDE PEDESTRIAN EASEMENT
60' WIDE BIG DITCH EASEMENT

PARK (HERITAGE TRAIL) 10480 SF
5' WIDE SIDEWALK STREETLIGHT & FIRE HYDRANT EASEMENT

PHASE I
PHASE II
PHASE III
PHASE IV

N 00°19'12" W 2269.53'

S 00°00'53" W 990.00'

SUBDIVISION
GRAND AVENUE WEST
1 - Block 2 - ACRES
1 - Block 9 - ACRES
1 SUB. - Block 5 - GRAND
1 - Block 1 - GRAND

Tract 1C
CERTIFICATE OF SURVEY No. 1877
Tract 2C
CERTIFICATE OF SURVEY No. 1877
Tract 3
CERTIFICATE OF SURVEY No. 2209
Tract A
Tract B

BASIS OF BEARING: CERTIFICATE OF SURVEY No. 1877

o = FOUND SURVEY MONUMENT AS NOTED

= SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT"

1234 = TYPICAL STREET ADDRESS

NORTH

N 89°59'46" E 8.00'

279.24'

S 00°00'53" W

Δ=5°32'08"
R=400.00'
L=38.65' (Record: 38.64')
CHORD
S69°23'56"W
38.63'

S 23°22'40" E 173.49' (Record: 173.48)

52ND STREET

650.07' (Record: 650.12')

S 60°14'05" W

S 42°20'48" W 173.43'

S 51°48'32" W 60.83'

S 42°20'48" W 392.00'

S 76°19'48" W 208.47'

C.O.S. No. 2178
Tract 1

OAK
GRANITE RIDGE CIRCLE
RIDGE
ESTATES
DOVETAIL AVE.
SUBDIVISION
GRAND PARK ACRES
BROADWATER AVE.

Mid-Section Line

C1/4 COR, SECT. 4, T1S, R25E, PMM

Return to:
Sanderson Stewart.
1300 North Transtech Way
Billings, MT 59102

MODIFICATION OF SUBDIVISION IMPROVEMENTS AGREEMENT VINTAGE ESTATES SUBDIVISION

This Modification of Subdivision Improvements Agreement (this "Modification") is made this _____ day of _____, 20__, by and between **VINTAGE ESTATES, LLC,** whose address for the purpose of this agreement is PO Box 20875, Billings, MT 59104 hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City".

RECITALS

WHEREAS, the plat of Vintage Estates Subdivision (the "Subdivision"), located in the City of Billings, Yellowstone County, Montana, is subject to the terms of that certain Subdivision Improvements Agreement by and between the Subdivider and City recorded April 15, 2005, under Document No. 3329141,in the office of the Yellowstone County Clerk and Recorder (the "Agreement"); and

WHEREAS, pursuant to Section 5. H of the Agreement, the Agreement may be modified in writing and executed in the same manner as the Agreement.

AGREEMENT

The parties hereby agree as follows:

1. Amendment. Section 3. A. 1. b; Section 3. A. 1. d; Section 3. A. 6, Section 3. A. 7; Section 3. D; Section 4. A; Section 4. B; Section 4. C; Section 4. D; Section 4. F; Section 4. G; and Section 4. H of the Agreement shall be deleted and replaced with the following:

3. Subdivider hereby agrees to construct the following improvements as required in conformance with City of Billings Subdivision Regulations:

A. STREETS

1. *Street Construction*

b. According to the *Billings Urban Area 2000 Transportation Plan*, Grand Avenue is classified as a principal arterial. The Subdivider and City agree that the development of existing Tracts 1 and 2 of Certificate of Survey No. 1877 would trigger improvements to the south half of the Grand Avenue right-of-way. These improvements include curb and gutter on the south side of the right-of-way adjacent to the property, 5-foot wide boulevard walk along the south side of Grand Avenue adjacent to the Subdivision and paving necessary to construct a westbound left-turn lane at the primary access on Grand Avenue. The improvement plans and specifications will be approved by the City Engineer and be in accordance with City of Billings requirements. Because of the uncertain grade information along Grand Avenue, these improvements may not be constructed at this time but shall, in this event, be secured by a suitable financial guarantee as may be approved by the City of Billings. The financial guarantee shall be submitted at the time of ~~Phase II~~ Phase III improvements. The developer shall build a westbound left turn lane as part of ~~Phase I~~ Phase III improvements. In addition, the developer would be responsible for 1.9 percent of the cost to construct a westbound right-turn lane at the Grand Avenue-54th Street West intersection and 1.2 percent of the cost of intersection improvements at the 54th Street West-Rimrock Road intersection. These costs shall be $3,040.00 and $1,800.00, respectively, and shall be submitted at the time of Phase II improvements.

d. In the event that Tract 3 of Certificate of Survey No. 1877 is subdivided or improved in the future, a connection utilizing arch culvert across the Big Ditch will be constructed, with the developer and the owning entity of Tract 3 of Certificate of Survey No. 1877 each responsible for half of the total cost of materials and construction. Any connection across the ditch would require permission from

the Big Ditch. A cash-in-lieu contribution for this improvement would be made by the developer at the time of ~~Phase III~~ Phase IV improvements. At time of construction, a cost share agreement would be negotiated between the two parties and be would approved by the City of Billings.

6. *Heritage Trail*

The Heritage Trail Non-Motorized Trail System Plan recommends a multi-use trail along the southern boundary of the subdivision. Vintage Estates Subdivision proposes that the Heritage Trail be located along the north side of the Big Ditch, adjacent to the Big Ditch Easement.

A 20-foot right-of-way shall be provided by the developer for the multi-use trail. The trail shall connect to the pedestrian network of Vintage Estates Subdivision. The Heritage Trail shall be constructed during ~~Phase III~~ Phase IV development of Vintage Estates Subdivision.

7. *Traffic Control Devices*

The Subdivider shall furnish and install all necessary traffic control devices adjacent to the Subdivision. Traffic control devices shall include all necessary signing, striping and channelization devices to properly complete the implementation of the proposed street construction.

All traffic control and street improvements will be as outlined in the approved traffic accessibility study provided to the City by the Subdivider. The traffic circles shall be approximately 10-foot inside diameter and shall contain landscaping within the island. Maintenance of said landscaping shall be part of the Vintage Estates Park Maintenance District. The traffic accessibility study will be subject to review and approval by the City Traffic Engineer.

Traffic circles ~~shall~~ may be installed by the Subdivider at the Vineyard Way-Burlington Avenue and Beringer Way-Cabernet Lane intersections. Design of said traffic circles shall be approved by the City Traffic Engineer.

Any change of anticipated use of any lot from that estimated in the original traffic accessibility study will require an update of the traffic analysis and recommendations.

D. PARKS AND OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Paragraph (1) calls for park area to be 11 percent of the land proposed to be subdivided into parcels of one-half acre or smaller. A portion of this 11% will be provided ~~as~~ by dedication of ~~an~~ 1.405-acre on-site park and 0.652 acres of trail corridor. A Park Maintenance District will be set up for ~~this portion~~ the park area. As part of Phase I ~~improvements~~, 1.290 acres of the parkland dedication will be ~~dedicated~~ credited. As part of Phase II ~~improvements~~, ~~.768~~ .384 acres of the parkland will be ~~dedicated~~ credited and a cash-in-lieu payment for ~~.522~~ .261 acres for the development of Cottonwood Park will be contributed. As part of Phase III improvements, .384 acres of parkland will be credited and a cash-in lieu payment for ~~1.290~~ .261 acres will be contributed for the development of Cottonwood Park. As part of Phase IV improvements, a cash-in lieu payment for 1.290 acres will be contributed for the development of Cottonwood Park. Park development will occur as part of ~~Phase III~~ Phase IV improvements. The cash-in-lieu contribution amount will be determined by a vacant land appraisal or a recent conveyance document establishing the value of the unsubdivided land. This land value will be determined at the time of Phase II, ~~and~~ Phase III and Phase IV development. Along with this, the subdivider agrees that it will be part of the Park Maintenance District associated with Cottonwood Park.

4. PHASING

A. The Phase I improvements shall be constructed utilizing a private contract. The Phase I improvements shall include construction of those portions of Vintage Lane, Beringer Way, Vineyard Way and Merlot Lane adjacent to the Phase I lots, including all necessary utilities within said streets. ~~In addition, a westbound left-turn lane shall be installed as part of Phase I improvements.~~ Phase I construction will also include construction of a temporary

stormwater retention area as defined within an approved stormwater management report.

B. The Phase II improvements shall be constructed utilizing a private contract. The Phase II improvements shall include construction of those portions of Beringer Way, Vineyard Way and Burlington Avenue ~~and Cabernet Lane~~ adjacent to the Phase II lots, including all necessary utilities within said streets. The 20-foot wide emergency access road connecting the end of Burlington Avenue to 52nd street West and up 52nd Street West to Grand Avenue shall also be constructed in Phase II. The emergency access road, barricades and signage shall be constructed as approved by the City Fire Department. Phase II will also include additional stormwater retention area as defined within an approved stormwater management report.

C. The Phase III improvements shall be constructed utilizing a private contract. The Phase III improvements shall include construction of those portions of Beringer Way, Vineyard Way, ~~Riesling Lane, Beringer Lane, and Vineyard Circle~~ and Cabernet Lane adjacent to Phase III lots, including all necessary utilities within said streets. In addition, a westbound left-turn lane shall be installed as part of Phase III improvements. Phase III will also include additional stormwater retention area as defined within an approved stormwater management report.

D. The Phase IV improvements shall be constructed utilizing a private contract. The Phase IV improvements shall include construction of those portions of Beringer Way, Vineyard Way, Riesling Lane, Beringer Lane, and Vineyard Circle adjacent to Phase IV lots, including all necessary utilities within said streets.

F. The Subdivider will install the Phase II improvements in the future. The subdivider agrees not to sell or convey any lots in the subdivision to be served by the Phase II improvements, and the Subdivider further acknowledges that no building permits for lots within Phase II shall be issued until a private contract has been executed for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase II are more particularly described as follows:

Phase II

Lots 11 through ~~15~~ 13, inclusive, Block 1; Lot 10, Block 2; Lots 8 through 14, inclusive, Block 4; Lots 1 through ~~16~~ 8, inclusive, Block 5; ~~Lots 1 through 7, inclusive, Block 6~~; and lots ~~6~~ 10 through 11, inclusive, Block 8, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (~~42~~ 21 lots total).

G. The Subdivider will install the Phase III improvements in the future. The Subdivider agrees not to sell or convey any lots in the Subdivision to be served by the Phase III improvements, and the Subdivider further acknowledges that no building permits for lots within Phase III shall be issued until a private contract has been executed and necessary funding guarantees have been provided for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase III are described as follows:

Phase III

Lots ~~16~~ 14 through ~~19~~ 15, inclusive, Block 1; Lots ~~8~~ 1 through ~~13~~ 7, inclusive, Block 6; ~~Lots 1 through 4, inclusive, Block 7~~; Lots ~~1~~ 6 through ~~5~~ 9, inclusive, Block 8; ~~and lots 1 through 9, inclusive, Block 9~~, and Lots 9 through 16, inclusive, Block 5, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (~~28~~ 21 lots total).

H. The Subdivider will install the Phase IV improvements in the future. The Subdivider agrees not to sell or convey any lots in the Subdivision to be served by the Phase IV improvements, and the Subdivider further acknowledges that no building permits for lots within Phase IV shall be issued until a private contract has been executed and necessary funding guarantees have been provided for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase IV are described as follows:

Phase IV

Lots 16 through 19, inclusive, Block 1; Lots 8 through 13, inclusive, Block 6; Lots 1 through 4, inclusive, Block 7; Lots 1 through 5, inclusive, Block 8; and lots 1 through 9, inclusive, Block 9, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (28 lots total).

Pursuant to the foregoing Agreement, the Subdivider shall execute and record a Declaration of Restriction on Transfers and Conveyances for said Phase II and Phase III and Phase IV lots (attached hereto) to be recorded concurrently with the recording of this Agreement. Said Declaration notifies all third parties that said lots may not be legally sold, conveyed, or transferred until a release executed by the City of Billings and substantially in the form of Exhibit A attached hereto has been recorded in the office of the Clerk and Recorder of Yellowstone County, Montana. No lots shall be released until a certificate substantially in the form of Exhibit B attached hereto has been executed by the Department of Public Works stating that the above conditions have been met, which certificate must accompany any request for a release. By the acceptance and recording of the Agreement, the City does hereby authorize the Department of Public Works, Mayor, and City Clerk of the City to review any request for release and to execute such certificates and releases as may be necessary to evidence a release from the restriction against sale, conveyance, and transfer of lots in the Subdivision.

2. Ratification. But for the amendment expressly made in this Modification, Subdivider and City hereby ratify and confirm the provisions of the Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER"

VINTAGE ESTATES, LLC.

By:_____

Its:_____

STATE OF MONTANA)
: ss
County of Yellowstone)

On this _____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of VINTAGE ESTATES LLC., who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

"CITY"

CITY OF BILLINGS, MONTANA

By:_____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
:ss
County of Yellowstone)

On this _____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana whose names are subscribed to in the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

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

Approved as to Form:

_____
City Attorney

Consent **1. E.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Approval of MOU Between the Billings Police Department and the Montana Board of Crime Control for Purchase of Hostage Negotiations Trailer

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

The Billings Police Department (BPD) contacted the Montana Board of Crime Control (MBCC) to request funds to purchase a trailer to be used for hostage negotiations. BPD needs a shelter that will house their negotiators, necessary equipment and can be easily moved to an incident scene. Often times the negotiations can go on for hours, and there is a need for protection from the elements, as well as confidentiality purposes. The BPD has raised $2,200 to go toward the $5,400 purchase price of a trailer and has requested $3,200 from the MBCC.

MBCC is willing to allocate $3,200 to the BPD for the purchase of the trailer by means of this Memorandum of Understanding (MOU).

ALTERNATIVES ANALYZED

The City Council may:

- Approve the MOU between the BPD and MBCC to accept the $3,200 in allotted funds or;
- Not approve the MOU in allotted funds in the amount of $3,200, thus costing the BPD the full expense of the trailer.

FINANCIAL IMPACT

There is no financial impact to the City as there is no match required for this allocation of funds.

RECOMMENDATION

Staff recommends City Council approve and accept the MOU between the BPD and MBCC to accept the $3,200 in allotted funds.

APPROVED BY CITY ADMINISTRATOR

Consent **1. F.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Certified Local Government Grant Program
PRESENTED BY: Candi Beaudry
Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The State of Montana Historic Preservation Office has designated the City of Billings as a Certified Local Government (CLG) for historic preservation activities. As a CLG, the City is eligible to receive state funding to coordinate historic preservation efforts in the area. Applications for FY2013-14 funding from the State are due on March 1, 2013. The City of Billings has been utilizing Certified Local Government funding for activities in support of the efforts of the Yellowstone Historic Preservation Board since 1997. A description of these activities is provided in Attachment 2. The City Council must authorize the submission to the state for funding for the FY2013-14 grant cycle.

ALTERNATIVES ANALYZED

The Billings City Council may:

- Agree to participate in the State CLG program and accept CLG grant funding to coordinate historic preservation activities; or
- Decline to participate in State CLG program and not accept CLG grant funding to coordinate historic preservation activities

FINANCIAL IMPACT

City Council approval would allow the City of Billings to apply for $5,500 in State of Montana Certified Local Government funding. The local cash match for the Certified Local Government will be $2,500. The Planning Division will provide $1,031 towards the local cash match. The Yellowstone Historic Preservation Board will request $1,000 from Yellowstone County and $469 from the City of Laurel towards the remaining local cash match of $2,500. There is also an in-kind match of $45,011 for a total cash match of $47,511. The $45,011 in-kind match is from calculating time and salary of the Historic Preservation Officer, as well as use of conference space and time of the Yellowstone Historic Preservation Board (See atatched CLG Application). The total cash funding package is $8,000 ($5,500+$2,500) that is used for consulting services provided by the Western Heritage Center to perform activities identified in the Yellowstone Historic Preservation Board Annual Work Plan.

RECOMMENDATION

Staff recommends that the City Council authorize the submission of an application for a $5,500 Certified Local Government grant from the Montana State Historic Preservation Office.

APPROVED BY CITY ADMINISTRATOR

Attachments

CLG Application

Certified Local Government Grant Application

April 1, 2013 to March 31, 2014

Application Deadline

March 1, 2013

Montana State Historic Preservation Office
PO Box 201202
Helena, MT 59620-1202
(406) 444-7715

2013-2014 GRANT APPLICATION

CERTIFIED LOCAL GOVERNMENT PROGRAM

Certified Local Government: City of Billings

Address: 510 North Broadway, 4th Floor, Parmly Billings Library, Billings, MT 59101

Contact Person: Lora Mattox, AICP, Historic Preservation Officer, Planner II

Period of Grant Request: April 1, 2013 to March 31, 2014

Scope of Work: The National Park Service asks we grant funds to CLGs for kinds and levels of work that reflect increasing sophistication, skills, and roles by the Preservation Officers, in other words, tasks that reflect improvement in community thinking. For this section, please itemize regular work duties (not including special projects) – products or projects starting or completing, meetings to be attended, etc., and more specifically, ways in which the local program will grow and develop. Please tie your tasks to your community's Preservation Plan. If not, please explain.

(❒ Check if Scope of Work is continued on additional pages.)

The Cities of Billings and Laurel, Yellowstone County, and the Crow Tribal Council entered into an inter-local agreement in July 1993 establishing the Yellowstone Historic Preservation Board (YHPB). Along with the inter-local agreement, the four governmental entities adopted ordinances setting up a multi-government YHPB, appointed nine (9) qualified board members, and a Historic Preservation Officer. Since that time, the YHPB has been meeting monthly and has continued to develop and refine an encompassing Historic Preservation Program implementing the specific goals of the historic element of the 2008 Growth Policy.

We anticipate a similar budget as submitted last year with local funds being provided through the City of Billings, City of Laurel, and Yellowstone County in the amount of $2,500. This amount combined with the $5,500 from the CLG provides $8,000 for consulting services provided by Western Heritage Center. In addition to the local funds, the Planning Division also provides in-kind match through room usage, supplies and staff time. Also, Historic Preservation Board members' time is also counted towards in-kind match. As mentioned above, the CLG and local funds are used to contract services with the Western Heritage Center and assist in carrying out the following activities:

- Assist Board and Historic Officer in undertaking action to meet short and long-range goals established by the Board. See Attachment A.
- Provide professional services to assist Board, Officer, and the City in performing duties and responsibility identified in the City's Historic Preservation Ordinance MCA 27-500.
- Act as a historic preservation center by providing technical assistance, direction, and literature on the following:
  a. Historic preservation tax credits
  b. National Register
  c. Federal historic preservation regulations, and
  d. Secretary of Interior Standards related to historic preservation activities
- Attend community meetings related to preservation activities, on behalf of the Board upon request.
- Plan and coordinate activities and publicity during National Preservation Week in May.
- Carrying out the responsibilities for the CLG Program as outlined in "The Certified Local Government Program in Montana."
- Submit semi-annual reports on the historic preservation efforts of the community carried out by the City under the CLG grant.

BUDGET

4-1-2013 to 3-31-2014 Budget	Cash Amount	Cash Source	In-kind Amount	In-kind Source	Total
A. Salaries, Wages, Benefits	$42,240.00	HPO-$44/hr x 80 hrs/mo x 12 mos CI/CO			$42,240.00
B. Office Rental			$1,000.00 Large conf. room @ 2 hrs/mo x $50/hr x 10 mtgs./yr	CI/CO	$1,000.00
C. Equipment			*	CI/CO	
D. Supplies & Materials Itemize major categories			*	CI/CO	
E. Postage			*	CI/CO	
F. Telephone & Internet			*	CI/CO	
G. Photocopies			*	CI/CO	
H. Preservation Commission Number of hours X * rate X number of members X number of meetings			$1,771.00 2 hrs/mo x $17.71/hr x 5 members x 10 mtgs/yr	YHPB	$1,771.00
I. Volunteers Hours X * rate X number of volunteers.					

J. Travel Mileage Number of miles X $0.555. Include funds for HPO and/or Commissioners to attend CLG annual training			*	CI/CO	
K. Travel Meals # of Meals X rate: Breakfast - $5.00 Lunch - $6.00 Dinner - $12.00			*	CI/CO	
L. Lodging $70.00 plus tax X number of nights			*	CI/CO	
M. Project (s) Expenses – fully itemized	$5,500.00 $2,500.00	F CI/CO			$8,000
N. Other Expenses – fully itemized.					
M. Total Expenses	$50,240.00	F CI/CO	$2,771.00	YHPB CI/CO	$53,011

SOURCE KEY:

F-Federal
CI-City
CO-County
NP- Private/Non-Profit

* Federally approved minimum rate for volunteers is $17.71 per hour.

SOURCES OF REVENUE/FUNDING	AMOUNT
Itemized Cash Match Source	
City of Billings	$1,031.00
City of Laurel	$ 469.00
Yellowstone County	$1,000.00
HPO Time City of Billings	$42,240.00
Itemized In-Kind Match Source	
Room rental for board meetings	$1,000.00
YHPB member time	$1,771.00
Federal HPF Grant Request from SHPO	
CLG Funds	$5,500.00
TOTAL REVENUE	$53,011.00

Certified Local Government
Historic Preservation Commission Chairperson or President

Signature _____ Date _____

Name (typed) _____

Address _____

Telephone _____

* * * *

Please attach the meeting minutes (or an alternate way in writing) at which your application was discussed and approved by the Preservation Board/Commission.

Please attach a list of the historic preservation board members' names citizen membership, terms (year ending), and contact information., professional discipline or

Yellowstone Historic Preservation Board Work Plan
2012-2013

Goals & Objectives:

I. Promote the preservation of historic buildings, sites or neighborhoods.

II. Increase community awareness on the benefits of historic preservation activities.

III. Promote increased awareness of preservation activities and the work of the YHPB through the four governing bodies represented on the Board.

IV. Comply with the duties and responsibilities of historic preservation organizations under the State Certified Local Government Program and the requirements of the Inter-local Agreement.

2012- 2013Projects

1. To assist with the National Register of Historic Places nomination of McKinley Elementary School.

Time Frame: 2012-2013
Who: YHPB Board and HPO/WHC, North Elevation Task Force
Status: Ongoing. This is part of the North Elevation Task Force but will be nominated individually. Subcommittee members: Kathleen, Julie and Kevin.

2. To assist North Elevation Task Force in the development of a Historic Residential District, provide technical assistance as needed.

Time Frame: Continuing until complete
Who: YHPB Board, WHC and staff, North Elevation Task Force
Status: This project is ongoing and the board will continue assisting as needed.

3. Continue as a resource to public and private organizations for the development of the "Billings Through the Decades" sign board.

Time Frame: 2012-2013
Who: YHPB, WHC, HPO
Status: This project will continue as the YHPB being a local historic resource for the completion of boards as desired by public and private organizations.

4. Prepare education trunks for area youth organizations to use on a loan basis.

Time Frame: 2012-2013
Who: Kathleen Armstrong is the lead board member, YHPB, WHC, HPO, possibly Montana SHPO
Status: This project is working toward completion. After compilation, the trunks will be housed and maintained by the WHC.

5. **Review data prepared by MSU-B students on the inventory of historic barns, silos and other important structures in Yellowstone County. Determine if 2 to 3 properties could be eligible for the National Register and contact property owners to gage interest.**

Time Frame: 2012-2013
Who: YHPB, WHC, HPO will monitor.
Status: The board will review this project as time allows.

6. **Investigate potential funding sources to identify and catalog historic documents located throughout Yellowstone County and develop a plan for preservation either through the scanning of historic documents or locating an appropriate location for housing permanent historic documents.**

Time Frame: 2012-2013
Who: YHPB, WHC, HPO, Yellowstone Genealogy Forum, possibly Montana SHPO
Status: This project is in preliminary review.

Annual Board Activities

1. **Continue the review of building permits submitted for properties located within the designated historic district.**

Time Frame: Ongoing
Who: Committee and HPO

2. **To provide up to date information to the general public, continually update the web site on activities and programs.**

Time Frame: Ongoing
Who: WHC

3. **Promote additional nominations to the National Register. Assure resources are available for property owners, such as literature and technical assistance. Look at possible nomination of school sites in conjunction with local school districts.**

Time Frame: Ongoing
Who: YHPB Board/HPO/WHC

4. **Expand YHPB meetings to alternate locations. To take advantage of some of our many historic venues, the board wishes to expand meetings to alternate locations. This is an event that will take place quarterly.**

Time Frame: Ongoing
Who: HPO/WHC

5. **Due to a loss of potential historic buildings within the City of Billings, an effort is being made to notify WHC and a member of the board about upcoming demolitions. The Building Department notifies HPO on the release of demolition permits, HPO notifies members of the demolition and a determination is made to either document/photograph building.**

Time Frame: Ongoing
Who: HPO/WHC/Board

6. **To provide additional funds to the YHPB for projects, continue exploration of grant opportunities.**

Time Frame: Ongoing
Who: HPO/WHC

7. **To keep the YHPB abreast of Historic Preservation Activities, consultants and the HPO will attend meetings as needed.**

Time Frame: Ongoing
Who: WHC/HPO

8. **To provide a forum for Historic Preservationist to share their successes and discuss projects and to present historic preservation awards, continue to host the Historic Preservation Roundtable yearly.**

Time Frame: Yearly
Who: WHC/HPO/Board
Status: Preservation Month - May

9. **To continually update the local governing bodies of the activities undertaken by the YHPB, annual PowerPoint Presentations will be made to the City of Billings, the City of Laurel and Yellowstone County.**

Time Frame: Yearly
Who: Chair/WHC/HPO
Status: The scheduling of these meetings will take place yearly during spring.

10. Celebrate National Historic Preservation Month. Board will decide on a program, speakers and other events to commemorate this event.

Time Frame: Yearly
Who: Committee/WHC
Status: This event will occur yearly during May.

11. Continue the review of Community Development Block Grant rehabilitation projects as needed.

Time Frame: Ongoing
Who: YHPB/WHC

12. Continue to review and update the information relating to the Downtown Billings Electronic Walking. Discuss with the City of Laurel to include their new downtown historic district to the application.

Time Frame: Yearly
Who: Committee/WHC

Consent **1. G.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Acceptance of Federal Aviation (FAA) Airport Improvement Program (AIP) Grants for 2013

PRESENTED BY: Tom Binford

Department: Airport

Information

PROBLEM/ISSUE STATEMENT

It is necessary to secure the City Council's approval and authorization for the Mayor to execute this year's Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants. This year's Grants provide the entitlement and discretionary funding needed to undertake the engineering and construction for this year's project, which is the Rehabilitation of Runway 10L/28R, the Airport's main runway. This project includes the removal and overlay of 8,500 feet of Runway 10L/28R, the removal of old Taxiway G, the installation of new runway edge lights and electrical cabling, and the installation of a runway temperature sensing system to assist with runway deicing operations.

This year's total grant allocation will be a combination of the Airport's annual Grant Entitlements, previous year Entitlement carryovers, and Discretionary Grant funding. While this year's Runway Rehabilitation Project is expected to be just over $8,000,000, the Airport and the FAA agreed to fund some of the project in last year's AIP Grant. Subsequently, just over $1,300,000 of the project is already under Grant and AIP funds for $1,189,000 have been secured toward the project's cost. This leaves approximately $6,750,000 of project cost to fund. Given the high priority of this project within the FAA Northwest Mountain Region, staff anticipates that the FAA will provide the Airport with a grant for approximately $6,055,000 prior to the start of construction. However, in the event the Grant funds should be delayed due to the timing of the Federal Budget issues, the Airport, with the help of the Finance Department, worked out a line of credit with US Bank to ensure that funding is available as needed. Given the long lead times needed by the airlines to adjust their reservation systems, the need to provide public announcements to the community to plan around the Summer weekend closures, and the great amount of planning required for this type of project, having a secondary financial funding source will allow this project to proceed as planned, regardless of the timing of Federal funds. This is a project that needs to be completed in order to ensure the long term viability of the Airport's main runway, and subsequently the economic well being of the community. Since the Airport may receive the Grant funds for this project in smaller individual Grants as each is released by the FAA, Council is being asked to authorize the Mayor to execute each Grant as it is received.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the acceptance of this year's AIP Grants, authorizing the Mayor to execute each Grant offer; or
- Decline to approve the acceptance the this year's AIP Grants, and not complete the project at this time.

FINANCIAL IMPACT

It is estimated that the costs of the engineering services and the construction for the Runway Rehabilitation Project will be approximately $8,000,000. The AIP Grants will fund 90% of this cost ($7,200,000) and the Airport will provide a 10% local share match ($800,000). The source of the Airport's match is the Department's Passenger Facility Charge (PFC) capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the acceptance of this year's AIP Grants and authorize the Mayor to execute each of the FAA AIP Grant allocations received this year by the Airport.

APPROVED BY CITY ADMINISTRATOR

Consent **1. H.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Federal Grant #2010-SS-TO-0089 Narrowband Repeater Replacement
PRESENTED BY: Paul Dextras
Department: Fire

Information

PROBLEM/ISSUE STATEMENT

On January 30, 2013, the Billings Fire Department was notified that a grant has been awarded for the purchase of two (2) VHF narrowband repeaters. This grant is a 100% Federal share grant awarded by the Department of Homeland Security, Federal Emergency Management Agency, administered through the Montana Dept of Military Affairs/MT Disaster & Emergency Services Grants Bureau.

ALTERNATIVES ANALYZED

City Council may:

- Accept the $36,000 grant through the Montana Department of Military Affairs/Montana DES Grants Program Bureau; or
- Not accept the $36,000 grant.

FINANCIAL IMPACT

With this 100% Federally funded grant, the Fire Department will replace the east and west VHF radio repeaters and make them narrowband compliant.

RECOMMENDATION

Staff recommends that the City Council accept the $36,000 State Homeland Security Program Grant for the replacement of the east and west VHF repeaters.

APPROVED BY CITY ADMINISTRATOR

Consent **1. I.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Acceptance and Approval of the 2013 HIDTA Award in the Amount of $191,289.00

PRESENTED BY: Rich St. John

Department: Police

Information

PROBLEM/ISSUE STATEMENT

In 2002, Montana was designated a High Intensity Drug Traffic Area (HIDTA). The Office of National Drug Control Policy (ONDCP) has awarded grants to the Eastern Montana Drug Task Force for eleven years and the City of Billings is the recipient agency for the grants.
The ONDCP has offered a $191,289 grant for the calendar year 2013. The grant is used to battle the methamphetamine epidemic in Montana communities. The HIDTA Task Force consists of personnel from U.S. Marshal's Service, FBI, Drug Enforcement Administration (DEA), Alcohol, Tobacco & Firearms (ATF), Immigration & Customs Enforcement (ICE), Department of Criminal Investigation (DCI), Yellowstone County Sheriff's Office, and the Billings Police Department. The Task Force is managed by a Sergeant from the Billings Police Department. The 2013 HIDTA Award will be used to pay for a Support Specialist position for the HIDTA Task Force, task force overtime, administrative and investigative travel, automobile rental costs, cell phones, copier maintenance agreement, investigative/office supplies, and informant costs. HIDTA does pay for all overtime costs associated with the Task Force.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the acceptance of the 2013 HIDTA Award in the amount of $191,289, or
- Not approve the acceptance of the 2013 HIDTA Award in the amount of $191,289, thus costing the Public Safety Fund the expense of investigating and prosecuting drug related cases.

FINANCIAL IMPACT

The 2013 HIDTA Award in the amount of $191,289 will require no City match. The award has been budgeted in Fund 255 for the balance of FY 12/13.

RECOMMENDATION

Staff recommends that the City Council approve and accept the 2013 HIDTA Award from the Executive Office of the President, Office of National Drug Control Policy, in the amount of $191,289, and authorize the Mayor to sign the necessary award documents, when they are received.

APPROVED BY CITY ADMINISTRATOR

Consent **1. J.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Billings Operations Center (BOC) Refinancing Bond Resolution and Agreements

PRESENTED BY: Patrick M Weber

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

In 2003, the City entered into a lease purchase agreement in order to finance the construction of the Billings Operation Center on Midland Road. $6,600,000 was financed for twenty years at an interest rate of 5.14%. The average annual interest rate that is achieved by refinancing is 2.97%, resulting in a net present value savings of $493,600. Because of favorable market conditions, the savings exceeded the original estimate of $375,000.

ALTERNATIVES ANALYZED

Once the resolution is approved, the City can proceed with the bond closing.

FINANCIAL IMPACT

The savings will be passed on to the the departments that pay for the debt through their rent at the Billings Operation Center.

RECOMMENDATION

Staff recommends that Council approve the bond resolution and agreements.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

Trust Agreement

Escrow Agreement

Ground Lease

Lease Purchase Agreement

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO $4,100,000 REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2013; AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, LEASE PURCHASE AGREEMENT, DECLARATION OF TRUST AND RELATED DOCUMENTS" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on February 25, 2013, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____ _____; voted against the same: _____ _____; abstained from voting thereon: _____ _____; or were absent: _____.

WITNESS my hand officially this 25th day of February, 2013.

_____
City Clerk

(SEAL)

RESOLUTION NO. _____

RESOLUTION RELATING TO $4,100,000 REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2013; AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, LEASE PURCHASE AGREEMENT, DECLARATION OF TRUST AND RELATED DOCUMENTS

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

Section 1. Authorization and Recitals.

1.01. Pursuant to Resolution No. 03-179960 adopted on February 27, 2003, the City entered into a Lease Purchase Agreement with Koch Financial Corporation (the "Refunded Lease") in order to finance construction of the City's Public Services Facilities (the "Improvements") in the amount of $6,600,000. Amounts owing under the Refunded Lease are payable over a 20-year term, with interest at a rate of 5.14% per annum. In May 2010, Koch Financial Corporation transferred its interest in the Refunded Lease to Banc of America Public Capital Corp.

1.02. For the purposes of reducing the interest cost under the Refunded Lease, this Council has determined to prepay the Refunded Lease with proceeds from the issuance of Certificates of Participation, Series 2013 (the "Certificates of Participation"), to Piper Jaffray & Co., of Denver Colorado (the "Original Purchaser"), in a private negotiated sale. The Certificates of Participation are issued pursuant to Montana Code Annotated, Sections7-1-4124 and 7-8-4101.

Section 2. Purchase and Sale.

2.01. The Original Purchaser and the City have entered into a Certificate Purchase Agreement, dated as of January 29, 2013, regarding the purchase and sale of the Certificates of Participation in the aggregate principal amount of $4,100,000 at a purchase price of $4,312,480.05 (reflecting underwriter's discount of $36,900.00 and a reoffering premium of $249,380.05). The Certificates of Participation bear interest at the rates and mature on the dates and in the amounts and contain the further terms and conditions set forth in the Lease and the Trust Agreement (each as defined herein). The sale of the Certificates of Participation to the Original Purchaser is hereby ratified and confirmed.

The interest rates to be borne by the Certificates of Participation result in a total dollar interest cost of $694,544.44 and an average annual interest rate of 2.972655% per annum, and a net present value savings of $493,582.99, using a discount rate of 1.827897% per annum (the approximate yield of the Certificates of Participation) over the remaining term of the Refunded Lease.

Section 3. Documents.

3.01. Ground Lease and Lease. The City has agreed with U.S. Bank National Association in Seattle, Washington (the "Trustee") that the Trustee will, pursuant to a Ground

Lease between the City and the Trustee (the "Ground Lease"), lease from the City the real property whereon the Improvements are located (the "Land"), and the Trustee will sublease the Land and lease and agree to sell the Improvements acquired, renovated, constructed and equipped thereon to the City pursuant to a Lease Purchase Agreement between the Trustee and the City (the "Lease").

3.02. Trust Agreement and Escrow Agreement. The Trustee will execute and deliver a Declaration of Trust (the "Trust Agreement"), joined in by the City, pursuant to which the Trustee will (i) issue the Certificates of Participation representing interests in the Rental Payments (as defined in the Lease) to be made by the City under the Lease and (ii) receive the proceeds of the sale of the Certificates of Participation, together with funds from the City's debt service account for the Refunded Lease, and deposit such proceeds in the Escrow Account created by the Escrow Agreement to prepay the Refunded Lease, all as set forth in the Trust Agreement and Escrow Agreement.

3.03. Approval of Documents. In connection with the issuance of the Certificates of Participation, forms of the Lease, the Ground Lease, the Trust Agreement and the Escrow Agreement have been presented to this Council and are hereby approved substantially in the forms presented. Each of the Mayor, the City Finance Director and City Clerk is hereby authorized and directed to approve, execute and deliver the such documents to the Trustee, together with such modifications thereto as may be approved by the officer or officers executing the same, which approval shall be conclusively evidenced by the execution thereof. Each of the Mayor, the City Finance Director and the City Clerk is also authorized to enter into and deliver such other documents and certificates as may be necessary or desirable in connection therewith, in the opinion of Dorsey & Whitney LLP, as special counsel to the City, or as may be reasonably required by the Trustee or the Original Purchaser.

Section 4. Issuance of Certificates. All acts, conditions and things which are required by the Constitution and laws of the State of Montana to be done, to exist, to happen and to be performed precedent to and in the valid issuance of the Lease and Certificates of Participation having been done, now existing, having happened and having been performed, the City shall cause the Trustee to issue the Certificates of Participation in the form and upon the terms set forth in the Trust Agreement. The Mayor, the City Finance Director and City Clerk are authorized to approve the final terms of the Certificates of Participation, which approval shall be conclusively evidenced by the execution of the Trust Agreement by said officers. The Mayor, the City Finance Director and City Clerk are authorized and directed to prepare the Certificates of Participation as prescribed in the Trust Agreement and to deliver them to the Trustee, together with a certified copy of this Resolution and other documents required by the Trust Agreement, for authentication and delivery to the Original Purchaser. The Trustee is hereby appointed authenticating agent with respect to the Certificates of Participation, and as paying agent for the Certificates of Participation pursuant to the Trust Agreement.

Section 5. Payment of Rental Payments. The City will pay to the Trustee promptly when due, all of the Rental Payments (as defined in the Lease) and other amounts required by the Lease. To provide moneys to make such payments, the City will include in its annual budget, for each fiscal year during the term of the Lease, moneys sufficient to pay and for the purpose of paying all Rental Payments and other amounts payable under the Lease, and will take all other

actions necessary to provide moneys for the payment of the obligations of the City under the Lease from sources of the City lawfully available for this purpose. The agreements of the City in this Section 5 are subject to the provisions for termination set forth in the Lease, which shall provide that the Lease will be subject to termination by the City, without penalty, at the end of any fiscal year of the City, if the Council notifies the Trustee, not later than June 1 of that fiscal year that it will not budget or appropriate money for the payment of the City's obligations under the Lease for the succeeding fiscal year. The full faith and credit and ad valorem taxing powers of the City are not pledged to the payment of the City's obligations under the Lease or Certificates of Participation.

Section 6. Continuing Disclosure.

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

During the past five years, the City has complied in all material respects with any undertaking previously entered into by it under the Rule.

If the City fails to comply with the Disclosure Covenants, any person aggrieved thereby, including the Owners of any outstanding Certificates of Participation, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of the Disclosure Covenants, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder. Notwithstanding anything to the contrary contained in the Disclosure Covenants, in no event shall a default under this Section 6 constitute a default under the Certificates of Participation or under any other provision of this Resolution.

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

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

(1) on or before 365 days after the end of each fiscal year of the City, commencing with the fiscal year ending June 30, 2013, the following financial information and operating data in respect of the City (the "Disclosure Information"):

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

(B) To the extent not included in the financial statements referred to in paragraph (A) above, the information of the type set forth below, which information may be unaudited:

(1) updated figures for the City for the then current fiscal year to include general obligation bonds outstanding, market valuation, taxable valuation, estimated City population, and debt capacity;

(2) a description of any additional borrowing of the City;

(3) tax levy and collection figures for the then current fiscal year in a format similar to the table in the Official Statement in the section "City Tax Rates, Levies and Collections"; and

(4) a list of the major taxpayers for the City for the then current fiscal year in a format similar to the table in the Official Statement in the section "City Property Values—Major Taxpayers".

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

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

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

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

(2) In a timely manner not in excess of ten business days, notice of the occurrence of any of the following events:

(A) principal and interest payment delinquencies;
(B) non-payment related defaults, if material;
(C) unscheduled draws on debt service reserves reflecting financial difficulties;
(D) unscheduled draws on credit enhancements reflecting financial difficulties;
(E) substitution of credit or liquidity providers, or their failure to perform;
(F) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Certificates of Participation or other material events affecting the tax status of the Certificates of Participation;
(G) modifications to rights of holders of the Certificates of Participation, if material;
(H) bond calls, if material, and tender offers;
(I) defeasances;
(J) release, substitution or sale of property securing repayment of the Certificates of Participation, if material;
(K) rating changes;

(L) bankruptcy, insolvency, receivership, or similar event of the obligated person;

(M) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(N) appointment of a successor or additional trustee or the change of name of a trustee, if material.

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

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

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

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

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

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

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

(d) Term; Amendments; Interpretation.

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

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

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

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

Section 7. Tax Covenants and Certifications.

7.01. General Covenant. The City covenants and agrees with the owners from time to time of the Certificates of Participation that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest component of the Rental Payments payable under the Lease and received by the registered owners of the Certificates of Participation to become includable in gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code") and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest component of the Rental Payments payable under the Lease and received by the registered owners of the Certificates of Participation will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

7.02. Improvements. The City represents and covenants that the City is the lessee of the Improvements and uses them for its municipal functions. So long as the Certificates of Participation are outstanding, the City will not enter into any lease, use agreement or other contract or agreement respecting the Improvements which would cause the Lease and Certificates of Participation to be considered a "private activity bond" or "private loan bond" pursuant to the provisions of Section 141 of the Code.

7.03. Arbitrage Certification. The Mayor, the City Finance Director and the City Clerk being the officers of the City charged with the responsibility for issuing the Certificates of Participation pursuant to this Resolution, are authorized and directed to execute and deliver to the Original Purchaser a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and

circumstances in existence on the date of issue and delivery of the Lease and the Certificates of Participation, it is reasonably expected that the proceeds of the Lease and the Certificates of Participation will not be used in a manner that would cause the Lease and the Certificates of Participation to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

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

7.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than May 15, 2013, a statement concerning the Lease and the Certificates of Participation containing the information required by Section 149(e) of the Code.

Section 8. Transcript Certification. The officers of the City are directed to furnish to the Original Purchaser certified copies of all proceedings and information in their official records relevant to the authorization of the Lease and the Certificates of Participation and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and enforceability of the Lease and the Certificates of Participation and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

Section 9. Repeals and Effective Date.

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

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

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 25th day of February, 2013.

CITY OF BILLINGS, MONTANA

_____
Mayor

Attest: _____
City Clerk

(SEAL)

Return To:
City of Billings, Montana
Office of City Clerk
201 North 27th Street
Billings, Montana 59101

DRAFT 02/04/2013

DECLARATION OF TRUST

by

U.S. BANK NATIONAL ASSOCIATION

and

CITY OF BILLINGS, MONTANA

MARCH 5, 2013

Relating to

REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2013

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EXHIBIT A FORM OF REFUNDING CERTIFICATE OF PARTICIPATION A-1

DECLARATION OF TRUST

THIS DECLARATION OF TRUST is dated as of March 5, 2013 (the "*Trust Agreement*"), by U.S. Bank National Association, Seattle, Washington, a national banking association duly organized and existing under the laws of the United States (the "*Trustee*"), and joined in by the City of Billings, Montana, a political subdivision of the State of Montana (the "*City*").

W I T N E S S E T H:

WHEREAS, the City previously entered into a Lease Purchase Agreement dated as of March 3, 2003 between Koch Financial Corporation, as lessor, and the City, as lessee (the "*Refunded Lease*"), for the purpose of financing the design, construction and equipping of the City's Operations Center (as hereinafter defined, the "*Improvements*"), located on certain real estate owned by the City (as hereinafter defined, the "*Land*"), pursuant to Montana Code Annotated, Sections 7-1-4124 and 7-8-4101;

WHEREAS, the City has determined that it is necessary to refinance the City's obligations with respect to the Refunded Lease;

WHEREAS, the City and the Trustee have entered into a Ground Lease dated as of the date hereof (the "*Ground Lease*"), whereby the City leases the Land to the Trustee;

WHEREAS, the Trustee, as lessor (the "*Lessor*"), and the City, as lessee (the "*Lessee*"), have entered into a Lease Purchase Agreement dated as of the date hereof (the "*Lease*"), which provides, among other things, for the lease and sale by Lessor to Lessee of the Premises (as hereinafter defined) and for the payment of periodic Rental Payments (as hereinafter defined) to Lessor by Lessee with respect thereto;

WHEREAS, the City has requested that the Trustee serve both as Lessor under the Lease and as trustee hereunder, and the Trustee has agreed to serve in those capacities;

WHEREAS, the City, in order to obtain the most advantageous terms of financing, has requested the Trustee to create the trust and Trust Fund (as hereinafter defined) to assign to the trust its right, title and interest in and to the Lease, including, without limitation, the Rental Payments and other amounts due thereunder, and the Ground Lease, and to issue Refunding Certificates of Participation, Series 2013 (the "*Certificates*"), in the trust, representing undivided interests in the Lease and the right to receive the Rental Payments thereunder; and

WHEREAS, Piper Jaffray & Co., in Denver, Colorado (the "*Original Purchaser*") has agreed to purchase the Certificates;

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions. For the purposes of this Trust Agreement, capitalized terms used herein but not otherwise defined shall have the respective meanings given such terms in the Lease. In addition, the terms defined in this Section 1.1 shall, for all purposes of this Lease and Exhibit attached hereto, have the meanings herein specified.

Additional Certificates: means any additional Certificates issued pursuant to Section 3.23 hereof.

Authorized Officer: when used with respect to the City, means the Mayor, City Finance Director or City Clerk or any other person who is designated in writing by the City Council as an Authorized Officer for purposes of this Trust Agreement. The term "Authorized Officer," when used with respect to the Trustee, means any vice president and/or trust officer who is authorized to take the action in question on behalf of the Trustee.

Certificates: means the Certificates prepared and delivered by the Trustee pursuant to this Trust Agreement.

Certificate Payment Date: means March 1 and September 1 of each year commencing September 1, 2013.

Closing Date: means March 5, 2013.

Costs of Issuance: means all fees and expenses incurred by the City in connection with the execution and delivery of the Lease and the issuance of the Certificates, including, but not limited to, costs of preparing the Certificates, this Trust Agreement, the Lease, the Ground Lease, the Official Statement relating to the Certificates, and related documents; legal fees (including those of counsel to the Trustee, the City and the Original Purchaser); and the Trustee's initial fees.

Escrow Agreement: means the Escrow Agreement dated as of the date hereof by and between the City and U.S. Bank National Association, as escrow agent.

Ground Lease: means the Ground Lease dated as of the date hereof by and between the City, as lessor, and Trustee, as lessee, relating to the Land, and any amendment thereof or supplement thereto.

Improvements: means the design, construction and equipping of the City's Operations Center.

Land: means the real property legally described on Exhibit A to the Lease.

Lease: means the Lease Purchase Agreement dated as of the date hereof by and between the Trustee, as Lessor, and the City, as Lessee, and any amendment thereof or supplement thereto.

Original Purchaser: means Piper Jaffray & Co., in Denver, Colorado.

