

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

“THE MAGIC CITY: A DIVERSE, WELCOMING COMMUNITY WHERE PEOPLE PROSPER AND BUSINESS SUCCEEDS.”

AGENDA

COUNCIL CHAMBERS

February 9, 2015

6:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Pitman

ROLL CALL: Councilmembers present on roll call were:

MINUTES:

- January 12, 2015
- January 26, 2015

COURTESIES:

PROCLAMATIONS:

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 & #5 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. **Aerial Platform Truck for Fire Department.** (Opened 1/13/2015)(Delayed from 1/26/2015) Recommend Pierce Manufacturing; \$916,487.
 2. **Chlorine for Water Treatment Facility and Parks Department.** (Opened 1/27/2015) Recommend DPC Industries, Inc.; \$773 per one-ton cylinder; \$193.50 per 150-lb. cylinder.
 3. **W.O. 14-15, Bench Boulevard North Sanitary Sewer Extensions.** (Opened 1/27/2015) Recommend Western Municipal Construction, \$398,798.
 4. **W.O. 15-03, City Overlay.** (Opened 1/27/2015) Recommend Knife River, \$1,041,812.90.
 5. **Storm Water Pond Area and Car Rental Transfer Lot Fencing Project.** (Opened 1/27/2015) Recommend Mild Fence, \$46,733.50.
- B. W.O. 13-15, Calhoun Road Improvements Right-of-Way Easements** with Gale and Carolyn Rukstad; Eugene and Constance Frank; Lola Berlinsky; Carlin and Jackie Anderson; and Ralph Kottke and Tammy Kottke-Chartier.
- C. Acceptance of Donation** to Billings Public Library from Billings Public Library Foundation, \$600.
- D. Resolution** authorizing filing of grant application with Montana Department of Transportation for funding of two paratransit vans and two bus shelters; \$134,080.
- E. Second/Final Reading Ordinance for Zone Change #929:** A zone change from Agriculture Open-Space to Planned Development with an underlying zoning of Community Commercial with special provisions for medical services, complementary uses, and residential development on an un-platted, 80-acre parcel of land located on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road. Billings Clinic, owner; Sanderson Stewart, agent. Approval of the zone change and adoption of the 10 criteria.
- F. Second/Final Reading Ordinance for Zone Change #930:** A text amendment to BMCC Section 27-306 allowing dog grooming in Neighborhood Commercial zoning districts and prohibiting outdoor kennels or exercise areas associated with dog grooming. Zoning Commission recommends approval.
- G. Preliminary Plat Two-Year Extension** for High Sierra Subdivision, 6th Filing; generally located north of Annandale Road and east of Greenbriar Road in the Lake Hills area; setting a new expiration date of February 9, 2017.
- H. Bills and Payroll:**

1. January 20, 2015

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION** creating SILMD 314, portions of Calhoun Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

3. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward I to include recently-annexed property in Annexations #14-06, #14-07, #14-08, #14-09, #14-10, #14-11, and #14-12: Approximately 18 acres, including road rights-of-way, in the area of East Billings between the East Billings Urban Renewal District and MetraPark. Service Candy Company; Bollinger Trust; Peter Yegen, Jr. Family Trust; Converse Properties, LLC; Cherry Properties, LLC; Earl L. Keenan, Jr. et al; and Industrial Land and Realty, LLC, owners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

4. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently-annexed property in Annexation #14-14: An unplatted, 80-acre parcel of land generally located on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road. Billings Clinic, owner and petitioner; Sanderson Stewart, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

5. **RESOLUTION** allocating \$15,000 of Council Contingency Funds for the Optimist Park Master Plan; bringing the total City Council contribution for the plan to \$25,000. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the council chambers or at the podium.)

COUNCIL INITIATIVES

ADJOURN

Additional information on any of these items is available in the City Clerk's Office.

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.



Regular City Council Meeting

Meeting Date: 02/09/2015
TITLE: Bid Award - Fire Aerial Platform Truck
PRESENTED BY: Paul Dextras, Fire Chief
Department: Fire

PROBLEM/ISSUE STATEMENT

The existing 1997 Sutphen aerial truck is scheduled for replacement in FY2015. A call for sealed bids was announced in December, 2014 and the bid opening was held January 13, 2015. A total of five bids were received. Vendors submitting bids were: E-One, Smeal, Ferrara, Pierce and Sutphen. Bidders were allowed to bid new or display/demonstration models. Smeal withdrew their bid the day after bid opening because the truck proposed by Smeal was sold.

ALTERNATIVES ANALYZED

Pierce Manufacturing is the recommended bidder for their base bid of \$970,426 and accepted discounts for chassis pre-payment (-\$6,208); payment at time of completion (-\$11,675); and 100 pre-payment (-\$25,552). The Fire Department declines the factory inspection trips which reduces the cost by an additional \$5,400. Staff also recommends accepting Alternative #1 -diagnostic hardware/software -engine \$3,814. Alternative #2 diagnostic hardware/software transmission +\$1,808; and since Option #1 and #2 are selected, a deduction of -\$914. Also recommended are Alternatives #3 diagnostic hardware/software chassis and Alternative #4 Certification training engine & pump because the cost of these alternatives is included in the base price of the truck. The total net price is \$916,487.

The other bidder prices as follows: E-One \$946,058, Ferrara \$982,550, Sutphen \$908,882 (non-qualified bid)

FINANCIAL IMPACT

The Equipment Replacement Plan includes this replacement at an estimated cost of \$918,000. The recommended net price of \$916,487 is within the approved budget amount.

RECOMMENDATION

Based upon review of proposed bids received and related discounts, staff recommends awarding the bid to Pierce Manufacturing, Appleton, WI for a total net bid award of \$916,487.00, which includes the offered discounts and Alternatives 1 through 4.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Water Treatment Plant Bid Award for Chemicals - Chlorine

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

The Public Works Water Treatment Facility uses chlorine to disinfect the City's public water supply. Lesser amounts of chlorine are used by the Department of Parks, Recreation and Public Lands (PRPL). Both users are supplied under one contract. The current contract for this chemical expires on February 13, 2015 so staff requested bids for a new contract. The contract will be for one year with the possibility of two, one-year extensions if prices for chlorine remain agreeable to the City and the Contractor.

ALTERNATIVES ANALYZED

City Council may:

- Approve the bid for the chlorine from DPC Industries, Inc. in the amount of \$773.00/1-ton cylinder and \$193.50/150-lb cylinder; or,
- Disapprove all bids and not award the purchase of the chlorine. If the Council rejects this bid, chlorine will have to be purchased at market prices multiple times per month as chlorine cylinders need to be replaced.