Outstanding: when used with reference to the Certificates and as of any particular date, means all Certificates theretofore delivered except: (i) any Certificate canceled or fully paid by the Trustee at or before said date; (ii) any Certificate in lieu of or in substitution for which another Certificate shall have been delivered pursuant to this Trust Agreement; and (iii) for the sole purpose of determining the percentage of Certificate Owners consenting to an amendment to this Trust Agreement or authorizing any action by the Trustee or the exercise of any remedy hereunder, any Certificate owned by the City or any of its departments, agencies, institutions, instrumentalities or political subdivisions. For all other purposes, Certificates owned by the City or any such entity which are not described in paragraphs (i) and (ii) shall be treated as Outstanding hereunder.

Owner: when used with respect to the Certificates, means the registered owner of any Outstanding Certificate.

Permitted Investments: means any one or more of the following:

(1) The following direct obligations of the United States:

(a) United States government treasury bills, notes, and bonds and in United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations;

(b) United States treasury receipts in a form evidencing the holder's ownership of future interest or principal payments on specific United States treasury obligations that, in the absence of payment default by the United States, are held in a special custody account by an independent trust company in a certificate or book-entry form with the federal reserve bank of New York; or

(c) general obligations of the following agencies of the United States, provided that the investment has a fixed or zero-coupon rate and does not have prepayments based on underlying assets or collateral:

(i) federal home loan bank;

(ii) federal national mortgage association;

(iii) federal home mortgage corporation; and

(iv) federal farm credit bank;

(2) Shares of a money market mutual fund or other collective investment fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least $100,000,000, and having a rating AAAm or AAAm-G by a nationally recognized rating agency, including money market

mutual funds from which the Trustee or its affiliates derive a fee for investment advisory or other services to the fund; and

(3) Time or savings deposits placed in a bank, savings and loan association, or credit union in the State, or demand deposits placed in a bank, provided that the institution in which the money is deposited shall pay on the money no less than the rate of interest as is paid on money from private sources on the same terms.

Premises: means the Land and the Improvements.

Principal Office: means (i) when used with respect to the Trustee, the principal corporate trust office of the Trustee, which at the date of this Agreement is located at 1420 Fifth Avenue, 7th Floor, Seattle, Washington, provided that with respect to payments on the Certificates and any exchange, transfer or surrender of the Certificates, means c/o U.S. Bank National Association, 60 Livingston Avenue, St. Paul, Minnesota 55107, or such other location designated in writing by the Trustee; and (ii) when used with respect to any Paying Agent other than the Trustee, such office as is designated in writing to the Trustee.

Record Date: means the 15th day of the calendar month next preceding any Certificate Payment Date, regardless whether such day is a business day.

Redemption Account: means the Redemption Account within the Trust Fund established pursuant to Article IV hereof.

Register: means the Register maintained by the Registrar pursuant to Section 3.14 of this Trust Agreement.

Registrar: means the Trustee or any successor Registrar appointed pursuant to Section 6.3 hereof.

Rental Payment: means the payment due from the City, as Lessee, to the Trustee, as Lessor, on each Rental Payment Date during the Term of the Lease, as shown on Exhibit B to the Lease.

Rental Payment Account: means the Rental Payment Account within the Trust Fund established pursuant to Article IV hereof.

Supplemental Trust Agreement: means any trust agreement supplemental or amendatory to this Trust Agreement entered into by the City and the Trustee pursuant to Section 3.23 hereof.

Section 1.2. Rules of Construction. Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Trust Agreement, refer to this Trust Agreement.

ARTICLE II

RECITALS AND REPRESENTATIONS

Section 2.1. Lease of the Premises. The Trustee and the City have entered into the Ground Lease whereby the City has leased to the Trustee the Land for a term as described therein. The Trustee and the City have entered into the Lease whereby the Trustee agrees to lease and sell the Improvements and sublease the Land to the City and the City agrees to lease and purchase the Improvements and sublease the Land from the Trustee.

Section 2.2. Creation of Trust. The Trustee hereby, at the request of the City, creates a trust for the benefit of the Owners from time to time of the Certificates issued hereunder. The trust created hereunder shall be irrevocable while any Certificates are Outstanding hereunder. The corpus of the trust shall consist of (i) all of the Trustee's right, title and interest in and to the Lease, including, without limitation, the Rental Payments and other amounts due thereunder, and except the rights of the Trustee to compensation, reimbursement or indemnity from the City thereunder, which rights are specifically reserved by the Trustee, (ii) all of the Trustee's right, title and interest in and to the Ground Lease, (iii) the Trust Fund established pursuant to Article IV hereof, including all money and securities held in the accounts created therein and (iv) any other property or rights hereafter assigned or contributed to the trust by the City or the Trustee by amendment or supplement hereto.

Section 2.3. Conditions Precedent Satisfied. All acts, conditions and things required by law to exist, happen and be performed precedent to and in connection with the execution and entering into of this Trust Agreement have happened and have been performed in regular and due time, form and manner as required by law and the parties hereto are now duly empowered to execute and enter into this Trust Agreement.

ARTICLE III

CERTIFICATES; TERMS AND PROVISIONS

Section 3.1. Preparation of Certificates. The Trustee is hereby directed to prepare, execute and deliver to the Original Purchaser, Certificates in an aggregate principal amount of $4,100,000 evidencing undivided ownership interests in the Rental Payments to be paid by the City under the Lease, in exchange for the purchase price thereof.

Section 3.2. Form; Denominations; Medium of Payment. The Certificates shall be delivered in fully registered form without coupons in the denominations of $5,000 each or any integral multiple thereof (which form shall be substantially in the form set forth in Exhibit A hereto and by this reference herein incorporated), with such further appropriate particular designation added to or incorporated in such title for the Certificates as may be set forth in this Trust Agreement. The Certificates shall be payable in any lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 3.3. Date of Certificates. The Certificates shall be originally dated as of the Closing Date. Interest with respect to Certificates shall accrue from their date of original issue or from the most recent date to which interest has been paid or duly provided for.

Section 3.4. Payment of Principal and Interest with Respect to Certificates.

(a) The Certificates shall mature on September 1 on the dates and in the amounts set forth below, and shall bear interest from date of issue to the next succeeding Certificate Payment Date or to maturity or prior redemption at the annual rates set forth below:

Certificate Maturity	Principal Amount	Interest Rate
2013	$180,000	2.000%
2014	370,000	2.000
2015	375,000	3.000
2016	385,000	3.000
2017	400,000	3.000
2018	410,000	3.000
2019	425,000	3.000
2020	435,000	3.000
2021	450,000	3.000
2022	460,000	3.000
2023	210,000	3.000

Principal due on the Certificates at maturity or redemption thereof, whichever is earlier, shall represent the sum of the portion of the Rental Payments designated as principal coming due on the Certificate Payment Dates in each year.

(b) Interest with respect to the Certificates shall be payable on March 1 and September 1 of each year, commencing September 1, 2013, as described on Exhibit B to the Lease. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

(c) The Certificates shall be subject to redemption as provided in this Article III.

Section 3.5. Optional Redemption. The Certificates are not subject to optional redemption.

Section 3.6. Extraordinary Redemption of Certificates. The Certificates shall be subject to extraordinary redemption and prepayment, in whole or in part, at the option of the City on any date upon the conditions and terms set forth below:

(a) there occurs an event of damage, destruction or condemnation relating to the Premises and the City elects in its sole discretion not to repair or rebuild the Premises; or

(b) the agreements contained in this Trust Agreement shall have become impossible to perform in accordance with the intent and purposes of the City as expressed therein, or unreasonable burdens or excessive liabilities shall have been imposed upon the City as a result of (i) any changes in the Constitution of the State of Montana or the Constitution of the United States of America, or of any legislative or administrative action, whether state or federal or (ii) any final decree, judgment or order of any court or administrative body, whether state or federal, entered after the contest thereof by the City in good faith.

Certificates redeemed as a result of any of the events described above in this Section 3.6 shall be redeemed at a price equal to the principal amount to be redeemed plus accrued interest thereon to the redemption date, without premium.

Section 3.7. Legends. The Certificates may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with this Trust Agreement as may be necessary or desirable to comply with custom, or otherwise as may be determined by the City prior to delivery thereof.

Section 3.8. Execution. The Certificates shall be executed in the name of and by the Trustee, as trustee under this Trust Agreement, by the manual signature of an Authorized Officer of the Trustee. The Trustee shall execute and deliver the Certificates upon delivery to the Trustee of the following:

(1) An original or certified copy of the resolution adopted by the governing body of the City authorizing or approving the issuance of such Certificates and the execution of this Trust Agreement, Lease and Ground Lease;

(2) An original executed Trust Agreement providing for the issuance of such Certificates;

(3) An original executed Lease;

(4) An original executed Ground Lease; and

(5) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of the Certificates.

Section 3.9. Interchangeability of Certificates. Certificates, upon surrender thereof at the Principal Office of the Trustee with a written instrument of transfer satisfactory to the Registrar, duly executed by the Owner or the Owner's attorney duly authorized in writing, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of Certificates of the same maturity of other authorized denominations.

Section 3.10. Negotiability, Transfer and Registry. All the Certificates issued pursuant to this Trust Agreement shall be negotiable as provided by law subject to the provisions for registration and transfer contained in this Article III and in the Certificates.

Section 3.11. Transfer of Certificates.

(a) The registration of each Certificate shall be transferable only upon the Register, which shall be kept for the purpose at the Principal Office of the Registrar, upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the Owner or the Owner's duly authorized attorney. The Registrar, however, may close the books for registration of any transfer after the fifteenth day of the month preceding any Rental Payment Date and until such payment. Upon the registration of the transfer and the surrender of any such Certificate, the Registrar shall provide, in the name of the transferee, a new Certificate or Certificates of the same aggregate principal amount and maturity as the surrendered Certificates.

(b) The Registrar shall deem and treat the person in whose name any Outstanding Certificate shall be registered upon the Register as the absolute Owner of such Certificate, whether such Certificate shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and interest payments with respect to such Certificate and for all other purposes, and all such payments so made to any such Owner or upon the Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Certificate to the extent of the sum or sums so paid, and neither the Registrar, the City nor the Trustee shall be affected by any notice to the contrary.

Section 3.12. Regulations with Respect to Exchange and Transfer. In all cases in which the privilege of exchanging or transferring Certificates is exercised, the Registrar shall execute and deliver Certificates in accordance with this Article III. All Certificates surrendered in any such exchanges or transfers shall forthwith be canceled and destroyed by the Registrar. For every such exchange or transfer of Certificates, whether temporary or definitive, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge, required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The cost of transfers and exchanges of Certificates shall be charged to the person requesting them.

Section 3.13. Register. The Registrar shall keep or cause to be kept at its Principal Office a Register, which shall at all times be open to inspection by the Original Purchaser and the City; and, upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Register, Certificates as hereinbefore provided.

Section 3.14. Temporary Certificates. Pending preparation of the definitive Certificates, any Certificates delivered under this Trust Agreement may be initially delivered in temporary form exchangeable for definitive Certificates when ready for delivery. The temporary Certificates may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, shall be without coupons and may contain such reference to any of the provisions of this Trust Agreement as may be appropriate. Every temporary Certificate shall be executed by the Registrar and be delivered by the Registrar upon the same conditions and in

substantially the same manner as definitive Certificates. If the Registrar delivers temporary Certificates, it shall execute and furnish definitive Certificates without delay and, thereupon, the temporary Certificates shall be surrendered for cancellation at the Principal Office of the Registrar and the Registrar shall deliver in exchange for such temporary Certificates an equal aggregate principal amount of definitive Certificates of authorized denominations and of the same maturity and interest rate or rates. Until so exchanged, the temporary Certificates shall be entitled to the same benefits under this Trust Agreement as definitive Certificates delivered pursuant hereto.

Section 3.15. Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate shall become mutilated, the Registrar, at the expense of the Owner of said Certificate shall execute and deliver a new Certificate of like tenor, maturity and number in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Registrar of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Registrar shall be canceled by it and either destroyed or delivered upon the order of the City. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Registrar, and, if such evidence is satisfactory to the Registrar and if an indemnity satisfactory to the Registrar shall be given, the Registrar, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like tenor and maturity and numbered as the Registrar shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Registrar may require payment of an appropriate fee for each new Certificate delivered under this Section 3.16 and of the expenses which may be incurred by the Registrar in carrying out the duties under this Section 3.16, from the person requesting the same. Any Certificate issued under this Section 3.16 in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Registrar shall not be required to treat both the original Certificate and any duplicate Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be issued hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and duplicate Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section 3.16, in lieu of delivering a new Certificate for a Certificate which has been mutilated, lost, destroyed or stolen and which has matured, the Registrar may make payment of such Certificate.

Section 3.16. Place of Payment. The Trustee is hereby appointed as the paying agent for the Certificates. The principal of all Certificates shall be payable upon surrender thereof at the Principal Office of the Trustee. Interest with respect to Certificates shall be payable by check or draft of the Trustee mailed on the Certificate Payment Date to the Owner of record as of the Record Date at the address shown on the Register. Any interest on any Certificate which is payable but which is not punctually paid or duly provided for ("*Defaulted Interest*") shall be payable, on a date selected by the Trustee, to the Person in whose name such Certificate is registered in the Register at the close of business on a Special Record Date selected by the Trustee and which shall be at least ten (10) days but not more than thirty (30) days before the date selected by the Trustee for payment of such Defaulted Interest. The Trustee shall give notice by mail of the Special Record Date and date for payment of Defaulted Interest at least ten (10) days before the Special Record Date.

Notwithstanding any other provisions of this Agreement, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, the Trustee shall pay all principal of and interest on such Certificate, and shall give all notices with respect to such Certificate, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Certificates to the extent of the sum or sums so paid.

Section 3.17. Evidence of Signatures of Certificate Owners and Ownership of Certificates. Any request, direction, consent, revocation of consent, or other instruments in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Certificate Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the holding and ownership of Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Certificate Owner or the Owner's attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions that the person signing such instrument acknowledged before him or her the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of authority.

(b) The ownership of Certificates shall be proved by the Register held by the Registrar under the provision of this Trust Agreement.

Nothing contained in this Article III shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which may reasonably seem sufficient to the Trustee. Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or suffered to be done by the City or the Trustee in pursuance of such request or consent.

Section 3.18. Securities Depository for Certificates. For purposes of this Section 3.19 the following terms shall have the following meanings:

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

"Cede & Co." shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Certificates.

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

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

"Representation Letter" shall mean the Representation Letter pursuant to which the sender agrees to comply with DTC's Operational Arrangements.

(A) The Certificates shall be initially issued as authenticated fully registered Certificates, and one Certificate shall be issued in the principal amount of each stated maturity of the Certificates. Upon initial issuance, the ownership of such Certificates shall be registered in the Register in the name of Cede & Co., as nominee of DTC. The Trustee and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Certificates registered in its name for the purposes of payment of the principal of or interest on the Certificates, selecting the Certificates or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Certificates under the Trust Agreement, registering the transfer of Certificates, and for all other purposes whatsoever; and neither the Trustee nor the City shall be affected by any notice to the contrary. Neither the Trustee nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Certificates under or through DTC or any Participant, or any other person which is not shown on the Register as being a registered owner of any Certificates, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Certificates, with respect to any notice which is permitted or required to be given to owners of Certificates under the Trust Agreement, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Certificates, or with respect to any consent given or other action taken by DTC as registered owner of the Certificates. So long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, the Trustee shall pay all principal of and interest on such Certificate, and shall give all notices with respect to such Certificate, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Certificates will be transferable to such new nominee in accordance with paragraph (D) hereof.

(B) In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Certificates in the form of bond certificates, the City may notify DTC and the Trustee, whereupon DTC shall notify the Participants of the availability through DTC of Certificates in the form of bond certificates. In such event, the Certificates will be transferable in accordance with

paragraph (D) hereof. DTC may determine to discontinue providing its services with respect to the Certificates at any time by giving notice to the City and the Trustee and discharging its responsibilities with respect thereto under applicable law. In such event the Certificates will be transferable in accordance with paragraph (D) hereof.

(C) A Representation Letter, executed by an appropriate officer of the City, is on file with DTC. The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by registered owners of the Certificates and Beneficial Owners and payments on the Certificates. The Trustee shall have the same rights with respect to its actions thereunder as it has with respect to its actions under the Trust Agreement.

(D) In the event that any transfer or exchange of Certificates is permitted under paragraph (A) or (B) hereof, such transfer or exchange shall be accomplished upon receipt by the Trustee of the Certificates to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with this Trust Agreement. In the event Certificates in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Certificates, or another securities depository as owner of all the Certificates, this Trust Agreement shall also apply to all matters relating thereto, including, without limitation, the printing of such Certificates in the form of bond certificates and the method of payment of principal of and interest on such Certificates in the form of bond certificates.

Section 3.19. Selection of Certificates for Redemption. The Certificates shall be called for redemption in such order as the City shall determine or, if the City does not so determine, in inverse order of maturity and by lot within any maturity as selected by the Trustee or other manner it deems fair and in $5,000 principal amounts.

Section 3.20. Notice of Redemption. When redemption is authorized or required pursuant to this Article III, the Trustee shall give to the Certificate Owners notice at the expense of the City of the redemption of the Certificates. Such notice shall specify: (a) the Certificates to be redeemed, (b) the date of redemption and (c) the place or places where the redemption will be made. Such notice shall further state that on the specified date of redemption there shall become due and payable upon each Certificate to be redeemed, the principal thereof and premium, if any, together with interest accrued to said date of redemption, and that from and after such date of redemption interest thereon shall cease to accrue and be payable. Notice of any such redemption shall be given to the Registrar not less than 45 days prior to redemption date and to the Owners not earlier than ninety (90) days nor later than thirty (30) days prior to the redemption date by mailing a copy of the redemption notice by first class, postage prepaid, to the Original Purchaser and to the Owners whose Certificates are to be redeemed; provided that notice shall be given to any securities depository in accordance with its operational arrangements. Failure to mail such notice or any defect therein shall not affect the validity of the proceedings for the redemption of any Certificates not affected by such failure or defect.

Section 3.21. Effect of Redemption. Notice having been given as aforesaid, and the moneys for the redemption, including premium, if any, and interest to the applicable date of redemption, having been set aside in the Redemption Account, the Certificates to be redeemed shall become due and payable on said date of redemption, and, upon presentation and surrender thereof at the office or offices specified in said notice, said Certificates shall be paid in the unpaid principal amount thereof, plus any premium due, plus any unpaid and accrued interest to said date of redemption. If, on said date of redemption, moneys for the redemption of all the Certificates to be redeemed, together with interest to said date of redemption, shall be held by the Trustee so as to be available therefor on such date of redemption, and, if notice of redemption thereof shall have been given as aforesaid, then, from and after said date of redemption, interest on the Certificates to be redeemed shall cease to accrue and become payable. If said moneys shall not be available on said date of redemption, such Certificates shall continue to bear interest until paid at the same rates as they would have borne had they not been notified for redemption. All moneys held by or on behalf of the Trustee for the redemption of particular Certificates shall be held in trust for the account of the Owners of the Certificates so to be redeemed for a period ending twenty-four months from the date of redemption. All such moneys held by the Trustee at the end of such period, including interest or other investment income thereon, shall be paid to the City, and thereafter the Trustee shall have no responsibility for the redemption of Certificates presented for redemption after such date.

Section 3.22. Additional Certificates.

(a) Additional Certificates may be issued under and be equally and ratably secured by this Trust Agreement on a parity with the Certificates and any other Additional Certificates Outstanding, at any time and from time to time, upon compliance with this Section 3.23, for any of the following purposes:

(1) To provide funds to pay all or any part of the costs of acquisition, construction, furnishing and equipping of additions or other improvements to the Premises.

(2) To provide funds to pay all or any part of the costs of repairing, replacing or restoring the Premises in the event of damage, destruction or condemnation thereto or thereof, but only to the extent that such costs exceed the Net Proceeds of the insurance or condemnation awards out of which such costs are to be paid pursuant to Article VI of the Lease.

(3) To provide funds for refunding all or any portion of the Certificates of any series then Outstanding, including the payment of any premium thereon and interest to accrue to the designated redemption date and any expenses in connection with such refunding.

(b) Before any Additional Certificates shall be issued under this Section 3.23, the City shall adopt a resolution (i) authorizing or approving the issuance of such Additional Certificates; (ii) authorizing or approving the execution of a Supplemental Trust Agreement for the purpose of issuing such Additional Certificates and fixing the amount and terms thereof and describing the purpose or purposes for which such Additional

Certificates are being issued or describing the Certificates to be refunded; and (iii) if required, authorizing the execution of an amendment to the Lease to provide for Rental Payments at least sufficient to pay on any Rental Payment Date amounts representing principal, premium, if any, and interest with respect to the Certificates then Outstanding (including the Additional Certificates to be issued) as the same become due on such Rental Payment Date.

(c) Such Additional Certificates shall have the same designation as the Certificates (except for an identifying series designation and the addition of the word "Refunding" when applicable), shall be dated, shall mature on March 1 or September 1 in such year or years, shall provide for amounts representing interest at such rate or rates not exceeding the maximum rate then permitted by law, and shall be redeemable at such times and prices, all as may be provided by a Supplemental Trust Agreement authorizing the issuance of such Additional Certificates. Except as to any difference in date, maturity, interest rate or redemption provisions, such Additional Certificates shall be on a parity with and shall be entitled to the same benefit and security of this Trust Agreement as the Certificates and any other Additional Certificates Outstanding after the issuance of such Additional Certificates.

(d) Such Additional Certificates shall be executed substantially in the form and manner set forth in Exhibit A hereto, but prior to or simultaneously with the execution of such Additional Certificates there shall be filed with the Trustee the following:

(1) An original or certified copy of the resolutions adopted by the governing body of the City authorizing or approving the issuance of such Additional Certificates and the execution of a Supplemental Trust Agreement.

(2) An original executed counterpart of the Supplemental Trust Agreement providing for the issuance of such Additional Certificates.

(3) An original executed counterpart of the amendment to the Lease, if required, which amendment shall clearly establish that the City has agreed that the Additional Certificates shall constitute Certificates for the purpose of computing the required Rental Payments.

(4) A certificate of an Authorized Officer of the City the effect that the Lease is in effect and no "event of default" (as such term is defined in the Lease) exists thereunder which shall not be cured upon the issuance of the Additional Certificates.

(5) An opinion of counsel nationally recognized in the area of municipal finance to the effect that the issuance of such Additional Certificates will not result in amounts representing interest payable with respect to any Certificates then Outstanding becoming includable in gross income for federal income tax purposes.

(6) A certificate of an Authorized Officer of the City to the effect that the proceeds of the Additional Certificates, together with any additional funds

supplied or to be supplied by the City, will be sufficient to finance the cost of improvements to the Premises or the cost of the refunding, as the case may be.

(7) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of such Additional Certificates.

(e) When the documents described in subsection (D) of this Section 3.23 have been filed with the Trustee, and when such Additional Certificates have been executed as required by this Trust Agreement, the Trustee shall deliver such Additional Certificates to or upon the order of the original purchaser thereof upon payment to the Trustee of the purchase price of such Additional Certificates. The proceeds of the sale of such Additional Certificates (except Additional Certificates issued to refund Outstanding Certificates), including any accrued interest and premium thereon, shall be immediately paid over to the Trustee and the Trustee shall deposit such proceeds in accordance with Article IV hereof and the Supplemental Trust Agreement authorizing the issuance of such Additional Certificates. The proceeds of all Additional Certificates issued to refund Outstanding Certificates shall be deposited by the Trustee, after payment or making provision for payment of all expenses incident to such financing, to the credit of a special trust fund, to be held in trust for the sole and exclusive purpose of paying amounts representing principal, premium, if any, and interest with respect to the Certificates to be refunded.

(f) Except as provided in this Section 3.23, no obligations payable from the sources pledged for payment or security of the Certificates shall be issued on a parity with the Certificates, but obligations subordinate to the Certificates may be issued upon the express written direction of the City.

ARTICLE IV

ESTABLISHMENT AND ADMINISTRATION OF FUNDS AND ACCOUNTS

Section 4.1. Trust Fund; Accounts; Payment of Costs of Issuance. There is hereby established with the Trustee a special trust fund to be designated as the "City of Billings, Montana, Lease Purchase Agreement Trust Fund" (the "*Trust Fund*"). The Trustee shall keep the Trust Fund separate and apart from all other funds and moneys held by it. Within the Trust Fund, there are hereby established the Rental Payment Account more particularly described in Section 4.3 and the Redemption Account more particularly described in Section 4.4. On the Closing Date the Trustee will receive and deposit in the Trust Fund proceeds of the Certificates in the amount of $4,203,436.77, together with $266,028.00 from the City's debt service account for the Refunded Lease. $4,469,464.77 shall be deposited in the Escrow Account created by the Escrow Agreement, which shall be applied to the prepayment of the Refunded Lease on the Closing Date.

The City will also deposit with the Trustee on the Closing Date proceeds of the Certificates in the amount of $109,043.28, which shall be held by the Trustee and used to pay Costs of Issuance immediately upon receipt of written statements therefor. Upon payment of

costs and expenses of the refunding of the Refunded Lease and the issuance of the Certificates, any amounts remaining with respect thereto shall be deposited in the Rental Payment Account.

Section 4.2. Reserved.

Section 4.3. Establishment and Application of Rental Payment Account. Within the Trust Fund, there is hereby established a separate account to be designated and referred to herein as the "Rental Payment Account." Such Rental Payment Account shall be maintained by the Trustee until the Rental Payments are paid in full pursuant to the terms of the Lease, or the City has prepaid the Rental Payments in accordance with Article XI of the Lease, or this Trust Agreement is terminated. The Trustee shall administer the Rental Payment Account as provided in this Section 4.3.

(a) In addition to the moneys required to be deposited in the Rental Payment Account pursuant to Sections 4.1 and 4.5, except as provided in Section 4.4, all Rental Payments, and all other moneys received by the Trustee with respect to the Lease or the Premises shall be deposited by the Trustee in the Rental Payment Account immediately upon their receipt.

(b) The Trustee shall withdraw from the Rental Payment Account, on or before each Certificate Payment Date, an amount equal to the principal and interest payments due with respect to the Certificates on such Certificate Payment Date, and shall transmit the same to the Registrar to be applied to the payment of principal and interest payments due with respect to the Certificates on such Certificate Payment Date.

(c) The Trustee shall transfer to the Redemption Account from the Rental Payment Account, all moneys on hand or received in the Rental Payment Account which are to be used for the redemption of Certificates in accordance with Section 3.6.

(d) No amounts shall be withdrawn or transferred from or paid out of the Rental Payment Account except as provided in this Article IV and Section 5.9.

Section 4.4. Establishment and Application of Redemption Account.

(a) Within the Trust Fund there is hereby established a separate account to be designated and referred to herein as the "Redemption Account." The Trustee shall administer the Redemption Account as provided in this Section 4.4.

(b) The Trustee shall deposit in the Redemption Account as received, all moneys paid to it by the City pursuant to Article XI of the Lease; and in the event of termination of the Lease pursuant to Section 4.5 or 13.2 of the Lease, all net proceeds received from the sale, lease or other disposition of the Premises. Also, in the event of termination of the Lease pursuant to Section 4.5 or 13.2 of the Lease or the exercise by the City of its option to prepay Rental Payments pursuant to Article XI of the Lease, the Trustee shall transfer to the Redemption Account, all moneys on hand in the Rental Payment Account not needed to pay principal and interest due or past due on the Certificates. All of said moneys shall be set aside in the Redemption Account for the purpose of redeeming the Certificates in advance of their maturity and shall be applied

on or after the date of redemption designated pursuant to Section 3.6 hereof to the payment of principal and interest with respect to the Certificates to be redeemed upon presentation and surrender of such Certificates.

(c) Moneys held in the Redemption Account after the date on which such moneys are to be applied for the redemption of the Certificates, shall, upon redemption of all Outstanding Certificates, or upon expiration of the applicable time period specified in Section 3.21, whichever occurs first, be paid to the City.

Section 4.5. Deposit and Investment of Moneys in Funds.

(a) All moneys held by the Trustee in the Trust Fund shall be deposited or invested in Permitted Investments, pursuant to written instructions of an Authorized Officer of the City. Any Permitted Investments may be purchased from or sold to the Trustee or any of its affiliates.

(b) All interest or income received by the Trustee on investment of the Rental Payment Account hereof shall be retained in said Rental Payment Account and be applied to the payment of delinquent payments due on the Certificates, if any, and otherwise shall be applied as set forth in subsection (c) of this Section 4.5. Provided that there are no delinquent Rental Payments, amounts retained or deposited in or transferred to the Rental Payment Account pursuant to this subsection (b) of this Section 4.5 shall be applied as a credit against the next Rental Payment due from the City under the Lease following the date of deposit or transfer. At the time of deposit or transfer of said moneys in or to the Rental Payment Account, the Trustee shall report the amount thereof to the City and the amount of the next Rental Payment payable by the City under the Lease shall be reduced by an amount equal to the amount of said deposit or transfer.

(c) All interest or income received by the Trustee on investment of the Redemption Account shall be retained in said Redemption Account pursuant to Section 4.4.

(d) The Trustee shall not be liable for any loss resulting from the making or disposition of any investment pursuant to this Section 4.5, except where such loss arises out of the Trustee's wrongful or negligent act or failure to act. Any loss not resulting from the Trustee's wrongful or negligent conduct shall be charged to the account with respect to which such investment was made.

(e) The City covenants and agrees that it will at all times direct the Trustee to invest the moneys held in the Trust Fund in a manner which will not violate the provisions of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "*Code*"), and the regulations promulgated thereunder from time to time.

(f) Upon payment by the City of all Rental Payments set forth in Exhibit B to the Lease, or of the Prepayment Price for all of the Premises pursuant to Article XI of the Lease, and the payment or redemption of all Certificates and the interest coming

due thereon or the provision for the payment thereof as provided in Section 7.3 hereof, and the payment of all amounts owed to the Trustee under Section 6.6 hereof, all moneys remaining on hand in the Trust Fund shall be paid to the City.

(g) The City acknowledges that regulations of the Comptroller of the Currency grant the City the right to receive brokerage confirmations of the security transactions as they occur. The City specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements from the Trustee which will detail all investment transactions.

Section 4.6. Unclaimed Moneys. All moneys held by the Trustee for the payment or redemption of Certificates shall be held in trust for the account of the Owners of the Certificates so to be paid or redeemed for a period ending twenty-four months from the date of redemption or the date such payment was due. All such moneys held by the Trustee at the end of such period, including interest or other investment income thereon, shall be paid to the City, and thereafter the Trustee shall have no responsibility for the payment or redemption of such Certificates presented for payment or redemption after such date.

ARTICLE V

COVENANTS; DEFAULT AND LIMITATION OF LIABILITY

Section 5.1. City to Perform Agreement. The City covenants and agrees with the Owners of the Certificates, to perform all obligations and duties imposed on it under the Lease and the Ground Lease.

Section 5.2. Trustee to Perform Agreement. The Trustee covenants and agrees with the Owners of the Certificates, to perform all obligations and duties imposed on it under the Lease and the Ground Lease.

Section 5.3. Notice of Non-Payment. In the event of delinquency in the payment of Rental Payments due by the City pursuant to the Lease, the Trustee shall, after five (5) business days following the date upon which such delinquent Rental Payments were due, immediately give written notice of the delinquency and the amount thereof to the City and the Original Purchaser.

Section 5.4. Notice of Event of Default or Nonappropriation. In the event the City is in default pursuant to Section 13.1 of the Lease or in the event of Non-Appropriation by the governing body of the City pursuant to Section 4.2(a) of the Lease, the Trustee shall give, within ten (10) business days of an Authorized Officer learning of such event, written notice thereof to the Owners of the Certificates by mail at their addresses as they appear on the Register, with a copy to the Municipal Securities Rulemaking Board ("*MSRB*") through its Electronic Municipal Market Access system website ("*EMMA*"). Such notice shall specify that the City is in default under the Lease or that the City has terminated the Lease for Non-Appropriation of funds, together with a brief description of such default or that the City has terminated the Lease for Non-Appropriation of funds; provided, however, that failure to give such notice shall not affect any rights of the Owners of the Certificates. Notwithstanding the foregoing, except in the case of

default with respect to the payment of one or more Rental Payments or termination for Non-Appropriation of funds, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determine that the withholding of such notice is in the interests of the Owners of the Certificates.

Section 5.5. Action on Default, Nonappropriation or Termination. Upon the occurrence of an event of default by the City under Section 13.1 of the Lease, and in each and every such case during the continuance of such event of default, or the termination of the Lease pursuant to Section 4.2(a) thereof, the Trustee or, pursuant to Section 5.11 hereof, the Owners of not less than a majority in aggregate principal amount of Certificates at the time Outstanding shall be entitled, upon notice in writing to the City and the Original Purchaser, to enforce the rights and exercise the remedies provided to the Trustee in the Lease, the Ground Lease or this Trust Agreement, as appropriate.

Section 5.6. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Trust Agreement or under the Lease to the Trustee, or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it, it shall not be necessary to give any notice other than such notice as may be required in this Article V or by law.

Section 5.7. Agreement to Pay Attorneys' Fees and Expenses. In the event the City shall default hereunder and the Trustee should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it will on demand therefor pay to the Trustee the reasonable fees of such attorneys and such other related expenses incurred by the Trustee.

Section 5.8. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Trust Agreement should be breached by a party and thereafter waived by another party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 5.9. Application of Moneys Upon Default or Nonappropriation. If at any time after an event of default under the Lease or termination of the Lease pursuant to Section 4.5 thereof has occurred, the moneys in the Rental Payment Account shall not be sufficient to pay the Rental Payments as the same become due and payable, such moneys together with any moneys available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for herein or otherwise, shall be applied by the Trustee as follows:

First: To the payment of costs, expenses and fees, and reasonable compensation of the Trustee, its agents and attorneys, and all expenses and liabilities incurred and advances made by the Trustee under this Trust Agreement or the Lease;

Second: To the payment to the persons entitled thereto of all interest components of Rental Payments with respect to Certificates as they become due, in the order of the maturity of such Certificates and, if the amount available shall not be sufficient to pay in full any particular interest component of a Rental Payment when due, then to the payment ratably, according to the amounts due on such interest component, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Certificates;

Third: To the payment to the persons entitled thereto of the principal components of Rental Payments with respect to Certificates as they become due, in the order of the maturity of such Certificates, and, if the amount available shall not be sufficient to pay in full any particular principal component of a Rental Payment due, then to the payment ratably, according to the amounts due on such principal component, to the persons entitled thereto, without any discrimination or preference; and

Fourth: To the City.

Section 5.10. Collection of Rental Payments. Upon written request and authorization by the Owners of a majority in aggregate principal amount of the Certificates then Outstanding and unpaid, and upon being satisfactorily indemnified by such Owners against any expense and liability with respect thereto, the Trustee shall take any and all appropriate action to collect any Rental Payment not paid when due.

Section 5.11. Action by Owners. In the event the Trustee fails to take any action to eliminate or cure an event of default under the terms of this Trust Agreement, the Lease or the Ground Lease, the Owners of not less than a majority in aggregate principal amount of Certificates then Outstanding may institute any suit, action, mandamus or other proceeding in equity or at law for the protection or enforcement of any right under this Trust Agreement, the Lease or the Ground Lease, but only if the Trustee shall have been given written notice of such default (unless such default shall consist of a failure to pay a Rental Payment when due) and the continuance thereof and if such percentage of Certificate Owners have first made written request of the Trustee to institute such action or proceedings in its own name as Trustee hereunder and shall have afforded the Trustee sixty (60) days either to proceed to exercise the powers granted herein or granted under law or to institute such action, suit or proceeding in its name and only if the Trustee shall have been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time.

Section 5.12. No Obligation by the City to Owners. Except for the payment of Rental Payments when due in accordance with the Lease and the performance of the other covenants and agreements of the City contained in the Lease, the Ground Lease and in this Trust Agreement, the City shall have no obligation or liability to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Rental Payments to the Owners by the Trustee.

Section 5.13. No Obligation with Respect to Performance by Trustee. The City shall not have any obligation or liability to any of the other parties or to the Owners of the Certificates

with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

Section 5.14. No Liability to Owners for Payment. Except as provided in this Trust Agreement, the Trustee shall not have any obligation or liability to the Owners of the Certificates with respect to the payment of the Rental Payments by the City when due, or with respect to the performance by the City of any other covenant in the Lease or the Ground Lease.

Section 5.15. No Responsibility for Sufficiency. The Trustee shall not be responsible for the sufficiency of the Lease or the Ground Lease or of the assignment made to it of rights to receive moneys pursuant to the Lease, or the value of or title to its interest in the Premises. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it under the terms of and in accordance with this Trust Agreement, except where such loss arises out of the Trustee's wrongful or negligent act or failure to act.

Section 5.16. Indemnification to Trustee. To the extent permitted by law, the City shall and hereby agrees to indemnify and hold harmless the Trustee, without any payment being made by the Trustee, from and against all claims, losses, liability and damages, including legal fees and expenses, arising out of (i) any breach or default on the part of the City in the performance of any of its obligations under this Trust Agreement, the Lease or the Ground Lease, or (ii) any tortious act or failure to act of the City or of any officer, servant or employee of the City with respect to the Premises. The Indemnification provided to the Trustee hereunder shall survive the termination of this Trust Agreement and the resignation or removal of the Trustee.

ARTICLE VI

THE TRUSTEE

Section 6.1. Employment of Trustee. In consideration of the recitals hereinabove set forth and for other valuable consideration, the Trustee and the City hereby agree to employ the Trustee to receive, hold, invest and disburse the moneys to be paid to it pursuant to the Lease for credit to the various accounts in the Trust Fund established by this Trust Agreement; to prepare, execute and deliver the Certificates; to apply and disburse the Rental Payments received from the City to the Owners of Certificates; and to perform certain other functions; all as herein provided and subject to the terms and conditions of this Trust Agreement.

Section 6.2. Acceptance of Employment. In consideration of the compensation herein provided for, the Trustee accepts the employment above referred to subject to the terms and conditions of this Trust Agreement.

Section 6.3. Trustee; Duties, Removal and Resignation. By executing and delivering this Trust Agreement, the Trustee accepts the duties and obligations of the Trustee provided in this Trust Agreement, but only upon the terms and conditions set forth in this Trust Agreement. In carrying out its duties and exercising its powers under this Trust Agreement, the Trustee shall, only under a condition of Default which exists and is continuing, exercise that degree of care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own business affairs. The City may, or the holders of a

majority in aggregate principal amount of all Certificates Outstanding may by written request, remove the Trustee initially a party to this Trust Agreement and any successor thereto, and may appoint a successor Trustee, but any such successor shall be a trust company or bank having trust powers and having a reported capital and surplus not less than $25,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving sixty (60) days written notice to the City and by first class mail to each Certificate Owner as shown on the Register, and such resignation shall take effect upon the appointment of a successor trustee by the Owners or by the City. Such notice to the City may be served personally or sent by registered or certified mail. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within sixty (60) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

Section 6.4. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the City or the Owners of a majority in aggregate principal amount of the then Outstanding Certificates, by an instrument or concurrent instrument in writing signed by such Owners or by their attorney-in-fact duly authorized. Nevertheless, in case of such vacancy, the City by resolution of its governing body may appoint a temporary trustee to fill such vacancy until a successor trustee shall be appointed; and any such temporary trustee so appointed by the City shall immediately and without further act be superseded by the Trustee so appointed. Every such Trustee appointed pursuant to this Section 6.4 shall be a trust company or bank having trust powers and having a reported capital and surplus not less than $25,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

Section 6.5. Compensation of the Trustee. The City shall from time to time pay to the Trustee reasonable compensation for the acceptance, administration and performance of the trust created hereby, and shall reimburse the Trustee for all its advances and expenditures made in accordance with this Trust Agreement (including the reasonable expenses and disbursements of its counsel), from the date of execution of this Trust Agreement through the date of redemption or maturity of all the Certificates.

Section 6.6. Protection to the Trustee. The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any written resolution, notice, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or provided pursuant to this Trust Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee shall not be bound to recognize any person as an Owner of any Certificate or to take any action at such person's request unless such Certificate shall be deposited with the Trustee or satisfactory evidence of the ownership of such Certificate shall be furnished to the Trustee. The Trustee may consult with counsel with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and

protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith. Whenever in the administration of its duties under this Trust Agreement, the Trustee shall deem it necessary to or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) shall be deemed to be conclusively proved and established by the certificate of an Authorized Officer of the City and such certificate shall be full warranty to the Trustee for any action taken or suffered under this Trust Agreement upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable. The Trustee may buy, sell, own, hold and deal in any of the Certificates issued pursuant to this Trust Agreement, and may join in any action which any Owner may be entitled to take with like effect as if the Trustee were not a party to this Trust Agreement. The Trustee, either as principal or agent, may also engage in or be interested in any other unrelated financial or other transaction with the City or the Trustee, and may act as depositary, trustee, or agent for any committee or body of Owners of Certificates or other obligations of the City as freely as if it were not Trustee hereunder.

The recitals, statements and representations in this Trust Agreement or in the Certificates shall be taken and construed as made by and on the part of the Trustee, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder, and the Trustee shall not be answerable for the default or misconduct of any such attorney, agent or receiver selected by it with reasonable care.

ARTICLE VII

AMENDMENT; DEFEASANCE; ADMINISTRATIVE PROVISIONS

Section 7.1. Amendment. This Trust Agreement, the Lease and the Ground Lease may be amended in writing by agreement among all of the parties hereto or thereto, but, except as provided in Section 7.2 hereof no such amendment shall become effective without the prior written consent of two-thirds in aggregate principal amount of the Certificates then Outstanding; provided that no such amendment shall impair the right of any Owner to receive the Owner's proportionate share of any Rental Payment in accordance with the Owner's Certificate.

Section 7.2. Amendment to Trust Agreement or Lease Not Requiring Consent of Certificate Owners. Notwithstanding Section 7.1, The City and the Trustee may, without the consent of or notice to any of the Owners of the Certificates, enter into one or more amendments to the Trust Agreement, the Lease or the Ground Lease for one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission herein or to correct or supplement any provision herein or therein which may be inconsistent with any other provision herein or therein, or to make provisions with respect to matters or questions

arising hereunder or thereunder provided such action shall not materially adversely affect the interests of the Owners of the Certificates;

(b) To grant or confer upon the Owners of the Certificates any additional rights, remedies, power or authority that may lawfully be granted or conferred upon them;

(c) To comply with the requirements of any State or federal securities laws or the Trust Indenture Act of 1939, as from time to time amended, if required by law or regulation lawfully issued thereunder;

(d) To provide for the appointment of a successor trustee or co-trustee pursuant to the terms hereof;

(e) To subject to this Trust Agreement additional revenues, properties or collateral; or

(f) To issue Additional Certificates as provided in Section 3.23 hereof.

Section 7.3. Defeasance. If and when the Certificates delivered pursuant hereto shall become due and payable in accordance with their terms, or shall have been called for redemption in accordance with Article III hereof, and the whole amount of the principal and interest due and payable upon all of the Certificates shall be paid, or provision shall have been made for the payment of the same, by the deposit with the Trustee of cash or the types of securities listed in the definition of Permitted Investments, in an amount sufficient (together with interest earnings thereon), to provide for payment of said principal and interest to the maturity or redemption date of the Certificates, and all administrative expenses of the Trustee shall have been paid or provided for, then and in that case, the right, title and interest of the City and the Trustee under this Trust Agreement shall thereupon cease, terminate and become void, and the Trustee shall assign and transfer to or upon the order of the City all property, money, investments and rights in the Premises (in excess of the amounts required for the foregoing) then held by the Trustee (including the Lease and all payments thereunder and all balances in any fund or account created under this Trust Agreement) and shall execute such documents as may be reasonably required by the City in this regard. All investments made pursuant to this Section 7.3 shall be made in a manner which will comply with the covenant made by the City in Section 4.5, clause (e).

Section 7.4. Recording and Filing. The City shall be responsible for the recording and filing of initial financing statements. The Trustee shall be responsible for the recording and filing of continuation statements in connection with any financing statements relating hereto.

Section 7.5. Trustee to Keep Records. The Trustee shall keep a copy of this Trust Agreement and books and records of all moneys received and disbursed under this Trust Agreement, which shall be available for inspection by the City, the Trustee and any Owner at any time during regular business hours. The Trustee shall, for each month of the calendar year while any Certificates remain Outstanding, provide the City with an accounting for the Trust Fund maintained by it pursuant to this Trust Agreement.

Section 7.6. Notices. All written notices to be given under this Trust Agreement shall be given by mail to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other parties in writing from time to time:

If to the City:

City of Billings, Montana
201 North 27th Street
Billings, Montana 59101
Attention: City Clerk

If to the Trustee:

U.S. Bank National Association
1420 Fifth Avenue, 7th Floor
Seattle, Washington 98101
Attention: Corporate Trust Services

Section 7.7. Montana Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State of Montana.

Section 7.8. Severability. If any provision of this Trust Agreement shall for any reason be determined to be invalid, illegal or unenforceable in any respect, the remainder of this Trust Agreement and any other application of such term shall not be affected thereby, and the parties hereto shall negotiate in good faith and agree as to such replacement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein. In the event that there is a conflict between the terms of this Trust Agreement and the Lease, this Trust Agreement shall control.

Section 7.9. Binding on Successors. This Trust Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

Section 7.10. Headings. Headings preceding the text of the several Articles and Sections hereof, and the table of contents, are solely for convenience of reference and shall not constitute a part of this Trust Agreement or affect its meaning, construction or effect.

Section 7.11. Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 7.12. Business Days. If the day upon which any action required by this Trust Agreement shall fall on a Saturday, Sunday or banking holiday, then such actions shall be deemed timely if made or taken on the next succeeding business day.

[Signatures continue on the following page.]

IN WITNESS WHEREOF, the parties have executed this Trust Agreement by their officers thereunto duly authorized as of the date and year first written above.

U.S. BANK NATIONAL ASSOCIATION

_____

Vice President

[Signatures continued on the following page.]

-

[Counterpart signature page to the Trust Agreement.]

CITY OF BILLINGS, MONTANA

_____
Mayor

_____
Finance Director

_____
City Clerk

EXHIBIT A

REFUNDING CERTIFICATE OF PARTICIPATION, SERIES 2013

Evidencing a Proportionate Interest of the Registered Owner Hereof in Rental Payments to be Made by

City of Billings, Montana

pursuant to a Lease-Purchase Agreement

R-[____] **$[_____]**

Interest Rate	Maturity Date	Date of Original Issue	CUSIP No.
%	September 1, 20__	March 5, 2013	090099

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: [_____] THOUSAND DOLLARS

This is to certify that the registered owner named above of this Certificate of Participation (the "Certificate") is the owner of the proportionate interest hereinafter stated in that certain Lease Purchase Agreement, dated as of March 5, 2013 (the "Lease"), by and between U.S. Bank National Association (the "Trustee"), having a principal office at which it conducts corporate business in Seattle, Washington, and the City of Billings, Montana (the "City").

The registered owner of this Certificate is entitled to receive, subject to the terms of the Trust Agreement described below, on the maturity date specified above (the "Maturity Date"), or if selected for redemption, on the redemption date, the principal sum specified above, representing a portion of the Rental Payments designated as principal coming due on or before the Maturity Date, and to receive the registered owner's proportionate share of Rental Payments designated as interest coming due on or before March 1 and September 1 of each year commencing September 1, 2013, and continuing to and including the Maturity Date or the redemption date, whichever is earlier. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months. All amounts payable hereunder are to be paid in lawful money of the United States of America, which at the time of payment is legal tender. Amounts representing interest payable with respect to this Certificate on any Rental Payment Date are payable by check or draft drawn on the Trustee and mailed to the person in whose name this Certificate is registered at the close of business on the 15th day (whether or not a business day) of the calendar month next preceding such Rental Payment Date. The principal payable on all Certificates shall be payable at the principal office of the Trustee.