FINANCIAL IMPACT

Adequate funding for this agreement is available in the Water Operations and Maintenance Account and in the PRPL budget. Bids were received on January 27, 2015. One supplier responded to the request for bid. The bidding result is as follows:

Supplier	Unit Bid (\$/1-ton cylinder)	Unit Bid (\$/150-lb cylinder)
DPC Industries, Inc.	\$773.00	\$193.50

Assuming (100) one-ton cylinders and (60) 150-lb cylinders per year, the total expense for chlorine would be \$88,910.00,

RECOMMENDATION

Staff recommends that Council accept the bid from DPC Industries, Inc. to supply the City with chlorine for at least one year with the initial price of \$773.00 per one-ton cylinder and \$193.50 per 150-lb cylinder.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: W.O. 14-15; Bench Boulevard North Sanitary Sewer Extensions

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

The City Council will consider awarding a construction contract to Western Municipal Construction in the amount of \$398,798.00 for W.O. 14-15 Bench Boulevard North Sanitary Sewer Extension Project. This project will extend sanitary sewer in Bench Boulevard north from Mary Street for approximately 375 lineal feet and south from Caroline Street for approximately 450 lineal feet. Since the extension north of Mary Street crosses Highway 87 (Main Street), open cut and trenchless bid alternates were evaluated for that work section. Since the lowest trenchless bid alternate was approximately \$55,000 higher than the lowest open cut bid, staff recommends Western Municipal's open cut bid of \$398,798.00.

W.O. 14-15 is to be completed ahead of the Montana Department of Transportation (MDT) project that will reconstruct the northern portion of Bench Boulevard from approximately Pemberton Lane to Main Street. Since the MDT project is expected to be ready for construction in April 2015, this sanitary sewer project is to be substantially complete prior to that date.

After being advertised in the Billings Times and on the City website January 15 and January 22, the project was bid on January 27. Staff recommends that W.O. 14-15 be awarded to Western Municipal in the amount of \$398,798.00.

ALTERNATIVES ANALYZED

City Council may:

- Approve the construction contract with Western Municipal Construction in the amount of \$398,798.00; or
- Disapprove the construction contract with Western Municipal in the amount of \$398,798.00. If the sanitary sewer is not installed ahead of the MDT project, properties desiring sanitary sewer service in areas where service is currently not available will either be denied service, or a new sewer main will have to be installed in Bench Boulevard after the street is reconstructed.

FINANCIAL IMPACT

Bids were received on January 27, 2015 for W.O. 14-15 and the following table shows the results:

	Western Municipal Construction	COP Construction	Dick Anderson Construction
Base Bid (Open Cut)	\$398,798	\$410,870	\$361,900 (nonresponsive bid)

Boring Alternate (Trenchless)	\$455,073	\$517,171	<i>NO BID</i> (nonresponsive bid)
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Bidding Documents required contractors to bid the Base Bid (Open Cut) and the Boring Alternate (Trenchless). Having bids for both construction methods ensures the project can move forward smoothly in the event of changed work conditions or in the event that the Montana Department of Transportation finds reason to not allow open cut construction across Main Street at the US Highway 312 and 87 intersection.

Because Dick Anderson Construction did not bid the Boring Alternate, their bid is considered nonresponsive. On Tuesday, January 28, Dick Anderson Construction submitted a letter to the City acknowledging their oversight of bid requirements and expressing their desire to not be selected for the project. Staff recommendation for award is Western Municipal's Base Bid of \$398,798.00.

Funding for the project has been approved by City Council in the CIP, budgeted in FY 2015 and the source is wastewater funds.

RECOMMENDATION

Staff recommends that Council approve a contract with Western Municipal Construction for W.O. 14-15 Bench Boulevard North Sanitary Sewer Extensions in the amount of \$398,798.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Bid Award: W.O. 15-03 City Overlay

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

Staff opened bids on January 27, 2015, for the 2015 Street Maintenance Program, City Overlay Contract. The contract was advertised on January 15th and the 22nd in the Billings Times and on the City's website. Knife River submitted the lowest responsible bid. This project is part of the on-going Street Preventative Maintenance Program supported by the City Council since 1985. Annually, staff identifies streets proposed for preventative maintenance. Staff bids this work in three contracts: chip seal resurfacing, overlay resurfacing, and crack sealing. This contract will provide an overlay on approximately 2.2 miles of City streets.

The streets being addressed with this contract are portions of Broadwater Ave, 19th St. West, and Poly Drive. A work location map for this project is attached.

ALTERNATIVES ANALYZED

The Council may:

- Award W.O. 15-03 City Overlay to Knife River in the amount of \$1,041,812.90; or
- Not award the contract to Knife River and reject all bids. If the contract is not awarded, the streets planned for maintenance will continue to degrade.

FINANCIAL IMPACT

The following bids were received and evaluated:

Contractor	Base Bid
Knife River	\$1,041,812.90

The funding for the project was budgeted in FY15 and the source is gas tax funds.

Project Budget	\$2,200,000.00
Previously Encumbered	\$46,200.00
This Contract	\$1,041,812.90
Budget Remaining	\$1,111,987.10

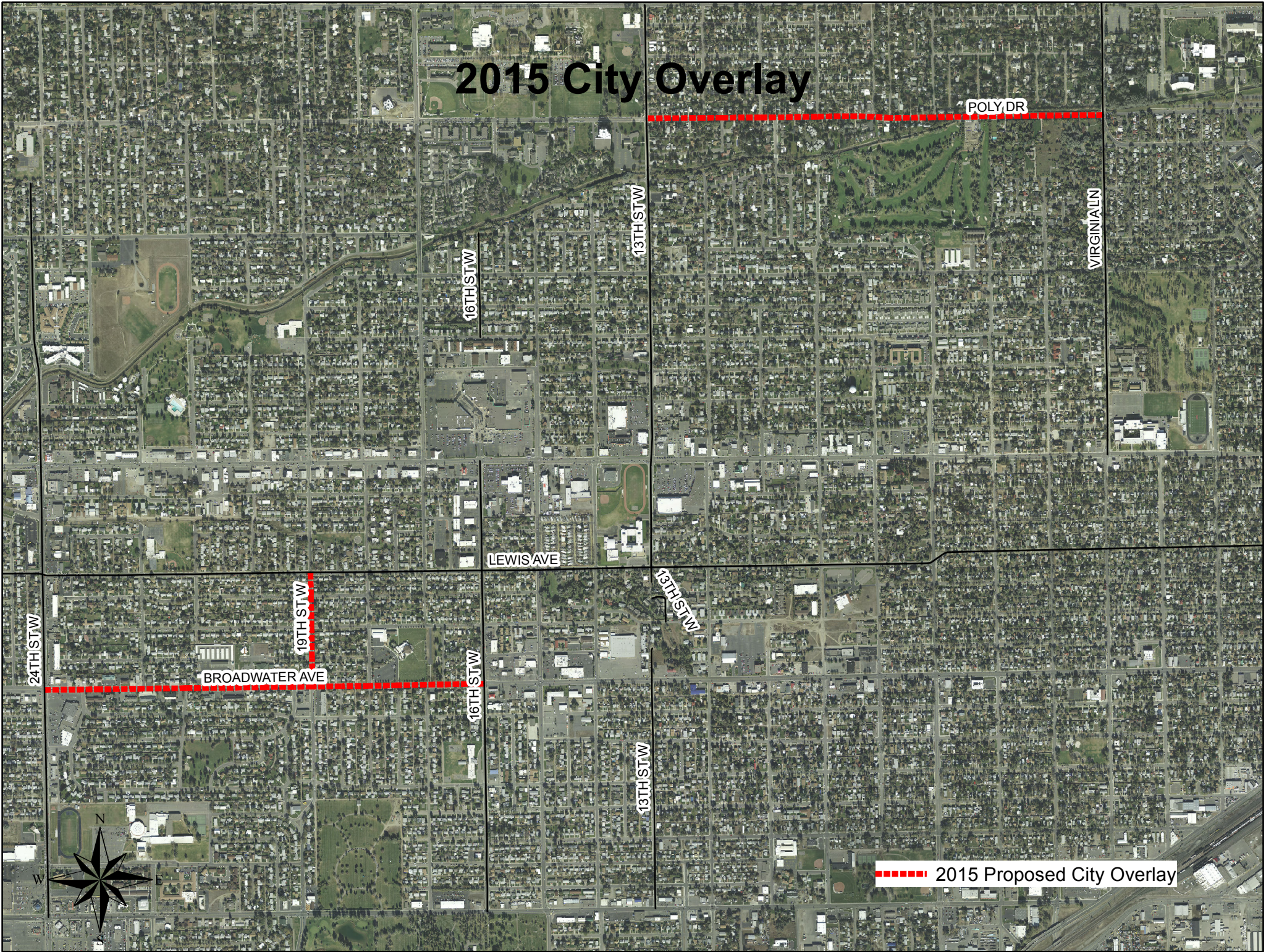
RECOMMENDATION

Staff recommends the City Council award a contract for W.O. 15-03 City Overlay to Knife River in the amount of \$1,041,812.90.

APPROVED BY CITY ADMINISTRATOR

Location of Work

2015 City Overlay



Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Bid Award - Storm Water Pond Area and Car Rental Transfer Lot Fencing Project

PRESENTED BY: Tom Binford, Director of Aviation & Transit

Department: Airport

PROBLEM/ISSUE STATEMENT

Included in the Airport's Capital Improvement Program is the Storm Water Pond Area and Car Rental Transfer Lot Fencing Project. This project will install six-foot high chain link fence around the perimeter of the Storm Water Detention Ponds A, B, and C to enhance operational safety in the pond area. The Car Rental Transfer Lot surface was completed last Fall and the fencing piece of the project will provide added security for the vehicles and car rental personnel when they are in this area. This project was advertised in the *Billings Times* on January 8, 15, and 22 and posted on the City's Web site. On January 27, 2015, the following bids were received:

CONTRACTOR	SCHEDULE 1 TRANSFER LOT	SCHEDULE 2 PONDS	TOTAL 1 & 2 BOTH
Mild Fence	\$32,187.00	\$14,546.50	\$46,733.50
Frontier Fence	\$42,195.82	\$17,776.44	\$59,972.26
SWI, LLC	\$48,589.00	\$19,147.00	\$67,736.00
Jares Fence	\$62,385.00	\$25,506.00	\$87,891.00
Grizzly Fence	\$68,590.80	\$29,259.90	\$97,850.70

ALTERNATIVES ANALYZED

City Council may:

- Award the Airport Fencing Project; or
- Decline to award the project and advise staff on how to proceed.

FINANCIAL IMPACT

The total cost of this project is \$46,733.50. The \$32,187 of funding for the Storm Water Pond fencing is available in the Airport's Passenger Facility Charge (PFC) account, and the \$14,546.50 of funding for the Transfer Lot Fencing is available in the Airport's Customer Facility Charge (CFC) account.

RECOMMENDATION

Staff recommends the City Council approve the award of this project to the low bidder, Mild Fence, for the amount of \$46,733.50.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Right-of-Way Easements: W.O. 13-15 Calhoun Road Improvements

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

W.O. 13-15 Calhoun Road Improvements is a project to reconstruct Calhoun and Simpson and is mostly funded by TIF funds from the SBURD. The improvements on Calhoun are to include a reconstructed street and overlay to provide two travel lanes, a two way left turn lane, and bike lanes between Underpass Ave and King Ave East. Simpson Street improvements will include a reconstructed street. On both streets, new sidewalk and corner radii will be constructed.

There are several areas where right-of-way easements are required to install corner radii and sidewalks, and provide space for fire hydrants. City staff has negotiated with some of these adjacent property owners and they have agreed to right-of-way easements which are shown on the attached easement exhibits. Additional easements will be presented as negotiations are completed with the remainder of property owners.

ALTERNATIVES ANALYZED

The Council may:

- Approve the right-of-way easements; or
- Disapprove the right-of-way easements. If the right-of-way easements are not approved, several hydrants will have to be relocated, sidewalk cannot be added on Simpson Street or on a lot of Calhoun, and corner radii will have to be constructed that will not meet or barely meet requirements for ADA Accessibility.

FINANCIAL IMPACT

There is no cost to the City for the right-of-way easements.

RECOMMENDATION

Staff recommends that the City Council approve the right-of-way easements.