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

The Certificates are payable from the Rental Payments (as defined in the Lease) and the moneys held in the funds and accounts established pursuant to the Declaration of Trust, dated as of March 5, 2013 (the "Trust Agreement"), by the Trustee and joined in by the City, subject to the provisions of the Trust Agreement permitting the application thereof for or to the purposes and on the terms and conditions set forth in the Trust Agreement. The obligations of the City under the Lease, including the obligation to make Rental Payments, is subject to termination

by the City at the end of any fiscal year, if the governing body of the City fails, for any reason, to appropriate sufficient funds to continue the Lease for the subsequent fiscal year, in which case the Lease will terminate at the end of the last fiscal year for which funds were appropriated and the City will have no further obligation to make Rental Payments under the Lease. Neither the Certificates nor the Rental Payments constitute a general obligation of the City, and the full faith and credit and taxing powers of the City are not pledged to the payment thereof.

The Trustee has no obligation or liability to the Certificate owners for the payment of principal or interest due with respect to the Certificates; the Trustee's sole obligation is to administer, for the benefit of the City and the Certificate owners, the various funds and accounts established in the Trust Agreement. The Trustee has no obligation to pay any portion of the principal or interest due with respect to the Certificates from any source other than the funds and accounts established in the Trust Agreement as described herein and the payment of such principal or interest is not a liability or charge upon the credit of the Trustee.

This Certificate has been executed by the Trustee pursuant to the terms of the Trust Agreement. Copies of the Trust Agreement and the Lease are on file at the office of the City and at the principal office of the Trustee, and reference to the Trust Agreement and any and all amendments thereto is made for a description of the pledges and covenants of the City securing the Certificates, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owners of the Certificates with respect thereto and the other terms and conditions upon which the Certificates are delivered thereunder. To the extent and in the manner permitted by the terms of the Trust Agreement, certain provisions of the Trust Agreement may be amended by the parties thereto without consent of the owners of the Certificates, while other amendments are permitted only with the written consent of the owners of at least two-thirds in principal amount of the Certificates then outstanding.

This Certificate shall be transferable only upon the register maintained by the Trustee, which shall be kept for that purpose at the principal office of the Trustee, upon surrender hereof together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or the owner's duly authorized attorney. Upon the registration of the transfer and the surrender of this Certificate, the Trustee shall provide in the name of the transferee, a new fully registered Certificate or Certificates of the same maturity and aggregate principal amount as the surrendered Certificates. The Trustee may treat the registered owner hereof as the absolute owner hereof for all purposes, and the Trustee shall not be affected by any notice to the contrary.

The Certificates are issuable in fully registered form, without coupons in denominations of $5,000 or any integral multiple thereof. The Certificates, upon surrender thereof at the office of the Trustee with a written request for exchange satisfactory to the Trustee duly executed by the registered owner or the owner's attorney duly authorized in writing, may be exchanged for an equal aggregate principal amount of fully registered Certificates without coupons of any other authorized denomination of the same maturity.

The Certificates are not subject to optional redemption.

The Certificates are subject to extraordinary redemption and prepayment, in whole or in part, at the option of the City on any date upon if: (1) there occurs an event of damage, destruction or condemnation relating to the Premises and the City elects in its sole discretion not to repair or rebuild the Premises; or (2) the agreements contained in the Trust Agreement have become impossible to perform in accordance with the intent and purposes of the City as expressed therein, or unreasonable burdens or excessive liabilities shall have been imposed upon the City as a result of (a) any changes in the Constitution of the State of Montana or the Constitution of the United States of America, or of any legislative or administrative action, whether state or federal, (b) any final decree, judgment or order of any court or administrative body, whether state or federal, entered after the contest thereof by the City in good faith, or (c) the imposition of new state or local ad valorem, property, income or other taxes not imposed on the date of the Trust Agreement, other than special assessments levied in amounts proportionate to and not exceeding the benefits of future public improvements to the Premises. Certificates redeemed as a result of any of the events described above in this paragraph shall be redeemed at a price equal to the principal amount to be redeemed plus accrued interest thereon to the redemption date, without premium.

If on the date on which any Certificate is called for redemption, moneys are available sufficient to pay the principal of, premium, if any, and interest on the Certificates called for redemption, interest hereon shall cease to accrue from and after the date fixed for redemption.

Notice of any such redemption shall be published if, and to the extent, then required by law, and shall also be given to the registered owner of each Certificate to be redeemed by first-class mail, addressed to such owner at the owner's registered address, not earlier than ninety (90) days nor later than thirty (30) days prior to the date fixed for redemption. On or prior to the date fixed for redemption, funds are required to be deposited with the Trustee sufficient to pay the Certificates called and accrued interest thereon. Upon the happening of the above conditions, Certificates thus called shall not bear interest after the redemption date and, except for the purpose of payment from the funds so deposited, shall no longer be protected by the Trust Agreement.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State of Montana and the Trust Agreement to exist, to have happened and to have been performed precedent to and in the delivery of this Certificate, exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, this Certificate has been executed by the manual signature of an authorized representative of the Trustee.

Date of Authentication: _____

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Representative

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

TEN COM — as tenants in common

UTMA _____ as Custodian for _____
(Cust) (Minor)
under Uniform Transfers to Minors Act _____
(State)

TEN ENT — as tenants by the entireties

JT TEN — as joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Certificate and all rights thereunder, and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Certificate on the books kept for registration of the within Certificate, with full power of substitution in the premises.

Dated: _____

_____

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

Signature Guaranteed:

_____

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

PLEASE INSERT SOCIAL SECURITY NUMBER OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

_____

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, is made and entered into by and between the City of Billings, Montana (the "City"), and U.S. Bank, National Association, in Seattle, Washington (the "Agent"). The parties hereto recite and, in consideration of the mutual covenants and payments referred to and contained herein, covenant and agree as follows:

1. The City, in accordance with a resolution of the City adopted on February 25, 2013 (the "Resolution"), sold its Refunding Certificates of Participation, Series 2013, dated as of March 5, 2013 (the "Certificates"), in the aggregate principal amount of $4,100,000, for the purpose of providing funds for the refunding and prepayment of amounts under the Lease Purchase Agreement (the "Refunded Lease"), dated as of March 3, 2003, by and between the City and Banc of America Public Capital Corp, as successor to Koch Financial Corporation (the "Lessee"), and for the payment of certain costs of issuance of the Certificates and of the refunding and prepayment of the Refunded Lease. The City has directed that net proceeds of the Certificates in the amount of $4,203,436.77 be deposited in the Escrow Account. The City has also appropriated $266,028 on hand in the debt service account for the Refunded Lease to be deposited in the Escrow Account.

2. The Agent acknowledges receipt of cash as described in Section 1, and agrees that it will hold such amount in a special escrow account in the name of the City (the "Escrow Account") and on the date hereof will remit from the Escrow Account to the Lessee, $4,469,464 for the refunding and prepayment of the Refunded Lease.

After provision for the refunding and prepayment of the Refunded Lease, the Agent will remit any remaining funds in the Escrow Account to U.S. Bank, National Association, as trustee under the Declaration of Trust, dated as of March 5, 2013, which will hold said sum of cash in the Rental Payment Account for application toward the payment of principal and interest due on September 3, 2013 with respect to the Certificates.

The City has received a certification from Springsted Incorporated, St. Paul, Minnesota that the amount deposited as set forth in Section 1 hereof is adequate to pay the Purchase Option Price (as defined in the Refunded Lease) of the Refunded Lease on March 5, 2013.

3. The Agent also acknowledges receipt of a sum described in a letter agreement between the City and the Agent, as and for full compensation for all services to be performed by it as Agent under this Agreement, and the Agent expressly waives any lien upon or claim against the moneys and investments in the Escrow Account.

4. On or before June 30, 2013, the Agent shall submit to the City a report covering all money it shall have received and all payments it shall have made or caused to be made hereunder.

5. It is recognized that title to the money held in the Escrow Account from time to time shall remain vested in the City but subject always to the prior charge and lien thereon of this Agreement and the use thereof required to be made by the provisions of this Agreement. The Agent shall hold all such money in the Escrow Account as a special trust fund and account

separate and wholly segregated from all other money of the Agent on deposit therein and shall never commingle such money with other money. It is understood and agreed that the responsibility of the Agent under this Agreement is limited to the safekeeping and segregation of the moneys deposited with it in the Escrow Account and the collection of and accounting for the principal and interest payable with respect thereto.

6. Amounts held under this Agreement, if any, shall be invested in accordance with the terms thereof. The City acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the City the right to receive brokerage confirmations of security transactions, the City waives receipt of such confirmations. The Agent shall furnish the City periodic statements which include details of all investment transactions made by the Agent.

7. This Agreement is made by the City for the benefit of the Lender, as the lessor under the Refunded Lease, and is not revocable by the City, and the funds deposited in the Escrow Account and all income therefrom have been irrevocably appropriated for the refunding and prepayment of the Refunded Lease, in accordance with this Agreement. This Agreement may not be amended except to (i) sever any clause herein deemed to be illegal or (ii) cure any ambiguity or correct or supplement any provision herein which may be inconsistent with any other provision, provided that the Agent shall determine that any such amendment shall not adversely affect the Lender, as the lessor under the Refunded Lease.

8. This Agreement shall be binding upon and shall inure to the benefit of the City and the Agent and their respective successors and assigns. In addition, this Agreement shall constitute a third-party beneficiary contract for the benefit of the Lender, as the lessee under the Refunded Lease. Said third-party beneficiaries shall be entitled to enforce performance and observance by the City and the Agent of the respective agreements and covenants herein contained as fully and completely as if said third-party beneficiaries were parties hereto. Any bank or trust company into which the Agent may be merged or with which it may be consolidated or any bank or trust company resulting from any merger or consolidation to which it shall be a party or any bank or trust company to which it may sell or transfer all or substantially all of its corporate trust business shall, if the City approves, be the successor agent hereunder without the execution of any additional document or the performance of any further act.

IN WITNESS WHEREOF the parties hereto have caused this Escrow Agreement to be duly executed by their duly authorized officers, as of the March 5, 2013.

CITY OF BILLINGS, MONTANA

_____
Christina Volek
City Administrator

_____
Patrick M. Weber
City Finance Director

[Signature page to Escrow Agreement]

U.S. BANK, NATIONAL ASSOCIATION, Agent

By _____
Its Vice President

[Signature page to Escrow Agreement]

DRAFT 02/04/2013

Return To:
City of Billings, Montana
Office of City Clerk
201 North 27th Street
Billings, Montana 59101

GROUND LEASE

between

CITY OF BILLINGS, MONTANA
As Lessor

and

U.S. BANK NATIONAL ASSOCIATION
As Lessee

MARCH 5, 2013

Relating to

REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2013

GROUND LEASE

THIS GROUND LEASE is dated as of March 5, 2013 (the "*Ground Lease*"), between the City of Billings, Montana, a political subdivision of the State of Montana (the "*Lessor*"), and U.S. Bank National Association, Seattle, Washington, a national banking association duly organized and existing under the laws of the United States (the "*Lessee*").

W I T N E S S E T H:

WHEREAS, the Lessor owns the land which is described in Exhibit A hereto (the "*Land*"); and

WHEREAS, Lessor and Lessee will enter into a Lease Purchase Agreement dated as of the date hereof (the "*Lease*"), whereby Lessee will refinance the design, construction and equipping by or on behalf of Lessor of certain improvements (the "*Improvements*") upon the Land and Lessee will lease and sell the Improvements to Lessor upon the terms contained therein.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

LEASE OF LAND AND WARRANTIES

Section 1.1. Lease of Land. Subject to and upon the terms, conditions, covenants and undertakings hereinafter set forth, the Lessor hereby leases to the Lessee, and the Lessee hereby leases from the Lessor, the Land, together with all buildings and improvements thereon, whether now existing or hereafter constructed, for the sum of one dollar ($1.00) and other good and valuable consideration, the receipt and the sufficiency of which are hereby acknowledged.

Section 1.2. Warranties. The Lessor covenants and warrants to Lessee:

(a) The Lessor has good and merchantable title to the Land, has authority to enter into, execute and deliver this Ground Lease, and has duly authorized the execution and delivery of this Ground Lease.

(b) The Land is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the Improvements upon the Land, as contemplated by the Lease.

(c) All taxes, assessments or impositions of any kind with respect to the Land, except current taxes, have been paid in full.

(d) The Land is properly zoned for the purpose of the Improvements.

(e) The Lessor has authority to enter into, execute and deliver the Lease, and has duly authorized its execution and delivery.

ARTICLE II

TERM OF GROUND LEASE

Section 2.1. Term. The term of this Ground Lease shall commence as of the date first written above and shall terminate when the term of the Lease expires as provided in Section 4.1, 4.2(b) or 4.2(d) of the Lease. In the event of a termination of the Lease as provided in Section 4.2(a) or (c) therein, this Ground Lease shall terminate on March 1, 2033.

ARTICLE III

USE OF LAND

Section 3.1. Use. Lessee shall not use or permit the use of the Land for an unlawful purpose.

Section 3.2. Assignment and Subletting. Lessee shall have the right to assign its interests in this Ground Lease, and to sublet the Land in accordance with the Lease.

Section 3.3. Quiet Enjoyment. The Lessor covenants that upon Lessee's performing all conditions and covenants set forth in this Ground Lease and the Lease, Lessee shall and may peaceably have, hold and enjoy the Land for the term of this Ground Lease. Lessee covenants that upon expiration of this Ground Lease, either on the date specified in Section 2.1 hereof or earlier pursuant to the terms of the Lease, it shall give the Lessor peaceable possession of the Land, together with the Improvements and any other improvements constructed thereon pursuant to the Lease.

Section 3.4. Environmental Matters. The Lessor represents and warrants that it has no knowledge of the presence of hazardous or toxic waste, materials or substances ("*Hazardous Materials*") within the meaning of any federal, state or local law or regulation relating to environmental matters, on or about the Land. To the extent permitted by law, the Lessor further agrees that it will indemnify, defend and hold harmless the Lessee, its directors, officers, employees and agents, and any assignee of the Lessee, without payment being made by the Lessee, from and against any and all claims, demands, suits, liabilities and costs (including without limitation, attorneys' fees, and costs and expenses of investigation and proof) arising out of any violation or asserted violation of any environmental law or regulation or out of the presence on the Land of any Hazardous Materials.

ARTICLE IV

DEFAULT AND REMEDIES

Section 4.1. Performance of Obligation. If any party (the "*Defaulting Party*") fails to perform any obligation hereunder, the other party (the "*Non-Defaulting Party*") may give written notice to the Defaulting Party specifying the nature of the failure to perform, and, if such failure

is not cured within ninety (90) days after the giving of such notice, the Non-Defaulting Party may perform the obligation. The Defaulting Party agrees to reimburse the Non-Defaulting Party for all reasonable costs and expenses incurred in performing such obligation.

ARTICLE VI

MISCELLANEOUS

Section 5.1 Conflicts with Lease. In the event of any conflict between the provisions of this Ground Lease and the Lease, the Lease will govern.

Section 5.2. No Merger of Title. There shall be no merger of this Ground Lease with any other estate in the Land or any part thereof by reason of the fact that the same entity may acquire or own or hold, directly or indirectly, (a) the Land or any part thereof or any interest therein and (b) the Improvements or any part thereof or any interest therein, and no such merger shall occur unless and until all persons having any interest in the Improvements or any part thereof shall join in a written instrument effecting such merger and shall duly record the same.

Section 5.3. Notices. Except as otherwise provided in this Ground Lease, all notices, requests, demands and other communications under this Ground Lease shall be in writing, shall be effective upon receipt thereof and shall be delivered by hand, or mailed by first class mail, postage prepaid to the addresses specified below; provided that the Lessor and the Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

If to the Lessor:	City of Billings, Montana 201 North 27th Street Billings, Montana 59101 Attention: City Clerk
If to the Lessee:	U.S. Bank National Association 1420 Fifth Avenue, 7th Floor Seattle, Washington 98101 Attention: Corporate Trust Services

Section 5.4. Recording. This Ground Lease may be recorded by either party.

Section 5.5. Governing Law. This Ground Lease shall be construed and applied in accordance with the laws of the State of Montana.

Section 5.6. Severability. If any provision of this Ground Lease shall for any reason be determined to be invalid, illegal or unenforceable in any respect, the remainder of this Ground Lease and any other application of such term shall not be affected thereby, and the parties hereto shall negotiate in good faith and agree as to such replacement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein.

Section 5.7. Amendments. No amendment, modification, termination or surrender of this Ground Lease shall be valid or effective unless it is in writing and signed by both parties hereto.

Section 5.8. Successors. This Ground Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and, to the extent provided herein, assigns, and the right, title and interests granted and conveyed hereby shall run with the Land described and are intended and shall be for the use, benefit and enjoyment of the owner of the Improvements and its successor and assigns for the purposes and uses set forth herein.

Section 5.9. Further Assurances. Each party shall execute, acknowledge and deliver such documents and other instruments and perform such acts as may be reasonably required by the other party in order to give full effect to this Ground Lease or to facilitate the recording of this Ground Lease.

Section 5.10. Entire and Complete Agreement. This Ground Lease constitutes the entire and complete agreement of the parties with respect to the interests conveyed and granted hereby and supersedes all prior or contemporaneous undertakings, arrangements, commitments and representations with respect to such interests, all of which, whether oral or written, are merged herein.

Section 5.11. Counterparts. This Ground Lease may, be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

CITY OF BILLINGS, MONTANA,
as Lessor

_____
Mayor

_____
Finance Director

_____
City Clerk

Subscribed and sworn to before me this ____ day of _____, 2013.

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

(Notarial Seal)

U.S. BANK NATIONAL ASSOCIATION

_____

Vice President

EXHIBIT A

1. Lot 4, Block 1, of Billings Operations Center Subdivision, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #3217110.

2. Lot 1, Block 2, of Billings Operations Center Subdivision, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #3217110.

3. Lot 4, Block 1, of Cereus Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #1784237.

Return To:
City of Billings, Montana
Office of City Clerk
201 North 27th Street
Billings, Montana 59101

DRAFT 02/04/2013

LEASE PURCHASE AGREEMENT

between

U.S. BANK NATIONAL ASSOCIATION
As Lessor

and

CITY OF BILLINGS, MONTANA
As Lessee

MARCH 5, 2013

Relating to

REFUNDING CERTIFICATES OF PARTICIPATION, SERIES 2013

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LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT is dated as of March 5, 2013 (the "*Lease*"), between U.S. Bank National Association, Seattle, Washington, a national banking association duly organized and existing under the laws of the United States (the "*Lessor*"), and the City of Billings, Montana, a political subdivision of the State of Montana (the "*Lessee*" or "*City*").

W I T N E S S E T H:

WHEREAS, the City is authorized by Montana Code Annotated, Sections 7-1-4124 and 7-8-4101, to acquire real and personal property by entering into lease purchase agreements;

WHEREAS, the City previously entered into a Lease Purchase Agreement dated as of March 3, 2003 between Koch Financial Corporation, as lessor, and the City, as lessee (the "*Refunded Lease*"), for the purpose of financing the design, construction and equipping of the City's Operations Center (as hereinafter defined, the "*Improvements*"), located on certain real estate owned by the City (as hereinafter defined, the "*Land*");

WHEREAS, the City has determined that it is necessary to refinance the City's obligations with respect to the Refunded Lease by entering into this Lease and the issuance by the Trustee of the corresponding Certificates; and

WHEREAS, the Lessor is willing to acquire a leasehold interest in the Premises (as hereinafter defined) described in Exhibit A and to lease and/or sell the same to the City, pursuant to this Lease.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. For the purposes of this Lease and Exhibits attached hereto, capitalized terms used herein but not otherwise defined shall have the respective meanings given such terms in the Trust Agreement. In addition, the terms defined in this Section 1.1 shall, for all purposes of this Lease and Exhibits attached hereto, have the meanings herein specified.

Certificates: The $4,100,000 Refunding Certificates of Participation, Series 2013.

Closing Date: The date upon which the Certificates are delivered to the Original Purchaser (as defined in the Trust Agreement) against payment therefore.

Fiscal Year: The twelve month fiscal period of the City which commences on July 1 every year and ends on the following June 30.

Ground Lease: The Ground Lease dated as of the date hereof by and between Lessee, as lessor, and Lessor, as lessee, relating to the Land.

Improvements: The improvements described in Exhibit A hereto and all repairs, replacements, substitutions and modifications thereto during the term of this Lease.

Independent Counsel: An attorney duly admitted to the practice of law before the highest court of the State who is not a full-time employee of the Lessor or the City.

Interest: The portion of any Rental Payment designated as and comprising interest as shown in the attached Exhibit B.

Land: The real property described in Exhibit A hereto.

Net Proceeds: Any insurance proceeds or condemnation award paid with respect to the Premises remaining after payment therefrom of all expenses incurred in the collection thereof.

Non-Appropriation: The failure of the City Council of the City to appropriate money for any Fiscal Year of the City sufficient for the continued performance of this Lease by the City, as evidenced by the passage of a resolution specifically prohibiting the City from performing its obligations under this Lease, and from using any moneys to pay the Rental Payments due under this Lease for a designated Fiscal Year and all subsequent Fiscal Years.

Permitted Encumbrances: As of any particular time: (i) liens for taxes, assessments and other governmental surcharges not then delinquent, or which the City may, pursuant to provisions of Section 8.3, permit to remain unpaid; (ii) this Lease, the Ground Lease and amendments hereto and thereto; (iii) the Lessor's interest in the Premises pursuant to the Ground Lease; (iv) any mechanic's, laborer's, materialmen's, supplier's or vendor's lien incurred in the ordinary course of business or which is being contested in good faith; (v) minor defects and irregularities in the title to the Premises which do not in the aggregate materially impair the use of the Premises for the purposes for which they are or may reasonably be expected to be held; (vi) easements, exceptions or reservations for the purpose of pipelines, telephone lines, telegraph lines, power lines and substations, roads, streets, alleys, highways, railroad purposes, drainage and sewage purposes, dikes, canals, laterals, ditches, the removal of oil, gas, coal or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, which do not materially impair the use of the Premises for the purposes for which they are or may reasonably be expected to be held; (vii) rights reserved to or vested in any municipality or governmental or other public authority to control or regulate or use in any manner any portion of the Premises which do not materially impair the use of the Premises for the purposes for which they are or may reasonably be expected to be held; (viii) any obligations or duties affecting any portion of the Premises of any municipality or governmental or other public authority with respect to any right, power, franchise, grant, license or permit; and (ix) present and future zoning laws and ordinances.

Premises: The Land and Improvements.

Principal: The portion of any Rental Payment designated as principal in the attached Exhibit B.

Rental Payment: The payment due from the City to the Lessor on each Rental Payment Date during the Term of this Lease, as shown on Exhibit B.

Rental Payment Date: The date upon which any Rental Payment is due and payable, as shown on Exhibit B.

State: The State of Montana.

State and Federal Law or Laws: The Constitution and any law of the State and any rule or regulation of any agency or political subdivision of the State and any law of the United States, and any rule or regulation of any federal agency.

Term of this Lease or Lease Term: The period during which this Lease is in effect as specified in Section 4.1.

Trustee: U.S. Bank National Association, in Seattle, Washington, acting pursuant to the Trust Agreement.

Trust Agreement: The Declaration of Trust dated as of the date hereof by and between the Trustee and the City and any amendment thereof or supplement thereto.

Trust Fund: The Trust Fund so designated which is established by the Trustee under Section 4.1 of the Trust Agreement.

Section 1.2. Exhibits. The following Exhibits are attached to and by reference made a part of this Lease:

Exhibit A: A legal description of the Land and a description of the Improvements being leased by the City pursuant to this Lease.

Exhibit B: A schedule indicating the date and amount of each Rental Payment (including the interest portion of each Rental Payment) coming due during the Lease Term and the provisions for prepayment of the Lease in accordance with Article XI.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants as follows:

(a) The City is a duly formed and validly existing municipal corporation and body corporate and political subdivision of the State.

(b) The City is authorized under the Constitution and laws of the State to enter into this Lease, the Ground Lease and the Trust Agreement and to perform all of its obligations hereunder and thereunder.

(c) The officers of the City executing this Lease, the Ground Lease and the Trust Agreement have been duly authorized to execute and deliver such documents under the terms and provisions of a resolution of the City's governing body or by other appropriate official action.

(d) The City will not pledge, mortgage or assign this Lease, or its duties and obligations hereunder, to any other person, firm or corporation except as provided under the terms of this Lease.

(e) The City will use the Premises during the Lease Term primarily to carry out the governmental or proprietary purposes of the City and its departments, agencies, institutions, instrumentalities and political subdivisions.

(f) Subject to the provisions of Section 4.5, the officers of the City responsible for budget preparation will include in the annual budget request, for each Fiscal Year during the Term of this Lease, commencing with the Fiscal Year ending on June 30, 2014, moneys sufficient to pay and for the purpose of paying all Rental Payments and other obligations of the City under this Lease.

(g) The City presently intends to continue this Lease for its entire stated Lease Term and to pay all Rental Payments specified in Exhibit B hereto. The City reasonably believes that moneys in an amount sufficient to make all such Rental Payments can and will lawfully be appropriated or budgeted and made available for this purpose.

(h) This Lease does not constitute a general obligation of the City, and the full faith and credit and taxing powers of the City are not pledged for the payment of the Rental Payments or other amounts coming due, or other actions required to be performed, hereunder. The governing body of the City is not obligated to appropriate or otherwise provide moneys for the payment of the Rental Payments or any other amounts coming due hereunder; and in the event of Non-Appropriation by the governing body of the City, the City shall not be liable for general, special, incidental, consequential or other damages resulting therefrom, except as provided in Section 4.6.

(i) The City will file with the Internal Revenue Service the information reporting statement required by Section 149(e) of the Internal Revenue Code of 1986, as amended (the "*Code*"), and Treasury Regulations promulgated thereunder (the "*Regulations*").

(j) The City will take no action that would cause the Interest portion of the Rental Payments to become includible in gross income of the recipient for federal income tax purposes under the Code and Regulations, and the City will take and will cause its officers, employees and agents to take all affirmative actions legally within its power necessary to ensure that the Interest portion of the Rental Payments does not become

includible in gross income of the recipient for federal income tax purposes under the Code and Regulations.

Section 2.2. Representations, Covenants and Warranties of the Lessor. The Lessor represents, covenants and warrants as follows:

(a) The Lessor is a national banking association duly organized, existing and in good standing under and by virtue of the laws of the United States; has power to enter into this Lease, the Ground Lease and the Trust Agreement; is possessed of full power to own and hold real and personal property and to lease the same; and has duly authorized the execution and delivery of this Lease, the Ground Lease and the Trust Agreement.

(b) Neither the execution and delivery of this Lease, the Ground Lease and the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Lessor is now a party or by which the Lessor is bound, constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Lessor or upon the Premises, except Permitted Encumbrances.

ARTICLE III

REFUNDING; LEASE AND SALE OF PREMISES

Section 3.1. Refunding.

(a) The Trustee shall deposit in the Escrow Account created by the Escrow Agreement proceeds of the issuance and sale of the Certificates in the amount of $4,203,436.77, together with any amounts remaining in the debt service funds for the Refunded Lease, all in accordance with the provisions of the Trust Agreement.

(b) Upon deposit of the amounts described in clause (a), the Trustee shall cause the lessor for the Refunded Lease to deliver such deeds or termination documents as may be required to convey the interest of such lessor in the Premises subject to the Refunded Lease to the Trustee. Upon such deposit, the Premises shall become subject to the provisions of this Lease.

Section 3.2. Lease of Premises. The Lessor hereby leases and sells the Improvements and subleases the Land to the City, and the City hereby leases and purchases the Improvements and subleases the Land from the Lessor, upon the terms and conditions set forth in this Lease. The Premises are leased or subleased and sold in their present condition without representation or warranty of any kind by the Lessor, and subject to the rights of parties in possession, to the existing state of title, to all applicable legal requirements now or hereafter in effect, and to Permitted Encumbrances.

Section 3.3. Possession and Enjoyment. The Lessor hereby covenants to provide the City during the Term of this Lease with quiet use and enjoyment of the Premises, and the City

shall during the Term of this Lease peaceably and quietly have and hold and enjoy the Premises, without suit, trouble or hindrance from the Lessor, except as expressly set forth in this Lease. The Lessor will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Lessor may lawfully do so.

Section 3.4. Lessor Access to Premises. The Lessor shall have the right at all reasonable times to examine and inspect the Premises, and shall have such rights of access to the Premises as may be reasonably necessary to cause the proper maintenance thereof in the event of failure by the City to perform its obligations hereunder.

Section 3.5. Compliance with Trust Agreement. During the Term of this Lease, the City agrees to perform all obligations imposed upon it by the Trust Agreement.

ARTICLE IV

TERM OF LEASE; SURRENDER OF PREMISES AND TERMINATION

Section 4.1. Lease Term. This Lease shall be in effect commencing upon the execution hereof and ending on the date upon which the City has paid to the Lessor all Rental Payments required to be paid by it hereunder, unless terminated prior to said date as provided in Section 4.2.

Section 4.2. Termination of Lease Term. The Term of this Lease will terminate upon the occurrence of the first of the following events:

(a) termination of this Lease by the City pursuant to Section 4.5;

(b) the discharge by the City of its obligation to pay the Rental Payments pursuant to Section 11.3;

(c) a default by the City and the Lessor's election to terminate this Lease pursuant to Article XIII; or

(d) the prepayment by the City of all Rental Payments pursuant to Section 11.1.

Section 4.3. Surrender of Premises. Upon termination of the Term of this Lease pursuant to Section 4.2, clauses (a) or (c), or upon exercise by the Lessor of its right to take possession of the Premises under Section 13.2, the City shall surrender the Premises to the Lessor in the condition in which they were originally received from the Lessor, except as repaired, rebuilt, restored, altered or added to as permitted or required hereby, ordinary wear and tear excepted. If the City refuses to surrender the Premises in the manner designated, the Lessor may repossess the Premises and charge to the City the costs of such repossession or pursue any remedy described in Section 13.2.

Section 4.4. No Subordination of City's Title to Land. No provision of this Lease shall be construed as in any way subordinating, conveying or agreeing to convey, or otherwise adversely affecting the City's fee simple interest in, the Land. This Lease covers only the Lessor's leasehold interest in the Land created by the Ground Lease, and all references to the Land herein and in the Trust Agreement shall be construed as applying only to such leasehold interest, unless otherwise specifically stated.

Section 4.5. Termination by the City. Notwithstanding anything in this Lease to the contrary, the City shall have the right to terminate this Lease, in whole but not in part, at the end of any Fiscal Year of the City, in the manner and subject to the terms specified in this Section 4.5 and Section 4.6, if the governing body of the City does not appropriate or budget moneys sufficient to pay the Rental Payments coming due in the next Fiscal Year, as determined by a specific provision in the City's budget for the Fiscal Year in question. The City may effect such termination by giving the Lessor a written notice of termination, as evidenced by a resolution of the governing body of the City specifically determining not to provide moneys to pay Rental Payments for the succeeding Fiscal Year and all future Fiscal Years, and stating the governing body's determination to terminate this Lease, and by paying to the Lessor any remaining Rental Payments for the City's then current Fiscal Year. The City shall give notice not later than June 1 of its intent to terminate this Lease at the end of the City's then current Fiscal Year and shall notify the Lessor of any anticipated termination. If notice of termination is not given to the Lessor by June 1, this Lease shall be deemed to be renewed, and the City shall appropriate money for its payment for the succeeding Fiscal Year. In the event of termination of this Lease as provided in this Section 4.5, the City shall surrender the Premises to the Lessor in accordance with Section 4.3 within thirty (30) days after the end of its then current Fiscal Year.

Section 4.6. Effect of Termination. Upon termination of this Lease as provided in Section 4.5, the City shall not be responsible for the payment of any additional Rental Payments coming due with respect to succeeding Fiscal Years, but if the City has not delivered possession of the Premises to the Lessor in accordance with Section 4.3 within thirty (30) days after the end of its then current Fiscal Year, the termination shall nevertheless be effective, but the City shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments thereafter coming due which are attributable to the number of days during which the City fails to so deliver possession of the Premises to the Lessor and for any other loss suffered by the Lessor as a result of the City's failure to so deliver possession of the Premises to the Lessor. The City shall be required to pay over to the Lessor any moneys which it has appropriated or budgeted for the purpose of paying obligations under this Lease for any Fiscal Years preceding the Fiscal Year for which termination under Section 4.5 is effective.

Section 4.7. Right of Lessor to Remove Improvements. In the event of a termination of this Lease under the circumstances described in either clause (a) or (c) of Section 4.2, the Lessor shall have the right, at its option and upon not less than fifteen (15) days written notice to City, to treat the Improvements as being severable from the Land, and to remove part or all of the Improvements from the Land. If the Lessor exercises its right under this Section 4.7, it shall pay the costs involved in such removal, and the City shall not be obligated to pay any of such costs. The Lessor shall not be liable for any damage to the Land or any remaining Improvements resulting from any such removal. The removal of the Improvements pursuant to this Section 4.7 shall not result in a termination of the Ground Lease.

ARTICLE V

RENTAL PAYMENTS

Section 5.1. Rental Payments. Except as provided in Section 4.5, the City agrees to pay Rental Payments during the Term of this Lease, in the amounts and on the dates specified in Exhibit B. All Rental Payments shall be paid to the Lessor at the address specified in Section 14.1 of this Lease, or to such other person or entity to which the Lessor has assigned such Rental Payments as specified in Article XII, at such place as such assignee may from time to time designate by written notice to the City. The City shall pay the Rental Payments exclusively from moneys legally available therefor, in lawful money of the United States of America, to the Lessor or, in the event of assignment of the right to receive Rental Payments by the Lessor, to its assignee. Interest shall accrue from and after the Closing Date.

Section 5.2. Current Expense. The obligations of the City under this Lease, including its obligation to pay the Rental Payments, in any Fiscal Year for which this Lease is in effect, shall constitute a current expense of the City for such Fiscal Year and shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions whatsoever. Nothing herein shall constitute a pledge by the City of its general credit or taxing powers of the City, other than moneys lawfully appropriated from time to time by the City in the annual budget of the City and the Net Proceeds with respect to the Premises as specified in Article VI, to the payment of any Rental Payment or other amount coming due hereunder.

Section 5.3. Interest Component. A portion of each Rental Payment is paid as and represents the payment of Interest. Exhibit B sets forth the Interest portion of the Rental Payments.

Section 5.4. Rental Payments to be Unconditional. Except as provided in Section 4.5, the obligation of the City to make Rental Payments or any other payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between the City and the Lessor or any other person, the City shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payment or other payment required hereunder pending final resolution of such dispute nor shall the City assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required hereunder. The City's obligation to make Rental Payments or other payments required hereunder during the Lease Term shall not be abated through accident or unforeseen circumstances (including, without limitation, the occurrence of any environmental liability). However, nothing herein shall be construed to release the Lessor from the performance of its obligations hereunder; and if the Lessor should fail to perform any such obligation, the City may institute such legal action against the Lessor as the City may deem necessary to compel the performance of such obligation or to recover damages therefor.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 6.1. Damage, Destruction and Condemnation. If the Premises or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or title to or the temporary use of the Premises or any part thereof, or the interest of the City or the Lessor in the Premises or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the City shall have the rights with respect to the Net Proceeds of any insurance or condemnation award with respect thereto. All Net Proceeds shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Premises by the City and this Lease shall continue in effect, or if the City elects in its sole discretion not to repair or rebuild, all Net Proceeds shall be applied to prepay Rental Payments; in either event all Net Proceeds not needed for such purposes shall belong to the City.

Section 6.2. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Premises, the City shall either: (a) complete the work and pay any cost in excess of the amount of the Net Proceeds, and the City agrees that if by reason of any such insufficiency of the Net Proceeds, the City shall make any payments pursuant to the provisions of this Section 6.2, the City shall not be entitled to any reimbursement therefor from the Lessor nor shall the City be entitled to any diminution of the Rental Payments due with respect to the Premises; or (b) prepay the Rental Payments to the full extent of the Net Proceeds. If the City elects not to repair or rebuild, the City shall prepay the Rental Payments to the full extent of the Net Proceeds.

Section 6.3. Cooperation of Lessor. The Lessor shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 6.1 and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Premises or any part thereof and will, to the extent it may lawfully do so, permit the City to litigate in any proceeding resulting therefrom in the name of and on behalf of the Lessor. In no event will the Lessor voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Premises or any part thereof without the written consent of the City.

Section 6.4. Condemnation of Other Property Owned by the City. The City shall be entitled to the proceeds of any condemnation award or portion thereof made for destruction of, damage to or taking of its property not included in the Premises.

ARTICLE VII

INSURANCE AND INDEMNIFICATION

Section 7.1. Liability Insurance. Unless self-insurance is provided by the City, as evidenced by a written certificate satisfactory to the Lessor specifying the terms and amounts

thereof and subject further to the annual verification no later than 90 days after the end of each Fiscal Year, the City shall take such measures as may be necessary to insure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the Premises or any part thereof, is covered by liability insurance maintained by the City. The Net Proceeds of such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

Section 7.2. Property Insurance. The City shall have and assume the risk of loss with respect to the Premises. Unless self-insurance is provided by the City, as evidenced by a written certificate satisfactory to the Lessor specifying the terms and amounts thereof and subject further to annual verification no later than 90 days after the end of each Fiscal Year, the City shall procure and maintain continuously in effect during the Term of this Lease, property insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part of the Premises damaged or destroyed or to pay the applicable Purchase Option Price of the Premises. Such insurance may be written with customary deductible amounts and need not cover land and building foundations. As set forth in Article VI, the Net Proceeds of insurance required by this Section 7.2 shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Premises, or shall be applied to prepay Rental Payments. Any Net Proceeds not needed for those purposes shall belong to the City.

Section 7.3. Worker's Compensation Insurance. If required by State law, and unless self-insurance is provided by the City, as evidenced by a written certificate satisfactory to the Lessor specifying the terms and amounts thereof and subject further to annual verification no later than 90 days after the end of each Fiscal Year, the City shall carry worker's compensation insurance covering all employees on, in, near or about the Premises, and upon request, shall furnish to the Lessor certificates evidencing such coverage throughout the Term of this Lease.

Section 7.4. Requirements For All Insurance. Insurance taken out pursuant to this Article VII shall be maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State or through the Montana Municipal Interlocal Authority (MMIA); and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten (10) days before the cancellation or revision becomes effective. All insurance required by Sections 7.1 and 7.2 shall name the City and the Lessor as insured parties, and any insurance required by Section 7.3 shall name the City as insured party. The City shall deposit with the Lessor evidence of such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such insurance, the City shall furnish to the Lessor evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article VII, unless such insurance is no longer obtainable in which event the City shall notify the Lessor of this fact.

Section 7.5. Indemnification. As between the Lessor and the City, the City assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Premises and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the City, the Lessor or of third parties, and whether such

property damage be to the City's or the Lessor's property or the property of others, which is proximately caused by the negligent conduct of the City, its officers, employees, agents and lessees, or arising out of the operation, maintenance or use of the Premises by the City, its officers, employees, agents and lessees. The City hereby assumes responsibility for and agrees to indemnify, defend and hold harmless the Lessor, its directors, officers, employees and agents, and any assignee of the Lessor, without payment being made by the Lessor, from and against all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees) of whatsoever kind and nature, imposed on, incurred by or asserted against the Lessor or its directors, officers, employees, agents or assignees that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part on the foregoing, to the maximum extent permitted by law.

The City further agrees that it will indemnify, defend and hold harmless the Lessor, its directors, officers, employees and agents and any assignee of Lessor, without payment being made by Lessor, from and against any and all claims, demands, suits, liabilities and costs (including without limitation attorneys' fees and costs and expenses of investigation and proof) arising out of any violation or asserted violation of any law or regulation, including without limitation, any environmental law or regulation, or arising out of the presence on the Land of any hazardous or toxic waste, materials or substances within the meaning of any federal, state or local law or regulation, to the maximum extent permitted by law.

ARTICLE VIII

GENERAL MATTERS

Section 8.1. Use; Permits. The City shall exercise due care in the use, operation and maintenance of the Premises, and shall not use, operate or maintain the Premises improperly, carelessly, in violation of any State and Federal Law or for a purpose or in a manner contrary to that contemplated by this Lease. The City shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Premises. The City shall comply with all State and Federal Laws applicable to the installation, use, possession and operation of the Premises, and if compliance with any such State and Federal Law requires changes or additions to be made to the Premises, such changes or additions shall be made by the City at its expense.

Section 8.2. Maintenance and Modification of Premises by the City. During the Term of this Lease, the City shall, at its own expense, maintain, preserve and keep the Premises in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep the Premises in such condition. The Lessor shall have no responsibility for any of these repairs, replacements or improvements. In addition, the City shall, at its own expense, have the right to remodel the Premises or to make additions, modifications and improvements thereto. All such additions, modifications and improvements shall thereafter comprise part of the Premises and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the Premises; and the Premises, upon completion of any additions, modifications and improvements made pursuant to this Section 8.2, shall be of a value not materially less than the value of the Premises immediately prior to the making of such additions, modifications and improvements. Any

property for which a substitution or replacement is made pursuant to this Section 8.2 may be disposed of by the City in such manner and on such terms as are determined by the City.

Section 8.3. Taxes, Other Governmental Charges and Utility Charges; Compliance with Governmental Requirements. Except as expressly limited by this Section 8.3, the City shall pay all taxes and other charges of any kind which are at any time lawfully assessed or levied against or with respect to the Premises, the Rental Payments or any part thereof, or which become due during the Term of this Lease, whether assessed against the City or the Lessor. The City shall also pay when due all gas, water, steam, electricity, heat, power, telephone and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Premises, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Premises; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due. The City shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by the Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge which is the obligation of the City under this Section 8.3. The City may, at its own expense and in its own name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Lessor shall notify the City that, in the opinion of Independent Counsel, by nonpayment of any such items the interest of the Lessor in the Premises will be materially endangered or the Premises or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments, utility or other charges or provide the Lessor with full security against any loss which may result from nonpayment, in form satisfactory to the Lessor.

Section 8.4. Easements. The Lessor will from time to time, at the request of the City and at the City's cost and expense, cooperate and join with the City: (a) in granting easements and other rights in the nature of easements, releasing existing easements or other rights in the nature of easements which are for the benefit of the Premises; and (b) in executing and delivering to any person any instrument appropriate (i) to confirm or to the effect that such grant, release or execution is not detrimental to the proper conduct of the operations of the City on or in the Premises, (ii) to show the consideration, if any, being paid for such grant, release or amendment, (iii) to show that such grant, release, dedication, transfer, petition or amendment does not materially impair the use of the Premises or reduce their value, or (iv) to confirm that the City will remain obligated hereunder to the same extent as if such grant, release, or amendment had not been made, and the City will perform all obligations of the Lessor under such instrument; provided that no such easement will materially adversely affect the operation of the Improvements.

Section 8.5. Covenants Regarding Hazardous Material. The City shall comply with all regulations concerning the environment, health and safety relating to the generation, use, handling, production, disposal, discharge and storage of Hazardous Materials in, on, under or about the Premises. The City shall promptly take any and all necessary action in response to the

presence, storage, use, disposal, transportation or discharge of any Hazardous Materials in, on, under or about the Premises by the City or persons acting on behalf of or at the direction of the City as all applicable laws, rules, regulations or ordinances may require. The City agrees promptly to:

(a) Transmit to the Lessor copies of any governmental citations, orders or notices received with respect to Hazardous Materials which may result in a penalty, liability or cost greater than $10,000.

(b) Observe and comply with any and all laws, ordinances, rules, regulations, licensing requirements or conditions relating to the use, maintenance or disposal of Hazardous Materials and all orders or directives from any official, court or governmental agency of competent jurisdiction relating to the use or maintenance or requiring the removal, treatment, containment or other disposal of such Hazardous Material.

(c) Pay or otherwise dispose of any lien, charge or imposition relating thereto which, if paid, would constitute a lien upon the Premises.

(d) Indemnify and hold harmless the Lessor from any and all liabilities and obligations relating to or arising from the presence, at any time, of Hazardous Materials in, on, under or about the Premises, to the maximum extent permitted by law. The Lessor shall not be liable for any payment whatsoever with regards to Section 8.5, clauses (a) through (c).

As used herein, the term Hazardous Material shall mean: (i) oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other substances, materials or pollutants which (1) pose a hazard to the Premises, to adjacent premises or to persons on or about the Premises or adjacent premises, (2) substances which cause the Premises to be in violation of any local, state or federal law, rule, regulation or ordinance, or (3) substances which are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations, policy guidelines or other publications adopted or promulgated pursuant thereto, including, but not limited to: (A) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; (B) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 1601, et seq.; (C) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; (D) the Clean Air Act, 42 U.S.C. § 7412; (E) the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq.; (F) The Clean Water Act, 33 U.S.C. § 1317 and 1321(b)(2)A and (G) rules, regulations, ordinances and other publications adopted or promulgated pursuant to the aforesaid laws; (ii) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety or property interests of the City or its employees, the occupants of the Premises or the owners and/or occupants of property adjacent to or surrounding the Premises.

ARTICLE IX

TITLE

Section 9.1. Title. During the Term of this Lease, legal title to the Improvements and any and all repairs, replacements, substitutions and modifications thereto shall be in the Lessor, subject to the City's interests under this Lease, and legal fee title to the Land shall remain in the City, subject to Lessor's leasehold interest under the Ground Lease. At any time when (a) the entire principal balance, together with any unpaid interest, has been fully paid, whether by (i) payment of all Rental Payments as provided in Section 5.1, (ii) prepayment of all of the Rental Payments as provided in Section 11.1, or (iii) discharge of all of the Rental Payments as provided in Section 11.3, then the purchase of the Premises by the City shall be deemed to have been completed. The Lessor shall thereupon deliver to the City such instruments of conveyance or release as, in the opinion of counsel, may be necessary to release and terminate any interests of the Lessor in the Premises. Thereafter, full and unencumbered legal title to the Premises shall pass to the City, and the Lessor shall have no further interest therein.

Section 9.2. Liens. During the Term of this Lease, the City shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Premises, other than the respective rights of the Lessor and the City as herein provided and Permitted Encumbrances. The City shall promptly, at its own expense, take such action as may be necessary to discharge or remove any mortgage, pledge, lien, charge, encumbrance or claim with respect to the Premises, other than the respective rights of the Lesser and the City as herein provided and Permitted Encumbrances. The City shall reimburse the Lessor for any expense incurred by the Lessor in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 9.3. Installation of Personal Property. The City may, at any time and from time to time, in its sole discretion and at its own expense, install items of personal property in or upon the Premises. All such items so identified shall remain the sole property of the City, in which the Lessor shall have no interest, and may be modified or removed by the City at any time; provided that the City shall repair and restore any and all damage to the Premises resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent the City from purchasing items to be installed pursuant to this Section 9.3 under a conditional sale or lease with option to purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof; provided that no such lien or security interest shall attach to any part of the Premises.

ARTICLE X

WARRANTIES

Section 10.1. Maintenance of Premises. The Lessor shall have no obligation to test, inspect, service or maintain the Premises under any circumstances, but such actions shall be the obligation of the City.

Section 10.2. Contractor's Warranties. The Lessor hereby assigns to the City for and during the Term of this Lease, all of its interest in all contractor's warranties and guarantees, express or implied, issued on or applicable to the Premises or any portion thereof, and the Lessor hereby authorizes the City to obtain the customary services furnished in connection with such warranties and guarantees at the City's expense.

Section 10.3. Patent Infringement. The Lessor hereby assigns to the City for and during the Term of this Lease all of its interest in patent indemnity protection provided by any Contractor with respect to the Premises. Such assignment of patent indemnity protection by the Lessor to the City shall constitute the entire liability of the Lessor for any patent infringement by the Premises furnished pursuant to this Lease.