APPROVED BY CITY ADMINISTRATOR

Attachments

Kottke Easement (1)

Kottke Easement (2)

Anderson Easement

Berlinsky Easement

Frank Easement

Rukstad Easement

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

RIGHT-OF-WAY EASEMENT

THIS EASEMENT, made and entered into this day of 26 Jan, 2015, by and between the following:

Ralph B aka JR Kottke and Tammy Kottke-Chartier
544 Calhoun Lane
Billings, Montana 59101-4836,
hereinafter referred to as **GRANTOR**

and

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

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

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

A tract of land situated in Lot 1A of Amended Plat of Lots 1 & 2 Simpson Subdivision, Document No. 1424902. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana;

Said tract being more particularly described as follows:

Beginning at the southwest corner of said Lot 1A, point also being on the north right-of-way of Simpson Street; thence N 00°11'00" W for a distance of 4.00 feet; thence N 89°59'39" E and being parallel to said right-of-way for a distance of 55.98 feet; thence N 58°54'07" E for a distance of 11.68 feet, said point being on the west right-of-way of Calhoun Lane; thence along a curve to the right with a radius of 10.00 feet and an arc length of 15.74 feet (Chord bearing S 44°54'21" W and Chord distance of 14.16 feet), to a point on the north right-of-way line of Simpson Street; thence S 89°59'39" W along said north right-of-way line for a distance of 55.97 feet to the Point of Beginning.


Said tract of land containing 273 square feet more or less.

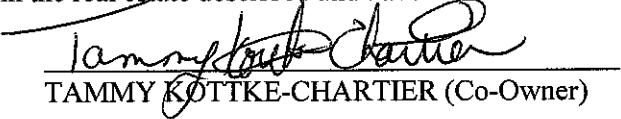
More commonly referred to as 544 CALHOUN LN

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

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

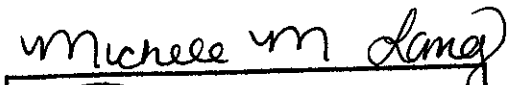
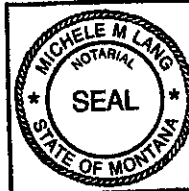
IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.


RALPH B aka JR KOTTKE (Co-Owner)


TAMMY KOTTKE-CHARTIER (Co-Owner)

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 26th day of January, 2015, before me, a Notary Public in and for the State of Montana, personally appeared RALPH B aka JR KOTTKE and TAMMY KOTTKE-CHARTIER, known to me to be the owners of said property whose names are subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.


 MICHELE M LANG
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
June 30, 2018

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

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

THOMAS W. HANEL,
Mayor, City of Billings

ATTEST:

CARI MARTIN, City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

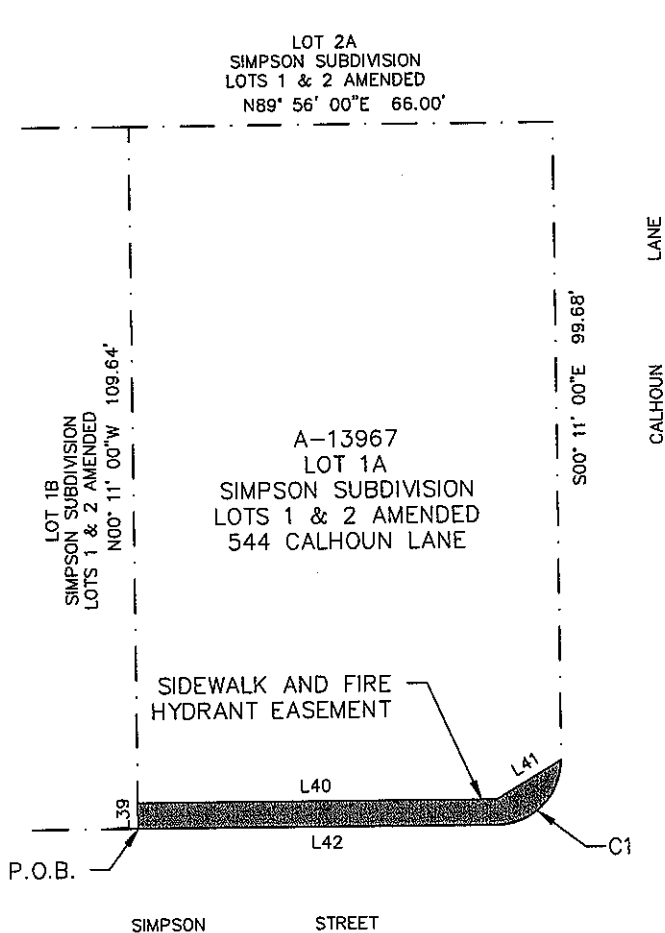
Printed Name: _____

Residing at _____

My commission expires _____

EXHIBIT A

SIDEWALK EASEMENT
SITUATED IN LOT 1A OF SIMPSON SUBDIVISION,
LOTS 1 & 2 AMENDED,
DOCUMENT NUMBER 1424902
BILLINGS, YELLOWSTONE COUNTY, MONTANA



SIDEWALK EASEMENT DESCRIPTION

A tract of land situated in Lot 1A of Amended Plat of Lots 1 & 2 Simpson Subdivision, Document No. 1424902, of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
Beginning at the southwest corner of said Lot 1A, point also being on the north right-of-way of Simpson Street; thence N 00°11'00" W for a distance of 4.00 feet; thence N 89°59'39" E and being parallel to said right-of-way for a distance of 55.98 feet; thence N 58°54'07" E for a distance of 11.68 feet, said point being on the west right-of-way of Calhoun Lane; thence along a curve to the right with a radius of 10.00 feet and an arc length of 15.74 feet (Chord bearing S 44°54'21" W and Chord distance of 14.16 feet), to a point on the north right-of-way line of Simpson Street; thence S 89°59'39" W along said north right-of-way line for a distance of 55.97 feet to the Point of Beginning.
Said tract of land containing 273 square feet more or less.

Curve Table					
CURVE #	RADIUS	LENGTH	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	10.00	15.74	90°10'02"	S44°54'21"W	14.16

Parcel Line Table		
Line #	DIRECTION	LENGTH
L39	N00° 11' 00"W	4.00
L40	N89° 59' 39"E	55.98
L41	N58° 54' 07"E	11.68
L42	S89° 59' 39"W	55.97

LEGEND

SIDEWALK EASEMENT

RESERVED FOR CLERK AND RECORDER

CITY OF BILLINGS, MONTANA
 SIDEWALK EASEMENT EXHIBIT
 CITY W.O. 13-15
 THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

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

RIGHT-OF-WAY EASEMENT

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and

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

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

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

A tract of land situated in Lot 1B of Amended Plat of Lots 1 & 2 Simpson Subdivision, Document No. 1424902. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana;


Said tract being more particularly described as follows: Being the south 4.00 feet of said Lot 1B of Amended Plat of Lots 1 & 2 Simpson Subdivision. Said tract of land containing 264 square feet more or less.