Section 10.4. Disclaimer of Warranties. THE PREMISES ARE DELIVERED AS IS, AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PREMISES, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PREMISES.

ARTICLE XI

OPTION TO PREPAY; DISCHARGE

Section 11.1. Option to Prepay in Whole or in Part. The City shall have the option to prepay the unpaid Rental Payments, in whole or in part, but only under the terms and conditions for the redemption of the Certificates set forth in Section 3.6 of the Trust Agreement.

Section 11.2. Exercise of Prepayment Option. The City shall give notice to the Lessor of its intention to exercise its prepayment option not less than forty-five (45) days in advance of the date of exercise, and shall pay to the Lessor on the date of exercise an amount equal to the amount of Principal to be prepaid, plus accrued Interest to the prepayment date.

Section 11.3. Discharge of City's Obligation. The City may at any time discharge its obligation to pay the Rental Payments due under this Lease, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities for the defeasance of the Certificates under Article VII of the Trust Agreement. Defeasance of the Certificates shall constitute defeasance of the Rental Payments hereunder.

ARTICLE XII

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 12.1. Assignment by the Lessor. All of the Lessor's rights, title and/or interest in and to this Lease, the Ground Lease, the Rental Payments and other amounts due hereunder and the Premises may be assigned and reassigned in whole or in part to one or more assignees or subassignees by the Lessor at any time without the consent of the City. No such assignment shall be effective as against the City unless and until the assignor shall have given written notice

thereof to the City at the address specified in Section 14.1. The City shall pay all Rental Payments due hereunder to or at the direction of the Lessor or the assignee named in the most recent assignment or notice of assignment filed with the City. During the Lease Term the City shall keep a complete and accurate record of all such notices of assignment. In the event the Lessor assigns its right, title and/or interest in and to this Lease, such assignee shall be considered to be the Lessor. The City hereby consents to assignment of the Lease and Ground Lease to the Trustee for the purposes as set forth in the Trust Agreement.

Section 12.2. Assignment and Subleasing by the City. Neither this Lease nor the City's interest in the Premises may be assigned by the City without the written consent of the Lessor. However, the Premises may be subleased by the City, in whole or in part, without the consent of the Lessor, subject, however, to each of the following conditions:

(i) This Lease and the obligation of the City to make Rental Payments hereunder shall remain obligations of the City.

(ii) The sublessee shall assume the obligations of the City hereunder to the extent of the interest subleased.

(iii) The City shall furnish or cause to be furnished to the Lessor a true and complete copy of such sublease within thirty (30) days after the delivery thereof.

(iv) The City shall furnish to the Lessor an opinion of nationally recognized bond counsel that the proposed sublease shall not cause the Interest component of the Rental Payments due with respect to the Premises to become includible in gross income of the recipient for federal income tax purposes.

Section 12.3. Restriction on Mortgage or Sale of Premises by the City. Except as provided in Section 12.2, the City will not mortgage, sell, assign, transfer or convey the Premises or any portion thereof during the Term of this Lease, or remove the same from its boundaries, without the written consent of the Lessor.

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES

Section 13.1. Events of Default Defined. The following shall be "events of default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

(i) Failure by the City to pay any Rental Payment or other payment required to be paid under this Lease at the time specified herein and the continuation of said failure for a period of ten (10) days after telephonic, telegraphic or other electronic notice given by the Lessor that the payment referred to in such notice has not been received, such telephonic, telegraphic or other electronic notice to be subsequently confirmed in writing, or after written notice.

(ii) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Lease, the Ground Lease or the Trust Agreement, other than as referred to in clause (i) of this Section 13.1, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Lessor, unless the Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is promptly instituted by the City and diligently pursued until the default is corrected.

(iii) The filing by the City of a voluntary petition in bankruptcy, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the applicable federal or State bankruptcy, insolvency, reorganization or other similar laws.

If by reason of force majeure the City is unable in whole or in part to carry out its obligations under this Lease, other than its obligation to pay Rental Payments, the City shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, acts of God; strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State or their respective departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of the City. The City agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the City from carrying out its obligations under this Lease; provided that the settlement of strikes, lockouts and other labor disturbances shall be entirely within the discretion of the City and the City shall not be required to make settlement of strikes, lockouts and other labor disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the City unfavorable to the City.

Section 13.2. Remedies on Default. Whenever any event of default referred to in Section 13.1 shall have happened and be continuing with respect to the Premises, the Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(i) The Lessor, with or without terminating this Lease, may declare all Rental Payments due or to become due during the Fiscal Year in effect when the default occurs to be immediately due and payable by the City, whereupon such Rental Payments shall be immediately due and payable.

(ii) The Lessor, with or without terminating this Lease, may repossess the Premises by giving the City written notice to surrender the Premises to the

Lessor for the remaining term of the Ground Lease, whereupon the City shall do so in the manner provided in Section 4.7. Notwithstanding the fact that the Lessor has taken possession of the Premises, the City shall continue be responsible for the Rental Payments due during the Fiscal Year in effect when such default occurs. If this Lease has not been terminated, the Lessor shall return the Premises to the City at the City's expense when the event of default is cured.

(iii) The Lessor may terminate this Lease and take possession of the Premises, and shall thereafter use its best efforts to sell or lease its interest in the Premises or any portion thereof in a commercially reasonable manner in accordance with applicable State laws. The Lessor shall apply the proceeds of such sale or lease to pay the following items in the following order: (a) all costs incurred in securing possession of the Premises; (b) all expenses incurred in completing the sale, including attorney's fees; (c) the applicable Purchase Option Price of the Premises; and (d) the balance of any Rental Payments owed by the City during the Fiscal Year in effect when such default occurs. Any sale proceeds remaining after the requirements of clauses (a), (b), (c) and (d) have been met may be retained by Lessor.

(iv) If the proceeds of sale or lease of the Lessor's interest in the Premises are not sufficient to pay the balance of any Rental Payments owed by the City during the Fiscal Year in effect when such default occurs, the Lessor may take any other remedy available at law or in equity to require the City to perform any of its obligations hereunder.

Section 13.3. No Remedy Exclusive. No remedy conferred upon or reserved to the Lessor by this Article XIII is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by the Lessor or its assignee.

ARTICLE XIV

ADMINISTRATIVE PROVISIONS

Section 14.1. Notices. Except as otherwise provided in this Lease, all notices, requests, demands and other communications under this Lease shall be in writing, shall be effective upon receipt thereof and shall be delivered by hand, or mailed by first class mail, postage prepaid to the addresses specified below; provided that the Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

If to the Lessor: City of Billings, Montana
201 North 27th Street
Billings, Montana 59101
Attention: City Clerk

If to the Lessee: U.S. Bank National Association
1420 Fifth Avenue, 7th Floor
Seattle, Washington 98101
Attention: Corporate Trust Services

Section 14.2. Recording. This Lease shall be recorded by the City at its cost and expense.

Section 14.3. Financial Information. During the Term of this Lease, the City annually within 365 days after the end of its Fiscal Year will provide the Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of the City to continue this Lease as may be requested by the Lessor or its assignee.

Section 14.4. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Lessor and the City and their respective successors and assigns.

Section 14.5. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 14.6. Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written document duly authorized, executed and delivered by the Lessor and the City.

Section 14.7. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article, Section or Clause of this Lease.

Section 14.8. Further Assurances and Corrective Instruments. The Lessor and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Premises hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 14.9. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 14.10. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

[Signatures continue on the following page.]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

U.S. BANK NATIONAL ASSOCIATION

_____

Vice President

CITY OF BILLINGS, MONTANA,
as Lessor

_____
Mayor

_____
Finance Director

_____
City Clerk

Subscribed and sworn to before me this _____ day of _____, 2013.

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

(Notarial Seal)

EXHIBIT A

LAND

1. Lot 4, Block 1, of Billings Operations Center Subdivision, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #3217110.

2. Lot 1, Block 2, of Billings Operations Center Subdivision, in Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #3217110.

3. Lot 4, Block 1, of Cereus Subdivision, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document #1784237.

IMPROVEMENTS

The Billings Operations Center is located on approximately 21 acres of land on the southwest corner of I-90 and South Billings Blvd. in Billings, MT. The land configuration is an inverted "T-shape" with the 5-acre tail of the "T" bordered by the I-90 off ramp to the north and privately-held, undeveloped land to the east and west. The cross of the "T" consisting of 16 acres is bound by South Billings Blvd. to the east, agricultural land to south, and commercial/industrial development to the west. An extension of Midland Road has been constructed as part of this project, bisecting the north and south parcels and intersecting South Billings Blvd. Midland Road will form an "S-curve" as it traverses the property.

The project houses the operations of four divisions of the City of Billings: Streets/Traffic, Solid Waste, Motor Pool/Purchasing, and Parks, Recreation, and Public Lands.

Four buildings have been constructed on the south parcel:

(1) A 100,000 square foot structure (500' x 200') with 97,000 square foot enclosed, heated space and 3,000 square foot of covered parking, containing open storage for large street and sanitation vehicles and smaller, enclosed workshop areas. This building is occupied by all divisions except Motor Pool.

(2) A 43,000 square foot building consisting of two connected components, an 18,900 square foot (210' x 90') structure containing an 18-stall Motor Pool repair garage and four enclosed large-vehicle wash bays at the west end, and a 24,100 square foot structure containing office/administration/storage functions for the four departments at the east end. The entire building is heated; the administration areas are also cooled.

(3) A 12,000 square foot Police Training facility with 10,000 square foot of office/training/conditioning and 2,000 square foot of heated storage garage for emergency

response vehicles. The entire building is heated; the administration areas are also cooled.

(4) An 11,250 square foot unheated material storage facility for the storage of road materials required by EPA to be stored in the dry.

The entire 16-acre parcel has been developed for parking, storage, circulation, and landscaping. The site houses a fueling facility with 2-10,000 gallon and 2-5,000 gallon buried tanks, above-grade dispensers and islands, a loading facility for calcium chloride consisting of above-grade tanks and dispensers on containment pads, and carports for police vehicles. The entire site, except for private vehicle parking and landscaping is surrounded by a chain link fence accessed through automatic gates.

One building has been constructed on the north parcel:

A 5,000 square foot Police Evidence Storage facility with three vehicle processing bays, an evidence processing area, and an evidence storage area, including a mezzanine storage area.

A single access drive and a small, fenced parking lot will serve the Evidence building. The building will attach directly to a 48,000 square foot vehicle impound yard, with high-security fencing, lighting, and intrusion system. The balance of this north parcel is undeveloped.

All of the buildings are concrete slab-on-grade with pre-engineered steel frames, purlins and girts, with standard steel ribbed roofing and wall panels, insulated with R-30 insulation on the roof and R-19 on the walls.

EXHIBIT B

SCHEDULE OF RENTAL PAYMENTS

Rental Payment Date	Rental Payment	Principal	Interest
August 25, 2013	$237,444.44	$180,000.00	$57,444.44
February 25, 2014	56,950.00		56,950.00
August 25, 2014	426,950.00	370,000.00	56,950.00
February 25, 2015	53,250.00		53,250.00
August 25, 2015	428,250.00	375,000.00	53,250.00
February 25, 2016	47,625.00		47,625.00
August 25, 2016	432,625.00	385,000.00	47,625.00
February 25, 2017	41,850.00		41,850.00
August 25, 2017	441,850.00	400,000.00	41,850.00
February 25, 2018	35,850.00		35,850.00
August 25, 2018	445,850.00	410,000.00	35,850.00
February 25, 2019	29,700.00		29,700.00
August 25, 2019	454,700.00	425,000.00	29,700.00
February 25, 2020	23,325.00		23,325.00
August 25, 2020	458,325.00	435,000.00	23,325.00
February 25, 2021	16,800.00		16,800.00
August 25, 2022	466,800.00	450,000.00	16,800.00
February 25, 2023	10,050.00		10,050.00
August 25, 2024	480,050.00	460,000.00	10,050.00
February 25, 2025	3,150.00		3,150.00
August 25, 2026	213,150.00	210,000.00	3,150.00

Consent **1. K.**

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Montana Sapphire Subdivision, Amended Lot 4, Block 1-- Preliminary Subsequent Minor Plat

PRESENTED BY: Candi Beaudry

Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

On January 15, 2013, the Planning Division received an application for preliminary plat approval for Amended Lot 4, Block 1, Montana Sapphire Subdivision. The plat contains 2 lots on approximately 7.28 acres of land just south of the intersection of King Avenue West and Montana Sapphire Drive. The lot is currently vacant; a 154-unit senior living apartment building and accessory structures are proposed for Lot 4A and up to 50 units of self-storage units are proposed on Lot 4B. The owner is Montana Sapphire, LLC and the subdivider is Affinity at Billings, LLC. The representing agent is Sanderson Stewart.

ALTERNATIVES ANALYZED

In accordance with state law, the City Council has 35 working days to act upon this subsequent minor preliminary plat; the 35 working day review period for the proposed plat ends on March 7, 2013. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FINANCIAL IMPACT

Should the City Council approve the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

BACKGROUND

General location: Montana Sapphire Drive, south of King Avenue West.

Legal Description: Lot 4, Block 1, Montana Sapphire Subdivision

Owner/Subdivider: Montana Sapphire, LLC; Affinity at Billings, LLC

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: Highway Commercial (HC) with South Shiloh Corridor Overlay District (SSCOD)

Existing land use: Vacant

Proposed land use: Senior apartments and self-storage units

Gross/net area: 7.283 acres

Proposed number of lots: 2

Lot size: Max: 5.97 acres
Min.: 1.31 acres

Parkland requirements: A parkland dedication is not required, as this is a commercial subdivision creating one additional lot

STAKEHOLDERS

A public hearing is not required for minor subdivisions. However, interested parties may review all application materials at the Planning and Community Services Department. There have been no comments submitted regarding this proposal at the time of this report compilation. Interested parties also may attend the City Council meeting and speak during the puiblic comment period at the start of the meeting on non-public hearing agenda items.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the Transportation Plan 2009 Update, and Billings Area Bikeways and Trail Master Plan are discussed within the Findings of Fact.

RECOMMENDATION

Planning Staff recommends conditional approval of the preliminary plat of Montana Sapphire Subdivision, Amended Lot 4, Block 1 and adoption of the Findings of Fact as presented in the staff report.

Recommended Conditions of Approval

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To meet the 'subdivision for rent or lease' requirements for the proposed storage units on Lot 4B, and to ensure compliance with zoning and all applicable site development codes, the final overall site development documents, including but not limited to landscaping plans, building elevations, grading and drainage plans, parking and access plans, and utility locations, shall be submitted by the applicant and reviewed and approved by City staff prior to final plat approval by City Council. (In the event that the proposed 50-unit self-storage complex is not desired, this condition shall not be necessary)

2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.

3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

APPROVED BY CITY ADMINISTRATOR

Attachments

Preliminary Plat
Findings of Fact
Mayor's letter

PRELIMINARY AMENDED PLAT OF LOT 4, BLOCK 1

MONTANA SAPPHIRE SUBDIVISION

SITUATED IN THE N.E. 1/4 OF SECTION 15, T.1S., R. 25 E., P.M.M.
BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : INLAND GROUP

PREPARED BY : SANDERSON STEWART

SCALE : 1" = 60'

JANUARY, 2013
BILLINGS, MONTANA

60 30 0 60 120

NORTH

PLAT DATA

GROSS AREA	= 7.2831 ACRES
NET AREA	= 7.2831 ACRES
NUMBER OF LOTS	= 2
MINIMUM LOT SIZE	= 1.31 ACRES
MAXIMUM LOT SIZE	= 5.97 ACRES
LINEAL FEET OF STREETS	= 0
PARKLAND REQUIREMENT	= NA
PARKLAND DEDICATION	= NA
EXISTING LAND USE	= VACANT/UNDEVELOPED
PROPOSED LAND USE	= COMMERCIAL DEVELOPMENT

EXISTING ZONING = HIGHWAY COMMERCIAL & SOUTH SHILOH CORRIDOR OVERLAY DISTRICT

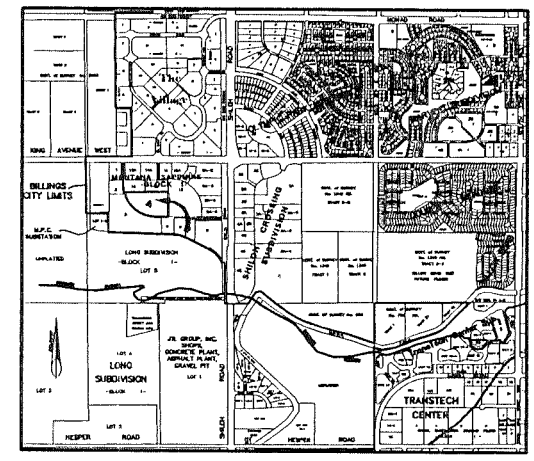
SURROUNDING ZONING:

NORTH = ENTRYWAY LIGHT INDUSTRIAL & SOUTH SHILOH CORRIDOR OVERLAY DISTRICT

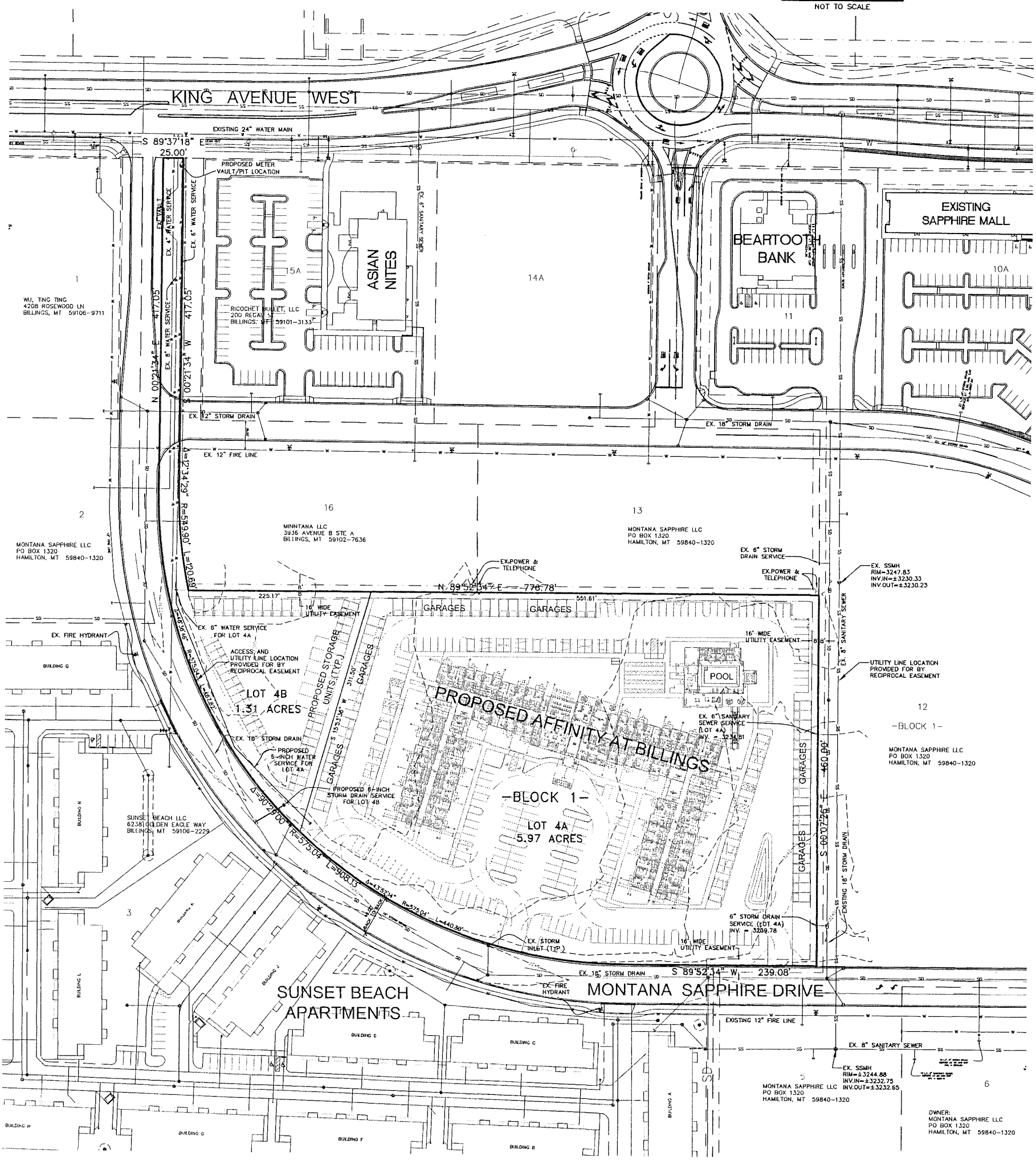
SOUTH = HIGHWAY COMMERCIAL & SOUTH SHILOH CORRIDOR OVERLAY DISTRICT

EAST = HIGHWAY COMMERCIAL & SOUTH SHILOH CORRIDOR OVERLAY DISTRICT

WEST = ENTRYWAY LIGHT INDUSTRIAL & SOUTH SHILOH CORRIDOR OVERLAY DISTRICT



VICINITY MAP
NOT TO SCALE



MT-SAPPHIRE-LOT4-PRE-PLAT.DWG 92077.37 01/15/13 BEG/ATV

Findings of Fact
Montana Sapphire Subdivision, Amended Lot 4, Block 1

Staff is forwarding the recommended Findings of Fact for Amended Lot 4, Block 1, Montana Sapphire Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-304(c), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-303(H)(1)]

1. Effect on agriculture and agricultural water user facilities

The subject property was historically used for irrigated agricultural land but has been slated for commercial development since it was originally platted in 2002. With completion of the Shiloh Road corridor upgrades last year, this and surrounding properties are poised for further development and should not have an impact on agriculture production or activities in the area. The subject property does not have water rights to area ditches. Overall, there is no anticipated effect on irrigation facilities or agriculture in the area.

2. Effect on local services

a. **Utilities** – Individual water services for the proposed subdivision shall come from the existing main located in King Avenue West for both lots. Additionally, fire hydrants will be provided as requested by the Fire Department from an existing private 12-inch fire line. Lot owners will be responsible for extension of water services, hydrants, and water meter vaults at the time of lot development.

   Sewer services are to be provided from an existing 6-inch service from King Avenue West via a new private main administered by a special service district, as allowed under Article 13-900, BMCC.

   Private utilities such as electric and gas are available to the lots upon development.

b. **Storm water** – Storm water management improvements will be evaluated at the time of lot development. All drainage improvements shall comply with the provisions of the 2011 City of Billings Storm Water Management Manual. A Storm water Pollution Prevention Plan (SWPPP) will also be required at the time of lot development to mitigate any construction related storm water pollution.

c. **Solid waste** - The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.

d. **Streets** – Montana Sapphire Drive, a private internal road, fronts the south and west side of the subject property. Drive approach locations will be reviewed and approved at the time of lot development.

e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest emergency services stations are located at Grand Avenue and 54th St. West (Station #7) and near South 24th St. and Monad (Station #5). The subdivision is located within the ambulance service area of American Medical Response. The Fire Department will review hydrant needs for new development at the time of building permit review.

f. **Schools** –Schools will be minimally affected by this subdivision as it is a commercial subdivision.

g. **Parks and Recreation** - A parkland dedication is not required, as this is a commercial subdivision.

h. **Mail Delivery -** The United States Postal Service indicated that a centralized delivery site will be required. The location of any new mailbox units shall be reviewed and approved by the post office.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment. There will be short term air and noise pollution associated with construction on the property. Stormwater shall be managed in compliance with an approved plan and the property is outside of the flood plain. New development will need to follow recommendations of the geotechnical analysis to minimize any potential impacts from soil and groundwater conditions.

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property. The property is within an expanding urban area.

5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. There are no obvious threats to public health, safety or welfare.

B. Was an Environmental Assessment required? [MCA 76-3-603 and BMCC 23-901]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-603, MCA and 23-901, BMCC.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the Urban Area Transportation Plan, 2009 Update, and the Heritage Trail Plan? [BMCC 23-303(H)(3)]

1. Yellowstone County-City of Billings 2008 Growth Policy Update

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

a. **Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans (p. 6).**

b. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).**

c. **Goal: More housing and business choices within each neighborhood (p. 6).**

2. Urban Area Transportation Plan Update 2009

The proposed subdivision adheres to the goals and objectives of the 2009 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan identifies a multi-use trail along the north side of King Avenue West. No new improvements will be required with this subdivision to meet the Trail Plan recommendations.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608(3)(b), BMCC 23-303(H)(2), and BMCC 23-602(A)]

The proposed subdivision, with the proposed conditions, satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. Specifically, in order to meet the review requirements of the proposed subdivision for rent/lease on Lot 4B, **Condition #1** requires final site development review and approval prior to final plat approval. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [BMCC 23-408]

The property is served by the City of Billings' water, sewer and solid waste services.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-303(H)(2)(e)]

The subject property is located within the HC and SSCOD zoning districts and complies with the standards set forth in Section 27-309, BMCC. New development will be further reviewed for compliance upon subdivision for rent/lease plan review and building permit submittal **(Condition #1)**.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608(3)(c) and BMCC 23-303(H)(2)(b)]

All main lines for utilities are already in place so new development will just need to tap into the existing lines. In case the new service lines cross property boundaries utility easements shall be shown on the plat as necessary.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608(3)(d) and BMCC 23-303(H)(2(c)]

Access to the subdivision shall be from Montana Sapphire Drive. All internal shared driveways are covered under existing reciprocal access easements filed with the original plat.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Amended Lot 4, Block 1, Montana Sapphire Subdivision, does not create any adverse impacts that warrant denial of the subdivision.

- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the 2009 Transportation Plan Update or the Trail Plan.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.

- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, February 25, 2013.

_____

Thomas W. Hanel, Mayor

Mayor's Approval Letter

February 26, 2013

Affinity at Billings, LLC
1620 N. Mamer Rd., Bldg. B
Spokane, WA 99216

Montana Sapphire, LLC
P.O. Box 1320
Hamilton, MT 59840

Dear Applicants:

On February 25, 2013, the Billings City Council conditionally approved the preliminary plat of Amended Lot 4, Block 1, Montana Sapphire Subdivision, subject to the following conditions of approval:

1. To meet the 'subdivision for rent or lease' requirements for the proposed storage units on Lot 4B, and to ensure compliance with zoning and all applicable site development codes, the final overall site development documents, including but not limited to landscaping plans, building elevations, grading and drainage plans, parking and access plans, and utility locations, shall be submitted by the applicant and reviewed and approved by City staff prior to final plat approval by City Council. (In the event that the proposed 50-unit self-storage complex is not desired, this condition shall not be necessary)

2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.

3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact the Juliet Spalding at (406)247-8684 or by email at spaldingj@ci.billings.mt.us .

Sincerely,

_____
Thomas W. Hanel, Mayor

Pc: Pat Davies, PE, Sanderson Stewart

Consent **1. L.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Final Plat of Western Subdivision
PRESENTED BY: Candi Beaudry
Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

The final plat for Western Subdivision is being presented to Council for approval. On December 17, 2012, City Council approved the preliminary plat of this five-lot subdivision of 32.6 acres of land. The subject property is located at the southwest corner of King Avenue West and South 44th Street West. The property is zoned Residential Multi-Family-Restricted and multi-family residences are proposed on Lots 1-4, and a 3-acre private park is planned for Lot 5. Building plans are under review for Lot 2 showing 15, 12-unit condominium buildings. The owner is American Exchange Corporation, as qualified intermediary for Pemberton, LLC, and Lincoln Lane Apartments, LLC (Cal Kunkel, sole member), and the representing agent is Dowl-HKM Engineering. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

ALTERNATIVES ANALYZED

The City Council may approve or deny the final plat of Western Subdivision. If the City Council chooses to deny the final plat, it must base the denial on the criteria outlined in MCA 76-3-611 and BMCC, Section 23-305(F).

FINANCIAL IMPACT

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Western Subdivision.

APPROVED BY CITY ADMINISTRATOR

Attachments

Final Plat

DOWLHKM FILE No: XXX-XX

PLAT OF

WESTERN SUBDIVISION

BEING LOT 1A OF THE AMENDED PLAT OF LOTS 1 AND 2, BLOCK 1, WESTERN SKY SUBDIVISION.
LOCATED IN THE NW1/4 OF SECTION 15, T. 1 S. R. 25 E., P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

FOR: CAL KUNKEL

BY: DOWL HKM
GRANITE TOWER BUILDING
222 NORTH 32ND STREET, SUITE 700
BILLINGS, MT 59102

NOVEMBER 2012

CERTIFICATE OF CITY ATTORNEY

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

Date: _____

By: _____

YELLOWSTONE COUNTY TREASURER

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

Date: _____

Yellowstone County Treasurer

By: _____
Deputy

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
:ss
County of Yellowstone)

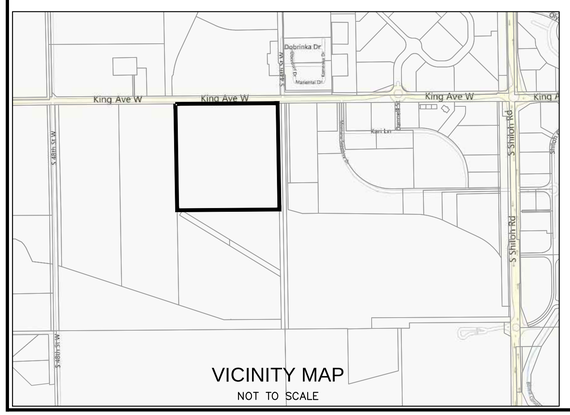
The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of November, 2012, a survey was performed under his supervision of a tract of land to be known as WESTERN SUBDIVISION, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown hereon and that the gross area is 32.59 acres and the net area is 32.59 acres.

_____ _____
Dean R. Schock Date
Montana Reg. No. 15855LS

STATE OF MONTANA)
:ss
County of Yellowstone)

On this _____ day of _____, 2013, before me a Notary Public in and for the State of Montana personally appeared Dean R. Schock, known to be the person who signed the foregoing instrument and who acknowledged to me that he executed the same. Witness my hand and seal the day and year herein above written.

_____
Notary Public in and for the State of Montana
_____
Printed name of Notary
Residing at _____
My Commission Expires _____



CERTIFICATE OF CITY ENGINEER'S OFFICE

STATE OF MONTANA)
:ss
County of Yellowstone)

I hereby certify that the annexed and foregoing plat conforms with Section 76-4-125(2)(d), M.C.A., for the removal of sanitary restrictions since the plat is located within a first-class or second-class municipality for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this _____ day of _____, 2013.

_____
City Engineer's Office

CERTIFICATE OF REVIEW FOR ERRORS AND OMISSIONS

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

_____
Examining Land Surveyor Date

NOTICE OF APPROVAL

STATE OF MONTANA)
:ss
County of Yellowstone)

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

Dated this _____ day of _____, 2013.

_____ _____
President Executive Secretary

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
:ss
County of Yellowstone)

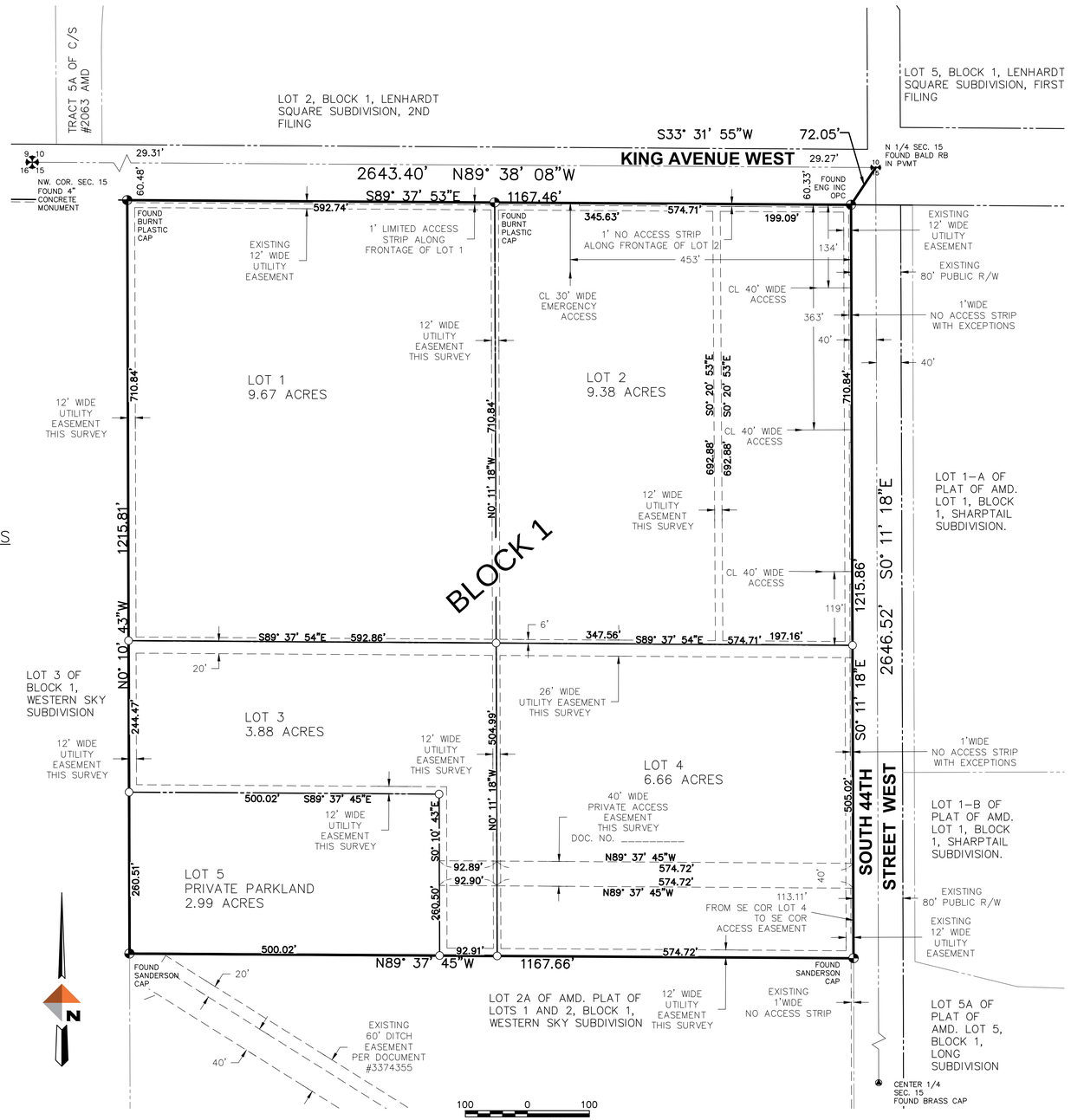
We hereby certify that we have examined the annexed and foregoing PLAT OF WESTERN SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of the Yellowstone County Board of Planning. It is therefore approved, and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this _____ day of _____, 2013.

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk



LEGEND

- FOUND PROPERTY CORNER AS DESCRIBED
- FOUND PLSS CORNER AS DESCRIBED
- SET 18"X 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "DOWL HKM 15855"

BASIS OF BEARINGS

BEARINGS ARE GRID BEARINGS BASED ON A MAP PROJECTION WITH THE FOLLOWING PARAMETERS:

Datum: NAD 1983 (2011); Transverse Mercator Projection; Projection origin 45°24'N, 108°30'W; False origin N: 0.000, E: 131233.596ift (40000m); Scale Factor: 1.000153; Units: international feet.

CLERK AND RECORDER

Q:\22\20514\Minor Sub Plat\WestSubFinalPlat_1_25_13.dwg PLOT DATE 2013-2-4 11:56 SAVED DATE 2013-02-01 14:56 USER: zhassler

Consent **1. M. 1.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Payment of Claims January 28,2013
PRESENTED BY: Pat M. Weber, Finance Director
Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

Claims in the amount of $1,717,482.95 have been audited and are presented for City Council approval. A complete listing of the claims dated January 28, 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

Attachments

list of claims greater than $2500

AP Report >$2500 for 01/28/2013

Check Date	Check	Name	Amount	Account	Item Desc
01/28/2013	762679	A & I Distributors	0.04	6010-15530-402650	2259647
01/28/2013	762679	A & I Distributors	1,195.26	6010-00000-141000	2259647 PO NUM 290685
01/28/2013	762679	A & I Distributors	99.88	5710-71440-402320	2260702
01/28/2013	762679	A & I Distributors	1,281.72	6010-00000-141714	2260702 PO NUM 290685
01/28/2013	762679	A & I Distributors	109.45	5410-31220-402320	2262363
01/28/2013	762679	A & I Distributors	-0.04	6010-15530-402650	2262883 CR
01/28/2013	762679	A & I Distributors	2,176.47	6010-00000-141000	2262883 PO NUM 290685
01/28/2013	762679	A & I Distributors	319.00	5610-71130-402310	Invoice #2266954. Hydraulic Oil for runway broom
01/28/2013	762679	A & I Distributors	2,625.99	5410-31230-402310	oil for landfill
01/28/2013	762679	A & I Distributors	1.15	6010-15530-402650	2259649
01/28/2013	762679	A & I Distributors	907.70	6010-00000-141000	2259649 PO NUM 290685
01/28/2013	762679	A & I Distributors	0.40	6010-15530-402650	2260702
01/28/2013	762679	A & I Distributors	0.49	6010-15530-402650	2262883
01/28/2013	762679	A & I Distributors	97.48	6010-00000-141000	2262883 PO NUM 290685
01/28/2013	762679	A & I Distributors	4,725.92	6010-00000-141000	2268575 PO NUM 290685
01/28/2013	762679	A & I Distributors	109.45	5410-31220-402320	2259930
01/28/2013	762679	A & I Distributors	109.45	5410-31220-402320	2264596
01/28/2013	762679	A & I Distributors	33.59	1500-21120-402320	2268575
01/28/2013	762679	A & I Distributors	33.14	2110-31320-402320	2268575
01/28/2013	762679	A & I Distributors	33.14	5410-31220-402320	2268575
01/28/2013	762679	A & I Distributors	0.53	6010-15530-402650	2268575
01/28/2013	762679	A & I Distributors	80.94	5410-31220-402320	2268658
01/28/2013	762690	Artcraft Printers Of Billings	4,995.00	5710-71460-403210	Print schedule books
01/28/2013	762691	ATS Inland NW	4,938.00	6500-15670-403690	VAV Box Upgrade for City Hall
01/28/2013	762692	Automated Office Inc	3,516.00	6050-15160-409470	Canon Image Runner Advance 4045 - PO information updated for copier model number Cssette feed unit AF1 Inner finisher D1 Inner finisher additional tray A1 WSCA Montana pricing - Contract #1715
01/28/2013	762692	Automated Office Inc	978.00	6050-15160-409470	Canon Image Runner Advance 4045 - PO information updated for copier model number Cssette feed unit AF1 Inner finisher D1 Inner finisher additional tray A1 WSCA Montana pricing - Contract #1715
01/28/2013	762692	Automated Office Inc	781.00	6050-15160-409470	Canon Image Runner Advance 4045 - PO information updated for copier model number Cssette feed unit AF1 Inner finisher D1 Inner finisher additional tray A1 WSCA Montana pricing - Contract #1715
01/28/2013	762692	Automated Office Inc	135.00	6050-15160-409470	Canon Image Runner Advance 4045 - PO information updated for copier model number Cssette feed unit AF1 Inner finisher D1 Inner finisher additional tray A1 WSCA Montana pricing - Contract #1715
01/28/2013	762696	Billings Depot Inc	5,295.87	6600-31100-405311	rent
01/28/2013	762696	Billings Depot Inc	7,943.80	6700-31410-405311	rent
01/28/2013	762697	Billings Gazette	636.00	2600-55110-403360	Library 102-60003259
01/28/2013	762697	Billings Gazette	450.00	5710-71460-403370	Met Bus Pass advertising 102-60001620
01/28/2013	762697	Billings Gazette	543.00	5410-31210-403365	Solid Waste Christmas Tree recycling 102-60001620
01/28/2013	762697	Billings Gazette	554.40	5410-31220-403370	Solid Waste Garbage notice - 102-60001620
01/28/2013	762697	Billings Gazette	890.71	0100-14110-403310	On-line Banner 102-60001620
01/28/2013	762697	Billings Gazette	1,515.42	0100-17500-403370	classified package 102-60010385
01/28/2013	762700	Border States Electric	20.56	5120-84000-402360	same
01/28/2013	762700	Border States Electric	93.55	5120-84000-402360	same
01/28/2013	762700	Border States Electric	115.33	5120-84000-402360	same
01/28/2013	762700	Border States Electric	124.12	5020-74000-402360	same
01/28/2013	762700	Border States Electric	11.89	2110-31320-402290	light up at airport property
01/28/2013	762700	Border States Electric	129.41	2110-31320-402920	locator bag and knife
01/28/2013	762700	Border States Electric	10.43	5120-84000-402360	freight
01/28/2013	762700	Border States Electric	455.88	5020-74000-402320	NONSTOCKING ITEMS-P.U.D.
01/28/2013	762700	Border States Electric	105.40	2110-00000-141318	STREET LIGHTS PO NUM 290687
01/28/2013	762700	Border States Electric	20.55	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	50.96	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	93.55	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	111.99	5120-84000-402360	elec

01/28/2013	762700	Border States Electric	115.33	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	117.99	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	124.12	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	140.20	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	173.04	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	250.27	5020-74000-402360	elec
01/28/2013	762700	Border States Electric	108.02	5120-84000-402360	elec.
01/28/2013	762700	Border States Electric	145.87	5020-74000-402360	elec.
01/28/2013	762700	Border States Electric	177.20	5120-85000-402360	elec.
01/28/2013	762700	Border States Electric	300.81	5020-74000-402360	elec.
01/28/2013	762700	Border States Electric	2,343.93	5020-00000-141000	ELECTRICAL FOR WTP & WWTP PO NUM 291483
01/28/2013	762701	Bruco Inc	4,382.96	5020-00000-141000	SYSTEMS PO NUM 291641
01/28/2013	762703	Business Tax Section	25.38	5030-00000-201100	WO 10-11 WTP High Srvc Pump Station H2-1
01/28/2013	762703	Business Tax Section	14.00	4070-71280-409397	Invoice #13-000075-2. Easement & Pond C Outfall Improvements
01/28/2013	762703	Business Tax Section	3,006.00	2030-15130-409224	business tax for NorthWestern Energy utility relocation for Empire Garage
01/28/2013	762703	Business Tax Section	3,039.25	2030-15130-409224	Business Tax portion of Sletten contract for Empire Garage construction.
01/28/2013	762703	Business Tax Section	439.84	5030-00000-201100	WO 11-01 2011 Water Replacement Projects
01/28/2013	762706	Carquest Auto Parts	4.21	0100-51120-402320	1910-267134
01/28/2013	762706	Carquest Auto Parts	94.70	6010-00000-141000	1910-267450 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	199.06	2090-44520-402320	1910-267819
01/28/2013	762706	Carquest Auto Parts	4.58	6010-00000-141000	1910-268233 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	5.05	5120-84000-402320	NONSTOCKING ITEMS-P.U.D.
01/28/2013	762706	Carquest Auto Parts	93.27	5020-74000-402320	NONSTOCKING ITEMS-P.U.D.
01/28/2013	762706	Carquest Auto Parts	11.19	6010-00000-141000	1910-267450COR PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	-51.00	2090-44520-402320	1910-267848
01/28/2013	762706	Carquest Auto Parts	36.00	6010-00000-141000	1910-268254 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	22.38	6010-00000-141000	1910-267647 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	477.60	6010-00000-141000	1910-268459 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	-334.43	1500-21120-402320	1910-268578
01/28/2013	762706	Carquest Auto Parts	-11.19	6010-00000-141000	1910-267450 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	334.43	1500-21120-402320	1910-268319
01/28/2013	762706	Carquest Auto Parts	46.14	6010-00000-141000	1910-268354 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	-11.19	6010-00000-141000	1910-267850 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	48.90	6010-00000-141000	1910-268462 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	8.17	1500-21120-402320	1910-268633
01/28/2013	762706	Carquest Auto Parts	20.78	6010-00000-141000	1910-267870 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	144.94	2110-31320-402320	1910-268633
01/28/2013	762706	Carquest Auto Parts	6.15	6010-00000-141000	1910-268947 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	-1.16	6010-00000-141000	1910-267873 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	-71.00	2110-31320-402320	1910-268756
01/28/2013	762706	Carquest Auto Parts	97.91	6010-00000-141000	1910-268988 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	33.57	6010-00000-141000	1910-268293 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	51.54	6010-00000-141000	1910-268988 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	29.28	1500-21120-402320	1910-269273
01/28/2013	762706	Carquest Auto Parts	20.94	6010-00000-141000	1910-268988 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	88.08	6010-00000-141000	1910-268988 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	12.60	6010-00000-141000	1910-268988 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	4.21	0100-51120-402320	1910-267238
01/28/2013	762706	Carquest Auto Parts	8.17	1500-21120-402320	1910-267256
01/28/2013	762706	Carquest Auto Parts	11.85	6010-15530-402650	1910-267322
01/28/2013	762706	Carquest Auto Parts	62.99	1500-21120-402320	1910-267377
01/28/2013	762706	Carquest Auto Parts	9.80	6010-15530-402650	1910-267723
01/28/2013	762706	Carquest Auto Parts	15.44	6010-15530-402650	1910-267807
01/28/2013	762706	Carquest Auto Parts	17.95	6700-31410-402320	1910-267807
01/28/2013	762706	Carquest Auto Parts	87.99	6010-15530-402650	1910-267849
01/28/2013	762706	Carquest Auto Parts	62.03	0100-51120-402320	1910-268005
01/28/2013	762706	Carquest Auto Parts	4.15	1500-22260-402320	1910-268005
01/28/2013	762706	Carquest Auto Parts	19.36	5410-31230-402320	1910-268014
01/28/2013	762706	Carquest Auto Parts	19.99	6500-15650-402320	1910-268047
01/28/2013	762706	Carquest Auto Parts	47.58	1500-22260-402320	1910-268233
01/28/2013	762706	Carquest Auto Parts	36.22	1500-21120-402320	1910-268237
01/28/2013	762706	Carquest Auto Parts	5.76	0100-51120-402320	1910-268254
01/28/2013	762706	Carquest Auto Parts	9.35	5410-31220-402320	1910-268292
01/28/2013	762706	Carquest Auto Parts	7.32	1500-21120-402320	1910-268354
01/28/2013	762706	Carquest Auto Parts	71.42	5410-31220-402320	1910-268418
01/28/2013	762706	Carquest Auto Parts	36.22	1500-21120-402320	1910-268457
01/28/2013	762706	Carquest Auto Parts	57.76	0100-51120-402320	1910-268847
01/28/2013	762706	Carquest Auto Parts	135.27	5120-84000-402320	1910-268652
01/28/2013	762706	Carquest Auto Parts	43.98	1500-21120-402320	1910-268673
01/28/2013	762706	Carquest Auto Parts	7.75	0100-51120-402320	1910-267133