More commonly referred to as 4605 SIMPSON ST / 544 CALHOUN LN

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

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

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



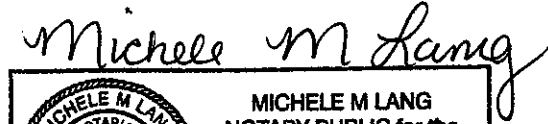
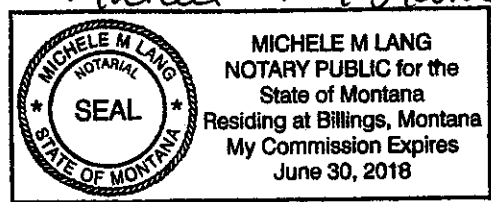
RALPH B aka JR KOTTKE (Co-Owner)



TAMMY KOTTKE-CHARTIER (Co-Owner)

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 26th day of January, 2015, before me, a Notary Public in and for the State of Montana, personally appeared RALPH B aka JR KOTTKE and TAMMY KOTTKE-CHARTIER, known to me to be the owners of said property whose names are subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



MICHELE M LANG
NOTARY PUBLIC for the
State of Montana
Residing at Billings, Montana
My Commission Expires
June 30, 2018

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

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

THOMAS W. HANEL,
Mayor, City of Billings

ATTEST:

CARI MARTIN, City Clerk

STATE OF MONTANA)
 :ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

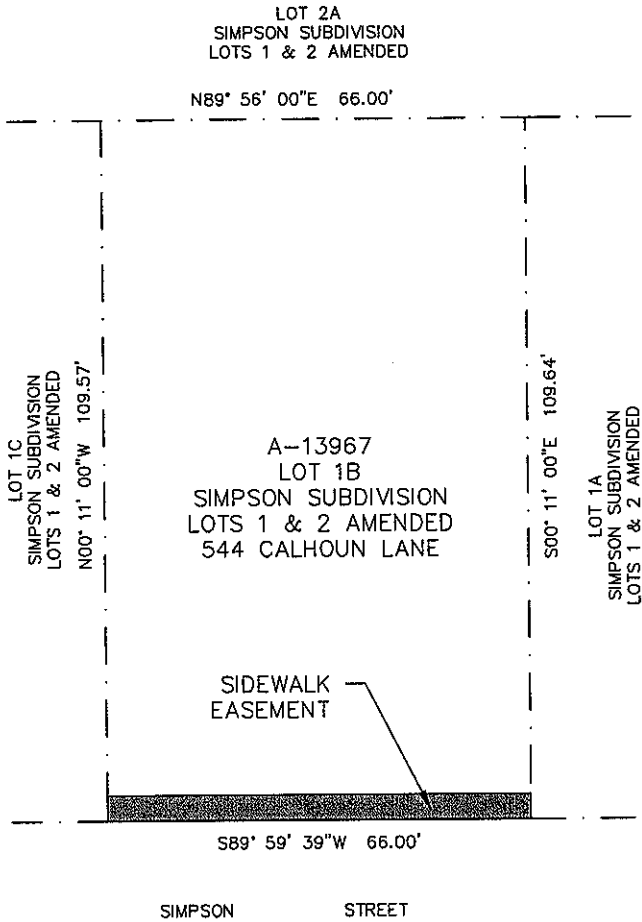
Printed Name: _____

Residing at _____

My commission expires _____

EXHIBIT A

SIDEWALK EASEMENT
SITUATED IN LOT 1B OF SIMPSON SUBDIVISION,
LOTS 1 & 2 AMENDED,
DOCUMENT NUMBER 1424902
BILLINGS, YELLOWSTONE COUNTY, MONTANA



SIDEWALK EASEMENT DESCRIPTION

A tract of land situated in Lot 1B of Amended Plat of Lots 1 & 2 Simpson Subdivision, Document No. 1424902. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Said tract being more particularly described as follows: Being the south 4.00 feet of said Lot 1B of Amended Plat of Lots 1 & 2 Simpson Subdivision. Said tract of land containing 264 square feet more or less.

LEGEND



SIDEWALK EASEMENT

RESERVED FOR CLERK AND RECORDER

CITY OF BILLINGS, MONTANA
SIDEWALK EASEMENT EXHIBIT

CITY W.O. 13-15

THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

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

RIGHT-OF-WAY EASEMENT

THIS EASEMENT, made and entered into this day of January 30, 20 15, by and between the following:

Carlin A and Jackie L Anderson
743 Calhoun Lane
Billings, Montana 59101-4821,
hereinafter referred to as **GRANTOR**

and

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

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

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

Certificate of Survey 775, Document No. 1359096. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:

Being the west 1.3 feet of said Tract A-1, of Amended Tract A, Certificate of Survey 775.

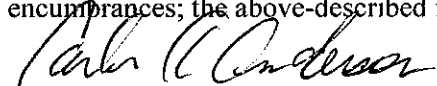
Said tract of land containing 120 square feet more or less.

More commonly referred to as 743 CALHOUN LANE


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

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

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



Carlin A Anderson (co-owner)

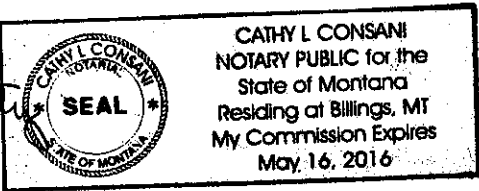


Jackie L Anderson (co-owner)

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 20 day of January, 2015, before me, a Notary Public in and for the State of Montana, personally appeared Carlin A and Jackie L Anderson, known to me to be the owners of said property whose names are subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Cathy L. Consani
Yellowstone County
5-16-2016
Cathy L. Consani



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

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

THOMAS W. HANEL,
Mayor, City of Billings

ATTEST:

CARI MARTIN, City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

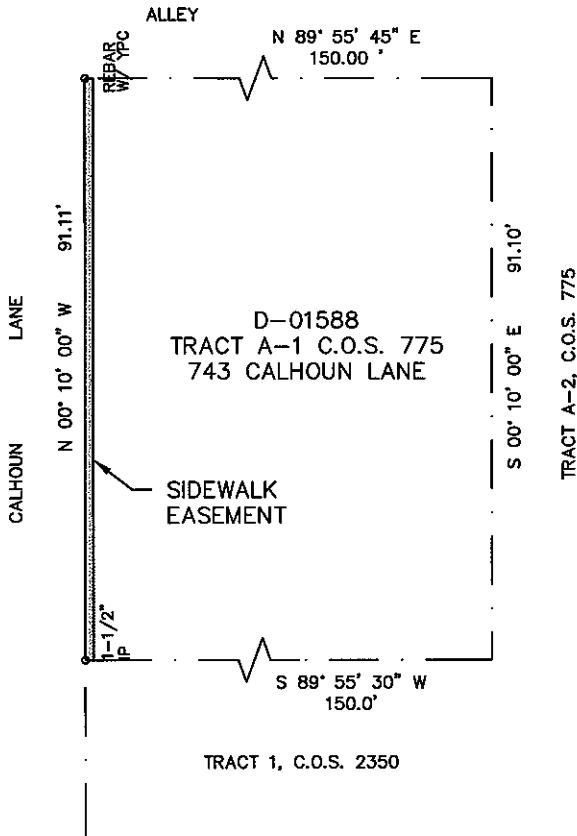
Notary Public in and for the State of Montana
Printed Name: _____
Residing at _____
My commission expires _____

EXHIBIT A

SIDEWALK EASEMENT
 SITUATED IN TRACT A-1, CERTIFICATE OF SURVEY 775,
 DOCUMENT NUMBER 1359096
 BILLINGS, YELLOWSTONE COUNTY, MONTANA



LOT 11, BLOCK 4
 SOUTHWEST BILLINGS SUBDIVISION
 1ST FILING



SIDEWALK EASEMENT DESCRIPTION

A tract of land situated in Tract A-1, of Amended Tract A, Certificate of Survey 775, Document No. 1359096. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Said tract being more particularly described as follows:
 Being the west 1.3 feet of said Tract A-1, of Amended Tract A, Certificate of Survey 775.

Said tract of land containing 120 square feet more or less.

RESERVED FOR CLERK AND RECORDER

LEGEND

SIDEWALK EASEMENT

CITY OF BILLINGS, MONTANA
 SIDEWALK EASEMENT EXHIBIT
 CITY W.O. 13-15
 THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

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

RIGHT-OF-WAY EASEMENT

THIS EASEMENT, made and entered into this ^{18th} day of November, 2014, by and between the following:

Lola A. Berlinsky
331 Calhoun Lane
Billings, Montana 59101-4944,
hereinafter referred to as **GRANTOR**

and

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

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

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

A tract of land situated in 1, Cowley Subdivision, Document No. 494878. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana;

Basis of Bearing being the plat of Cowley Subdivision, Document No. 494878.

Said tract being more particularly described as follows:

Beginning at the southwest corner of said Lot 1, point also being on the east R-O-W of Calhoun Lane; thence N 00°11'00" W along said R-O-W for a distance of 10.00 feet; thence leaving said R-O-W, S 45°06'30" E for a distance of 14.16 feet to a point on the north R-O-W of Vaughn Lane; thence S 89°58'00" W along said R-O-W for a distance of 10.00 feet to the Point of Beginning.

Said tract of land containing 50 square feet more or less.

More commonly referred to as 331 CALHOUN LANE

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

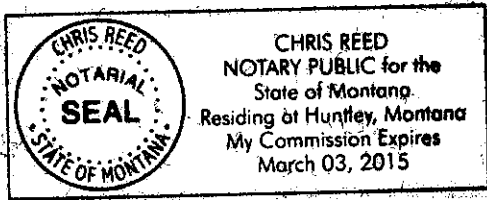
TO HAVE AND TO HOLD unto **GRANTEE** and to its successors and assigns forever.

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

Marlene L. Janich, P.O.A.
for Lola A. Berlinsky
LOLA A. BERLINSKY (Owner)

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 18th day of November, 2014, before me, a Notary Public in and for the State of Montana, personally appeared MARLENE L. JANICH AS POWER OF ATTORNEY FOR LOLA A. BERLINSKY, known to me to be the owner of said property whose name is subscribed to the foregoing instrument, and acknowledged to me that she duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



Chris Reed *Chris Reed*

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

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

THOMAS W. HANEL,
Mayor, City of Billings

ATTEST:

CARI MARTIN, City Clerk

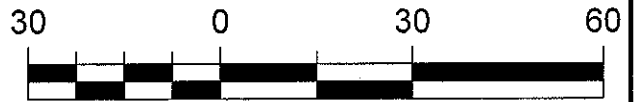
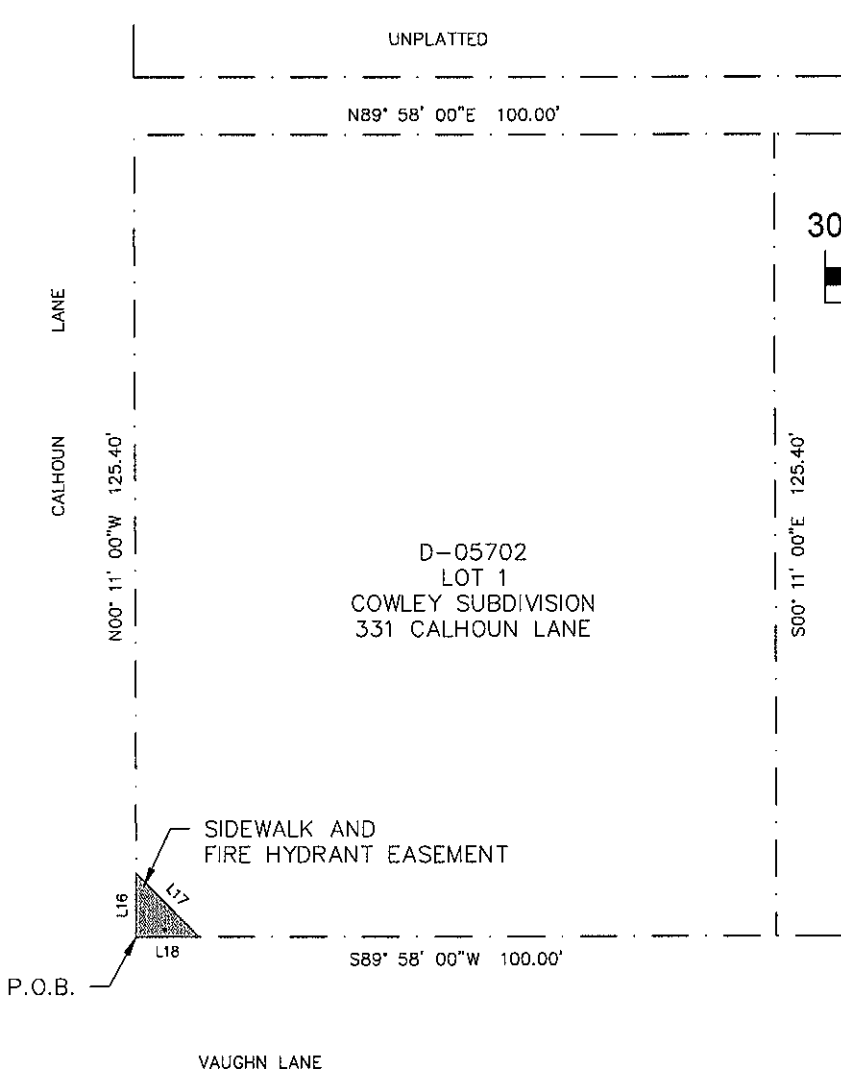
STATE OF MONTANA)
 :ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