01/28/2013	762706	Carquest Auto Parts	71.70	6010-15530-402650	1910-267450
01/28/2013	762706	Carquest Auto Parts	177.63	6010-00000-141000	1910-267450 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	36.26	6010-00000-141000	1910-267723 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	28.00	6010-15530-402650	1910-269039
01/28/2013	762706	Carquest Auto Parts	9.70	6010-00000-141000	1910-269039 PO NUM 290688
01/28/2013	762706	Carquest Auto Parts	11.54	5020-74000-402450	filter
01/28/2013	762706	Carquest Auto Parts	7.44	5120-84000-402450	paint
01/28/2013	762706	Carquest Auto Parts	20.98	5020-75000-402320	NONSTOCKING ITEMS-P.U.D.
01/28/2013	762706	Carquest Auto Parts	46.73	5120-85000-402320	NONSTOCKING ITEMS-P.U.D.
01/28/2013	762706	Carquest Auto Parts	65.54	5020-75000-402320	NONSTOCKING ITEMS-P.U.D.
01/28/2013	762706	Carquest Auto Parts	553.70	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291484
01/28/2013	762706	Carquest Auto Parts	28.20	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291287
01/28/2013	762706	Carquest Auto Parts	124.02	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291323
01/28/2013	762706	Carquest Auto Parts	22.10	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291391
01/28/2013	762706	Carquest Auto Parts	51.00	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291395
01/28/2013	762706	Carquest Auto Parts	8.76	5020-75000-402410	trminals
01/28/2013	762706	Carquest Auto Parts	2.13	0100-51120-402320	1910-269317
01/28/2013	762706	Carquest Auto Parts	8.80	1500-21120-402320	1910-268694
01/28/2013	762706	Carquest Auto Parts	39.44	5410-31220-402320	1910-268694
01/28/2013	762706	Carquest Auto Parts	20.58	6010-15530-402650	1910-268991
01/28/2013	762706	Carquest Auto Parts	2.38	5410-31230-402320	1910-269034
01/28/2013	762706	Carquest Auto Parts	30.27	6010-15550-402320	1910-269048
01/28/2013	762713	Creative Monograms	6,764.25	5710-71420-402260	New uniforms for drivers per Union contract
01/28/2013	762713	Creative Monograms	2,254.75	5710-71470-402260	New uniforms for drivers per Union contract
01/28/2013	762716	Dell Computer L P	3,519.78	1500-21500-402925	(3) Dell OptiPlex 390
01/28/2013	762718	Downtown Billings Partnership, Inc.	116,437.50	2030-15130-407946	3rd and 4th quarter FY 13
01/28/2013	762721	Electronic Data Solutions	14.22	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	14.87	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	43.63	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	385.92	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	199.43	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	30.70	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.56	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	13.57	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	103.44	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	18.42	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	25.86	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	20.36	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	51.07	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	13.57	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.99	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.59	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	62.06	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.14	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.17	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	29.09	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.59	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.88	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	11.31	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.52	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.26	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.70	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.88	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.26	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.02	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.20	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.70	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.11	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.49	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	8.73	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.91	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.32	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.46	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.20	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.85	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units

01/28/2013	762721	Electronic Data Solutions	27.80	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.34	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.43	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	12.61	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.37	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.37	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	8.40	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	5.17	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.34	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	16.16	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	4.52	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	4.85	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	19.72	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	8.08	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	16.16	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.17	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.94	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	18.75	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.88	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	16.81	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.82	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.20	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.34	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.76	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.46	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	4.85	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	5.17	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	15.84	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.29	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	11.31	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.29	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.52	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	7.43	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.82	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.94	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	4.20	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.94	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.11	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.43	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.32	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.56	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.76	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	17.78	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.99	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.49	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	11.96	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.37	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	11.31	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	29.41	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units

01/28/2013	762721	Electronic Data Solutions	37.82	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.05	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.02	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	5.49	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.65	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.29	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	11.64	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.49	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.97	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.29	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.65	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.88	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	9.37	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	18.42	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	32.00	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.49	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.97	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	44.60	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.46	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	18.10	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	35.55	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	27.80	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	2.26	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	19.07	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.76	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	25.53	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	1.94	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.02	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.46	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	0.97	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	21.01	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.94	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	10.99	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.91	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	2.91	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.88	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	14.22	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.79	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	7.11	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	6.46	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	1.29	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	17.45	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	2.59	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	3.88	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
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01/28/2013	762721	Electronic Data Solutions	3.23	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	17.45	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.82	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762721	Electronic Data Solutions	5.17	8100-31830-403590	ArcPad Training & ArcPad 10 Mobile GIS units
01/28/2013	762722	Energy Laboratories Inc	3,540.00	5120-82110-403590	Wastewater testing
01/28/2013	762729	Flights Now.Com	4,984.52	5610-71100-403390	Invoice #636. Light Information Charges/FIDS Display 1/1/12-12/31/12

01/28/2013	762730	Galles Filter Service	159.45	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291319
01/28/2013	762730	Galles Filter Service	11.85	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291450
01/28/2013	762730	Galles Filter Service	143.61	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291453
01/28/2013	762730	Galles Filter Service	26.66	0100-51420-402320	268995
01/28/2013	762730	Galles Filter Service	81.58	6010-00000-141714	269075 PO NUM 290689
01/28/2013	762730	Galles Filter Service	17.46	5710-71440-402320	269536
01/28/2013	762730	Galles Filter Service	110.42	6010-00000-141714	269536 PO NUM 290689
01/28/2013	762730	Galles Filter Service	10.38	5710-71440-402320	270466
01/28/2013	762730	Galles Filter Service	81.21	6010-00000-141714	270466 PO NUM 290689
01/28/2013	762730	Galles Filter Service	-83.86	6010-00000-141000	270497 PO NUM 290689
01/28/2013	762730	Galles Filter Service	21.44	2110-31320-402320	270317
01/28/2013	762730	Galles Filter Service	9.96	5410-31230-402320	270136
01/28/2013	762730	Galles Filter Service	11.33	5410-31230-402320	270131
01/28/2013	762730	Galles Filter Service	58.02	5710-71440-402320	270040
01/28/2013	762730	Galles Filter Service	21.10	0100-51120-402320	270039
01/28/2013	762730	Galles Filter Service	31.09	2110-31320-402320	269834
01/28/2013	762730	Galles Filter Service	32.52	6010-00000-141000	270581 PO NUM 290689
01/28/2013	762730	Galles Filter Service	58.36	2110-31320-402320	269794
01/28/2013	762730	Galles Filter Service	76.02	6010-00000-141714	270040 PO NUM 290689
01/28/2013	762730	Galles Filter Service	22.02	2110-31320-402320	269669
01/28/2013	762730	Galles Filter Service	22.68	6010-00000-141000	270037 PO NUM 290689
01/28/2013	762730	Galles Filter Service	75.95	6010-00000-141000	269529 PO NUM 290689
01/28/2013	762730	Galles Filter Service	88.66	2110-31320-402320	269662
01/28/2013	762730	Galles Filter Service	222.27	6010-00000-141000	270207 PO NUM 290689
01/28/2013	762730	Galles Filter Service	19.20	0100-51420-402320	269345
01/28/2013	762730	Galles Filter Service	234.00	6010-00000-141000	269527 PO NUM 290689
01/28/2013	762730	Galles Filter Service	189.65	6010-00000-141000	270038 PO NUM 290689
01/28/2013	762730	Galles Filter Service	18.06	6010-15530-402650	270240
01/28/2013	762730	Galles Filter Service	33.88	6010-00000-141000	269476 PO NUM 290689
01/28/2013	762730	Galles Filter Service	2.88	1500-21120-402320	269529
01/28/2013	762730	Galles Filter Service	161.46	6010-00000-141000	270073 PO NUM 290689
01/28/2013	762730	Galles Filter Service	74.82	6010-00000-141000	269149 PO NUM 290689
01/28/2013	762730	Galles Filter Service	3.78	5210-15220-402320	269280
01/28/2013	762730	Galles Filter Service	-58.68	6010-15530-402650	269726
01/28/2013	762730	Galles Filter Service	60.29	6010-00000-141000	269726 PO NUM 290689
01/28/2013	762730	Galles Filter Service	3.02	5210-15230-402320	268995
01/28/2013	762730	Galles Filter Service	79.88	6010-00000-141000	269091 PO NUM 290689
01/28/2013	762730	Galles Filter Service	58.68	6010-15530-402650	269706
01/28/2013	762730	Galles Filter Service	102.33	6010-00000-141000	269706 PO NUM 290689
01/28/2013	762730	Galles Filter Service	777.53	6010-00000-141000	270459 PO NUM 291612
01/28/2013	762730	Galles Filter Service	123.98	5410-31230-402320	270577
01/28/2013	762741	HEARTLAND PAPER COMPANY	62.00	6500-15670-402240	Inv. G247520-1 Suction Bar Carpet
01/28/2013	762741	HEARTLAND PAPER COMPANY	230.33	6500-15660-402450	Inv. G246839-1 Roller Brush Orane/Carpet Brush Blue
01/28/2013	762741	HEARTLAND PAPER COMPANY	378.50	6500-15670-402240	Inv. G252271-1 3M Easy Scrub Flat Mop
01/28/2013	762741	HEARTLAND PAPER COMPANY	62.00	6500-15660-402240	Inv. G247533-1 Suction Bar Carpet C
01/28/2013	762741	HEARTLAND PAPER COMPANY	567.75	6500-15660-402240	Inv. G252273-1 3M Easy Scrub Flat Mop
01/28/2013	762741	HEARTLAND PAPER COMPANY	1,518.68	6500-15660-402120	Inv. G246838-2 Karcher BR 30/4 Micro Scrubber
01/28/2013	762745	Iaff	4,403.05	9000-00000-209920	Payroll Summary
01/28/2013	762745	Iaff	4,444.20	9000-00000-209920	PAYROLL SUMMARY
01/28/2013	762750	Integrated Information Solutions Inc.	3,125.00	6200-19110-405370	EDH SWMA Renewal 2013 8203-E4A S/N 41EEE 9407-M15 S/N 4B5B2
01/28/2013	762752	J & M Auto Parts	3,000.00	1500-21500-402925	Hostage Negotiation Trailer.
01/28/2013	762752	J & M Auto Parts	3,270.00	5030-75910-409420	trailer
01/28/2013	762752	J & M Auto Parts	2,180.00	5130-85910-409420	trailer
01/28/2013	762752	J & M Auto Parts	1,970.00	7090-21910-396620	Hostage Negotiation Trailer.
01/28/2013	762754	Junkermier, Clark, Campanella, Stevens PC	5,400.00	0100-15120-403530	691931 audit for fy12
01/28/2013	762756	Kaminsky, Sullenberger & Associates Inc	7,480.00	1500-21400-403822	5-day Field Training Officer Seminar, Invoice dated 1/23/13
01/28/2013	762760	L N Curtis & Sons	15,312.00	1500-22290-402490	5" FIRE HOSE WITH STORTZ COUPLING (5"X100') NITRILE RUBBER HOSE
01/28/2013	762772	MONTANA CSED	3,890.82	9000-00000-209926	Child Support
01/28/2013	762773	Montana Dakota Utilities Co	231.12	5610-71170-403440	073869 28. January 2013 Row 1 Hangar 2
01/28/2013	762773	Montana Dakota Utilities Co	828.00	5610-71130-403440	31454601
01/28/2013	762773	Montana Dakota Utilities Co	120.55	5020-74000-403440	07162021
01/28/2013	762773	Montana Dakota Utilities Co	11.00	5610-71130-403440	31454801
01/28/2013	762773	Montana Dakota Utilities Co	24.42	5020-74000-403440	07342023
01/28/2013	762773	Montana Dakota Utilities Co	483.79	5610-71170-403440	073858 25. January 2013 TSA Building
01/28/2013	762773	Montana Dakota Utilities Co	10,065.67	5610-71120-403440	7387221

01/28/2013	762773	Montana Dakota Utilities Co	1,685.43	5610-71190-403440	377185 02. January 2013 Car Wash
01/28/2013	762773	Montana Dakota Utilities Co	2,819.84	6500-15670-403440	07610421
01/28/2013	762773	Montana Dakota Utilities Co	1,521.53	5610-71170-403440	07388722
01/28/2013	762773	Montana Dakota Utilities Co	644.43	0100-51270-403440	07586821
01/28/2013	762773	Montana Dakota Utilities Co	77.26	5610-71190-403440	379130 01. January 2013 Detail Bay 5 Thrifty/Dollar
01/28/2013	762773	Montana Dakota Utilities Co	103.31	5610-71190-403440	379128 01. January 2013 Detail Bay 3 Enterprise
01/28/2013	762773	Montana Dakota Utilities Co	10.40	5610-71170-403440	07388824
01/28/2013	762773	Montana Dakota Utilities Co	712.61	5610-71190-403440	379125 01. January 2013 Mud Wash
01/28/2013	762773	Montana Dakota Utilities Co	186.15	5610-71190-403440	379127 01. January 2013 Detail Bay 1 Hertz
01/28/2013	762773	Montana Dakota Utilities Co	2,977.69	2600-55120-403440	07617521
01/28/2013	762773	Montana Dakota Utilities Co	185.30	5210-15950-403440	07624629
01/28/2013	762773	Montana Dakota Utilities Co	91.35	5210-15950-403440	07624725
01/28/2013	762773	Montana Dakota Utilities Co	32.85	5210-15950-403440	07624823
01/28/2013	762773	Montana Dakota Utilities Co	1,033.62	1500-21710-403440	32062801
01/28/2013	762773	Montana Dakota Utilities Co	160.08	6600-31100-403440	37667401
01/28/2013	762773	Montana Dakota Utilities Co	240.12	6700-31410-403440	37667401
01/28/2013	762773	Montana Dakota Utilities Co	13.35	5210-15920-403440	34941902
01/28/2013	762773	Montana Dakota Utilities Co	25.02	5120-85000-403440	33154101
01/28/2013	762773	Montana Dakota Utilities Co	22.65	5120-85000-403440	32739201
01/28/2013	762773	Montana Dakota Utilities Co	10.40	0100-51120-403410	37741801
01/28/2013	762773	Montana Dakota Utilities Co	2,345.95	5710-71430-403440	07647023
01/28/2013	762773	Montana Dakota Utilities Co	1,498.65	1500-22210-403440	07676421
01/28/2013	762777	Montana Public Employees Assoc	5,160.74	0100-51120-401450	Alfred Duncan
01/28/2013	762779	Montana State Fireman's Assoc	2,783.05	9000-00000-209924	Payroll Summary
01/28/2013	762779	Montana State Fireman's Assoc	2,854.40	9000-00000-209924	PAYROLL SUMMARY
01/28/2013	762781	Morrison Maierle Inc	1,530.94	5620-71200-409310	Invoice #13005. South View Drive & West End Parking Lot Paving-CA
01/28/2013	762781	Morrison Maierle Inc	4,122.58	4070-71280-409397	Invoice #130053. Pond A,B,C Expansion - CA 2447.088.01
01/28/2013	762781	Morrison Maierle Inc	4,992.21	5620-71200-409310	Invoice #13005. East Taxilane Extension - CA
01/28/2013	762781	Morrison Maierle Inc	133.13	5620-71200-409310	Invoice #13005.Extend Sanitary Sewer - CA
01/28/2013	762781	Morrison Maierle Inc	6,847.55	4070-71280-409397	Invoice #130054. Pond C Plunge Pool - CA 2447.091.01
01/28/2013	762788	New World Systems	301.09	1500-21120-403590	Invoice 025417, 1 additional night at the New World Conference for Grandahl & Huet, Travel Req 5069
01/28/2013	762788	New World Systems	602.18	1500-21120-403590	Invoice 025418, 2 additional nights at the New World Conference for Kristjanson & Cardillo, Travel Req 5069
01/28/2013	762788	New World Systems	1,722.18	6200-19120-403870	New World Conference Joyce Miller
01/28/2013	762792	Northwest Pipe Fittings	61.97	5020-74000-402450	parts
01/28/2013	762792	Northwest Pipe Fittings	32.22	5120-84000-402450	sandcloth
01/28/2013	762792	Northwest Pipe Fittings	2,916.20	5020-73120-402380	meter parts
01/28/2013	762792	Northwest Pipe Fittings	1,284.00	5020-73120-402380	meters
01/28/2013	762792	Northwest Pipe Fittings	-995.49	5020-73120-402380	CREDIT
01/28/2013	762792	Northwest Pipe Fittings	83.86	5120-84000-402450	fittings
01/28/2013	762792	Northwest Pipe Fittings	238.73	5120-84000-402450	plumbing
01/28/2013	762792	Northwest Pipe Fittings	472.16	5020-00000-141000	SYSTEMS PO NUM 291357
01/28/2013	762792	Northwest Pipe Fittings	118.08	5020-00000-141000	SYSTEMS PO NUM 291363
01/28/2013	762792	Northwest Pipe Fittings	849.39	5020-00000-141000	SYSTEMS PO NUM 291392
01/28/2013	762792	Northwest Pipe Fittings	215.36	5020-00000-141000	SYSTEMS PO NUM 291454
01/28/2013	762792	Northwest Pipe Fittings	15.26	5120-84000-402450	pvc
01/28/2013	762792	Northwest Pipe Fittings	379.91	5120-84000-402450	vent
01/28/2013	762792	Northwest Pipe Fittings	43.40	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291451
01/28/2013	762792	Northwest Pipe Fittings	14,666.00	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291281
01/28/2013	762792	Northwest Pipe Fittings	9,875.00	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291449
01/28/2013	762792	Northwest Pipe Fittings	93.00	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291353
01/28/2013	762792	Northwest Pipe Fittings	32.15	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291360
01/28/2013	762792	Northwest Pipe Fittings	219.00	5020-73120-402380	antenna
01/28/2013	762792	Northwest Pipe Fittings	24.27	2110-31320-402320	adapter for 1251
01/28/2013	762792	Northwest Pipe Fittings	3,881.00	0100-51120-402290	100 Brass impact w/#12 nozzl for pipe repairs.
01/28/2013	762792	Northwest Pipe Fittings	78.16	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 291394
01/28/2013	762792	Northwest Pipe Fittings	116.83	5020-00000-141000	SYSTEMS PO NUM 291282
01/28/2013	762792	Northwest Pipe Fittings	632.50	5020-00000-141000	SYSTEMS PO NUM 291358
01/28/2013	762792	Northwest Pipe Fittings	1,455.79	5020-00000-141000	SYSTEMS PO NUM 291457
01/28/2013	762792	Northwest Pipe Fittings	1,399.31	5020-00000-141000	SYSTEMS PO NUM 291283

01/28/2013	762794	NorthWestern Energy	3,940.60	8100-31830-403410	SILMD 013 ACCT# 0721276-4
01/28/2013	762794	NorthWestern Energy	310.61	8100-31830-403410	SILMD 175 ACCT# 0712614-7
01/28/2013	762794	NorthWestern Energy	582.51	8100-31830-403410	SILMD 241 ACCT# 0712675-8
01/28/2013	762794	NorthWestern Energy	1,918.36	8100-31830-403410	SILMD 014 ACCT# 0721277-2
01/28/2013	762794	NorthWestern Energy	40.83	8100-31830-403410	SILMD 176 ACCT# 0712615-4
01/28/2013	762794	NorthWestern Energy	77.81	8100-31830-403410	SILMD 242 ACCT# 0712676-6
01/28/2013	762794	NorthWestern Energy	1,315.63	8100-31830-403410	SILMD 010 ACCT# 0712546-1
01/28/2013	762794	NorthWestern Energy	931.82	8100-31830-403410	SILMD 174 ACCT# 0712613-9
01/28/2013	762794	NorthWestern Energy	361.25	8100-31830-403410	SILMD 240 ACCT# 0712674-1
01/28/2013	762794	NorthWestern Energy	1,150.52	8100-31830-403410	SILMD 017 ACCT# 0712553-7
01/28/2013	762794	NorthWestern Energy	244.06	8100-31830-403410	SILMD 178 ACCT# 0712616-2
01/28/2013	762794	NorthWestern Energy	103.74	8100-31830-403410	SILMD 244 ACCT# 0712677-4
01/28/2013	762794	NorthWestern Energy	90.32	8100-31830-403410	SILMD 018 ACCT# 0712554-5
01/28/2013	762794	NorthWestern Energy	332.80	8100-31830-403410	SILMD 180 ACCT# 0712618-8
01/28/2013	762794	NorthWestern Energy	80.99	8100-31830-403410	SILMD 245 ACCT# 0712678-2
01/28/2013	762794	NorthWestern Energy	478.25	8100-31830-403410	SILMD 009 ACCT# 0712545-3
01/28/2013	762794	NorthWestern Energy	1,109.33	8100-31830-403410	SILMD 173 ACCT# 0712612-1
01/28/2013	762794	NorthWestern Energy	88.74	8100-31830-403410	SILMD 239 ACCT# 0712673-3
01/28/2013	762794	NorthWestern Energy	218.04	8100-31830-403410	SILMD 118 ACCT# 0712567-7
01/28/2013	762794	NorthWestern Energy	288.43	8100-31830-403410	SILMD 192 ACCT# 0712630-3
01/28/2013	762794	NorthWestern Energy	792.57	8100-31830-403410	SILMD 257 ACCT# 0720360-7
01/28/2013	762794	NorthWestern Energy	143.88	8100-31830-403410	SILMD 119 ACCT# 0712568-5
01/28/2013	762794	NorthWestern Energy	709.97	8100-31830-403410	SILMD 193 ACCT# 0712631-1
01/28/2013	762794	NorthWestern Energy	2,449.27	8100-31830-403410	SILMD 258 ACCT# 0720606-3
01/28/2013	762794	NorthWestern Energy	177.49	8100-31830-403410	SILMD 122 ACCT# 0712571-9
01/28/2013	762794	NorthWestern Energy	200.71	8100-31830-403410	SILMD 195 ACCT# 0712633-7
01/28/2013	762794	NorthWestern Energy	1,228.43	8100-31830-403410	SILMD 259 ACCT# 0720810-1
01/28/2013	762794	NorthWestern Energy	2,334.28	8100-31830-403410	SILMD 121 ACCT# 0712570-1
01/28/2013	762794	NorthWestern Energy	240.83	8100-31830-403410	SILMD 194 ACCT# 0712632-9
01/28/2013	762794	NorthWestern Energy	10.44	8100-31830-403410	SILMD 259 ACCT# 1301786-8
01/28/2013	762794	NorthWestern Energy	181.55	8100-31830-403410	SILMD 126 ACCT# 0712575-0
01/28/2013	762794	NorthWestern Energy	68.74	8100-31830-403410	SILMD 200 ACCT# 0712637-8
01/28/2013	762794	NorthWestern Energy	148.23	8100-31830-403410	SILMD 264 ACCT# 0721427-3
01/28/2013	762794	NorthWestern Energy	363.11	8100-31830-403410	SILMD 125 ACCT# 0712574-3
01/28/2013	762794	NorthWestern Energy	110.93	8100-31830-403410	SILMD 198 ACCT# 0712636-0
01/28/2013	762794	NorthWestern Energy	864.67	8100-31830-403410	SILMD 263 ACCT# 0720716-0
01/28/2013	762794	NorthWestern Energy	907.78	8100-31830-403410	SILMD 124 ACCT# 0712573-5
01/28/2013	762794	NorthWestern Energy	64.45	8100-31830-403410	SILMD 197 ACCT# 0712635-2
01/28/2013	762794	NorthWestern Energy	2,945.61	8100-31830-403410	SILMD 262 ACCT# 0720937-2
01/28/2013	762794	NorthWestern Energy	311.22	8100-31830-403410	SILMD 123 ACCT# 0712572-7
01/28/2013	762794	NorthWestern Energy	64.45	8100-31830-403410	SILMD 196 ACCT# 0712634-5
01/28/2013	762794	NorthWestern Energy	466.85	8100-31830-403410	SILMD 261 ACCT# 0720705-3
01/28/2013	762794	NorthWestern Energy	488.10	8100-31830-403410	SILMD 135 ACCT# 0712583-4
01/28/2013	762794	NorthWestern Energy	311.98	8100-31830-403410	SILMD 208 ACCT# 0712645-1
01/28/2013	762794	NorthWestern Energy	60.20	8100-31830-403410	SILMD 274 ACCT# 0907926-0
01/28/2013	762794	NorthWestern Energy	505.68	8100-31830-403410	SILMD 134 ACCT# 0712582-6
01/28/2013	762794	NorthWestern Energy	354.98	8100-31830-403410	SILMD 207 ACCT# 0712644-4
01/28/2013	762794	NorthWestern Energy	188.99	8100-31830-403410	SILMD 273 ACCT# 0926386-4
01/28/2013	762794	NorthWestern Energy	219.14	8100-31830-403410	SILMD 133 ACCT# 0712581-8
01/28/2013	762794	NorthWestern Energy	310.61	8100-31830-403410	SILMD 206 ACCT# 0712643-6
01/28/2013	762794	NorthWestern Energy	2,633.57	8100-31830-403410	SILMD 272 ACCT# 0905005-5
01/28/2013	762794	NorthWestern Energy	804.03	8100-31830-403410	SILMD 131 ACCT# 0712580-0
01/28/2013	762794	NorthWestern Energy	32.66	8100-31830-403410	SILMD 205 ACCT# 0712642-8
01/28/2013	762794	NorthWestern Energy	937.79	8100-31830-403410	SILMD 271 ACCT# 0995095-7
01/28/2013	762794	NorthWestern Energy	117.99	8100-31830-403410	SILMD 130 ACCT# 0712579-2
01/28/2013	762794	NorthWestern Energy	380.14	8100-31830-403410	SILMD 204 ACCT# 0712641-0
01/28/2013	762794	NorthWestern Energy	395.28	8100-31830-403410	SILMD 270 ACCT# 0906944-4
01/28/2013	762794	NorthWestern Energy	311.22	8100-31830-403410	SILMD 129 ACCT# 0712578-4
01/28/2013	762794	NorthWestern Energy	17.18	8100-31830-403410	SILMD 203 ACCT# 0712640-2
01/28/2013	762794	NorthWestern Energy	70.24	8100-31830-403410	SILMD 269 ACCT# 0833098-7
01/28/2013	762794	NorthWestern Energy	465.90	8100-31830-403410	SILMD 128 ACCT# 0712577-6
01/28/2013	762794	NorthWestern Energy	741.03	8100-31830-403410	SILMD 202 INV# 0712639-4
01/28/2013	762794	NorthWestern Energy	73.77	8100-31830-403410	SILMD 266 ACCT# 0721684-9
01/28/2013	762794	NorthWestern Energy	665.59	8100-31830-403410	SILMD 127 ACCT# 0712576-8
01/28/2013	762794	NorthWestern Energy	465.90	8100-31830-403410	SILMD 201 ACCT# 0712638-6
01/28/2013	762794	NorthWestern Energy	328.07	8100-31830-403410	SILMD 265 ACCT# 0721556-9
01/28/2013	762794	NorthWestern Energy	881.84	8100-31830-403410	SILMD 114 ACCT# 0712563-6
01/28/2013	762794	NorthWestern Energy	266.22	8100-31830-403410	SILMD 188 ACCT# 0712626-1
01/28/2013	762794	NorthWestern Energy	518.71	8100-31830-403410	SILMD 252 ACCT# 0719162-0
01/28/2013	762794	NorthWestern Energy	207.49	8100-31830-403410	SILMD 115 ACCT# 0712564-4
01/28/2013	762794	NorthWestern Energy	221.87	8100-31830-403410	SILMD 189 ACCT# 0712627-9
01/28/2013	762794	NorthWestern Energy	1,817.48	8100-31830-403410	SILMD 253 ACCT# 0719644-7
01/28/2013	762794	NorthWestern Energy	544.65	8100-31830-403410	SILMD 116 ACCT# 0712565-1
01/28/2013	762794	NorthWestern Energy	1,153.68	8100-31830-403410	SILMD 190 ACCT# 0712628-7

01/28/2013	762794	NorthWestern Energy	135.88	8100-31830-403410	SILMD 254 ACCT# 0719763-5
01/28/2013	762794	NorthWestern Energy	3,008.48	8100-31830-403410	SILMD 117 ACCT# 0712566-9
01/28/2013	762794	NorthWestern Energy	396.40	8100-31830-403410	SILMD 191 ACCT# 0712629-5
01/28/2013	762794	NorthWestern Energy	144.34	8100-31830-403410	SILMD 255 ACCT# 0720813-5
01/28/2013	762794	NorthWestern Energy	170.46	8100-31830-403410	SILMD 113 ACCT# 0712562-8
01/28/2013	762794	NorthWestern Energy	221.87	8100-31830-403410	SILMD 187 ACCT# 0712625-3
01/28/2013	762794	NorthWestern Energy	3,687.24	8100-31830-403410	SILMD 251 ACCT# 0718801-4
01/28/2013	762794	NorthWestern Energy	1,633.97	8100-31830-403410	SILMD 107 ACCT# 0712560-2
01/28/2013	762794	NorthWestern Energy	133.13	8100-31830-403410	SILMD 185 ACCT# 0712623-8
01/28/2013	762794	NorthWestern Energy	11.30	8100-31830-403410	SILMD 250 ACCT# 1301786-8
01/28/2013	762794	NorthWestern Energy	4,097.95	8100-31830-403410	SILMD 109 ACCT# 0712561-0
01/28/2013	762794	NorthWestern Energy	581.99	8100-31830-403410	SILMD 186 ACCT# 0712624-6
01/28/2013	762794	NorthWestern Energy	183.04	8100-31830-403410	SILMD 250 ACCT# 0719001-00
01/28/2013	762794	NorthWestern Energy	2,484.75	8100-31830-403410	SILMD 100 ACCT# 0712559-4
01/28/2013	762794	NorthWestern Energy	354.98	8100-31830-403410	SILMD 184 ACCT# 0712622-0
01/28/2013	762794	NorthWestern Energy	2,567.70	8100-31830-403410	SILMD 249 ACCT# 0718734-7
01/28/2013	762794	NorthWestern Energy	1,519.30	8100-31830-403410	SILMD 099 ACCT# 0712558-6
01/28/2013	762794	NorthWestern Energy	1,109.34	8100-31830-403410	SILMD 183 ACCT# 0712621-2
01/28/2013	762794	NorthWestern Energy	2,308.38	8100-31830-403410	SILMD 248 ACCT# 0712681-6
01/28/2013	762794	NorthWestern Energy	461.16	8100-31830-403410	SILMD 095 ACCT# 0712556-0
01/28/2013	762794	NorthWestern Energy	1,582.11	8100-31830-403410	SILMD 181 ACCT# 0712619-6
01/28/2013	762794	NorthWestern Energy	311.22	8100-31830-403410	SILMD 246 ACCT# 0712679-0
01/28/2013	762794	NorthWestern Energy	12,451.14	8100-31830-403410	SILMD 097 ACCT# 0712557-8
01/28/2013	762794	NorthWestern Energy	554.66	8100-31830-403410	SILMD 182 ACCT# 0712620-4
01/28/2013	762794	NorthWestern Energy	1,089.27	8100-31830-403410	SILMD 247 ACCT# 0712680-8
01/28/2013	762794	NorthWestern Energy	13,797.48	2110-31320-403410	Signal Bills 1-18-13
01/28/2013	762794	NorthWestern Energy	466.66	8100-31830-403410	SILMD 008 ACCT# 0712544-6
01/28/2013	762794	NorthWestern Energy	505.69	8100-31830-403410	SILMD 172 ACCT# 0712611-3
01/28/2013	762794	NorthWestern Energy	13.97	8100-31830-403410	SILMD 238 ACCT# 0712672-5
01/28/2013	762794	NorthWestern Energy	543.95	8100-31830-403410	SILMD 143 ACCT# 0712588-3
01/28/2013	762794	NorthWestern Energy	25.79	8100-31830-403410	SILMD 213 ACCT# 0712650-1
01/28/2013	762794	NorthWestern Energy	652.26	8100-31830-403410	SILMD 280 ACCT# 1045653-1
01/28/2013	762794	NorthWestern Energy	233.42	8100-31830-403410	SILMD 139 ACCT# 0712587-5
01/28/2013	762794	NorthWestern Energy	42.97	8100-31830-403410	SILMD 212 ACCT# 0712649-3
01/28/2013	762794	NorthWestern Energy	57.68	8100-31830-403410	SILMD 279 ACCT# 1124127-0
01/28/2013	762794	NorthWestern Energy	700.28	8100-31830-403410	SILMD 138 ACCT# 0712586-7
01/28/2013	762794	NorthWestern Energy	42.97	8100-31830-403410	SILMD 211 ACCT# 0712648-5
01/28/2013	762794	NorthWestern Energy	210.73	8100-31830-403410	SILMD 278 ACCT# 1087619-1
01/28/2013	762794	NorthWestern Energy	351.04	8100-31830-403410	SILMD 137 ACCT# 0712585-9
01/28/2013	762794	NorthWestern Energy	77.33	8100-31830-403410	SILMD 210 ACCT# 0712647-7
01/28/2013	762794	NorthWestern Energy	773.51	8100-31830-403410	SILMD 277 ACCT# 1058710-3
01/28/2013	762794	NorthWestern Energy	431.83	8100-31830-403410	SILMD 136 ACCT# 0712584-2
01/28/2013	762794	NorthWestern Energy	510.28	8100-31830-403410	SILMD 209 ACCT# 0712646-9
01/28/2013	762794	NorthWestern Energy	429.51	8100-31830-403410	SILMD 276 ACCT# 0961926-3
01/28/2013	762794	NorthWestern Energy	25.90	8100-31830-403410	SILMD 144 ACCT# 0712589-1
01/28/2013	762794	NorthWestern Energy	445.44	8100-31830-403410	SILMD 214 ACCT# 0712651-9
01/28/2013	762794	NorthWestern Energy	60.20	8100-31830-403410	SILMD 281 ACCT# 1079722-3
01/28/2013	762794	NorthWestern Energy	443.71	8100-31830-403410	SILMD 145 ACCT# 0712590-9
01/28/2013	762794	NorthWestern Energy	133.13	8100-31830-403410	SILMD 216 ACCT# 0712652-7
01/28/2013	762794	NorthWestern Energy	342.30	8100-31830-403410	SILMD 283 ACCT# 1172743-5
01/28/2013	762794	NorthWestern Energy	337.18	8100-31830-403410	SILMD 146 ACCT# 0712591-7
01/28/2013	762794	NorthWestern Energy	357.88	8100-31830-403410	SILMD 217 ACCT# 0712653-5
01/28/2013	762794	NorthWestern Energy	317.93	8100-31830-403410	SILMD 285 ACCT# 1206985-2
01/28/2013	762794	NorthWestern Energy	437.84	8100-31830-403410	SILMD 147 ACCT# 0712592-5
01/28/2013	762794	NorthWestern Energy	276.19	8100-31830-403410	SILMD 220 ACCT# 0712654-3
01/28/2013	762794	NorthWestern Energy	222.74	8100-31830-403410	SILMD 286 ACCT# 1296582-8
01/28/2013	762794	NorthWestern Energy	1,386.57	8100-31830-403410	SILMD 149 ACCT# 0712593-3
01/28/2013	762794	NorthWestern Energy	8.16	8100-31830-403410	SILMD 221 ACCT# 0712655-0
01/28/2013	762794	NorthWestern Energy	138.73	8100-31830-403410	SILMD 287 ACCT# 1246537-3
01/28/2013	762794	NorthWestern Energy	709.97	8100-31830-403410	SILMD 150 ACCT# 0712594-1
01/28/2013	762794	NorthWestern Energy	67.92	8100-31830-403410	SILMD 222 ACCT# 0712656-8
01/28/2013	762794	NorthWestern Energy	1,672.93	8100-31830-403410	SILMD 288 ACCT# 1303978-9
01/28/2013	762794	NorthWestern Energy	596.53	8100-31830-403410	SILMD 151 ACCT# 0712595-8
01/28/2013	762794	NorthWestern Energy	103.12	8100-31830-403410	SILMD 223 ACCT# 0712657-6
01/28/2013	762794	NorthWestern Energy	316.70	8100-31830-403410	SILMD 289 ACCT# 1685375-6
01/28/2013	762794	NorthWestern Energy	4,060.96	8100-31830-403410	SILMD 152 ACCT# 0712596-6
01/28/2013	762794	NorthWestern Energy	1,715.86	8100-31830-403410	SILMD 224 ACCT# 0712658-4
01/28/2013	762794	NorthWestern Energy	155.65	8100-31830-403410	SILMD 290 ACCT# 1433921-2
01/28/2013	762794	NorthWestern Energy	510.28	8100-31830-403410	SILMD 153 ACCT# 0712597-4
01/28/2013	762794	NorthWestern Energy	356.02	8100-31830-403410	SILMD 225 ACCT# 0712659-2
01/28/2013	762794	NorthWestern Energy	570.60	8100-31830-403410	SILMD 292 ACCT# 1481532-8
01/28/2013	762794	NorthWestern Energy	1,153.68	8100-31830-403410	SILMD 154 ACCT# 0712598-2
01/28/2013	762794	NorthWestern Energy	276.55	8100-31830-403410	SILMD 226 ACCT# 0712660-0
01/28/2013	762794	NorthWestern Energy	221.87	8100-31830-403410	SILMD 293 ACCT# 1481534-4

01/28/2013	762794	NorthWestern Energy	466.85	8100-31830-403410	SILMD 155 ACCT# 0712599-0	
01/28/2013	762794	NorthWestern Energy	559.49	8100-31830-403410	SILMD 227 ACCT# 0712661-8	
01/28/2013	762794	NorthWestern Energy	443.71	8100-31830-403410	SILMD 294 ACCT# 1481535-1	
01/28/2013	762794	NorthWestern Energy	865.27	8100-31830-403410	SILMD 157 ACCT# 0712600-6	
01/28/2013	762794	NorthWestern Energy	752.15	8100-31830-403410	SILMD 228 ACCT# 0712662-6	
01/28/2013	762794	NorthWestern Energy	103.74	8100-31830-403410	SILMD 295 ACCT# 1481536-9	
01/28/2013	762794	NorthWestern Energy	752.15	8100-31830-403410	SILMD 158 ACCT# 0712601-4	
01/28/2013	762794	NorthWestern Energy	389.05	8100-31830-403410	SILMD 229 ACCT# 0712663-4	
01/28/2013	762794	NorthWestern Energy	1,193.10	8100-31830-403410	SILMD 296 ACCT# 1481537-7	
01/28/2013	762794	NorthWestern Energy	1,027.89	8100-31830-403410	SILMD 159 ACCT# 0712602-2	
01/28/2013	762794	NorthWestern Energy	907.77	8100-31830-403410	SILMD 230 ACCT# 0712664-2	
01/28/2013	762794	NorthWestern Energy	199.67	8100-31830-403410	SILMD 297 ACCT# 1481539-3	
01/28/2013	762794	NorthWestern Energy	674.35	8100-31830-403410	SILMD 160 ACCT# 0712603-0	
01/28/2013	762794	NorthWestern Energy	544.65	8100-31830-403410	SILMD 231 ACCT# 0712665-9	
01/28/2013	762794	NorthWestern Energy	177.49	8100-31830-403410	SILMD 298 ACCT# 1481540-1	
01/28/2013	762794	NorthWestern Energy	998.37	8100-31830-403410	SILMD 161 ACCT# 0712604-8	
01/28/2013	762794	NorthWestern Energy	2,360.22	8100-31830-403410	SILMD 232 ACCT# 0712666-7	
01/28/2013	762794	NorthWestern Energy	377.58	8100-31830-403410	SILMD 300 ACCT# 1662840-6	
01/28/2013	762794	NorthWestern Energy	57.16	8100-31830-403410	SILMD 162 ACCT# 0712605-5	
01/28/2013	762794	NorthWestern Energy	751.31	8100-31830-403410	SILMD 233 ACCT# 0712667-5	
01/28/2013	762794	NorthWestern Energy	1,671.53	8100-31830-403410	SILMD 301 ACCT# 1687005-7	
01/28/2013	762794	NorthWestern Energy	622.16	8100-31830-403410	SILMD 163 ACCT# 0712606-3	
01/28/2013	762794	NorthWestern Energy	443.02	8100-31830-403410	SILMD 234 ACCT# 0712668-3	
01/28/2013	762794	NorthWestern Energy	290.66	8100-31830-403410	SILMD 302 ACCT# 1607534-3	
01/28/2013	762794	NorthWestern Energy	354.98	8100-31830-403410	SILMD 164 ACCT# 0712607-1	
01/28/2013	762794	NorthWestern Energy	473.14	8100-31830-403410	SILMD 235 ACCT# 0712669-1	
01/28/2013	762794	NorthWestern Energy	1,096.15	8100-31830-403410	SILMD 305 ACCT# 1695873-8	
01/28/2013	762794	NorthWestern Energy	829.97	8100-31830-403410	SILMD 165 ACCT# 0712608-9	
01/28/2013	762794	NorthWestern Energy	150.51	8100-31830-403410	SILMD 236 ACCT# 0712670-9	
01/28/2013	762794	NorthWestern Energy	235.35	8100-31830-403410	SILMD 306 ACCT# 1740353-6	
01/28/2013	762794	NorthWestern Energy	221.87	8100-31830-403410	SILMD 167 ACCT# 0712609-7	
01/28/2013	762794	NorthWestern Energy	377.18	8100-31830-403410	SILMD 237 ACCT# 0712671-7	
01/28/2013	762794	NorthWestern Energy	3,169.27	8100-31830-403410	SILMD 307 ACCT# 2049005-8	
01/28/2013	762794	NorthWestern Energy	532.48	8100-31830-403410	SILMD 171 ACCT# 0712610-5	
01/28/2013	762794	NorthWestern Energy	247.50	8100-31830-403410	SILMD 308 ACCT# 2072459-7	
01/28/2013	762794	NorthWestern Energy	377.57	8100-31830-403410	SILMD 309 ACCT# 2001311-6	
01/28/2013	762794	NorthWestern Energy	363.12	8100-31830-403410	SILMD 310 ACCT# 2060519-2	
01/28/2013	762794	NorthWestern Energy	49.74	8100-31830-403410	SILMD 320 ACCT# 0712569-3	
01/28/2013	762795	NorthWestern Energy	9.03	5610-71170-403410	1264299-7. January 2013 Old Car Wash Hertz	
01/28/2013	762795	NorthWestern Energy	388.44	5710-71480-403410	17847567	
01/28/2013	762795	NorthWestern Energy	12,716.14	5020-74000-403410	2251 Belknap	
01/28/2013	762795	NorthWestern Energy	285.10	6070-22350-403410	07215809	
01/28/2013	762795	NorthWestern Energy	9.06	0100-51120-403410	07230907	
01/28/2013	762795	NorthWestern Energy	456.28	5610-71170-403410	0712792-1. January 2013 IP-7	
01/28/2013	762795	NorthWestern Energy	189.50	8720-51980-403410	10590933	
01/28/2013	762795	NorthWestern Energy	1,349.22	5610-71190-403410	19934301-6. January 2013 Car Wash	
01/28/2013	762795	NorthWestern Energy	739.38	5020-74000-403410	Airport Rd/17 St W/Hwy 3/Waldo	
01/28/2013	762795	NorthWestern Energy	58,952.26	5120-84000-403410	725 Hwy 87 East	
01/28/2013	762795	NorthWestern Energy	7.15	0100-51120-403410	07229057	
01/28/2013	762795	NorthWestern Energy	27.27	0100-51120-403410	07222938	
01/28/2013	762795	NorthWestern Energy	99.13	0100-51120-403410	07230352	
01/28/2013	762795	NorthWestern Energy	302.31	5610-71170-403410	1341291-1. January 2013 Old Car Wash Enterprise (Big Sky Ground)	
01/28/2013	762795	NorthWestern Energy	849.55	5610-71170-403410	1341295-2. January 2013 Big Sky Ground Support	
01/28/2013	762795	NorthWestern Energy	8.43	0100-51120-403410	07230360	
01/28/2013	762795	NorthWestern Energy	58.85	5610-71170-403410	1341288-7. January 2013 Old Car WAsh National/Alamo	
01/28/2013	762795	NorthWestern Energy	7.54	5610-71170-403410	1341289-5. January 2013 Old Car Wash Thrifty/Dollar	
01/28/2013	762795	NorthWestern Energy	3,355.78	5610-71130-403410	0100483-7. Jsnuary 2013 Runway Lights	
01/28/2013	762795	NorthWestern Energy	22.79	0100-51120-403410	07230428	
01/28/2013	762795	NorthWestern Energy	1,987.49	5610-71130-403410	0100484-5. January 2013 ARFF Facility	
01/28/2013	762795	NorthWestern Energy	171.58	0100-51120-403410	07230378	
01/28/2013	762795	NorthWestern Energy	7.15	0100-51120-403410	07230550	
01/28/2013	762795	NorthWestern Energy	36.25	5610-71130-403410	1647695-4. January 2013 De-Icer	
01/28/2013	762795	NorthWestern Energy	67.65	0100-51120-403410	07229339	
01/28/2013	762795	NorthWestern Energy	11.47	0100-51120-403410	07230584	
01/28/2013	762795	NorthWestern Energy	9.96	0100-51120-403410	07230576	
01/28/2013	762795	NorthWestern Energy	13.30	0100-51120-403410	07230568	
01/28/2013	762795	NorthWestern Energy	573.84	5610-71170-403410	1669567-8. January 2013 TSA Building	
01/28/2013	762795	NorthWestern Energy	16.29	5610-71170-403410	0712799-6. January 2013 IP-8	
01/28/2013	762795	NorthWestern Energy	207.72	0100-51120-403410	07222375	
01/28/2013	762795	NorthWestern Energy	7.15	0100-51120-403410	07231624	

01/28/2013	762795	NorthWestern Energy	332.64	1500-21150-403410	19841501
01/28/2013	762795	NorthWestern Energy	538.24	5610-71190-403410	2001846-1. January 2013 Mud Wash
01/28/2013	762795	NorthWestern Energy	1,248.19	0100-51120-403410	15942824
01/28/2013	762795	NorthWestern Energy	47,685.54	5020-74000-403410	2251 Belknap
01/28/2013	762795	NorthWestern Energy	1,345.17	5610-71170-403410	0712800-2. January 2013 IP-9
01/28/2013	762795	NorthWestern Energy	7.15	0100-51120-403410	07222474
01/28/2013	762795	NorthWestern Energy	7.15	0100-51120-403410	07236441
01/28/2013	762795	NorthWestern Energy	96.08	5210-15910-403410	15696362
01/28/2013	762795	NorthWestern Energy	280.15	1500-21150-403410	19841550
01/28/2013	762795	NorthWestern Energy	233.90	5610-71190-403410	2001848-7. January 2013 Detail Bay 1 Hertz
01/28/2013	762795	NorthWestern Energy	2,384.28	5020-73140-403410	2251 Belknap
01/28/2013	762795	NorthWestern Energy	11.49	0100-51120-403410	07222920
01/28/2013	762795	NorthWestern Energy	185.09	5610-71190-403410	2001867-7. January 2013 Detail Bay 5 Thrifty/Dollar
01/28/2013	762795	NorthWestern Energy	8.23	0100-51120-403410	07222698
01/28/2013	762795	NorthWestern Energy	12.98	0100-51120-403410	07894371
01/28/2013	762795	NorthWestern Energy	12.98	0100-51120-403410	07222664
01/28/2013	762795	NorthWestern Energy	242.98	5610-71190-403410	2001865-1. January 2013 Detail BAy 4 Avis/Budget
01/28/2013	762795	NorthWestern Energy	58.11	5610-71130-403410	0719616-5. January 2013 ARFF Building Lights
01/28/2013	762795	NorthWestern Energy	135.49	0100-51120-403410	07222573
01/28/2013	762795	NorthWestern Energy	205.62	5610-71190-403410	2001862-8. January 2013 Detail Bay 3 Enterprise
01/28/2013	762795	NorthWestern Energy	234.55	5610-71170-403410	0712817-6. January 2013 IP-House
01/28/2013	762795	NorthWestern Energy	89.47	0100-51120-403410	07222557
01/28/2013	762795	NorthWestern Energy	7.47	0100-51120-403410	07236458
01/28/2013	762795	NorthWestern Energy	337.81	5610-71190-403410	2001855-2. January 2013 Detail Bay 2 National/Alamo
01/28/2013	762795	NorthWestern Energy	794.76	5120-83140-403410	2251 Belknap
01/28/2013	762796	Northwestern Energy-Billing Dv	297,594.22	2030-15130-409224	relocate and bury electric utility in alley
01/28/2013	762798	OAC Services Inc	30,669.55	2030-15130-409224	Empire Parking Garage Project Management Services
01/28/2013	762802	Paint Doctor The	2,565.00	6300-17530-407310	Inv. #2056 PW Truck #7412 #2012-116
01/28/2013	762804	Payne Financial Group	14,235.00	2030-15130-409224	Builder's risk, Empire Garage, Policy #BINDER1028061
01/28/2013	762809	Public Utilities	151,109.59	8050-15700-405350	6712510003200
01/28/2013	762809	Public Utilities	21.10	5210-15920-403420	4975819
01/28/2013	762809	Public Utilities	1,179.15	5120-84000-403420	187212152
01/28/2013	762809	Public Utilities	82.27	2110-31320-403420	671294847
01/28/2013	762809	Public Utilities	10.67	5210-15910-403420	22434115
01/28/2013	762809	Public Utilities	203.91	5210-15910-403420	22414454
01/28/2013	762809	Public Utilities	335.48	5120-85000-403420	671274846
01/28/2013	762823	Sletten Construciton Company	300,885.75	2030-15130-409224	Construction of the new Empire Garage
01/28/2013	762825	Star Service Inc	2,512.75	5030-00000-201100	WO 10-11 WTP High Service Pump Station H2-1
01/28/2013	762831	Town & Country Supply Association	10,966.34	6010-00000-141000	102556 PO NUM 291647
01/28/2013	762831	Town & Country Supply Association	17,242.83	6010-00000-141000	106314 CRCTD PO NUM 291680
01/28/2013	762831	Town & Country Supply Association	16,474.50	6010-00000-141000	106358 PO NUM 291702
01/28/2013	762831	Town & Country Supply Association	19,830.64	6010-00000-141000	106338 PO NUM 291703
01/28/2013	762831	Town & Country Supply Association	11,386.82	6010-00000-141000	102539 PO NUM 291646
01/28/2013	762831	Town & Country Supply Association	19,780.65	6010-00000-141714	106326 PO NUM 291679
01/28/2013	762831	Town & Country Supply Association	9,721.20	6010-00000-141000	106359 PO NUM 291701
01/28/2013	762832	Tractor & Equipment Co.	1,262.92	5410-31230-402320	misc parts landfill
01/28/2013	762832	Tractor & Equipment Co.	4,715.00	6010-00000-141000	B1944201 PO NUM 291708
01/28/2013	762832	Tractor & Equipment Co.	120.92	2110-31320-402320	BLCS0529647
01/28/2013	762832	Tractor & Equipment Co.	15.89	2110-31320-402320	SGCS0087376
01/28/2013	762832	Tractor & Equipment Co.	110.70	2110-31320-402320	BLCS0529647
01/28/2013	762834	Unemployment Ins Contributions Bureau	49,636.82	9000-00000-209996	Unemployment QUarterly Wage ending 12/31/12
01/28/2013	762842	Western Municipal Construction Inc	43,543.67	5030-00000-201100	WO 11-01 2011 Water Main Rehab
01/28/2013	762843	Wingfoot Commercial Tire	2,000.00	5410-31230-402390	unit 242 etc tires for landfill
01/28/2013	762843	Wingfoot Commercial Tire	2,800.00	5410-31230-402390	landfill units 118 115 114
01/28/2013	762843	Wingfoot Commercial Tire	2,090.56	1500-22260-402320	176-1034304
01/28/2013	762843	Wingfoot Commercial Tire	48.47	2110-31320-402390	176-1034341
01/28/2013	762843	Wingfoot Commercial Tire	1,784.00	2110-31320-402320	176-1034312
01/28/2013	762845	Yellowstone Valley Elec	168.71	5120-85000-403410	4523 Iron Horse Trail
01/28/2013	762845	Yellowstone Valley Elec	1,289.67	5120-84000-403410	Rehberg Aeration Ponds
01/28/2013	762845	Yellowstone Valley Elec	1,320.06	5020-74000-403410	Thomas Pump Station
01/28/2013	762845	Yellowstone Valley Elec	276.02	5120-85000-403410	2229 Blue Creek Rd
01/28/2013	762845	Yellowstone Valley Elec	170.97	5120-85000-403410	54th St West/Dovetail Ave
01/28/2013	762845	Yellowstone Valley Elec	364.67	8100-31830-403410	SILMD 299 Vintage Estates Sub
01/28/2013	762845	Yellowstone Valley Elec	19.00	5120-84000-403410	Rehberg Ranch North Pond
01/28/2013	762845	Yellowstone Valley Elec	19.00	5120-85000-403410	Winchester Trl/Rod & Gun Club

01/28/2013	762845	Yellowstone Valley Elec	59.00	5120-84000-403410	Briarwood Blvd/O'Shea

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Public Hearing and Resolution for Annexation #13-01
PRESENTED BY: Candi Beaudry
Department: Planning & Community Services

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 97 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. The City Council must first act on the annexation request before considering the zone change application at this meeting.