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

EXHIBIT A

SIDEWALK EASEMENT
SITUATED IN LOT 1, COWLEY SUBDIVISION,
DOCUMENT NUMBER 494878
BILLINGS, YELLOWSTONE COUNTY, MONTANA



FEET

Parcel Line Table		
Line #	DIRECTION	LENGTH
L16	N00° 11' 00"W	10.00
L17	S45° 06' 30"E	14.16
L18	S89° 58' 00"W	10.00

SIDEWALK EASEMENT DESCRIPTION

A tract of land situated in 1, Cowley Subdivision, Document No. 494878. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Basis of Bearing being the plat of Cowley Subdivision, Document No. 494878.

Said tract being more particularly described as follows: Beginning at the southwest corner of said Lot 1, point also being on the east R-O-W of Calhoun Lane; thence N 00°11'00" W along said R-O-W for a distance of 10.00 feet; thence leaving said R-O-W, S 45°06'30" E for a distance of 14.16 feet to a point on the north R-O-W of Vaughn Lane; thence S 89°58'00" W along said R-O-W for a distance of 10.00 feet to the Point of Beginning.

Said tract of land containing 50 square feet more or less.

LEGEND

SIDEWALK EASEMENT

RESERVED FOR CLERK AND RECORDER

CITY OF BILLINGS, MONTANA
SIDEWALK EASEMENT EXHIBIT

CITY W.O. 13-15
THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

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

RIGHT-OF-WAY EASEMENT

THIS EASEMENT, made and entered into this day of 28. October, 2014, by and between the following:

Eugene P. and Constance E Frank
4548 Stone Street
Billings, Montana 59101-4944,
hereinafter referred to as **GRANTOR**

and

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

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

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

A tract of land situated in Lot 11, Block 3 of Southwest Billings Subdivision, First Filing, Document No. 542416. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana;
Basis of Bearing being the plat of Southwest Billings Subdivision, First Filing, Document No. 542416.

Said tract being more particularly described as follows:

Beginning at the northwest corner of said Lot 11, Block 3, point also being on the south R-O-W of Stone Street; thence N 89°58'12" W along said R-O-W for a distance of 10.00 feet; thence leaving said R-O-W S 44°54'06" E for a distance of 14.13 feet to a point on the east R-O-W of Calhoun Lane; thence N 00°10'00" W along said R-O-W for a distance of 10.00 feet to the Point of Beginning.

Said tract of land containing 50 square feet more or less.

More commonly referred to as 4548 STONE STREET

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

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

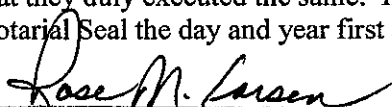
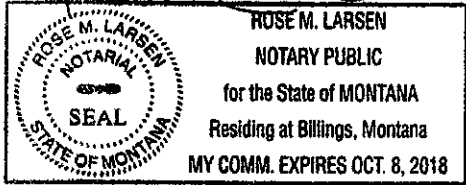
IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.


EUGENE P. FRANK (Co-Owner)


CONSTANCE E. FRANK (CO-Owner)

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 18 day of October, 2014, before me, a Notary Public in and for the State of Montana, personally appeared EUGENE P. FRANK and CONSTANCE E. FRANK, known to me to be the owners of said property whose names are subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.



ROSE M. LARSEN
NOTARY PUBLIC
for the State of MONTANA
Residing at Billings, Montana
MY COMM. EXPIRES OCT. 8, 2018

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

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

THOMAS W. HANEL,
Mayor, City of Billings

ATTEST:

CARI MARTIN, City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

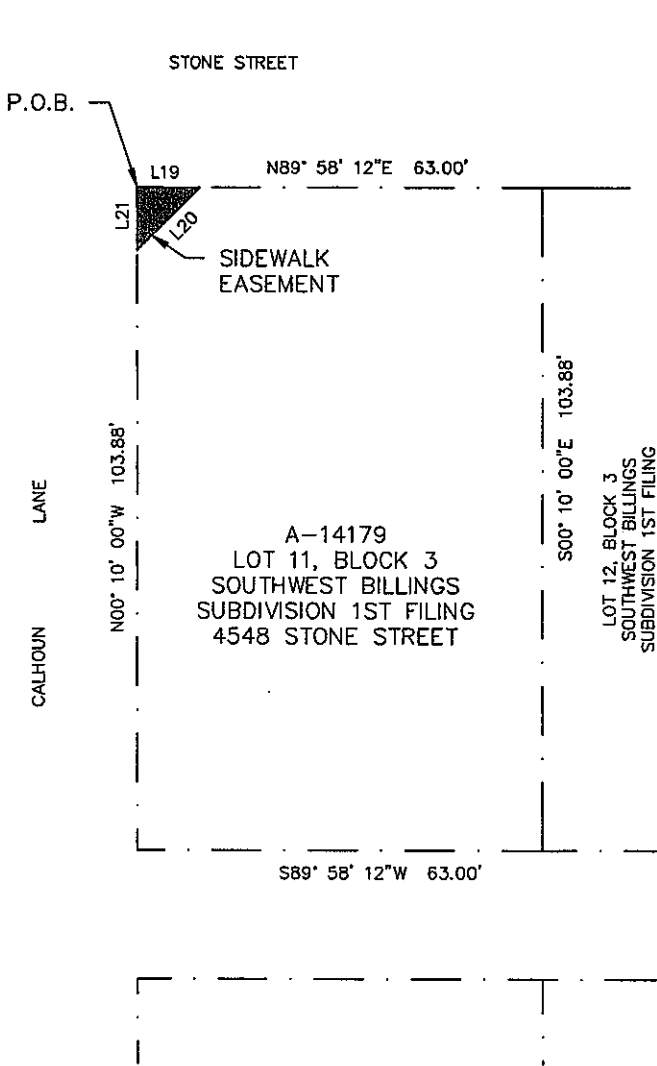
Printed Name: _____

Residing at _____

My commission expires _____

EXHIBIT A

SIDEWALK EASEMENT
 SITUATED IN LOT 11, BLOCK 3
 SOUTHWEST BILLINGS SUBDIVISION FIRST FILING
 DOCUMENT NUMBER 542416
 BILLINGS, YELLOWSTONE COUNTY, MONTANA



Parcel Line Table		
Line #	DIRECTION	LENGTH
L19	N89° 58' 12"E	10.00
L20	S44° 54' 06"W	14.13
L21	N00° 10' 00"W	10.00

SIDEWALK EASEMENT DESCRIPTION

A tract of land situated in Lot 11, Block 3 of Southwest Billings Subdivision, First Filing, Document No. 542416. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Basis of Bearing being the plat of Southwest Billings Subdivision, First Filing, Document No. 542416.