ALTERNATIVES ANALYZED

The City Council may approve or deny a petition submitted by owners of 50% or more of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT

The City can provide municipal sewer and water service to the subject property. The owner will be responsible for all costs of extending the utilities in Hesper Road. Staff is recommending a standard condition of approval for this annexation that a development agreement between the City and the property owner be executed to clarify how City services will be provided. If the proposed annexation is approved and the zoning is changed, the property is expected to be developed as commercial development and will contribute additional tax revenue to the City.

BACKGROUND

The subject property is composed of two parcels totaling about 97 acres. It is located at the northwest corner of the intersection of Hesper Road and Gabel Road. The property is mostly vacant with a few out buildings and has been used for agricultural operations. The property owner is requesting annexation in order to obtain City services for development of the property for a trucking terminal facility. Since the property will default to Residential-9600 (R-96) zoning if it is brought into the City, a concurrent zone change to Controlled Industrial is being processed.

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. The City Limits are immediately adjacent to the subject property on the south, east and north.

PROCEDURAL HISTORY

- On January 8, 2013, the annexation petition was submitted to the Planning Division.
- On February 11, the City Council acknowledged receipt of the annexation petition and set a public hearing for February 25.
- On February 25, the City Council will conduct the public hearing for the annexation and may take action on the request.
- On March 11, if the resolution to annex is approved by the City Council, a public hearing and first reading of an ordinance to expand the Ward 3 City Council boundary will be conducted
- On March 28, the City Council will conduct the second and final reading for the ordinance expanding the ward boundary.

STAKEHOLDERS

Annexation by petition does not require notification of adjoining landowners; however, it does require that the City Council conduct a public hearing. Notice of the public hearing was posted on the property on February 8 and published in the Billings Times on February 7. The Planning Division has not received any inquiries about this petition at the time this memo was prepared.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The City Council has expressed concerns regarding how annexing additional properties may affect the City's ability to provide services to new developments without diminishing the services provided to existing City residents. To address these concerns, the City Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation complies with the adopted Annexation Policy criteria as follows:

1. The area is located within the Limits of Annexation.
2. The City is able to adequately provide municipal water and sewer services. Sewer and water services will require extension of lines by the property owner in Hesper Road at the time of development.
3. Any proposed improvements to the property will meet City standards.
4. As part of a Development Agreement or Subdivision Improvement Agreement, the owners will sign a Waiver of Right to Protest the creation of any Special Improvement Districts.
5. If annexed, any proposed land use will comply with the zoning. Future development also may conform to the goals of the City of Billings and Yellowstone County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom for staff to prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City and County Departments were given the opportunity to comment on this annexation. City departments responded favorably and detailed responses are provided below. The County Public Works Department also responded to verify that all of Hesper Road will be annexed adjacent to the subject property.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

• Water: Water service is available and will need to be extended along Hesper Road to the subject property. The cost to extend service for the property will be at the developer's expense.

• Sewer: The property may be served by the developer extending City sanitary sewer along Hesper Road. The cost to extend sewer service for the property will be at the developer's expense.

• Stormwater: There is a stormwater line in Gabel Road in this area. Storm water impacts will be identified during the site development process and mitigating measures developed at that time meeting the requirements of the City and the Public Works Department at the time of development.

• Transportation: The subject property has frontage on Hesper Road and Gabel Road, which are both Principal Arterial Streets. No issues have been identified by City Engineering or Street and Traffic staffs. Any specific traffic impacts will be identified during the site development process and mitigating measures developed at that time.

• Fire Stations: The subject property is currently served by the Billings Fire Department through the Billings Urban Fire Service Area and the Billings Fire Department will continue to serve the property upon annexation. The Billings Fire Chief stated that as this and other annexations are built out, additional fire department resources will be needed. The nearest fire station is Station #5, located at 604 South 24th Street West, about 2.3 miles northeast of the subject property.

• Parks: The subject property will be zoned Controlled Industrial if annexed and the zone change is approved. Park land dedication would not occur if this is developed as a commercial use.

• Bicycle and pedestrian facilities: The property lies within the jurisdiction of the Billings Area Bikeway and Trail Master Plan. A bike lane is proposed on both Hesper Road and Gabel Road in front of the subject property when there are future improvements to Hesper Road or Gabel Road in this area.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

• Transit: MET transit system operators have no objections to the annexation request, but the nearest bus route follows King Avenuie West, about 1.4 miles north of the subject property.

• Police: The Police Department states that the subject property is in an established patrol area, but as further annexation and development occurs, more resources will be needed.

• Public Utilities: The Public Works-- Distribution and Collection Division had no objection with the annexation request as long as the owner agrees to fund the necessary water and sewer connection costs, and agrees to a waiver of protest for future SIDs through a Development Agreement or Subdivision Improvement Agreement as a condition in the Annexation Resolution.

• Public Works -Street and Traffic Division: The Street and Traffic Division stated that it has no problems serving the property.

• Public Works-Solid Waste: The Solid Waste Division notes that it can serve the property when developed, but noted that Senate Bill 234 passed in the 2011 State Legislature dictates that it is up to the property owner as to whether the City or a private carrier collects solid waste from the property.

• Ambulance Service: The City does not provide ambulance service, however it does dictate the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes; this annexation is within the area of acceptable response time.

• Legal and Finance: General Fund services, such as the Legal and Finance Departments should not be negatively impacted by this annexation. The Finance Department responded that it did not see any issues with the petition request.

• Other Departments: City/County services including Library, Planning, and Environmental Health are only slightly affected by the annexation since they will continue to serve new development whether in the City or the County.

Annexation of this property would adhere to the following goals, objectives and policies of the Yellowstone County and City of Billings 2008 Growth Policy:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)
- Limit regional commercial centers to areas having efficient and direct access to Interstate 90 or other regional corridor (Planned Growth Goal, page 18)

The West Billings Plan identifies this area for commercial development. A preferred land use map was developed for the West Billings Plan locating neighborhood, community and regional commercial nodes at major arterial intersections. The plan indicated this area near the Shiloh Road/I-90 interchange should serve as a regional commerce center. The plan describes this center as an area intended to serve the entire Billings community and beyond. It designates the regional center to be located where it will have direct and efficient access to Interstate 90.

RECOMMENDATION

Staff recommends that the City Council conduct the public hearing and approve the Resolution annexing the subject property, subject to the following conditions of approval:
• Prior to site development, a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements, and a Waiver of Right to Protest the Creation of Special Improvement Districts will be recorded; and/or
• A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of Special Improvement Districts shall be approved and recorded that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

APPROVED BY CITY ADMINISTRATOR

Attachments

Annexation Petition

Annexation Exhibit

Annexation Resolution

13-15

JAN -8 2013

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 4th Floor of Parmly 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)

C1

(Should be completed prior to obtaining signatures of resident freeholder electors)

DESCRIPTION OF THE TERRITORY TO BE ANNEXED TO THE CITY OF BILLINGS

Legal Description	Tax Code	Address of General Location	Use of Property	Legal Property Owners	Address	Phone
C/S 2587	D11640	NORTH OF HESPER ROAD BETWEEN SHILOH : GABEL	CURRENT: VACANT PURPOSED: C.E. = FEDEx	INDUSTRIAL PLANNING ASSOCIATES, L.P.	2929 3rd AVE. NORTH STE. 538 BILLINGS, MT 59101	252-3773
C/S 3329	D00690	NORTHWEST CORNER OF GABEL : HESPER	↓	↓	↓ ↓	"

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

Date Submitted: 1/8/13

Received By: [signature]

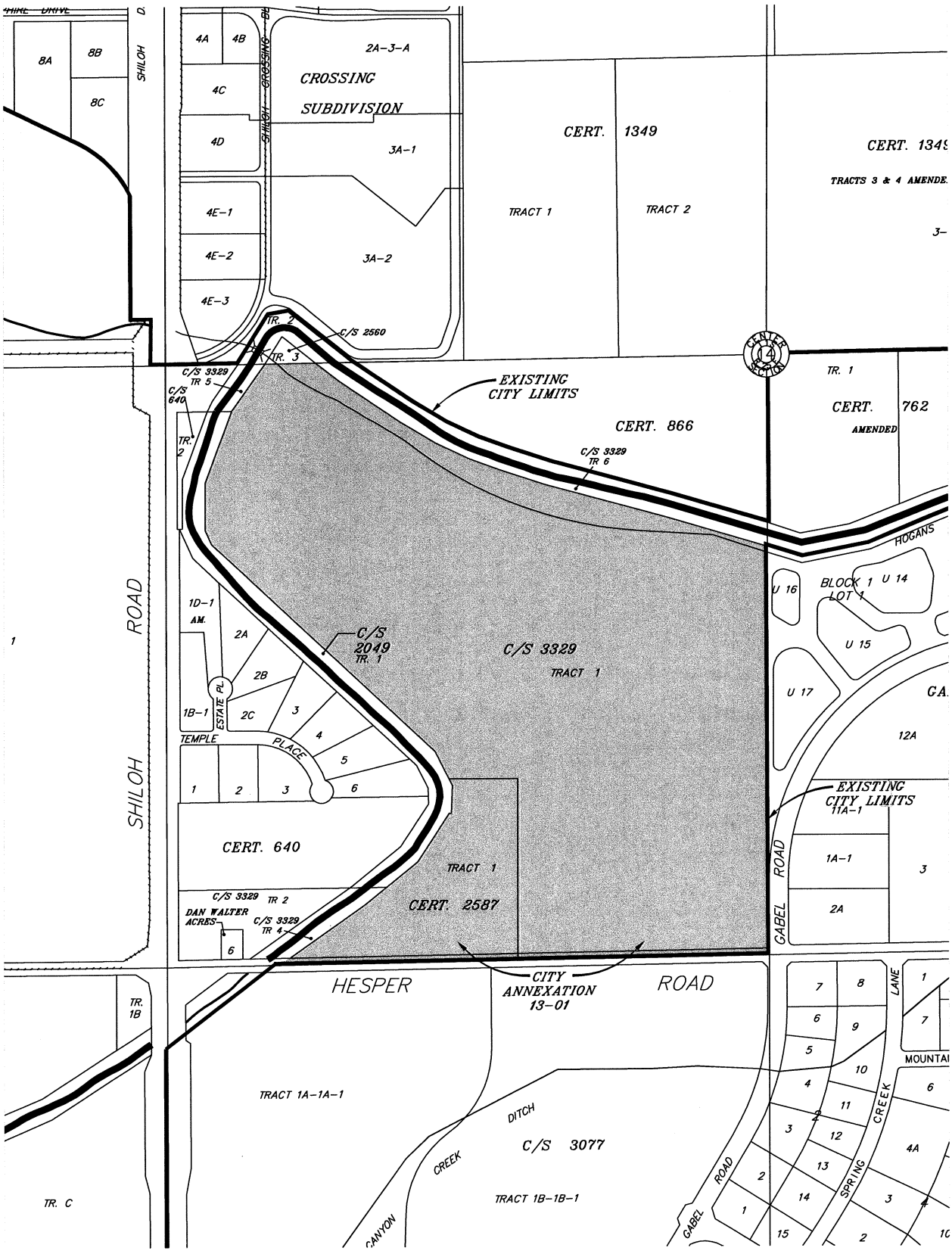
Petition Number: AN13-01 (Project #

Fee Paid: ✓ 5000215030/04

$ 952.00
$ 45.00

Revised 10/03

EXHIBIT "A"


SHILOH DRIVE
8A
8B
8C
SHILOH ROAD
4A
4B
4C
4D
SHILOH CROSSING BLVD.
2A-3-A
CROSSING SUBDIVISION
3A-1
3A-2
4E-1
4E-2
4E-3
CERT. 1349
TRACT 1
TRACT 2
CERT. 1349
TRACTS 3 & 4 AMENDED
TR. 2
C/S 2560
TR. 3
C/S 3329 TR 5
C/S 640
TR. 2
EXISTING CITY LIMITS
CERT. 866
C/S 3329 TR 6
CLARKIA SCHOOL
TR. 1
CERT. 762
AMENDED
HOGANS
BLOCK 1 LOT 1
U 16
U 14
U 15
U 17
1D-1 AM.
2A
2B
2C
3
4
5
6
1B-1
ESTATE PL
TEMPLE PLACE
C/S 2049 TR. 1
C/S 3329
TRACT 1
1
2
3
6
CERT. 640
TRACT 1
CERT. 2587
C/S 3329 TR 2
DAN WALTER ACRES
C/S 3329 TR 4
6
12A
EXISTING CITY LIMITS
11A-1
1A-1
2A
3
GABEL ROAD
HESPER ROAD
CITY ANNEXATION 13-01
TR. 1B
TRACT 1A-1A-1
DITCH
CREEK
C/S 3077
TRACT 1B-1B-1
CANYON
TR. C
7
8
6
9
5
10
4
11
3
12
2
13
14
1
15
LANE
MOUNTAIN
CREEK
SPRING
4A

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY OF BILLINGS APPROVING PETITIONS FOR ANNEXATION AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

   A tract of land situated in the SW1/4 of Section 14, T.1S., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

   Tract 1 of Certificate of Survey No. 2587, Recorded October 18, 1990, under Document No. 1576316, Records of Yellowstone County; Tract 1 of Certificate of Survey No. 3329, Recorded August 14, 2007, under Document No. 3434176, Records of Yellowstone County; Containing 97.326 gross and net acres more or less.

   (# 13-01) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved, subject to the following conditions:

   - Prior to site development, a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements and a Waiver of Right to Protest the Creation of Special Improvement Districts will be recorded; and/or

- A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of Special Improvement Districts shall be approved and recorded that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 25th day of February, 2013.

THE CITY OF BILLINGS:

BY: _____

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____

CITY CLERK

(AN# 13-01)

EXHIBIT "A"


SHILOH ROAD
CROSSING SUBDIVISION
4A
4B
4C
4D
4E-1
4E-2
4E-3
2A-3-A
3A-1
3A-2
8A
8B
8C
CERT. 1349
TRACT 1
TRACT 2
CERT. 1349
TRACTS 3 & 4 AMENDE
C/S 2560
TR. 3
C/S 3329 TR 5
C/S 640
EXISTING CITY LIMITS
CERT. 866
C/S 3329 TR 6
TR. 1
CERT. 762
AMENDED
HOGANS
BLOCK 1 LOT 1
U 16
U 14
U 15
U 17
GA
12A
10-1 AM.
2A
2B
2C
1B-1
STATE RT.
TEMPLE PLACE
C/S 2049 TR. 1
C/S 3329
TRACT 1
CERT. 640
C/S 3329 TR 2
DAN WALTER ACRES
C/S 3329 TR 4
CERT. 2587
TRACT 1
EXISTING CITY LIMITS
11A-1
1A-1
2A
3
GABEL ROAD
HESPER ROAD
CITY ANNEXATION 13-01
TR. 1B
TRACT 1A-1A-1
DITCH
C/S 3077
CANYON CREEK
TRACT 1B-1B-1
TR. C
SPRING CREEK
LANE
MOUNTAI

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Zone Change #907 - 3815 Hesper Road - Public Hearing and 1st reading
PRESENTED BY: Candi Beaudry
Department: Planning & Community Services

Information

PROBLEM/ISSUE STATEMENT

This is a zone change request from Agriculture Open-Space (A-1) to Controlled Industrial on 2 parcels of land described as C/S 2587, Tract 1 and C/S 3329, Tract 1, a 97.3 acre parcel of land. The property is located northwest of the intersection of Gabel Road and Hesper Road at 3815 Hesper Road. The property is owned by Industrial Planning Associates, LP and Rick Selensky, P.E. of Dowl HKM is the agent. The property is intended for the future development of a FedEx Ground transportation hub on a 50-acre portion of the site. The owner conducted a pre-application neighborhood meeting on December 19, 2012. The pre-application meeting notes are included as Attachment C. The owner has submitted a concurrent request for annexation of the property. The Zoning Commission received 1 letter of protest from Shiloh Enterprises, LLC. (Attachment D) The Zoning Commission conducted a public hearing on February 5, 2013, and is forwarding no recommendation on a 2-2 vote on a motion to recommend approval.

ALTERNATIVES ANALYZED

State law at Section 76-2-304, MCA, requires that all zone changes be reviewed in accordance with 10 criteria. Using the 10 criteria to determine the appropriateness of the zone change request, the City Council may:
1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

FINANCIAL IMPACT

If the annexation and zone change are approved, the property will begin paying taxes and fees to the city. If the property is developed, the taxes will increase accordingly. The property will be served by city services. Utilities will be extended to the property and street improvements will be made to accommodate any additional traffic. These costs will be paid for by the developer.

BACKGROUND

The applicant is requesting to rezone two certificates of survey tracts from A-1 to CI and annex the property into the city. The northwest corner of Tract 1, C/S 3329, an 87.3 acre parcel, will be within the South Shiloh Corridor Overlay District when it is annexed into the city. The owner intends to adjust the lot line between this parcel and C/S 2587, a 10-acre parcel also included within the zone change and annexation request. The lot line adjustment will result in 2 parcels that will be 50 acres (east ½) and 47.3 acres (west ½) in area. The east 50 acres is intended for a new FedEx Ground transportation hub. The west 47.3 acre parcel will be subject to the South Shiloh Corridor Overlay District regulations for building design and site development standards.

There are no development plans for the west parcel at this time.

The proposed zoning is identical to property to the east, north and south. Property to the west, across the BBWA canal, is property still located within the County. This property supports a Baptist college and church as well as a small residential subdivision. Property to the east is the Transtech Subdivision and Gabel Subdivision. This area has been developed for a variety of CI allowed uses including service business, corporate offices, a hospital, distribution warehouses, financial services as well as more intense uses such as pre-stressed concrete manufacturing, metal fabrication, powder coating and sandblasting. Property to the south is currently undeveloped property with the exception of a wireless communication tower just southeast of the intersection of Hesper Road and Shiloh Road. Further south is the Broso Valley Park Subdivision where several hotels, restaurants, vehicle sales and service businesses are located close to the Zoo Drive interchange with the interstate. A veteran's health service center is also located in this subdivision. The mixture of commercial and industrial uses is the result of individual developers imposing covenants and restrictions on subdivision lots rather than requirements of the underlying zoning district. The South Shiloh Corridor Overlay District does apply to a few of the properties closer to Zoo Drive and the interstate. The proposed CI zoning allows the same uses as the surrounding properties in the city limits.

A new drive approach will be required to the property from Hesper Road for the proposed FedEx Ground transportation hub. The annexation will require a development agreement to improve the section of Hesper Road, bring in utilities, and provide any required mitigation for potential traffic impacts to the surrounding road network including the intersection of Gabel Road and Hesper Road. Other intersections may be impacted and those will be identified in a traffic accessibility and impact study currently underway for the proposed FedEx development. Any development of the property will add traffic to the existing street network, so street improvements and mitigation of impacts will be necessary.

Hesper Road and Gabel Road are both designated principal arterial streets and have the capacity, or can be improved, to handle additional commercial and industrial traffic. In 2012, Gabel Road east of the Hesper Road intersection carried 5,700 vehicle trips per day. Hesper Road west of the Gabel Road intersection handled 2,370 vehicle trips per day in 2012. Principal arterial streets are designated to carry the greatest volumes of traffic throughout the community. The current traffic volumes on Gabel Road and Hesper Road are well below the capacity of a principal arterial street. Hesper Road west of the intersection with Gabel Road will need to be upgraded to accommodate additional commercial traffic.

The CI zone allows a wide variety of land uses from manufacturing to commercial retail and offices. CI zoning does not allow any residential uses by right but may allow single family dwelling units by special review approval. This area of West Billings has sustained a mixture of uses in this area of CI zoning since the early 1980s. The commercial and retail uses have concentrated on the high traffic arterial streets such as King Avenue West, S 32nd Street West, S 24th Street West and Zoo Drive and Shiloh Road. The industrial uses, manufacturing and uses requiring larger buildings or storage yards have been developed on the other street fronts such as the east end of Gabel Road, Conrad Street, S 29th Street West, S 27th Street West, Enterprise Avenue and Overland Avenue west of S 24th Street West. The Transtech Subdivision and the Broso Valley Park Subdivision do have lots with frontage on arterial streets but have controlled the potential land uses through covenants and restrictions on the lots in those subdivisions.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on February 5, 2013, and received the staff recommendation. In addition, the Zoning Commission received testimony from the applicant, Greg MacDonald of Industrial Planning Associates, the agent, Rick Selensky of Dowl HKM, and the prospective buyer, Jon Phillips of SunCap Property Group. Surrounding property owner David Brown of Wyo-Ben and Ken Petersen as attorney for 9 property owners in protest of the zone change provided testimony in opposition.

Jon Phillips of SunCap Property Group stated they are the preferred developer for a new site for a FedEx Ground transportation hub in the Billings region. He stated they intend to purchase the entire parcel of 97.3 acres and develop the east 50 acres for this new transportation hub. He stated given the 50-acre size, the proposed 140,000 square foot building and parking area could be much larger but his company decided to push the building back away from the adjacent streets and property lines to provide for additional landscaping and berming. He stated the amount of truck traffic - both line haul trucks and package delivery trucks - will be small in comparison to some of the surrounding uses and would be about 600 new trips per day total. He stated his company and FedEx Ground have developed similar hubs adjacent to Class A office spaces, residential neighborhoods, and other sensitive land uses including two recent projects in Windsor, CT and Redmond, WA. He stated the hubs do not have idling trucks, especially line haul trucks. He stated these trucks arrive and immediately deliver the trailer and either head out with no load or pick up another trailer and leave. The parked trailers are then moved by hub employees to the loading docks of the transfer facility. Mr. Phillips stated most of the traffic will be from package delivery vans that will deliver to Billings residents and the surrounding region. He stated a FedEx Ground hub in Redmond, WA is under construction and will be a 220,000 square foot building on 23 acres. He showed the Zoning Commission the approved site plan (Attachment F) with adjacent uses that included a large Class A office park to the south west, the Microsoft Millennium Campus (a high-end technology office complex) to the north and a large residential neighborhood to the south east. He stated the Redmond, WA building is about 150 feet from a Class A office building but the site will be extensively landscaped with berms to buffer those adjacent properties. Mr. Phillips stated the Windsor, CT facility was just completed and is a 220,000 square foot building on 62 acres.

Mr. Phillips stated Fed Ex Ground specializes in small package delivery and this proposed hub is part of FedEx Ground's nationwide expansion based on their logistics model for package delivery. Mr. Phillips stated it is their intent to develop this property with much greater separations to the Class A offices in Transtech, the County residents to the west, and to Hesper Road. He stated the plan is to set the facility approximately 800 feet west of Transtech and 800 feet from Hesper Road. The only entrance or exit from the property will be on Hesper Road about 1,000 feet west of the Gabel Road intersection. He stated the site will be heavily landscaped and bermed along the south and east to diminish the impact of the larger transfer building and parking area. He stated he has met and discussed site development specifics with the owners and representatives of Transtech Center. Mr. Phillips stated he understands the adjacent owners have placed covenants and restrictions on their subdivisions but these private restrictions should not encumber adjacent property. He showed graphic renderings of what the property would look like from the Transtech Center and from Hesper Road when it is built and landscaped. Commission member Dan Wagner asked whether the proposed building would be similar to the Windsor, CT building. Mr. Phillips stated the building would be a similar design only smaller.

Chairman Leonard Dailey, Jr. asked what the proposed time line for construction is for FedEx. Mr. Phillips stated SunCap would like to begin construction as soon as possible this spring. Mr. Phillips stated he anticipates a project completion by the end of 2013 with installation of the

interior transfer equipment by FedEx in early 2014. He stated the facility would likely start operation by June 2014. Chairman Dailey asked whether SunCap would retain ownership of the property. Mr. Phillips stated they would remain the property and building owner and have a long-term lease with FedEx Ground.
Rick Selensky of Dowl HKM stated his firm has completed a preliminary traffic analysis for the proposed FedEx Ground facility. He stated the facility will generate about 672 new vehicle trips per day with many of those being employee trips. He stated the facility is a 24-hour day work environment so the employees work in shifts. He stated the line haul deliver trucks (semi-tractor trailers) would be arriving and departing mostly in the evening between 6 pm and 10 pm. He stated the package and delivery vans departures are concentrated in the early morning with returns later in the afternoon and early evening. He stated the developer plans to participate in the required signalization of Hesper and Gabel and Gabel and 32nd Street West. He stated the developer will pay for all the improvements to Hesper Road west of Gabel Road including 1,100 linear feet of curb, gutter, sidewalk and a 39-foot wide street. He stated the developer will pay for and install all city utilities including water, sanitary sewer, and storm sewer lines.

Greg MacDonald of Industrial Planning Associates testified as the owner of the property. He state the proposed zoning is consistent with all adopted City plans and is identical to the adjacent city zoning to the north, south, and east. He stated the West Billings Plan, adopted in 2001, identified this 500-acre area near the Zoo Drive and Shiloh Road interchange as a regional commerce center. He stated most of this 500-acre area is already zoned Controlled Industrial. He state this property is in a strategic location with ready access to arterial streets and efficient access to the interstate highway. He stated there are several adjacent and nearby properties with similar or more intensive industrial uses. Mr. MacDonald urged the Commission to adopt the unbiased and considered recommendation of its Planning staff and recommend approval of the zone change. He stated the proposed zoning has several practical and positive reasons for approval.

Mr. David Brown of Wyo-Ben Incorporated located at 1345 Discovery Drive testified in opposition to the application. He stated his office building is 200 feet from the property line where FedEx intends to construct its facility. He stated he believed it was great FedEx was expanding in the area but he believes this is not an appropriate site for the transfer hub. Mr. Brown stated the project will have two major impacts on his business - visual impact and air pollution or emissions. He state the size and construction style of the building is not consistent with the Transtech Center. He stated his building draws a lot of outdoor air for its HVAC system. He stated when someone is smoking outside the building, the HVAC will draw in that cigarette smoke. He stated the FedEx trucks and fuel smells will impact the indoor air quality for his employees. He presented a photo of the existing FedEx transfer facility in Lockwood. He stated the picture shows many trucks idling and starting diesel tractor trailers. He stated this is what the new hub will be like. He urged the Commission to recommend denial of the zone change.

Mr. Ken Petersen, an attorney representing 9 property owners opposed to the zone change, testified in opposition to the zone change. Mr. Petersen stated the new FedEx Ground hub is a great project for Billings but should not be located on Hesper Road. He stated he commended the owner and FedEx for being up-front about the intended use for the property. He stated his analysis of the 10 criteria for zone changes indicated the zone change should be denied. He stated the zoning is not consistent with the Growth Policy for many reasons. He stated his clients believe the city should require installation of two left turn lanes at the Gabel and Zoo Drive intersection. He stated his clients own many of the properties in Transtech and they will be negatively affected by the air emissions from the transfer hub. He stated there is 1 hotel on Zoo Drive with plans for 3 more. He stated a 24-hour trucking operation will negatively effect these hotels. He stated the zoning is not consistent with the County neighborhood to the west. He stated the owner and developer should conform to the Shiloh Road Overlay District even though they intend to move the lot lines so the FedEx lot is outside the overlay district. Mr. Petersen stated Transtech is a Class A office park and this transfer hub will result in a loss of value for these owners. He stated the developer should apply the Shiloh Road Overlay District standards to all the property. He stated the development will hurt the market value of the property to the south and east. He stated the proposed zoning will have a large impact on the transportation network. He stated this network was paid for by all the existing owners and they should not be burdened by this new development. He stated the protest petition the Commission received and the City Council will receive outlines all the criteria that recommend denial. He stated the city and economic development agencies should work together to find another site for the FedEx facility. Mr. Petersen showed the Commission a map and pointed to a property south of the interstate on South Frontage Road west of the King Avenue interchange. Mr. Petersen stated the property could easily be annexed and re-zoned for the Fed Ex project. He stated his clients estimated the cost of extending city services to the property to be about $ 1.7 million - a comparable cost to the Hesper Road site. He stated this South Frontage Road site would have direct access to 3 interstate interchanges and not just 1.

Chairman Dailey asked the applicant and agents to provide rebuttal to the testimony in opposition. Mr. Phillips stated the air quality standards adopted by the city, county, state and the federal government will be met by FedEx. He stated there should be no emission impacts to adjacent properties. He stated if the site were developed without landscaping or berming it would have a visual impact. He re-stated the developer's intent to substantially landscape and berm the site so the visual impact is minimized to a great extent. He stated the building will not be a metal sided structure but will be upgraded siding that will also diminish any visual impact. He stated he was aware of and had read the covenants and restrictions on the adjacent subdivisions but these restrictions and covenants do not apply to this property. He stated he believed the market for land in the area will be improved by the FedEx facility. He stated they are paying a very good price for the land which can only help raise value for future land sales in the area. He stated market velocity for land in this area has been slow but this sale and development should help drive demand up for new development.

Mr. Selensky re-stated that the developer will be shouldering all of the adjacent street and site improvements and will provide its fair share to the signalization projects for Gabel and Hesper as well as Gabel and South 32nd Street West. Mr. Selensky clarified the traffic study was based on an initial employee level of 200 - not on 400 employees. Mr. Phillips stated when FedEx asks for proposals on sites for new transfer hubs, it has very exacting standards based on its logistics model. He stated if the zone change is not approved, FedEx will have to re-work the logistics model to accommodate another site. He stated FedEx may chose to split its transfer hub in to 2 or more locations if it cannot build just one facility. Mr. Phillips stated the site and development are time sensitive so another site may not accommodate those time lines.

Commission member Dan Wagner asked if any of the FedEx traffic would go west on Hesper Road and why the developer is not improving that section of Hesper Road. Mr. Selensky stated some traffic will head west on Hesper Road but not a large percentage. Mr. Selensky stated the city requires the developer to do street improvements on the immediately adjacent street but not on right-of-way that is outside the city limits or beyond the boundaries of the development with the exception of intersection improvements to accommodate the added traffic.

Member Dan Wagner asked what SunCap intends for the west 47 acres as he understands it is all just swamp with high ground water. Mr. Phillips stated it will retain the 47 acres and market the property appropriately. He stated the entire site has high ground water and the FedEx facility will be built on pilings to accommodate this issue. He stated this is an engineering issue on the property and a solution is available.

Chairman Dailey closed the public hearing. Member Mike Boyett made a motion to recommend approval of the zone change and adopt the findings of the 10 criteria. The motion was seconded by member Barbara Hawkins. Chairman Dailey stated the Commission should focus on the proposed zoning and not get too involved in considering the specifics of the FedEx project. Member Dan Wagner stated that he was concerned about the air quality impacts to the adjacent property and the visual impact to the area. The Zoning Commission voted 2-2 on the motion to recommend approval to the City Council. Chairman Dailey and member Dan Wagner voted no and members Mike Boyett and Barbara Hawkins voted in favor. Therefore, there is no recommendation to the City Council for the zone change.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The West Billings Neighborhood Plan adopted by the City in 2001 states the purpose of the plan is to guide the long-term growth of West Billings by achieving planned growth. A preferred land use map was developed locating neighborhood, community, and regional commercial nodes at major arterial intersections. The plan indicated this area near the Shiloh Road interchange with the interstate should serve as a regional commerce center. The plan describes this center as an area intended to serve the entire Billings community and beyond. It designates the regional center to be located where it will have direct and efficient access to Interstate 90. A regional commercial center should accommodate a variety of uses including transportation hubs, central offices for regional businesses, services for Billings and visitors and other uses that need direct and efficient access to the interstate.

The CI zone is described in the zoning code as follows: “The Controlled Industrial zone is intended to accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the city and county.” The proposed zoning of the property for a FedEx Ground hub is compatible with the goals and policies of the West Billings Neighborhood Plan.

The applicant conducted a pre-application neighborhood meeting on December 19, 2012, and surrounding property owners or their agents attended the meeting. The Planning Division was contacted by Jerry Thomas, Chair of the Transtech Center Owners Association, with concerns regarding the truck traffic impacts from the proposed FedEx Ground hub, the landscaping requirements, the building design, and the proximity of the property adjacent to the Transtech Center, a high tech business park. The Planning Division received a petition in protest of the proposed zone change from several property owners within the 150-foot valid protest area around the subject property. (Attachment D). The petition is a valid protest against the zone change. This protest will require a 2/3 majority vote of the present and voting members of the City Council to approve the zone change.

The Planning Division recommended approval of the proposed zone change. Planning staff found the proposed CI zone compatible with the zoning north, south, and east of the subject property. The lots north are developed and developing as a large retail center, Shiloh Crossing. Scheel's has broken ground in this development for a 220,000 square foot sporting goods store, scheduled for opening in 2014. Property to the east is in the Transtech Subdivision and Gabel Subdivision. Advanced Care Hospital, Stillwater Mining, Briggs Distributing (warehouse), GE Capital, Sanderson Stewart, Windmill Restaurant, Electrical Consultants, Inc. (ECI), Hub Mountain States Insurance, Land Design, Alphagraphics and JGA Architects and Engineers, Watkins Shepard Trucking, EC Power Systems, and Timmer Roofing are a few of the businesses located in these subdivisions. The Broso Valley Park Subdivision is located to the south and east. It includes the Veteran's Health Service, an assisted living facility, Big Horn Resort, Rib & Chop House Restaurant, Hampton Inn and Suites, and a Holiday Gas Station. All three subdivisions have placed private covenants and restrictions on the lots to prohibit some uses and control the design of buildings and landscaping. There may be uses allowed in the CI zone that are not compatible with the restricted subdivisions to the east and south east of the subject property. For example, wood products manufacturing such as cabinet making, factory-built buildings, and roof truss plants are allowed uses in the CI zone. These uses may or may not be compatible with the restricted uses in the surrounding subdivisions.

The Planning Division reviewed the application and recommended approval to the Zoning Commission based on the 10 criteria for zone changes. The Zoning Commission has no recommendation on the 10 criteria findings of fact on the proposed zone change. If the City Council moves to approve the zone change it may adopt these 10 criteria as stated below. If the City Council moves to deny the zone change it will need to propose findings that are contrary to 1 or more of the 10 criteria.

The subject property is adjacent to Public and R-150 zoning in the county and CI zoning in the city. The uses allowed within the proposed CI zoning are compatible with the surrounding zoning and neighborhood character. Any development of the property requires compliance with the new zoning and the ability to meet site design criteria and traffic safety standards. The 2008 Growth Policy and the West Billings Neighborhood Plan encourage predictable land use decisions that are consistent with neighborhood character and land use patterns. The existing use and proposed zoning are consistent with this neighborhood and land use pattern.

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

1. Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following goals of the Growth Policy:
• Predictable land use decisions that are consistent with neighborhood character and land use

patterns. (Land Use Element Goal, page 6)
The proposed zoning is identical to the adjacent zoning in the city limits. The current neighborhood character is a mixture of service businesses, retail, corporate offices and industrial uses. The proposed zoning will allow similar business and commerce on the property.
• Limit regional commercial centers to areas having efficient and direct access to Interstate 90 or other regional corridor (Planned Growth Goal, page 18)
The proposed zoning will allow the regional commerce center planned in the West Billings Neighborhood Plan to be complete with compatible zoning throughout.

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

3. Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will be promoted by the proposed zoning. Any development of the property will require connection to the city public utilities and improvements to adjacent streets and intersections. The city and state have invested in nearby transportation systems and utilities that will provide service to the property. Additional users and rate payers for those systems will benefit the general welfare. The proposed zoning will likely result in economic development and provision of new jobs to the Billings labor market.

4. Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?
Transportation: The proposed zoning will impact the surrounding streets, and a traffic impact study will be required. The City Engineering Division will have to approve the study and will require street and intersection improvements prior to or concurrent with any development of the property.
Water and Sewer: The City will be able to provide water and sewer to the property by extension of lines. The developer will pay all related costs of this utility extensions as well as systems development fees.
Schools and Parks: There should be no impact to schools from the proposed zone change.
Fire and Police: The subject property is currently served by the Billings Urban Fire Service Area. City Public Safety Services have no concerns.

5. Will the new zoning provide adequate light and air?
The new zoning, as do all zoning districts, require building setbacks and separations so adequate light and air are assured.

6. Will the new zoning effect motorized and non-motorized transportation?
The subject property when developed will likely add more than 500 vehicle trips per day to adjacent streets. This will require a Traffic Accessibility Study to determine the impacts and to provide for improvements to those streets and intersections.

7. Will the new zoning will promote compatible urban growth?
The new zoning does promote compatibility with urban growth. Lower density development is inefficient and ineffective in recovering the costs to extend city services. The area was included in the regional commerce center as part of the West Billings Neighborhood Plan in 2001. The property is the last major piece of the commerce center to be proposed for annexation and zoning. There are compatible uses and zoning to the north, south, and east.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed zoning does consider the character of the district and the suitability of the property for a variety of commercial and industrial uses. The intended use of the eastern 50 acres of the 97-acre property is for a FedEx Ground transportation hub. The applicant and agent describe this use as a transfer location from larger trucks to smaller trucks for local deliveries within Billings and the region. The property is located to allow for efficient and direct access to the interstate and regional transportation network.

9. Will the new zoning conserve the value of buildings?
Surrounding property exhibits higher taxable land value. The property is currently vacant and should increase in value when developed. There is one older manufactured home on the property that will become a nonconforming use of land. This uses is protected by the zoning code so long as it continues in place. The zoning code also allows replacement of this manufactured home with a newer or larger manufactured home.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed zoning will encourage the most appropriate use of land in this area of Billings. The proposed CI zone is identical to the adjacent zoning in the city. The adjacent subdivisions have been developed for a variety of allowed uses including corporate offices, service businesses, health care, retail and hospitality businesses. The proposed zoning allows this mixture of uses and the development standards for site design, landscaping and transportation improvements will be appropriate for this location.

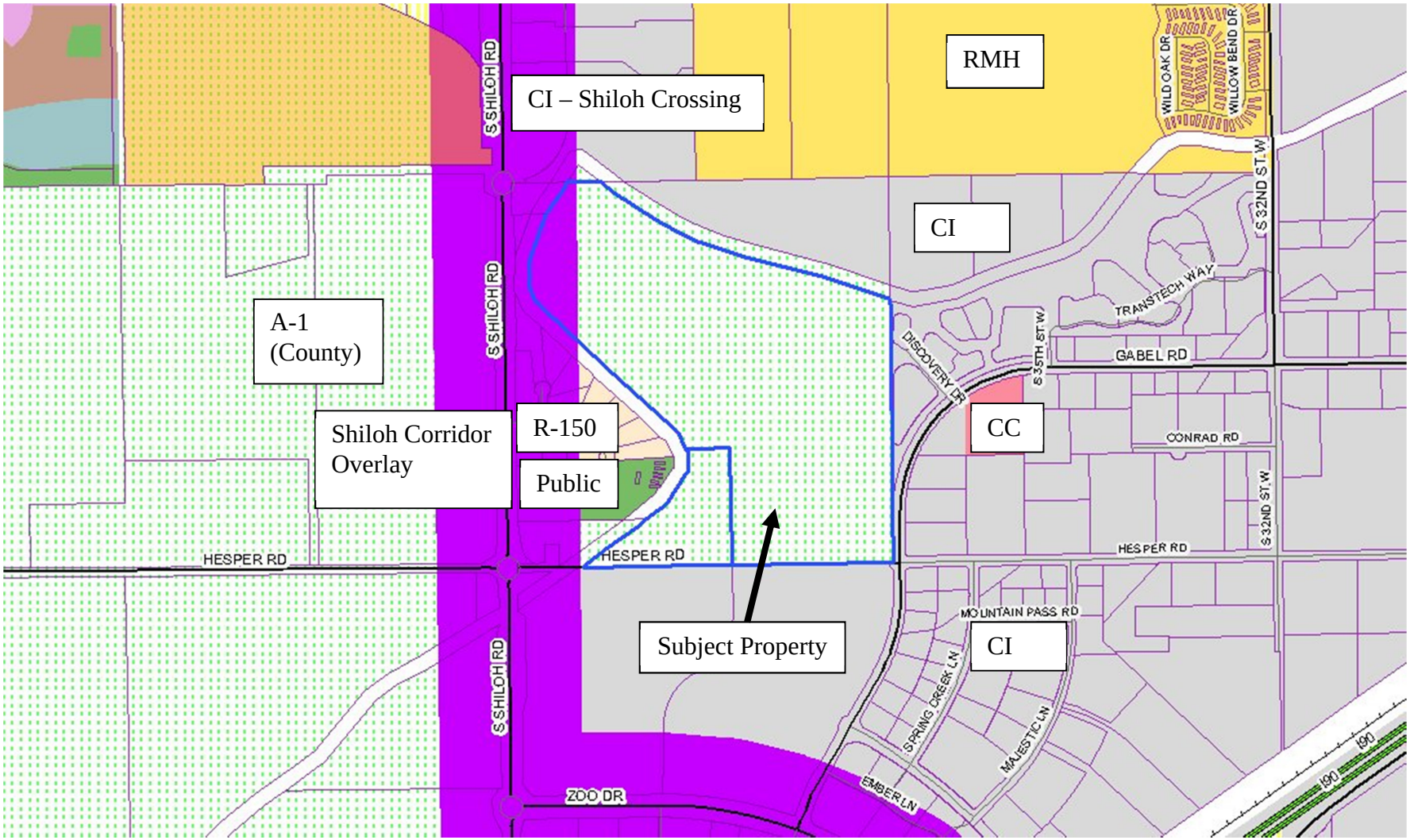
RECOMMENDATION
The Zoning Commission is forwarding no recommendation for the City Council after a 2-2 vote on a motion to recommend approval of Zone Change #907 and adoption of the 10 criteria.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Map
Site photos
Applicant letter
Protest Petition
Ordinance
Protest Area Map
Valid Protest Owners List

Attachment A: Surrounding Zoning
Zone Change #907 – 3815 Hesper Road



Attachment B

Site Photographs, Zone Change #907 - 3815 Hesper Road



Subject Property



View north and east – Stillwater Mining Corporate office – Transtech Subdivision

Attachment B, continued

Site Photographs, Zone Change #907 - 3815 Hesper Road



View north and east – Transtech Subdivision



View east – Briggs Distributing – Gabel Subdivision

Attachment B, continued

Site Photographs, Zone Change #907 - 3815 Hesper Road



View east along Hesper Road to intersection with Gabel Road



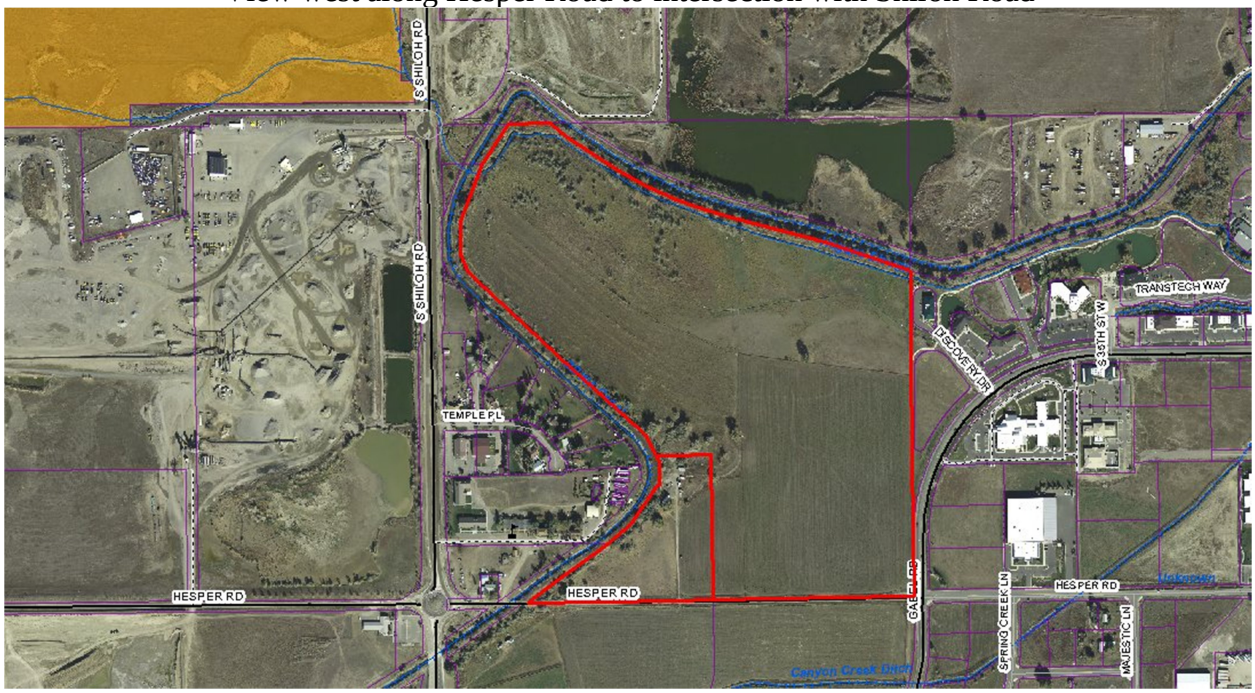
View south and east to Broso Valley Park Subdivision

Attachment B, continued

Site Photographs, Zone Change #907 - 3815 Hesper Road



View west along Hesper Road to intersection with Shiloh Road



Aerial view of property

Attachment C
Applicant's Letter

C/S 2587 and C/S 3329 Pre-Application Zoning Meeting
SYNOPSIS

Date: December 19, 2012
Location: Hampton Inn – 3550 Ember Lane – Billings, MT 59102

Jon Phillips introduced the proposed FedEx Ground Hub Facility project. He stated that the largest building is planned to be located approximately 800 feet north of Hesper Road. He said FedEx plans to employ 200 people initially but that number would double in the future. Jon said the traffic is spread out throughout the day and night with the peak traffic traditionally occurring at 10 p.m. and 3 a.m.

The following are answers to questions from attendees:

Jon said adding 200 employees in the future would not require a physical expansion but it would occur within the existing building.

Jon stated there were no plans for the remaining 47 acres of undeveloped property. He said the property to the west would remain exactly as it is for now.

The building material is planned to be pre-engineering metal.

The only access to the site would be off of Hesper Road, not Gabel Road.

Rick Selensky stated that the intersection of Hesper and Gabel could see a 3 to 5% increase in traffic. He said a traffic study was currently being developed and the numbers were preliminary.

Jon said minor vehicle maintenance could be performed out on site but the site would not provide sole source vehicle maintenance.

Jon stated that this facility would serve several states around Montana. He said there would be a small number of "over the road" trucks; however, this hub would be a small package facility that mostly uses smaller trucks and vans.

Jon said the lighting would be shielded based on discussions with the City of Billings. He said the property will be fenced and landscaped with berms located on the east, south, and possibly the west sides of the property. The fence would be chain link with barbs on top.

Jon described a variety of FedEx projects he has developed around the country. Many have been located in areas with diverse types of zoning. He commented that the proposed Controlled Industrial Zoning on Hesper Road is consistent with

the surrounding zoning. He stated that he could not predict if the FedEx Ground development would spur future warehouse development.

Jerry Thomas commented that the Trans Tech property was carefully developed and includes an architectural design review committee. This committee ensures that potential developments meet the Trans Tech standards. He said he has a major concern with this development and is worried that it will adversely impact current and future property values. Jerry said Trans Tech would be able to provide the 25% protest required to trigger a 2/3 majority council vote for approval. He asked Jon where else he had looked and why he picked this location.
Jon replied that he looked at many areas in Billings. He said utilities and access to the interstate were important issues. He also said that the City of Billings was interested in annexing the property.
Jerry encouraged Jon to look at other sites and to seek monetary assistance to off-set utility costs.

Jon said the building could not be rotated, but he said that FedEx is agreeable to providing heavy landscaping with berms to help soften the development.

The hospital stated they have two concerns, barbs on the fence and truckers. They are worried about the perception. They would like Jon to look at a landscaping design that could incorporate the Trans Tech Park. Jon stated that this could be accomplished.

A comment was made that the building would stand out due to the elevation of the property. It was stated that this is a major entrance to Billings and that Trans Tech is a professional area and this development could be a detractor. The commenter's primary concern was aesthetics.
Jon said they have mitigated similar buildings in other areas of the country with heavy landscaping. He said he was willing to e-mail examples to everyone who wanted them. E-mail address were collected and given to Jon.

Jon said the building elevation rendering was conceptual and FedEx's design team would be sensitive to local input. The hospital does not want barb wire fence and Jon stated that he will look into getting rid of that feature.

Jon thought that the Johnson Lane facility would likely re-locate to this location. There would be approximately 270 auto parking spaces. Jon and Rick were unsure of the number of truck parking spaces.

Rick stated that the vehicle trips per day are estimated to be 590. Trans Tech's traffic study estimated that they could expect 3,580 trips per day. It was asked if the 590 vehicles included the 400 employees. Rick stated that the traffic study will be completed soon, but he stated that the 590 trips per day were likely the opening day traffic volumes.

Tim Filz stated that the zone change application is due on January 7, 2013, the Zoning Commission meeting will be scheduled on February 5th, and City Council will vote on the proposed zone change on February 25th.

Respectfully submitted,

Rick Selensky, PE, LEED GA
DOWL HKM

C/S 3329 and2587
Zone Change Pre-application Neighboorhood Meeting
Hampton Inn - December 19, 2012 - 6:00 p.m.

Name (please print legibly)	Address (street, city, zip)
Tim Filz	PO Box 339 Billings, MT 59102
Todd McKeever	PO Box 80066 Billings, MT 59106
Keith Hermanson	PO Box 81612 Billings, MT 59108
Jerry Thomas	PO Box 80274 Billings, MT 59108
Kerry Ashment	3528 Gabel Road Billings, MT 59102
Jeremy Vannatta	1814 Front Street Bilings, MT 59101
Chuck Platt	145 Grand Avenue Billings, MT 59101
Robb Bergeson	1691 Aviation Place Billings, MT 59105
Randy Reger	2708 Palm Drive Billings, MT 59102
Debbie Reger	2708 Palm Drive Billings, MT 59102
Brian Fennern	3533 Gabel Road Billings, MT 59102
Rick Selensky	222 N. 32nd Street Billings, MT 59101
Jon Phillips	SunCap Property Group, Charlotte, NC
Greg MacDonald	2929 3rd Ave. North Ste. 538, Billings, MT 59101

PRIMARY GOALS AND OBJECTIVES OF THE 2008 GROWTH POLICY

Land Use Element

1. **ISSUE:** *Neighborhoods are experiencing pressures from new development and land use changes.*
   GOAL: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans.
   OBJECTIVES:
   - Preserve Neighborhood integrity.
   - Empower neighborhood groups.

Response: The proposed zone change and development is consistent with PG1.C.2 – Policy D of the 2001 West Billings Plan: "Regional commercial development to serve travelers, tourists, and business is appropriate adjacent to the Shiloh Road – Interstate 90 Interchange..." The developer stated at the Pre-application Zone Change Meeting that he would provide large building set-backs with heavy landscaping and earthen berms to help screen the development. He said he was open to tying the landscaping into the Trans Tech Park. The developer stated that FedEx is sensitive to developing and maintaining good neighbor status. They are willing to work with neighbors to preserve and enhance the neighborhood character.

2. **ISSUE:** *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites*
   GOAL: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.
   OBJECTIVES:
   - Maintain a high quality of life for new and existing residents.
   - Reduce conflicts between neighbors.

Response: The property is surrounded on three sides by Controlled Industrial Zoning. The developer proposes to locate the building 800 feet north of Hesper Road and at least 800 feet west of Gabel Road. This large buffer area is planned to be heavily landscaped with earthen berms to provide sight and sound screening. FedEx is proud of their company brand and will develop the property to be compatible with the character of adjacent neighborhoods which should help reduce or eliminate potential conflicts with neighbors.

4. **ISSUE:** *Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area.*
   OBJECTIVES:
   - Ensure the continued functionality of natural systems.
   - Use City and County resources in a cost effective manner.
   - Creative attractive communities.

Response: The proposed development is considered infill as it is surrounded on three sides by developed property in the City of Billings. This development is directly south of the new Scheels building and west of Trans Tech. The City of Billings has water, sanitary sewer, and storm drain facilities in Gabel Road. All three utilities would be extended along Hesper Road and the road would be widened along the development frontage. This would be accomplished and paid for by the developer.

Economic Development Element

1. **ISSUE:** *We need to continue a cohesive focus in economic development.*
   GOAL: Coordinate economic development efforts that target business recruitment, retention, and expansion.
   OBJECTIVES:
   - Improve the quality of life for residents.
   - Strengthen area economy.
   - Create living wage jobs.

Response: FedEx Ground would open their facility in 2013 and plans to initially employ 200 people. Wages are estimated to average between $37,000 and $46,000 per year which are above the Montana Department of Labor and Industry latest statists of 2010. These statistics list average private wages in Yellowstone County at $36,857. Future expansion could employ up to 400 people. This would strengthen the area economy and create living wage jobs.

2. **ISSUE:** *Lack of living wage jobs.*
   GOAL: Increase the median income of households and individuals.
   OBJECTIVES:
   - Improve the quality of life for residents.
   - Attract and retain businesses that offer competitive wages and benefits.
   - Reduce dependency on social programs.

Response: 200 high paying jobs with benefits would exceed the objectives of this issue. FedEx Ground would provide an immediate positive impact to the economy in Billings. The impact would continue for years with an additional 200 jobs. FedEx Ground would help reduce the dependency on social programs by providing high paying jobs with benefits.

3. **ISSUE:** *Entryways to our communities should be attractive and not present physical barriers discouraging economic growth.*
   GOAL: Attractive and accessible communities.
   OBJECTIVES:
   - Encourage new businesses to locate in Billings and the gateway areas.
   - Reduce travel time through town.
   - Convey a business-friendly attitude.
   - Increase the visual appeal of our highway and railroad corridors.

Response: FedEx is a high profile company that takes pride in their facilities and the surrounding improvements. They desire to work with surrounding property owners and the City of Billings to be a good neighbor. The existing property is generally an unused field that, at times, pastures horses or cows. FedEx would screen the property with professionally designed landscaping and earthen berms. They have agreed to work with the neighbors who expressed concerns at the Pre-application Zone Change Meeting. They plan to make the property as visually appealing as practical.

4. **ISSUE:** *Government supported programs and improvements are not sufficiently funded.*
   GOAL: Improved public services and facilities.
   OBJECTIVES:
   - Construct safe and efficient infrastructure.
   - Respond in a timely manner to public service needs.

Response: FedEx would be required to extend at their expense water, sanitary sewer, and storm drain on Hesper Road adjacent to their development. They would also be required to improve Hesper Road with curb and gutter on the north side and 39' of asphalt paving. The intersections of Hesper and Gabel and Zoo and Gabel are currently under study and could require shared improvement upgrades.

12. **ISSUE:** *The Billings economy faces a severe shortage of skilled workers in a number of sectors (a problem that will worsen as the population ages).*
    GOAL: Community-wide planning and preparation of a skilled workforce to meet the diverse and growing economic development needs of the community.
    OBJECTIVES:
    - Improve coordination between the business community, economic development agencies, and school districts.
    - Increase educational attainment for high demand, well-paying jobs.
    - Increase per capita income.
    - Increase local workforce availability to attract new clean industry jobs.

Response: The addition of 200 well-paying jobs with benefits would help increase the per capita income in Billings and Yellowstone County. The potential for future expansion would continue to benefit the economic development needs of the community. The FedEx Ground Hub facilities utilize smaller trucks and vans for delivery. This industry is considered clean and FedEx carefully chooses and trains their personnel to be professionals.

Aesthetics Element

1. **ISSUE:** *There are areas in the City and County that are unattractive and present a poor image of the community.*
   GOAL: Visually appealing communities.
   OBJECTIVES:
   - Improve the image of the community.
   - Instill pride in the community.
   - Improve the quality of life for residents.
   - Preserve the community assets such as the Rimrocks, the Yellowstone River, the downtown, and the major street thoroughfares.

Response: FedEx embraces and values the communities where they choose to locate. They take pride in working with neighbors during design to enhance their developments. They are willing to explore the possibility of continuing the park-like landscaping that exists at Trans Tech. Further, the large buffer between the building and Hesper and Gabel Roads would be heavily landscaped with earthen berms. The landscaping features would help improve the area and provide a walking and bike trail from Hesper Road through Trans Tech.

Natural Resource Element

3. **ISSUE:** *Due in part to the arid nature of our environment and the remoteness of some developments, there is an increased risk to human life and property for wildfires.*
   GOAL: Minimize loss of life and property damage resulting from wildfires.
   OBJECTIVES:
   - Save lives and property.
   - Utilize fire protection resources more efficiently.
   - Protect the natural environment.

Response: The FedEx building would be designed with fire sprinkler protection. The site design and Hesper Road would include fire hydrants placed every 400 feet. The 45 acres to the west would remain in its natural state but would be closer to firefighting facilities.

5. **ISSUE:** *Human encounters with wildlife often results in a painful consequence for wildlife, pets, and humans.*
   GOAL: Reduced opportunities for negative human and wildlife encounters.
   OBJECTIVES:
   - Reduce needless injury or death of wildlife and pets.
   - Minimize property damage caused by wildlife.
   - Protect human life and property.

Response: The FedEx site would be entirely fenced to help reduce or prevent negative human and wildlife encounters. The fencing should help minimize property damage caused by wildlife.

Open Space and Recreation Element

4. **ISSUE:** *Billings and surrounding County townsites need more multiple use trails.*
   GOAL: A multi-purpose trail network integrated into the community infrastructure that emphasizes safety, environmental preservation, resource conservation and cost effectiveness.
   OBJECTIVES:
   - Provide convenient access to bicycle and pedestrian facilities.
   - Improve quality of life for residents.

Response: The FedEx development would build a sidewalk fronting their development on the north side of Hesper Road. FedEx has expressed an interest in working with representatives of Trans Tech during the site design phase. It may be possible to tie the new sidewalk on Hesper to the existing Trans Tech pedestrian trail. This would provide pedestrians and cyclers a large recreational area.

Transportation Element

3. **ISSUE:** *Lack of adequate traffic control.*
   GOAL: Improved traffic flow and reduced congestion.
   OBJECTIVES:
   - Reduce potential harm to people and property.
   - Maintain safe and efficient traffic flow.

Response: FedEx attempts to locate their facilities near interstates to help minimize traffic flow in neighborhoods. The intersection of Hesper Road and Gabel Road is in the process of being assessed due to this development. FedEx is prepared to contribute their share of money to pay for improvements at this low performing intersection. Hesper Road would be improved to a 39' wide street adjacent to the development.

5. **ISSUE:** *Obstacles to efficient and safe traffic flow.*
   GOAL: A safe and efficient transportation system characterized by convenient connections and steady traffic flow.
   OBJECTIVES:
   - Identify obstacles to traffic flow.
   - Remove or minimize impediments to traffic flow.
   - Manage traffic demand.

Response: DOWL HKM will complete a traffic accessibility study (TAS) which will identify traffic obstacles such as poorly performing intersections. This report will make recommendations to remove or minimize traffic flow impediments. The report will also include recommendations for handling future traffic demand due to 200 additional employees.

9. **ISSUE:** The sidewalk system in the City needs upgrading; many sidewalks are cracked and broken, several critical sections are missing, and important sidewalk routes are not adequately maintained.
   GOAL: Well-maintained network of safe and interconnected sidewalks.
   OBJECTIVES:
   - Improved public safety.
   - Promote healthy lifestyle.
   - Reduce traffic.

Response: FedEx would build a new sidewalk along Hesper Road fronting the development. If this sidewalk were connected to the Trans Tech sidewalk, employees could walk to the Windmill for lunch or dinner. Healthy walks along the path could become a routine for some employees. FedEx employees could walk east across Hesper Road to restaurants such as the Rib and Chop House. The new business would pay taxes to the City of Billings to help maintain their roadways.

Public Facilities and Services Element

1. **ISSUE:** *Residents are not adequately informed of County and City projects.*
   GOAL: An effective public notification system.
   OBJECTIVES:
   - Enhance public involvement.
   - Provide timely and accurate public notification.
   - Increase contact with news media.

Response: FedEx is proud of their brand and the facilities they construct and operate. The zone change public meeting was informative, forthright, and the neighbor's comments and requests will be taken seriously. Possibilities for public involvement include working with the Trans Tech committee. There has been one article in the Billings Gazette summarizing the project and there could be more in the future.

4. **ISSUE:** *There are safety and functionality issues with City streets.*
   GOAL: Safe, functional, and attractive streets for all users, including drivers, bicyclists, and pedestrians.
   OBJECTIVES:
   - Enhance public safety on the street.
   - Reduce traffic accidents and congestion.

Response: DOWL HKM will soon complete the TAS which will analyze the intersections that would be impacted by this development. Gabel and Hesper and Gabel and Zoo will be scrutinized for potential improvements. FedEx has agreed to contribute their share of costs for intersection improvement that would enhance public safety and reduce congestion in these intersections. Improving Hesper Road with pavement widening and a sidewalk will also provide public safety on the street.

5. **ISSUE:** *Funding for community facilities and infrastructure is very limited.*
   GOAL: Equitable collection and distribution of funding for public services and facilities.
   OBJECTIVES:
   - Ensure users pay fair share for public services and facilities.
   - Ensure facilities and services are maintained in existing neighborhoods as new neighborhoods are added.
   - Explore new sources of funding as appropriate.

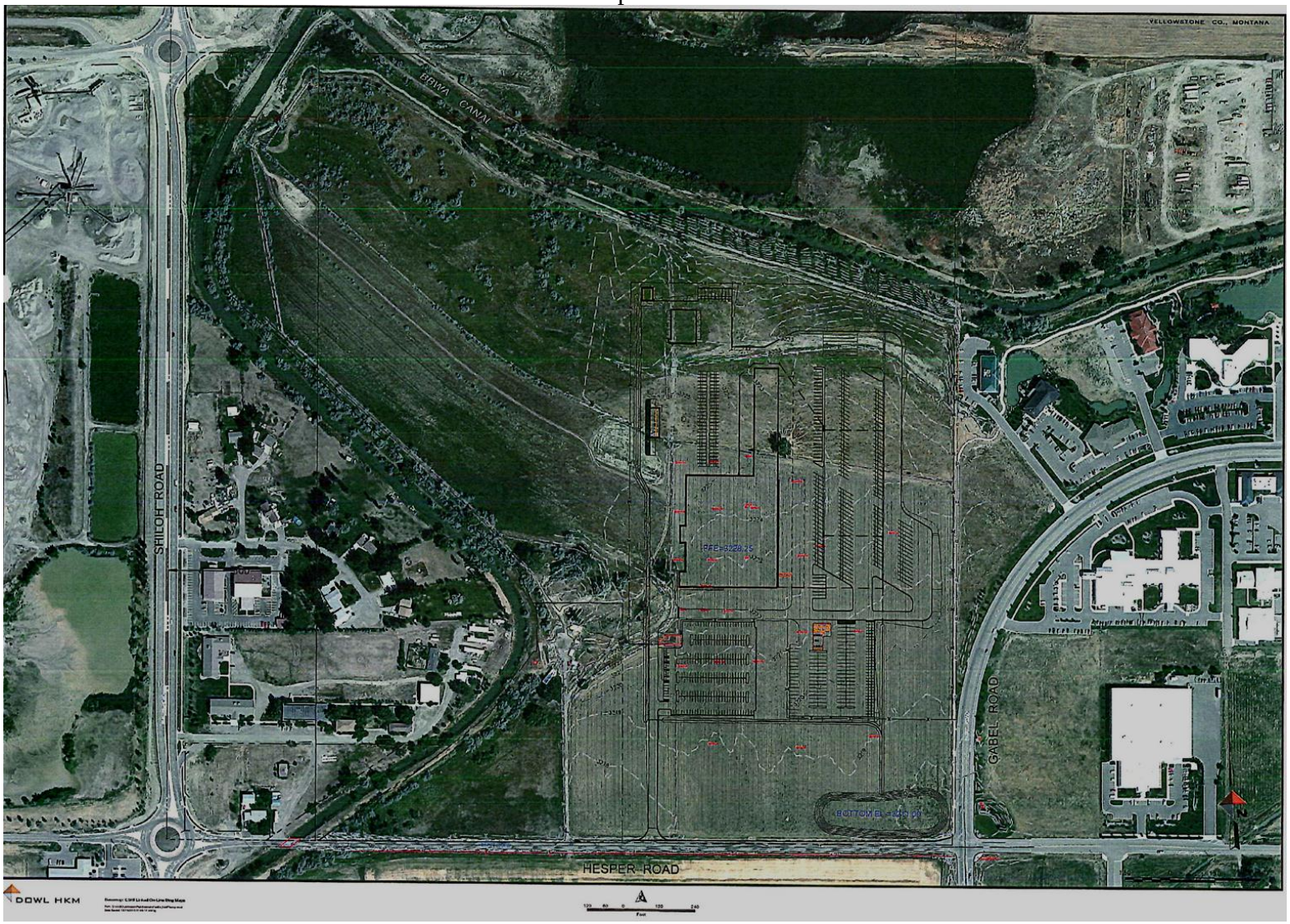
Response: FedEx would pay for the extension of the sanitary sewer, water, and storm drain fronting their development. They would also pay for improving Hesper Road with curb and gutter, sidewalk, and widening the asphalt from 24 feet to 39 feet.

Community Health Element

3. **ISSUE:** *Some roadways are not designed to accommodate pedestrians and therefore create inconvenient and unsafe conditions.*
   GOAL: Safe roadways supportive of vehicles, bicycles, and pedestrians.
   OBJECTIVES:
   - Reduce traffic conflicts among multiple user groups.
   - Support and encourage walking and bicycling for exercise and transportation.
   - Provide safe walking routes to schools.
   - Reduce vehicle carbon emissions.

Response: FedEx would be required to construct a sidewalk along Hesper Road fronting their development. If connected to Trans Tech's park path, this could promote walking and bicycling for exercise and transportation. FedEx prefers to be located near I-90 for short trips to the freeway helping to reduce vehicle carbon emissions.

Concept Site Plan




FedEx
FedEx Ground

KENNETH D. PETERSON

ATTORNEY AT LAW

424 48th Street West • BILLINGS, MONTANA 59106 • PHONE: (406) 534-2376 • (406) 591-2608 (Cell) • Email kenneth59@bresnan.net

4 February 2013

MEMBERS OF THE ZONING COMMISSION and
CITY COUNTY STAFF

In re: Proposed Zone Change 907

Dear Commission and Staff:

Enclosed herewith is the original of a protest to the above Zone Change. We request that the staff prior to the Commission hearing distribute to each commissioner the protest document which includes a discussion of the ten(10) statutory points to be considered in each zone change.

We believe that the protest is sufficient to trigger the requirement that the City Council in considering the proposed zone change must approve it by 2/3rds vote of all Council members present and voting.

Also, please provide the original of the protest to the City Council together with individual copies to each Councilmember and the Mayor.

Thank you.

KENNETH D. PETERSON
Attorney for Protestors

Kenneth D. Peterson

KDP/nc

- - - PROTEST - - -

PROPOSED ZONE CHANGE 907 FOR THE FED EX REGIONAL GROUND FACILITY

COS 2587 and COS 3329

This document is a protest against zone change 907 as proposed to the City of Billings. All properties, lots and units, within 150 feet of the exterior boundary of the property proposed to be zoned are identified below. Those owners protesting pursuant to **MCA § 76-2-305** have signed this protest. Attached to this protest document is a document detailing, discussing and critiquing the 10 criteria that must be addressed in every zoning proposal. The criteria are addressed 1 thorough 10. A close analysis and critique of the 10 criteria demonstrates clearly that this proposed zone change is not appropriate for the proposed use or in the best interest of the City of Billings and the established owners in the protest area and beyond.

C.O.S. 2560, Parcel 3 LONG FAMILY LIMITED PARTNERSHIP By:_____ David Orbe 730 Bluegrass Pl Billings, MT 59106-4533	Shiloh Crossing Sub Amd, Block 1, Lot 3A SCHEELS ALL SPORTS, INC. By:_____ 4550 15th Ave. So Fargo, ND 58103-8959	S14, T01, R25E, C.O.S. 866, 17.697 Acres (02) SHILOH POND, LLC. By:_____ 2280 Grant Rd Billings, MT 59102-6696
C.O.S. 3329 Parcel 6, (08) BILLINGS BENCH WATER ASS'N By:_____ P.O. Box 50150 Billings, MT 59105-0150	Tr 1 C.O.S. 762 Amend _____ Edwin N. Dinkle _____ Ronald P. Dinkle 2520 Magnolia Pl Billings, MT 59102-1611	TRANSTECH CENTER, UNIT 16, 2.19% COMMON AREA INTEREST, LOC @ LT 1 BLK 1 TRANSTECH CTR SUB ACE TRANSTECH LLC By:_____ P.O. Box 20039 Billings, MT 59104

TRANSTECH CENTER, UNIT 17, 8.72% COMMON AREA INTEREST, LOC @ LT 1 BLK 1 TRANSTECH CTR SUB BOTTRELL FAMILY INVESTMENTS LLP By:_____ P. O. Box 80284 Billings, MT 59108-0284	TRANSTECH CENTER, MASTER CARD , LOC @ LT 1 BLK 1 TRANSTECH CTR SUB BOTTRELL FAMILY INVESTMENTS LLP TRANSTECH CENTER By:_____ P. O. Box 80284 Billings, MT 59108-0284	GABEL SUBD 2ND FILING AMD. BLOCK 1, LOT 11A1 BOTTRELL FAMILY INVESTMENTS LLP By:_____ P. O. Box 80284 Billings, MT 59108-0284
GABEL SUBD 2ND FILING AMD. BLOCK 1, LOT 1A1 BOTTRELL FAMILY INVESTMENTS LLP By:_____ P. O. Box 80284 Billings, MT 59108-0284	GABEL SUBD 2ND FILING AMD. BLOCK 1, LOT 2A BOTTRELL FAMILY INVESTMENTS LLP By:_____ P. O. Box 80284 Billings, MT 59108-0284	BROSO VALLEY PARK SUB, BLOCK 2 LOT 7 SHILOH ENTERPRISES LLC By:_____ 3028 US Highway 3 Billings, MT 59106-9643
C.O.S. 3077, PARCEL 1B1B1, AMD JAMES R. REGER & DEBORAH C (⅔) _____ James R. Reger _____ Deborah C. Reger REGER, JAMES W. TRUST (⅓) By:_____ P.O. box 1782 Billings, MT 59103-1782	C.O.S. 3077, PARCEL 1A1A1, AMD JAMES R. REGER & DEBORAH C _____ James R. Reger _____ Deborah C. Reger P.O. box 1782 Billings, MT 59103-1782	WALTER DAN ACRES, BLOCK 1, LOT 6 _____ Kevin Unruh _____ Debbie Unruh 3929 Hesper Rd Billings, MT 59102-6713

C.O.S. 3329, Parcel 2, Less 9505' For Hwy YELLOWSTONE BAPTIST COLLEGE, INC. By:_____ 1515 S Shiloh Rd Billings, MT 59106-3303	C.O.S. 640, Amnd (Less Temple Estates & Tr 2, Less 4628' For Hwy YELLOWSTONE BAPTIST COLLEGE, INC. By:_____ 1515 S Shiloh Rd Billings, MT 59106-3303	TEMPLE ESTATES SUBD, BLOCK 1, LOT 6 _____ Debra J. Hardy 3903 Temple Pl Billings, MT 59102-7306
TEMPLE ESTATES SUBD, BLOCK 1, LOT 5 _____ Ross R. Racine _____ Joyce Racine 3909 Temple Pl Billings, MT 59102-7306	TEMPLE ESTATES SUBD, BLOCK 1, LOT 4 _____ Roy E. Merriman 3917 Temple Pl Billings, MT 59102-7309	TEMPLE ESTATES SUBD, BLOCK 1, LOT 3 _____ Thomas W. Bell _____ Pamela J. Bell 3925 Temple Pl Billings, MT 59102-7306
TEMPLE ESTATES SUBD, BLOCK 1, LOT 2B Dorothy Barth Dorothy Barth 2212 Dallas Dr Billings, MT 59102-5726	TEMPLE ESTATES SUBD, BLOCK 1, LOT 2A Harold M. Barth Debra A. Barth 3945 Estate Pl Billings, MT 59102-7304	TEMPLE ESTATES SUBD, BLOCK 1, LOT 1D1 _____ Kevin L. Ring 3949 Estate Pl Billings, MT 59102-7304

S14, T01 S, R25E, C.O.S. 3329, Parcel 3

MONTANA
DEPARTMENT OF
TRANSPORTATION

By:_____

P. O. Box 201001
Helena, MT 59620

ZONE CHANGE FOR PROPOSED FEDEX PROJECT

DETAILS OF THE STATUTORY 10-POINTS FOR ZONING CONSIDERATION:

1. **WHETHER THE NEW ZONING IS DESIGNED IN ACCORDANCE WITH THE GROWTH POLICY:**
   a. Land Use Element
      i. Not consistent with neighborhood character. The character of the neighborhood was made possible by SID 1360 and by private contract to meet the substantial development requirements imposed by the City. Without the SID and private contacts the proposed new development is not possible. The City owes great consideration and deference to the concerns of the existing neighborhoods whose efforts now make development of adjacent lands possible.
      ii. Incompatible use with Transtech Center and Broso Valley Park Subdivision.
      iii. Not sensitive to character of adjacent neighborhoods.
      iv. Does not reduce conflicts with neighbors.
      v. Transtech Center Subdivision, Gabel Subdivision Second Filing, Shiloh Crossing Subdivision, and Broso Valley Park Subdivision are all Controlled Industrial Zone. They have created their high level neighborhoods within the zone classification by adding well thought out covenants and restrictions governing the lot development. These restrictions cover land use, building design, site design, lighting, landscaping, signage and other items specific to their particular vision for their project. Subsequently, substantial value has been added to the properties that are following these design guidelines.
      vi. The South Shiloh Corridor Overlay District was created to provide

standards for development along Shiloh Road as called for in the West Billings Plan. This overlay boundary is 500 feet from the centerline either side of Shiloh Road, or, if the parcel falls within the boundaries of the district, then the entire parcel will be subject to the regulations.

vii. The project should not be allowed to finesse the boundaries to avoid the Ordinance imposing the Shiloh overlay requirements. The proposed project is totally inconsistent with the purpose of the Shiloh overlay as described in City Code 27-1428.

b. Economic Development Element
   i. Quality of neighborhoods should be preserved
   ii. Preserve neighborhood character, amenities and aesthetics.

c. Transportation Element – This element has been almost totally missed.
   i. Traffic control stretched now – not adequate to handle added employee and truck traffic
   ii. Need substantial upgrades to Hesper Road, Gabel Road, and Zoo Drive up to and including Shiloh Interchange lanes to accommodate newly added truck traffic. Intersections at Gabel and Hesper, and Gabel and Zoo need upgrades.
   iii. A realistic traffic study with recommendations to minimize impacts of this facility is necessary with realistic dollars to provide for upgrades.
   iv. Existing owners and developers have spent considerable dollars constructing the water, sewer, storm drain, and streets that exist in the area today. The new development needs to pay the costs to upgrade the infrastructure to mitigate their impacts. The subject property has not participated in any of the improvement costs to date.
   v. The new project needs to remove or minimize any impediments to traffic flow caused by the added traffic.

d. Public Facilities and Services Element
   i. Any proposed new project must bear the cost to maintain acceptable levels of service in existing City neighborhoods.

ii. Existing streets are not functioning adequately with current traffic. Gabel Road needs to be widened to full width between Hesper Road and Zoo Drive and will need at least two left turn lanes to access the interchange.

iii. New Developers need to pay their fair share of costs to take infrastructure to the next, higher level of service. Existing neighbors have paid substantial costs to get water, sewer, storm drain, and streets to where they are today to even allow this new development to occur.

e. Community Health Element

i. Need roadways designed to accommodate vehicles, bicycles, and pedestrians. Trucking terminal traffic not compatible with multi-use path now in place along Gabel Road and planned to be extended on to the Zoo.

ii. With Southwest prevailing winds need to reduce vehicle carbon emissions which will be difficult with large truck parking and transfer facility as proposed alongside the existing multi-use path.

2. **WHETHER THE NEW ZONING IS DESIGNED TO SECURE FROM FIRE AND OTHER DANGERS:**

a. Will be served by City services.

3. **WHETHER THE NEW ZONING WILL PROMOTE PUBLIC HEALTH, PUBLIC SAFETY, AND GENERAL WELFARE:**

a. Air quality concerns

b. Adequacy of streets for additional truck traffic is a concern.

c. Inconsistent with Shiloh overlay purposes.

4. **WHETHER THE NEW ZONING WILL FACILITATE THE ADEQUATE PROVISION OF TRANSPORTATION, WATER, SEWAGE, SCHOOLS, PARKS, AND OTHER PUBLIC REQUIREMENTS:**

a. Will be on City services

b. Streets and intersections are already at a poor level of service at peak hours.

c. New impacts will cause upgrades to be necessary. These costs should be

the responsibility of the new developer since this property hasn't paid any part of the substantial investment the neighbors have made installing the existing improvements.

5. **WHETHER THE NEW ZONING WILL PROVIDE ADEQUATE LIGHT AND AIR:**

   a. Concern is for air quality degradation with the prevailing southwest winds and the proximity of the office buildings and the Advanced Care Hospital.

6. **WHETHER THE NEW ZONING WILL EFFECT MOTORIZED AND NON-MOTORIZED TRANSPORTATION:**

   a. Traffic on Gabel Road and Zoo Drive has steadily increased over the years. The intersections of Gabel and Hesper, and Gabel and Zoo both operate poorly now at peak hours.

   b. The subdivision traffic studies for Gabel Subdivision, Second Filing and Broso Valley Park Subdivision both identify the future need for a signal at the intersection of Gabel and Hesper. The added truck traffic to and from the new terminal will require this signal to be installed.

   c. Lack of new traffic control at this intersection will disrupt normal flow of traffic for a wide area of existing commercial businesses and other southwest Billings traffic that uses Gabel Road to access the Shiloh Interchange.

   d. The existing traffic studies project dual left hand turn lanes for southbound Gabel Road traffic turning left onto Zoo Drive. At peak hours with the current level of development, traffic backs up on Gabel Road from Zoo Drive all the way north to Hesper Road while waiting for several signal cycles. To install dual left turn lanes, Gabel Road should be widened to fit its full design width from Hesper to Zoo Drive. This wasn't done in SID 1360 since the adjacent property owner refused to participate in the cost of the project. On Zoo Drive, the current lane configuration cannot receive two lanes of traffic turning left from Gabel Road. The lanes on Zoo Drive up and over the Shiloh Interchange will need to be redesigned and constructed to receive the additional traffic. The existing signals at Zoo Drive and Gabel Road will also need to be

upgraded to fit the new lanes.

e. The Heritage Trail Plan for the City shows the multiuse path running through Transtech Center along Gabel Road south to Zoo Drive, across Zoo Drive, then west to the zoo. Transtech Center built the path from South 32nd Street West, through the subdivision along the Hogan Slough, then South to Hesper Road along the west side of Gabel Road. Concern exists that the proximity of this trail to the proposed truck terminal will compromise the purpose and use of the trail by the public.

7. **WHETHER THE NEW ZONING WILL PROMOTE COMPATIBLE URBAN GROWTH:**

a. From a Community Planning perspective, this truck terminal is proposed in the wrong place. This type of use is best located along the South Frontage Road south of I90. It is known that the developer looked at locating the project in that area. The project needs City water and sewer and no property of an adequate size in that area is currently served by City services. The reason the project is targeting the current location is simply because the parcel is of adequate size and can be annexed and served by City services. This is not a good reason or basis on which to determine appropriate land use.

b. Effort should be made by the City and local economic development advocates to explore funding alternatives to extend City services into the South Frontage Road area and encourage those types of heavier commercial uses to locate there.

8. **WHETHER THE NEW ZONING CONSIDERS THE CHARACTER OF THE DISTRICT AND THE PECULIAR SUITABILITY OF THE PROPERTY FOR PARTICULAR USES:**

a. The neighboring properties of Transtech Center, Shiloh Crossing, and Broso Valley Park are in Controlled Industrial zone classification but are all subject to comprehensive building guidelines through the covenants and restrictions filed on each development. The result is a higher level of development with special attention to restricted uses, building design, materials, colors, lighting, landscaping, signage, etc. This has established a "character" for this area that needs to be preserved.

b. The proposed project is not an attractive land use and it not subject to any equivalent design guidelines. There also appears to be a property line adjustment proposed that would allow the project to avoid the Shiloh Overlay District requirements.

c. Again, this project should be in a more appropriate alternate location such as along the South Frontage Road.

9. **WHETHER THE NEW ZONING WILL CONSERVE THE VALUE OF BUILDINGS:**

a. Since the site and buildings are not subject to any design guidelines or restrictions, the value of construction will not be equivalent to the neighboring developments. This will result in an overall impact on the relative values in the area.

b. There is a stark difference in the purpose of the buildings serving a trucking terminal versus professional office buildings. This vast difference in use across a contiguous property line will also have an impact on neighborhood values and will affect future lot sales.

10. **WHETHER THE NEW ZONING WILL ENCOURAGE THE MOST APPROPRIATE USE OF LAND THROUGHOUT THE CITY OF BILLINGS**

a. Controlled Industrial zoning can be used to locate and develop quality projects in Billings. Transtech Center, Shiloh Crossing, and Broso Valley Park are prime examples of this. What is needed to do this are restricted uses and comprehensive covenants and design guidelines. This project doesn't fit these guidelines and the use is not appropriate for the neighborhood.

b. There are properties in Billings where this project could be located. Effort should be coordinated among all parties to find a more suitable site for this development.

- - - PROTEST - - -

PROPOSED ZONE CHANGE 907 FOR THE FED EX REGIONAL GROUND FACILITY
COS 2587 and COS 3329

The undersigned protest proposed zone change 907 as proposed to the City of Billings. They are persons or businesses that will be adversely affected by the building and operating the FED EX Regional ground facility on the real property proposed to be annexed and zoned. The document attached hereto is a document detailing, discussing and critiquing the 10 criteria that must be addressed in every zoning proposal. The criteria are addressed 1 thorough 10. A close analysis and critique of the 10 criteria demonstrates clearly that this proposed zone change is not appropriate for the proposed use or in the best interest of the City of Billings and those persons and businesses that will be affected by the operation of the facility.

Name	Address	Representing
Richard McComish	3571 Gabel Road	Electrical Consultants, Inc.
Chris Isaacson	3533 Gabel Rd.	Bobcat Land Holdings, LLC
Brian Fennern	3533 Gabel Rd	Bobcat Land Holdings, LLC
Angie Atherton	3533 Gabel Rd	Bobcat Land Holdings
[illegible]	3533 Gabel Rd	Bobcat Land Holdings
[illegible]	1345 Discovery Dr.	Wyo-Ben, Inc.
[illegible]	3470 GABEL	PARSEC DATA MGMT
[illegible]	1321 Discovery Dr.	Stillwater Mining
John F. Durham	3545 Hesper Rd.	Briggs Dist. Company, Inc.

- - - PROTEST - - -

PROPOSED ZONE CHANGE 907 FOR THE FED EX REGIONAL GROUND FACILITY

COS 2587 and COS 3329

The undersigned protest proposed zone change 907 as proposed to the City of Billings. They are persons or businesses that will be adversely affected by the building and operating the FED EX Regional ground facility on the real property proposed to be annexed and zoned. The document attached hereto is a document detailing, discussing and critiquing the 10 criteria that must be addressed in every zoning proposal. The criteria are addressed 1 thorough 10. A close analysis and critique of the 10 criteria demonstrates clearly that this proposed zone change is not appropriate for the proposed use or in the best interest of the City of Billings and those persons and businesses that will be affected by the operation of the facility.

Name	Address	Representing
KEITH HENDRICKSON	3413 GABLE RD.	ALPHAGRAPHICS
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing
Name	Address	Representing

Petition to Protest

Owner: Shiloh Enterprises llc, Principals (Matt Brosovich, Jake Brosovich, Carol Brosovich, Brittainy Doucette). Owner of Bighorn Resort and Conference Center

Legal Address: Block 2 Lots 7 & 8 of Broso Valley Park. Tax ID A30704 & A30705. Owner of Broso Valley Park Subdivision.

This letter is being submitted as a formal document of protest to the potential development of a Federal Express distribution facility located at the northwest corner of Hesper and Gabel Road In reviewing the zoning policies we a number of the criteria were not met adequately to consider the annexation and construction of this facility. Those criteria and our corresponding disputes are laid out in as followed.

1. **Whether the new zoning will promote public health, public safety and general welfare;**

   It is our belief that this facility would have noticeable impact on the air quality of the area. It is also relevant to add that 4 hotels (2 constructed 2 under construction), a restaurant, an assisted living facility, and outpatient surgical center and U.S. VA medical and outpatient facility, and a soon to be built office building would have their air quality significantly impacted. They all lie within a south easterly direction of this facility. By our count this facility is capable of handling in excess of 150 short and long haul trucks and trailers. This would be especially apparent in the winter months where temperature inversions would keep the air low to the ground. That kind of concentration of exhaust gasses would no doubt have a questionable if not negative impact on public health and general welfare.

2. **Whether the new zoning will effect motorized and non-motorized transportation;**

   Hesper road is not designed to handle this sort of heavy traffic. The transportation plan for this development relies on Gabel Road, Zoo Drive and Shiloh Road. The owner of the large tracts of land north of Gabel Road refused to participate in SID 1360. As part of the original transportation plan, Gabel Road was designed to be five lanes (4 driving lanes plus 1 turn lane). The aforementioned owner's portion of Gabel is not currently constructed to the capacity that it was originally designed. In order to properly to handle this sort of heavy traffic the owner would have to construct the remaining two lanes in its entirety. The Gabel Road and Zoo Drive intersection has heavy traffic congestion in the morning and afternoon. In addition the Gabel Road and Zoo Drive intersection continue to have a high accident rates many of which are associated with deaths. Increasing this current bottleneck with numerous short and long haul tractor trailors will no doubt increase the already dangerous situation that exists currently. Gabel road would have to be improved to a minimum of the original engineering design of SID 1360 before this transportation corridor would meet these type of traffic standards.

3. **Whether the new zoning will promote compatible urban growth.**

We were approached by city officials back in approximately 2004. The goal was to develop an overlay district for the Shiloh Interchange. The goal was to protect the interchange and corresponding arterial corridors from heavy industrial development and metal structures. A super majority of the land owners agreed and adopted these detailed construction and landscaping design criteria. That became commonly known as the South Shiloh Overlay District. The goal was to make for an attractive entryway corridor. That original overlay district corridor protects the 300 feet adjacent to Shiloh Road and Zoo Drive. However that basic design criteria was adopted by the surrounding commercial developers. As a result numerous office, medical and hospitality groups have located to these developments. They were confident that the attractiveness of these developments were secured. This Fed Ex distribution center slams directly in the face of everyone who has been involved. There is little argument that the compatibility with surrounding development and proposed development is non-existent.

4. **Whether the new zoning consider the character of the district and the peculiar suitability of the property for particular uses;**

This is perhaps the most contentious issue on this zone change / annexation. The building and type of development being considered is the exact opposite of the type of new development surrounding this property. On the North of the property you have perhaps the largest retail project in the state of Montana. To the west you have an exquisitely designed and developed office technology development complex. There is one distribution facility. However, the construction and landscaping appearance of Briggs Distributing was done in a way as to hide the moderate truck traffic. To the south you have an office entryway and hospitality development. By 2013 there will be four hotels. They were attracted to this location because of its surrounding development and progress. This project makes absolutely no sense. There was little consideration for this project in this location.

5. **Whether the new zoning will conserve the value of buildings.**

There is little doubt developers and land purchasers, especially the hotels, located here because of the access to the interstate and the corresponding covenant controlled development on the surrounding properties. For that reason we secured hospitality groups from the three most prominent flags (International Hospitality Group, HILTON and Choice Hotels). In addition, two large medical facilities, a memory care clinic and office buildings. None of these owners would have considered these locations if they were aware of an industrial project of this size adjacent to their operations. The air quality, line of sight, the traffic and the overall industrial feel of this project stands opposite to a location that people seek out for entertainment and treatment. Obviously the look and feel of the properties would be hurt and no doubt detrimental to their business.

6. **Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.**

We would argue to the end that the City of Billings came to us to implement a South Shiloh Overlay district in order to fend off development like this project in this entryway corridor. Not only do we believe there was a certain development focus in this area but so did the bureaucracy at one point. In fact the engineer for HKM representing Fed Ex on this project was also involved in that overlay district on behalf of the city. Obviously, putting this project in place sets up compatibility with other industrial development and ruins what we believe was the original purpose. The purpose was to encourage office, technology hospitality and retail development. The majority of the recent development has followed that chord. To change that focus now would open up the city up to what we would believe are legal challenges.

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Matt Brosovich (Principal) Broso Valley Park 12/18/2012

TRANSTECH CENTER
MONTANA'S MOST ADVANCED HIGH TECH BUSINESS PARK

P.O. Box 80743
Billings, Montana 59108
Phone (406) 652-7603
Cell (406) 698-2808
Fax (406) 652-8320
Email: jerry@transtechcenter.com

RECEIVED
NOV - 7 2012

November 1, 2012

Nicole Cromwell
Zoning Coordinator
City of Billings
510 N. Broadway
Billings, MT 59101

Re: Position on proposals to re-zone Tracts 1 of C/S 3329 and C/S 2587

Dear Nicole.

The Owners Association of the Transtech Center Subdivision and Gabel Subdivision, Second Filing, have recently became aware, via a letter from Rick Selensky, DOWL HKM that proposals are being made to re-zone Tracts 1 of C/S 3329 and C/S 2587. These tracts of land are located immediately west of the Transtech Center.

In conjunction with the letter, we understand developers are proposing to build a large, forty acre, regional truck service facility for FedEx. We feel a development of this nature will bring extensive trucking activity into an area of Billings that has been developed primarily for retail and office uses.

We want to go on record as strenuously opposing the planned usage in this area of Billings. The Transtech Center owners association and many businesses located here have made considerable investments in establishing the Transtech Center as a high quality, high tech business park in a campus setting, a quality development that is second to none in a multi-state area. It is because of this type of development many very successful businesses have located here. In complementing this development, the Big Sky Economic Development Authority made significant efforts to locate General Electric and the Advanced Care Hospital of Montana in the Transtech Center, adding hundreds of quality jobs to the Billings economy.

Please note we are not opposed to FedEx locating this activity in the Billings area as we feel it will greatly benefit the local economy. We are also not opposed to the noted site being annexed into the City or, to the site being properly re-zoned from its current open agriculture status. We do feel however, that proper planning would not place a very large trucking maintenance facility immediately adjacent to a High Tech Business Park.

We request the City of Billings and the Planning and Community Services Department to take the appropriate steps necessary to discourage the development of such non-compatible uses within the area described above.

Sincerely

Jerry S. Thomas
Chair, Transtech Center Owners Association

Cc: Greg MacDonald, Land Owners Managing Partner
Rick Selensky, P.E., DOWL HKM

ORDINANCE NO. 13-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR a 97.3 acre parcel described as Tract 1, C/S 2587 and Tract 1, C/S 3329 generally located at 3815 Hesper Road

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

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA,* and *Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

2. DESCRIPTION That 97.3 acre parcel described as Tract 1, C/S 2587 and Tract 1, C/S 3329 is presently zoned **Agriculture-Open Space (A-1)** and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcels** is hereby changed from **Agriculture-Open Space (A-1) to Controlled Industrial (CI)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Controlled Industrial (CI)** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading February 25, 2013.

PASSED, ADOPTED AND APPROVED on second reading March 11, 2013.

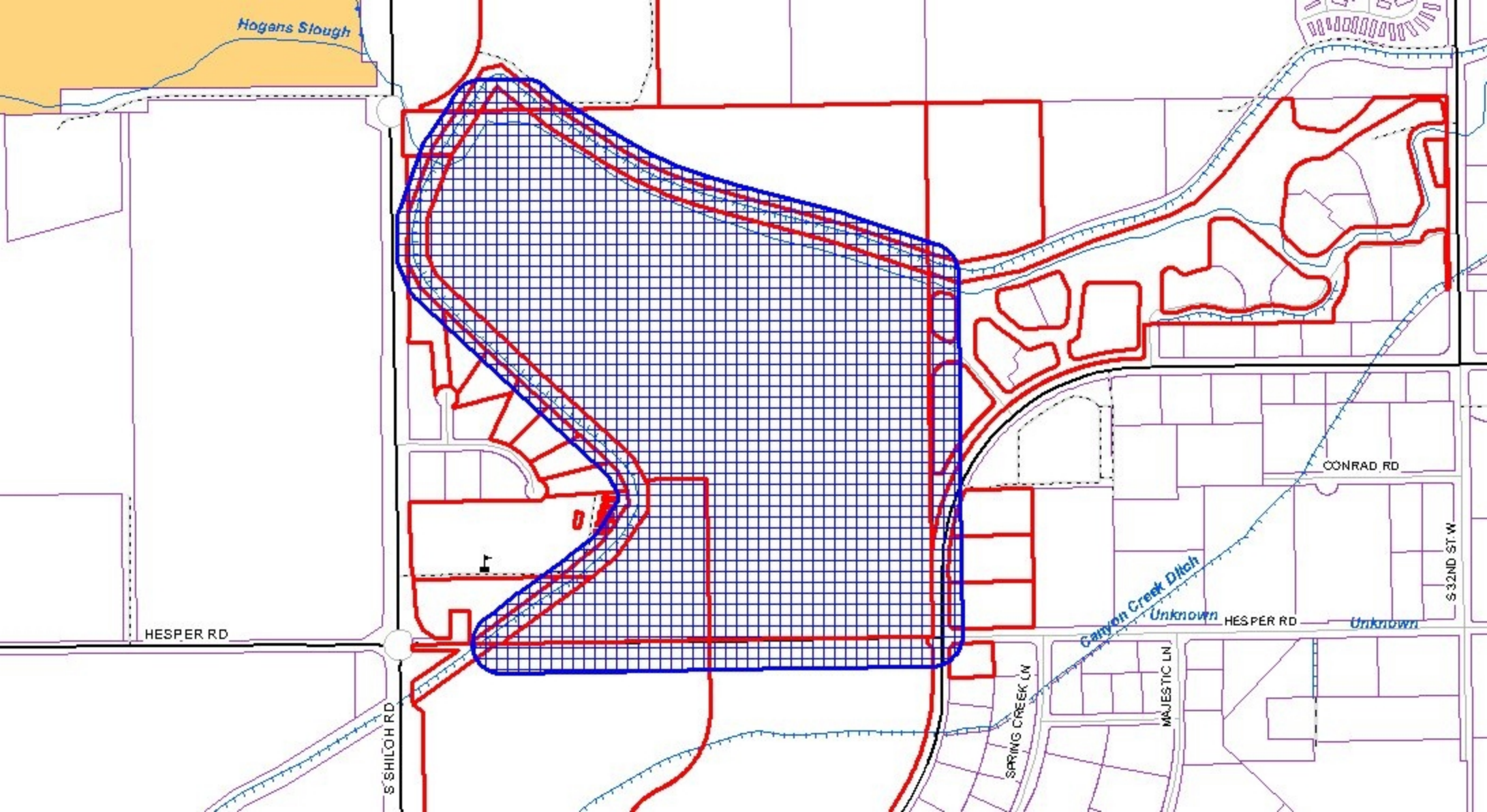
CITY OF BILLINGS:

BY:_____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #907 – 3815 Hesper Road, Tract 1, C/S 2587 and Tract 1, C/S 3329


Hogans Slough
HESPER RD
S SHILOH RD
CONRAD RD
S 32ND ST W
Canyon Creek Ditch
Unknown
HESPER RD
Unknown
SPRING CREEK LN
MAJESTIC LN

Property Owners within 150 feet
Zone Change #907

	TaxID	GEOCODE	Owner (Click on Owner Name for Tax Page)	Subdivision	Block	Lot	COS	Tract	Property Address	Protest filed? Y/N
1	D00610 (show)	3092614101010000	SHILOH POND LLC				866			
2	D00574A (show)	3092614201010000	BILLINGS BENCH WATER ASSOCIATION				2560	2	SHILOH RD	
3	A34025 (show)	3092614201330000	SCHEELS ALL SPORTS INC	SHILOH CROSSING SUB (09)	1	3A			1101 SHILOH CROSSING BLVD	
4	D00574B (show)	3092614201800000	LONG FAMILY LIMITED PARTNERSHIP				2560	3		
5	D00611 (show)	3092614301050000	YELLOWSTONE BAPTIST COLLEGE				640			
6	D00609A (show)	3092614301060000	B B W A DITCH RESERVE				2049	1		
7	C09428 (show)	3092614301130000	HARDY, DEBRA J	TEMPLE ESTATES SUBD	1	6			3903 TEMPLE PL	
8	C09427 (show)	3092614301140000	RACINE, ROSS R & JOYCE	TEMPLE ESTATES SUBD	1	5			3909 TEMPLE PL	
9	C09426 (show)	3092614301150000	MERRIMAN, ROY E	TEMPLE ESTATES SUBD	1	4			3917 TEMPLE PL	
10	C09425 (show)	3092614301160000	BELL, THOMAS W & PAMELA J	TEMPLE ESTATES SUBD	1	3			3925 TEMPLE PL	
11	C09423 (show)	3092614301180000	BARTH, DOROTHY	TEMPLE ESTATES SUBD	1	2B				Yes
12	C09422 (show)	3092614301190000	BARTH, HAROLD M & DEBRA A	TEMPLE ESTATES SUBD	1	2A			3945 ESTATE PL	Yes
13	C09421 (show)	3092614301200000	RING, KEVIN L	TEMPLE ESTATES SUBD	1	1D1			3949 ESTATE PL	
14	D00612 (show)	3092614301230000	MONTANA DEPARTMENT OF TRANSPORTATION				640	2		
15	D00609B (show)	3092614305110000	YELLOWSTONE BAPTIST COLLEGE, INC				3329	2	1525 S SHILOH RD	
16	D00609C (show)	3092614305210000	MONTANA DEPARTMENT OF TRANSPORTATION				3329	3	HESPER RD	
17	D00609D (show)	3092614305310000	BILLINGS BENCH WATER ASS'N				3329	4	HESPER RD	
18	D00609E (show)	3092614305410000	BILLINGS BENCH WATER ASS'N				3329	5	HESPER RD	
19	D00609F (show)	3092614305510000	BILLINGS BENCH WATER ASS'N				3329	6	HESPER RD	
20	A29204 (show)	3092614401040000	BOTTRELL FAMILY INVESTMENTS LP	GABEL SUBD 2ND FILING	1	2A				Yes
21	A29203 (show)	3092614401260000	BOTTRELL FAMILY INVESTMENTS LLP	GABEL SUBD 2ND FILING	1	1A1			3576 GABEL RD	Yes
22	A29209 (show)	3092614425010000	BOTTRELL FAMILY INVESTMENTS LP	GABEL SUBD 2ND FILING	1	11A1			3554 GABEL RD	Yes
23	D00608 (show)	3092614490010000	DINKEL, RONALD P &				762	1		
24	A30704 (show)	3092623104300000	SHILOH ENTERPRISES LLC	BROSO VALLEY PARK SUB	2	7			3602 GABEL RD	Yes
25	D12486 (show)	3092623290010000	REGER, JAMES R & DEBORAH C				3077	1A1A1	ZOO DR	
26	D12710 (show)	3092623290050000	REGER, JAMES R & DEBORAH C (2/3) &				3077	1B1B1	ZOO DR	
27	D00841A (show)	3092623299010000	BILLINGS BENCH WATER ASSOCIATION						SHILOH RD	
28	A30059M (show)	3092614483017000	BOTTRELL FAMILY INVESTMENTS LLP	TRANSTECH CENTER	1	1				Yes
29	A30059P (show)	3092614483017010	ACE TRANSTECH LLC	TRANSTECH CENTER					1321 DISCOVERY DR	Yes
30	A30059Q (show)	3092614483017010	BOTTRELL FAMILY INVESTMENTS LLP	TRANSTECH CENTER					1336 DISCOVERY DR	Yes

30 Separate Owned parcels within 150 feet = 8 parcels must protest to trigger valid protest vote requirement by City Council

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: W.O. 09-20; Rimrock Road, Forsythia to Shiloh - Public Hearing and Resolution Ordering Improvements

PRESENTED BY: David Mumford

Department: Public Works

Information

PROBLEM/ISSUE STATEMENT

At the January 28, 2013 meeting, the City Council passed a Resolution of Intent for Work Order 09-20, to construct improvements on Rimrock Road from Forsythia Boulevard to Shiloh Road. The resolution also established a Public Hearing date for February 25, 2013. After conducting the Public Hearing, Council may pass a resolution ordering construction of the improvements.

ALTERNATIVES ANALYZED

The Council may:
- Pass this Resolution Ordering Construction Improvements; or
- Do not pass this Resolution Ordering Construction of the Improvements.

FINANCIAL IMPACT

Assessed Costs	$ 163,000
Water Funds	$2,250,000
Arterial Funds	$2,000,000

The proposed project is funded through multiple sources, including direct property assessments for a total estimated project cost of $4,413,000 as follows:

Funding for the proposed project is identified in the Capital Improvement Plan and in the Fiscal Year 2013 budget.

RECOMMENDATION

Staff recommends that the City Council pass this Resolution Ordering Construction Improvements identified in Work Order 09-20, Rimrock Road- Forsythia to Shiloh.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

Exh. A

Exh. B

RESOLUTION NO. 13 - _____

A RESOLUTION RELATING TO **W.O. 09-20, RIMROCK ROAD – FORSYTHIA TO SHILOH** ORDERING THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Passage of Resolution of Intention. This Council, on **January 28, 2013**, adopted Resolution No**. 13-19239** (the "Resolution of Intention"), pursuant to which this Council declared its intention to order in certain sidewalks, curb, gutter and street improvements, designated as **W.O. 09-20** (the "Project") of the City, under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of sidewalk, curb and sidewalk, curb and gutter improvement bonds drawn on the Project (the "Bonds"), the creation and administration of the Project, and the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on **February 25, 2013**, this Council conducted a public hearing on the ordering in of the Project and the making of the Improvements.

Section 3. Order. It is hereby ordered that curb/gutter, sidewalk, drive approach, and appurtenant improvements as detailed in Exhibit "A" attached hereto be constructed, reconstructed, repaired, or replaced.

Section 4. Affected Properties. All properties which will be required to pay any portion of the costs of the improvements identified herein are identified in Exhibit "B" attached hereto.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to

be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provisions contained in Section 1.150-2(j) (2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

5.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of **$163,000** after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the city's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

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

Section 6. **Property Owner Option to Construct Improvements.** Notice of passage of this Resolution shall be mailed to all affected property owners and said owners shall have thirty (30) days from the date of said Notice in which to install the ordered improvements at their cost and expense. In the event the owners do not take said action within the said thirty (30) day period, the City will install the improvements and will assess the costs thereof, all costs of administration and engineering and all bond issuance costs against the real property.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 25th day of February, 2013.

THE CITY OF BILLINGS:

BY_____
Tomas W. Hanel MAYOR

ATTEST:

BY_____
CITY CLERK

W.O. 09-20 Rimrock Road
EXHIBIT A

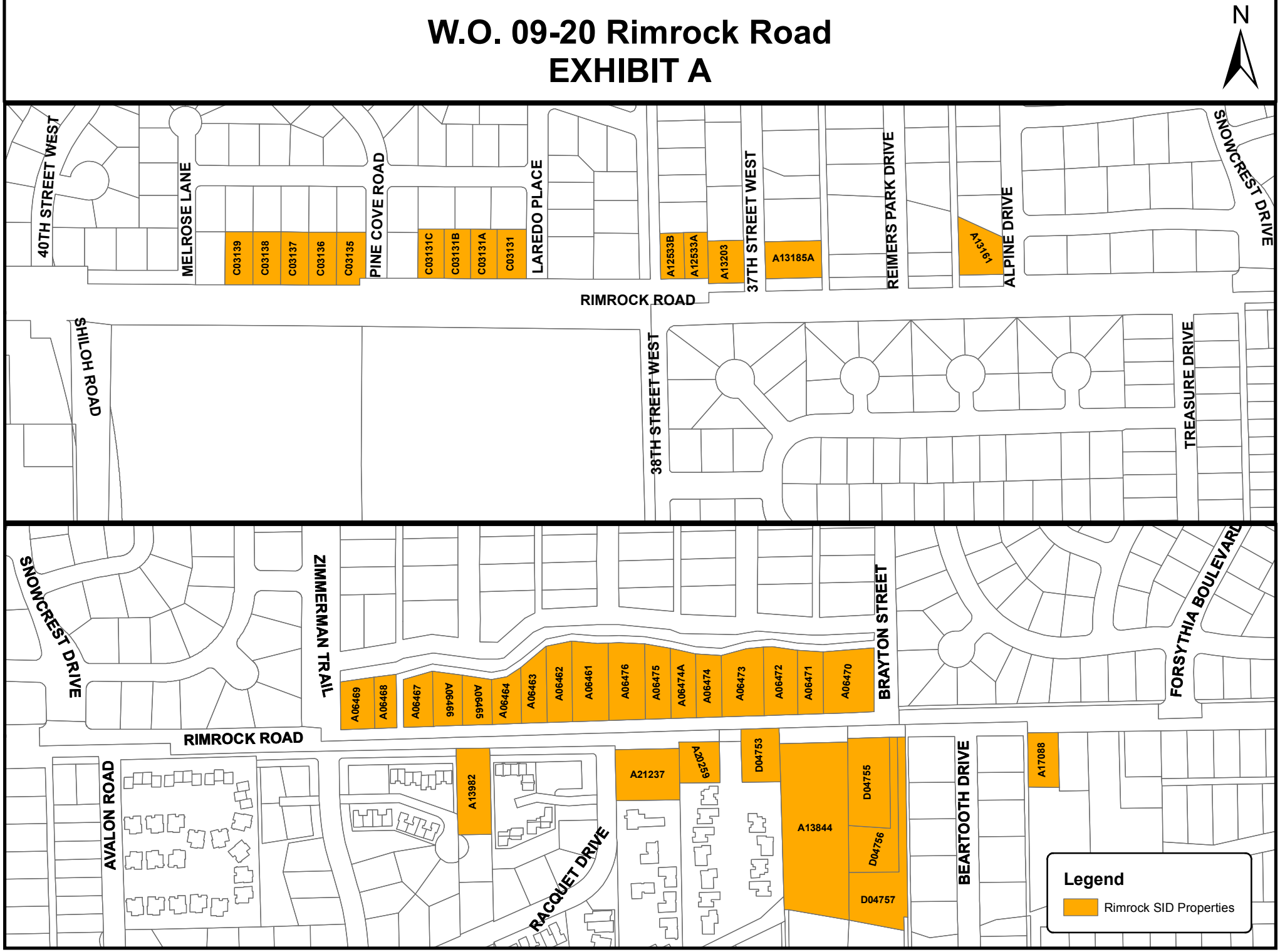


Exhibit B

W.O. 09-20 Rimrock Road - Forsythia to Shiloh

Parcel No.	Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	WO 09-20-Assessment (C)	A + B + C	Market Value
1	A06461				$ 1,773.73	$ 1,773.73	$ 92,186.00
2	A06462				$ 3,919.24	$ 3,919.24	$ 108,068.00
3	A06463				$ 3,704.25	$ 3,704.25	$ 108,778.00
4	A06464				$ 4,264.13	$ 4,264.13	$ 95,210.00
5	A06465				$ 4,299.96	$ 4,299.96	$ 89,012.00
6	A06466				$ 4,335.81	$ 4,335.81	$ 88,342.00
7	A06467				$ 4,120.81	$ 4,120.81	$ 74,042.00
8	A06468				$ 4,001.34	$ 4,001.34	$ 105,682.00
9	A06469				$ 4,514.97	$ 4,514.97	$ 97,374.00
10	A06470				$ 5,831.85	$ 5,831.85	$ 123,163.00
11	A06471				$ 3,704.25	$ 3,704.25	$ 75,013.00
12	A06472				$ 6,781.41	$ 6,781.41	$ 97,262.00
13	A06473				$ 5,692.96	$ 5,692.96	$ 121,900.00
14	A06474				$ 3,847.58	$ 3,847.58	$ 73,765.00
15	A06474A				$ 3,704.25	$ 3,704.25	$ 78,187.00
16	A06475				$ 3,990.91	$ 3,990.91	$ 101,164.00
17	A06476				$ 1,592.33	$ 1,592.33	$ 87,199.00
18	A12533A				$ 3,349.27	$ 3,349.27	$ 119,365.00
19	A12533B				$ 2,811.77	$ 2,811.77	$ 125,916.00
20	A13161	2508	$ 5,338.47		$ 6,210.30	$ 11,548.77	$ 119,905.00
21	A13185A				$ 6,664.96	$ 6,664.96	$ 190,561.00
22	A13203				$ 6,510.88	$ 6,510.88	$ 98,663.00
23	A13844				$ 6,457.50	$ 6,457.50	$ 126,182.00
24	A13982				$ 4,601.52	$ 4,601.52	$ 88,131.00
25	A17088				$ 1,572.17	$ 1,572.17	$ 71,126.00
26	A20259				$ 6,158.81	$ 6,158.81	$ 69,097.00
27	A21237				$ 3,188.47	$ 3,188.47	$ 190,866.00
28	C03131				$ 4,084.53	$ 4,084.53	$ 133,511.00
29	C03131A				$ 3,751.27	$ 3,751.27	$ 80,958.00
30	C03131B				$ 3,751.27	$ 3,751.27	$ 88,014.00
31	C03131C				$ 3,719.61	$ 3,719.61	$ 88,189.00
32	C03135				$ 3,457.45	$ 3,457.45	$ 91,796.00
33	C03136				$ 3,864.15	$ 3,864.15	$ 103,576.00
34	C03137				$ 3,864.15	$ 3,864.15	$ 89,754.00
35	C03138				$ 3,882.07	$ 3,882.07	$ 86,954.00
36	C03139				$ 3,882.07	$ 3,882.07	$ 79,282.00
37	D04753				$ 5,115.98	$ 5,115.98	$ 77,948.00
38	D04755				$ 4,733.37	$ 4,733.37	$ 109,413.00
39	D04756				$ 593.94	$ 593.94	$ 73,182.00
40	D04757				$ 694.71	$ 694.71	$ 77,740.00
	Average				$ 4,075.00		$ 99,911.90
	Median				$ 3,900.66		$ 91,991.00
	Low				$ 593.94		$ 69,097.00
	High				$ 6,781.41		$ 190,866.00

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Public Hearing & Resolution for Weed Assessments
PRESENTED BY: Patrick M. Weber, Finance Director
Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The annual weed assessments have been completed by the Finance Department and are ready to be spread on the tax rolls per the attached resolution.

Pursuant to BMCC 25-304, property owners are notified in writing and given seven (7) days from the date of the notice of noncompliance to exterminate or remove weeds or tall grass from their properties. If owners fail to cut the vegetation, the City may cut it and assess the costs to the real property, together with an additional administrative cost of 25% of the cost of removal and a $25 penalty. If the charges are not paid within a given time, the costs and penalties constitute a lien on the property and special assessments may be levied. The General Fund initially pays the costs, so the collected assessments reimburse those expenses.

The attached list of properties had weeds removed from them during the growing season, the owners didn't pay the charges and the properties may be assessed to recover the costs, penalty and fee.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the weed removal.

FINANCIAL IMPACT

The assessments total $1,242.50 and the payments will reimburse the General Fund.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution Weeds

RESOLUTION NO. 13 _____

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF CUTTING AND/OR EXTERMINATING WEEDS.

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. All monies collected from taxes shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. On **Monday , February 25th , 2013,** at 6:30 o'clock 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 City Council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on February 7th and February 14th, 2013 in the Billings Times.

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

ADOPTED and APPROVED by the City Council on the **25th** day of **February, 2013**

CITY OF BILLINGS:

BY:_____
Thomas W. Hanel, MAYOR

ATTEST:

BY:_____
Cari Martin, CITY CLERK

Property Owner	Address	Tax ID#	Balance Due
Don Bosco Louis	1732 Avenue D	A09773	$ 121.25
Barron Parks	3914 Pine Cove Road	C03145E	$ 177.50
Marilyn Carter Eggleston	616 Terry Ave.	A19043	$ 233.75
Brooks & Angelica Johnson	3142 Boulder Av.	A18653	$ 177.50
Concha Clark	407 S. 34th St	A01446	$ 121.25
Dugan Kanta	5406 Castle Stone Ave.	A32983	$ 233.75
MT Board of Housing	4015 2 Ave S.	A08944	$ 177.50

Total Assessed 1,242.50

Regular **5.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Public Hearing and Resolution for Abatement Assessments
PRESENTED BY: Patrick M. Weber Finance Director
Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The emergency abatement assessment resolution has been completed by the Finance Department and is ready to be spread on the tax rolls. The following are the two properties which have abatement fees assessed:

23 Rhea Lane $ 872.14 Court ordered abatement signed by Judge on August 9th, 2012 , complaint originated on March 8th, 2012. Violations included open storage of junk & debris and off-street parking of an inoperable vehicle.

1250 Princeton Ave. $ 9,231.40 Court ordered abatement signed by Judge on June 6th, 2012, complaint originated on October 6th, 2011. Violations included open storage of junk & debris and a dangerous structure.

Emergency Abatement - Pursuant to BMCC 18-306, Whenever a public nuisance exists which constitutes an emergency presenting imminent danger of serious injury to persons or property. Nonpayment of fees associated with the emergency abatement shall constitute a lien on the non complying real property and will be taxed as a special assessment against the real property.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the abatement.

FINANCIAL IMPACT

The assessments total $10,103.54 and the payments will reimburse the General Fund.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution Abatement

RESOLUTION NO. 13 _____

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF ABATEMENT OF DANGEROUS BUILDINGS.

WHEREAS, Billings, Montana City Code, Section 18-301, et seq. sets forth the procedures to be followed (a) to designate property within the City of Billings as a nuisance, and (b) to abate such a nuisance when it constitutes an emergency.

WHEREAS, Section 18-308 provides that the property owner will be sent an abatement expense report for the subject property and will be given notice that any assessment that is not paid shall become a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes. The owner of the property described on Exhibit A has been sent an assessment notice for abatement expenses incurred pursuant to Section 18-301, et seq., but the property owner has not reimbursed the City for its expenses set forth in the report or any part thereof. Further, City policy dictates that the City Clerk shall prepare and present a Resolution containing a list of the properties to be assessed, the recorded owners, and the amount of the cost for abatement and demolition.

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

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of abatement and demolition of dangerous structures, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. Pursuant to Section 18-308(7)(g) BMCC, monies collected from taxes shall be paid into a special abatement fund established to account for costs, collections, and transactions necessary to the efficient operation of the Nuisance Abatement program. Assessment funds collected will be returned to the designated abatement account for future use on other involuntary property abatements or for transfer back to the city general fund.

4. NOTICE OF HEARING. On Monday, **February 25, 2013,** at 6:30 o'clock 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 City

Council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on February 7th, and February 14th 2013 in the Billings Times.

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

ADOPTED and APPROVED by the City Council on the **25th** day of **February, 2013.**

CITY OF BILLINGS:

BY:_____
Thomas W. Hanel, MAYOR

ATTEST:

BY:_____
Cari Martin, CITY CLERK

Exhibit A

Last Name	First Name	Address	Tax Code	Assessed Amount
Hert	Timothy	23 Rhea Lane	A05526	$ 872.14
Legal Description:		COOP TRACTS, S08, T01 S, R26 E, Lot 6		
Rookhuizen	William	1250 Princeton Ave.	A05281	$ 9,231.40
Legal Description:		COLLEGE SUBD 2ND FILING, S31, T01 N, R26 E, BLOCK 8, Lot 25 - 27		

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Public Hearing & First Reading for Amendments to Forfeiture of Office Ordinance, Section 2-207, BMCC

PRESENTED BY: Brent Brooks

Department: Legal

Information

PROBLEM/ISSUE STATEMENT

Pursuant to a Council Initiative by former Council Member Shoots Veis, the staff prepared and Council reviewed and considered amendments to City Code Section 2-207 on forfeiture of office. Amendments to this ordinance were most recently presented to the City Council during the January 22, 2013, work session. At that time, the Council directed staff to proceed with the proposed amendments and schedule a First Reading and Public Hearing. The attached draft amendments are based primarily on MCA sections 7-4-4111 and 2-16-501 which provide directions in situations when a vacancy in an elected municipal office occurs for a variety of reasons.

ALTERNATIVES ANALYZED

Retaining the current Forfeiture of Office ordinance in its present form has been considered by this and previous City Councils, however, the Council has determined that the current version does not provide for how to proceed when a council member is physically unable to discharge the duties as a council member. The proposed amendments include such a contingency in section 2-207(2). The City Council may: Approve or Disapprove the amendments on First Reading. If the amendments are approved then a Second Reading will be scheduled for the next Regular City Council meeting. If the amendments are disapproved there will be no Second Reading and the current version of this ordinance will remain in effect.

FINANCIAL IMPACT

There is no financial impact in amending the current version of the ordinance.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the attached proposed amendments to Section 2-207, BMCC, on First Reading.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance

ORDINANCE NO. 13-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 2-207; PROVIDING THAT THE OFFICE OF MAYOR OR COUNCILMEMBER SHALL BE FORFEITED UNDER CERTAIN CIRCUMSTANCES.

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

Section 1. That the Billings, Montana City Code be amended by changing Section 2-207 to read as follows:

"**Sec. 2-207. Forfeiture of Office.**

(a) The office of mayor and the office of city councilmember are forfeited and become vacant for lack of qualification for that office pursuant to Section 3.09(B)(1) of the city Charter, together with applicable state law, upon the occurrence of any of the following events prior to the expiration of the term of the incumbent:

(1) the death of the incumbent;

(2) the incumbent's inability to fulfill the duties of the office as a result of a physical illness or mental disorder. A determination of whether the incumbent has a mental disorder shall be made pursuant to Montana Code Annotated, Title 53, chapter 21, part 1;

~~(2)~~ (3) the incumbent's resignation;

(4) the incumbent's removal from office;

(5) the incumbent's open neglect or refusal to discharge duties;

~~(4)~~(6) the incumbent's ceasing to be a resident of the city or, in the case of a city councilmember, ceasing to be a resident of the city councilmember's ward; ~~or~~

(7) the incumbent's ceasing to discharge the duty of office for a period of three (3) consecutive months for any reason without the consent of the council;

~~(3)~~(8) the incumbent's conviction of a felony or of any offense involving moral turpitude or a violation of official duties;

(9)If required to do so by law, the incumbent's refusal or neglect to file an official bond within the time prescribed;

~~(5)~~(10) the decision of a competent tribunal declaring void the incumbent's election or appointment.

(b) Upon forfeiture of office, the vacancy shall be filled as set out in Section 3.09 of the city Charter."

Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 3. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

PASSED by the City Council on first reading this 25th day of February 2013.

PASSED, ADOPTED and APPROVED on second reading this 11th day of March 2013.

CITY OF BILLINGS

By_____
Thomas W. Hanel, Mayor

ATTEST:

By_____
Cari Martin, City Clerk

Regular City Council Meeting

Meeting Date: 02/25/2013

TITLE: Public Hearing and Ordinance Amending the City of Billings Election Ward Boundaries

PRESENTED BY: Bruce McCandless, Asst. City Administrator

Department: City Hall Administration

Information

PROBLEM/ISSUE STATEMENT

The City Council will consider adopting an ordinance that establishes new boundaries for the five (5) election wards. The 2010 Census is the catalyst for redrawing boundaries. The City's 2010 population was 104,170. Since the City has five (5) wards, the ideal population for each ward is approximately 20,830. The Census shows that one ward has almost 25,000 people while another one has less than 18,000. This represents a 33% population deviation from the ideal population; 19% high and 14% low. The accepted standard is a deviation of no greater than 10%. The City Council received two reports on redrawing ward boundaries and assigned a subcommittee to work with staff to produce one or more maps that are acceptable to Council. Attached are the current ward boundaries with 2010 population and the proposed new wards and their population.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the recommended "Plan E"
- Direct staff to modify "Plan E" and reconsider that map at the March 11 meeting
- Approve any of the other plans that were discussed during two January work sessions
- Not approve any plan and direct staff to redraw boundaries in 2014. The impact of this action is discussed below.

FINANCIAL IMPACT

There is no direct financial impact to the City other than the staff time that has been spent on preparing maps and discussing the changes with Council. If the Council fails to adopt a plan prior to the 2013 municipal election or adopts a plan that does not meet the primary criteria for redrawing election boundaries, the decision could be challenged and additional resources would be committed to defending its decisions.

BACKGROUND

Article 3 of the City of Billings Charter requires election wards, ten (10) Councilmembers and that two (2) Councilmembers must represent each ward. Chapter 11 of the City Code requires that ward boundaries be described in an ordinance and shown on a map. State Code Section 7-5-4401 requires that cities of the first class have between 4 and 10 wards and that the population in each will be as equal as possible. The US and Montana Constitutions, state and federal statutes and multiple court cases require that voters have equal voting strength and representation within their elected governing bodies. These laws and court rulings establish the "one person - one vote" principal. In jurisdictions that have more than one election district, equal voting power and representation are accomplished by equalizing the population among all

of the election divisions.

The 2010 Census is the catalyst for redrawing the ward boundaries. The City's 2010 population was 104,170. Since the City has five (5) wards, the ideal population for each ward is approximately 20,835. The Census shows that one ward has almost 25,000 people while another one has less than 18,000. This represents a 33% population deviation from the ideal population; 19% high and 14% low. The accepted standard is 10% deviation. In order to comply with Federal and State law, the City must as nearly as possible equalize the population in each election ward.

The City Council has two schedule choices on when to redraw the boundaries. The soonest it could occur is in the spring, 2013 but it could also be delayed to 2014. The last citywide ward boundary change was made in 2005, just before the city election. The boundaries were actually redrawn and adopted in 2004 but the ACLU challenged the City's plan because it had a 16% population deviation. The City and ACLU resolved the dispute when the City adopted a new plan that had a population deviation of less than 10%. The advantages of delaying drawing new boundaries are that more plans could be drafted and considered, there would be more time for public input on the plans and candidates for City Council would have more time to decide whether to run, especially if new ward boundaries place them in a ward that is different than the one in which they previously resided. The advantages of redrawing the boundaries in 2013 are that the technology allows relatively quick map-making and adjustments to them, the City Council knows that its wards have large population imbalances and redrawing boundaries can be accomplished before the 2013 municipal election filing date of April 29, 2013. In addition, the earlier adoption is more likely to deter legal challenges based on the "one person - one vote" principal. After discussing the two options, Council directed staff to proceed with plans to adopt new ward boundaries in 2013.

The Council heard two staff presentations on this topic in January, 2013. After the first presentation, the Council created a subcommittee of Councilmembers to work with staff to create one or more options for new ward boundaries. At the second presentation, staff reported that the subcommittee selected "Plan E" as its preferred ward map. The plan creates more compact Wards 3 and 5 while retaining the basic shape and representation in Ward 4. Since the 1980s, most of the Heights has been in Ward 2. Over the past ten years, the Ward 2 population grew faster than other parts of the city, so a substantial boundary shift is needed in order to reduce its population. In "Plan E", residents who live south of Hilltop Road and east of Senators Blvd would move from Ward 2 to Ward 1. Ward 1 had a nearly perfect population count in 2010, but it is the only ward that has a common boundary with Ward 2. Shifting some of the Heights population to Ward 1 forces its boundary to shrink in the south and southwest areas. Most of that area is assumed by the new Ward 3.

Redrawing election boundaries has a judicially approved set of mandatory and a set of discretionary criteria. From the outset, staff focused its efforts on maps/plans that meet the mandatory criteria, such as equalized population and contiguous and compact shapes. The most common discretionary criteria are to use geographic or topographical features as boundaries and borders that use existing political unit boundaries. A more rarely implemented, but allowed discretionary criterion, is to establish boundaries that do not adversely impact incumbent elected officials. The Billings City Charter requires that Councilmembers reside in the wards that they represent. If a new ward boundary plan was adopted that placed an incumbent in a different ward from the one that elected him/her, that Councilmember would immediately forfeit his/her seat because s/he would no longer reside in the ward that elected him/her. "Plan E" does not displace any of the incumbent Councilmembers.

If the City Council adopts the Ordinance establishing new ward boundaries, State law requires that within 10 days the City must submit a map and a legal description of the new boundaries to the Election Administrator. In a meeting in early February, the Election Administrator stated that he is less concerned than previously about entering all of the new ward data when he works with the election software program. If the State Districting and Apportionment Commission adopts the final statewide plan on February 12 and there are no substantive judicial challenges to the plan, the Election Administrator will be able to use the new City ward map along with the Legislative boundary map to set new State election precincts and enter all of the data simultaneously. The new boundaries will be effective 30 days after 2nd reading adoption of the Ordinance, which will be a few days prior to the earliest date to file for a City Council seat.

STAKEHOLDERS

Stakeholders include all registered voters within the City of Billings. The Council offers opportunities for public input at its work sessions and one person testified at the second work session. Because the wards boundaries are adopted by ordinance, there will be a public hearing at first reading.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and adopt the ward boundary ordinance with the approved map exhibit.

APPROVED BY CITY ADMINISTRATOR

Attachments

Present wards and population

Ordinance

Plan E map

City of Billings
Yellowstone County, Montana
Election Wards

Election Ward boundaries based on City Limits
as updated by Yellowstone County GIS.
Current as of November 2012

ANGELA CIMMINO
24,845

DENIS PITMAN

ED ULLEDALEN
21,109

TOM HANEL

JANI MCCALL

BRENT CROMLEY

RICH MCFADDEN
19,745

JIM RONQUILLO

MARK ASTLE
20,468

BECKY BIRD
17,795

KEN CROUCH

MAYOR	TOM HANEL 1723 IRIS LANE BILLINGS MT 59102 OFFICE: 657-8296 HOME: 651-4411		MAYOR AND CITY COUNCIL FAX: 657-8390 WEBSITE: http://ci.billings.mt.us
WARD I	JIM RONQUILLO 820 S 28TH ST BILLINGS, MT 59101 HOME: 252-5353	AND	BRENT CROMLEY PO BOX 2545 BILLINGS, MT 59103 HOME: 252-3512
WARD II	DENIS PITMAN 726 AQUARIUS PL BILLINGS MT 59105 HOME: 254-0166 OR 259-5919	AND	ANGELA CIMMINO PO BOX 50928 BILLINGS MT 59105 CELL: 698-9763
WARD III	RICH MCFADDEN PO BOX 21813 BILLINGS MT 59104 HOME: 254-2144	AND	BECKY BIRD 117 ARDMORE DR BILLINGS, MT 59102 HOME: 534-2523
WARD IV	ED ULLEDALEN 4515 LOMA VISTA BILLINGS, MT 59106 HOME: 860-6034	AND	JANI MCCALL 2331 SPRUCE ST BILLINGS, MT 59102 HOME: 245-4374
WARD V	MARK ASTLE 2009 GORHAM PARK DR BILLINGS, MT 59102 HOME: 652-4492 OR 245-5576	AND	KEN CROUCH 3440 GRANGER AVE S #41 BILLINGS, MT 59102 HOME: 534-2616

Map Document: (\\it-gis1\gis\Maps\Elections\Redistricting\Redistricing2013.mxd)
11/28/2012

Wards 2010 Population

Election Wards

N

- Ward I
- Ward II
- Ward III
- Ward IV
- Ward V
- Council Members
- Billings City Limits

ORDINANCE NO. 13 -____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 11-102; CHANGING WARD DISTRICT BOUNDARIES TO REFLECT NEW CENSUS INFORMATION

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

Billings Montana City Code, Section 11-102, is hereby amended as follows:

Sec. 11-102. Ward boundaries.

(a) Pursuant to MCA 7-5-4401 and the Billings City Charter, the boundaries of the five (5) city wards are hereby changed and established. The wards are described by a map attached hereto as Exhibit "A" that shall be kept on file in the clerk's office.

(b) As the city boundaries change the ward boundaries will be changed by an ordinance amending this section and the city ward boundaries as established herein. Such change shall be certified to the election administrator as required by MCA 13-3-103(1) not more than ten (10) days after the change. The city ward boundaries will be changed to conform to MCA 7-5-4401 and other provisions of law as required by law. The map herein referred to as Exhibit “A”, sufficiently detailed to clearly identify the wards or districts and the territory included in each, shall be kept on file in the clerk's office.

PASSED by the City Council on this _____ day of _____, 2013.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

City of Billings
DRAFT Ward Boundaries Plan E

Revision of Plan C2 to Make Wards More Compact and Keeps Council Members Within Current Wards

Numbers shown within ward boundaries are the population count for each ward for the displayed option. Deviations shown are from the target number of 20,800.

Ward	Poptotal	Deviation	Pct Deviation
W1	20,898	98	0.47
W2	20,953	153	0.74
W3	21,275	475	2.28
W4	20,649	-151	-0.73
W5	20,487	-313	-1.5

20953
20649
20898
21,275
20487

ANGELA CIMMINO
DENIS PITMAN
ED ULLEDALEN
TOM HANEL
JANI MCCALL
BRENT CROMLEY
MARK ASTLE
RICH MCFADDEN
BECKY BIRD
JIM RONQUILLO
KEN CROUCH

Ward District
- W1
- W2
- W3
- W4
- W5

Council Members
Ward
- 1
- 2
- 3
- 4
- 5
- Mayor

- Commission Plan - Tentative
- Billings City Limits
- Yellowstone County

N

Scale in Miles
0 0.5 1 2

Map Document: (\\lt-gis1\gis\Maps\Elections\Redistricting\WardRedistrictingPlanE_DRAFT1.mxd) 1/9/2013

Consent **8. A.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Rose Park Pool Improvements - Additional Funding Request
PRESENTED BY: Mike Whitaker
Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

The Rose Park Pool Improvements project was funded as part of the Park District #1 in June of 2012. A contract for this project was awarded by council at the January 28th Council Meeting for $270,000. This contract will replace the existing water slides with new reconfigured ones. The Additive Alternate #1 to the contract identifies the cost to add an additional 31 foot high water speed slide for $87,650. Billings Parks and Recreation Department has identified $60,000.00 from Park District #1 budget through cost savings that will pay for part of the additional slide cost. Staff is requesting to borrow from the Council Contingency Fund $27,650 to fully fund the Additive Alternate #1. This funding from the Council Contingency Fund will be paid back over the next 2 years through revenue generated from admission sales to the slide facility. The Additive Alternate #1 has a March 15, 2013 deadline for accepatance in order for the slide components to be manufactured and installed by the May 28, 2013 substantial completion date as outlined in the contract and for the opening of the 2013 swimming season.

ALTERNATIVES ANALYZED

The Council may:

1. Approve the appropriation of $27,650 from the Council Contingency Fund to exercise Additive Alternate #1 to contract an additional 31 foot high speed slide, or,
2. Not approve the funding request and provide guidance to staff.

FINANCIAL IMPACT

Funds to repay the $27,650 to the Council Contingency Fund will be generated by slide admissions over the next 2 years. There will be no long term financial impact.

RECOMMENDATION

Staff recommends Council approve $27,650 from the Council Contingency Fund to complete funding for Additive Alternate #1 to construct a 31 foot high speed slide as part of the Rose Park Pool improvements project.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

Attachment A **RESOLUTION NUMBER 13-_____**

A RESOLUTION OF THE BILLINGS, MONTANA, CITY COUNCIL, AUTHORIZING THE USE OF UP TO $27,650.00 FROM FY 2013 CITY COUNCIL CONTINGENCY FUNDS FOR THE CONSTRUCTION OF A 31 FOOT HIGH SPEED SLIDE FOR THE ROSE PARK POOL IMPROVEMENTS PROJECT

WHEREAS, the Rose Park Pool Improvements project was funded by Council as part of the Park District #1 in Fiscal Year 2013 Budget.

WHEREAS, a contract for this project was awarded by Council at the January 28th Council meeting for $270,000.00 to replace the existing water slides with new slides.

WHEREAS, this contract contains an Additive Alternate #1 to add an additional 31 foot high water speed slide for $87,650.00 to be exercised on or before March 15, 2013.

WHEREAS, Parks, Recreation and Public Lands (PRPL) seeks to exercise Additive Alternate #1 to provide an additional amenity to the Rose Park Pool attractions and thereby generate additional revenues.

WHEREAS, PRPL has generated $60,000.00 of the required funding through Park District #1 cost savings.

WHEREAS, PRPL seeks $27,650.00 from the Council Contingency Fund to fully fund Additive Alternative #1 with funds generated from slide admissions used to reimburse the Council Contingency Fund over the next 2 years.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, to authorize the expenditure of $27,650.00 from the Council Contingency Fund (Account 010-1110-411.79-70) to fully fund Additive Alternate #1 to construct a 31 foot high speed slide.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, this 25th day of February, 2013.

CITY OF BILLINGS

By:_____
Thomas W. Hanel Mayor

ATTEST:

By:_____
Cari Martin City Clerk

Consent **8. B.**

Regular City Council Meeting
Meeting Date: 02/25/2013
TITLE: Rose Park Pool Improvements - Change Order #1
PRESENTED BY: Mike Whitaker
Department: Parks/Rec/Public Lands

Information

PROBLEM/ISSUE STATEMENT

The Rose Park Pool Improvements project contract was approved by Council at the January 28th meeting for $270,000 to replace the existing water slides at the Rose Park Pool Facility. Additive Alternate #1 provides for the construction and installation of an additional 31 foot speed slide. The cost for Additive Alternate #1 is $87,650. This cost will be covered with $60,000 from park District #1 cost savings and $27,650 from Council Contingency to be paid back over the next 2 years through revenue generated from slide admissions. See Resolution Attachment A. Change Order #1 is a directive to the contractor to construct Additive Alternate #1. See Attachment B.

ALTERNATIVES ANALYZED

The Council May:

- Approve Rose Park Pool Improvements Change Order #1 for $87,650; or,
- Not approve Change Order #1 and provide guidance to staff.

FINANCIAL IMPACT

Funding for Change Order #1 will come from:

- $60,000 from Park District #1 cost savings
- $27,650 from Council Contingency Fund to be repaid in 2 years through revenue generated from admissions to the slide facility.

RECOMMENDATION

Staff recommends Council approve Change Order #1 for $87,650 to fund the Additive Alternate #1 to construct a 31 foot high speed slide.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution
Change Order #1 Attachment B

Attachment A **RESOLUTION NUMBER 13-_____**

A RESOLUTION OF THE BILLINGS, MONTANA, CITY COUNCIL, AUTHORIZING THE USE OF UP TO $27,650.00 FROM FY 2013 CITY COUNCIL CONTINGENCY FUNDS FOR THE CONSTRUCTION OF A 31 FOOT HIGH SPEED SLIDE FOR THE ROSE PARK POOL IMPROVEMENTS PROJECT

WHEREAS, the Rose Park Pool Improvements project was funded by Council as part of the Park District #1 in Fiscal Year 2013 Budget.

WHEREAS, a contract for this project was awarded by Council at the January 28th Council meeting for $270,000.00 to replace the existing water slides with new slides.

WHEREAS, this contract contains an Additive Alternate #1 to add an additional 31 foot high water speed slide for $87,650.00 to be exercised on or before March 15, 2013.

WHEREAS, Parks, Recreation and Public Lands (PRPL) seeks to exercise Additive Alternate #1 to provide an additional amenity to the Rose Park Pool attractions and thereby generate additional revenues.

WHEREAS, PRPL has generated $60,000.00 of the required funding through Park District #1 cost savings.

WHEREAS, PRPL seeks $27,650.00 from the Council Contingency Fund to fully fund Additive Alternative #1 with funds generated from slide admissions used to reimburse the Council Contingency Fund over the next 2 years.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, to authorize the expenditure of $27,650.00 from the Council Contingency Fund (Account 010-1110-411.79-70) to fully fund Additive Alternate #1 to construct a 31 foot high speed slide.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, this 25th day of February, 2013.

CITY OF BILLINGS

By:_____
Thomas W. Hanel Mayor

ATTEST:

By:_____
Cari Martin City Clerk

CHANGE ORDER

No. One (1)

PROJECT: **Rose Park Pool Improvements** **DATE OF ISSUANCE:** **August 13, 2012**

OWNER: (Name & Address) City of Billings, 390 North 23rd Street, Billings, MT 59101 **OWNER'S PROJECT NO.**

CONTRACTOR: **High Tech Construction, Inc.**, 1201 4th Ave. North, Billings, MT 59101 **Engineer:** Interstate Engineering **Engineer's Project No.**

CONTRACT FOR: Construction of new water slides at Rose Park

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

Purpose of Change Order: To construct and install an additional 31 foot high speed slid including associated tower extension, electrical concrete and site work as set forth in the contract documents by accepting Additive Alternates #1 as follows:

- Additive Alternate 1 – Construct Speed Slide $87,650.00

Attachments: None

CHANGE IN CONTRACT PRICE:

Original Contract Price

$ 270,000.00

Previous Change Orders No. __

$ 0

Contract Price prior to this Change Order

$ 270,000.00

Net Increase of this Change Order

$ 87,650.00

CHANGE IN CONTRACT TIME:

Original Contract Time:

Completion by May 28, 2013
days or date

Net Change from previous Change Orders:

None
days

Contract Time prior to this Change Order:

Completion by May 28, 2013
days or date

Net Increase (decrease) of this Change Order:

None
Days

Contract Price with approved Change Order	Contract Time with approved Change Order
$ 357,650.00	Completion by May 28, 2013 days or date

RECOMMENDED:

By _____
Engineer

APPROVED:

By _____
Owner

APPROVED:

By _____
Contractor