Said tract being more particularly described as follows:
 Beginning at the northwest corner of said Lot 11, Block 3, point also being on the south R-O-W of Stone Street; thence N 89°58'12" E along said R-O-W for a distance of 10.00 feet; thence leaving said R-O-W S 44°54'06" W for a distance of 14.13 feet to a point on the east R-O-W of Calhoun Lane; thence N 00°10'00" W along said R-O-W for a distance of 10.00 feet to the Point of Beginning.

Said tract of land containing 50 square feet more or less.

LEGEND

SIDEWALK EASEMENT

RESERVED FOR CLERK AND RECORDER

CITY OF BILLINGS, MONTANA
 SIDEWALK EASEMENT EXHIBIT
 CITY W.O. 13-15
 THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

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

RIGHT-OF-WAY EASEMENT

THIS EASEMENT, made and entered into this day of 23rd Aug., 2014, by and between the following:

Gale L. Rukstad and Carolyn Rukstad
8627 Lauzon Lane
Property Address: 345 Calhoun Lane
Billings, Montana 59101
hereinafter referred to as **GRANTOR**

and

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

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

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

A tract of land situated in Lot 11, of Cowley Subdivision, Document No. 494878. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana;

Basis of Bearing being the plat of Cowley Subdivision, Document No. 494878.

Said tract being more particularly described as follows:

Beginning at the northwest corner of said Lot 11, point also being on the south R-O-W of Vaughn Lane; thence N 89°58'00" E along said R-O-W for a distance of 10.00 feet; thence leaving said R-O-W, S 44°53'30" W for a distance of 14.12 feet to a point on the east R-O-W of Calhoun Lane; thence N 00°11'00" W along said R-O-W for a distance of 10.00 feet to the Point of Beginning.

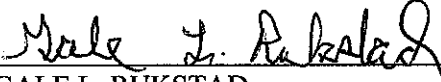
Said tract of land containing 50 square feet more or less.

More commonly referred to as 345 CALHOUN LANE

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

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

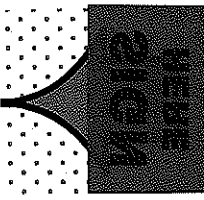
IN WITNESS WHEREOF, the **GRANTOR** warrants that they have good right to convey, free and clear of all encumbrances; the above-described interests in the real estate described and have hereunto set their hand.



GALE L. RUKSTAD
(Owner)




CAROLYN RUKSTAD
(Owner)



STATE OF MONTANA)
 :SS
County of Yellowstone)

On this 23rd day of AUGUST, 2014, before me, a Notary Public in and for the State of Montana, personally appeared GALE L. RUKSTAD and CAROLYN RUKSTAD, known to me to be the owners of said property whose names are subscribed to the foregoing instrument, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

	<p>MARTIN J. SCHAFF NOTARY PUBLIC for the State of Montana Residing at Billings, Montana My Commission Expires February 4, 2018</p>
--	---

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

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

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

THOMAS W. HANEL, Mayor, City of Billings

ATTEST:

CARI MARTIN, City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared THOMAS W HANEL and CARI MARTIN, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they duly executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public in and for the State of Montana

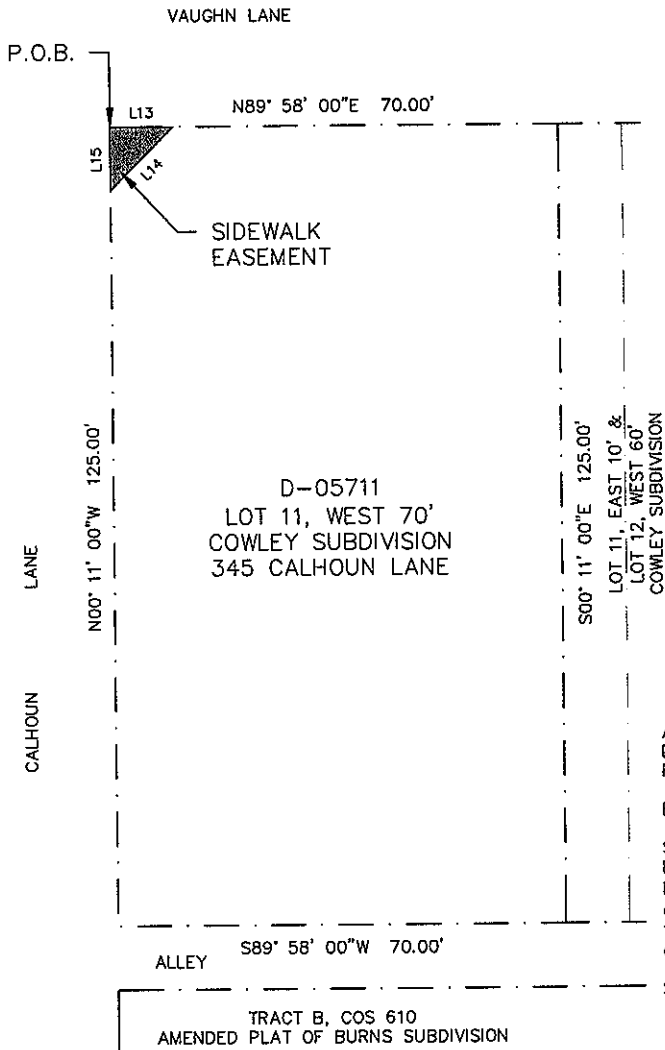
Printed Name: _____

Residing at _____

My commission expires _____

EXHIBIT A

SIDEWALK EASEMENT
SITUATED IN LOT 11, COWLEY SUBDIVISION,
DOCUMENT NUMBER 494878
BILLINGS, YELLOWSTONE COUNTY, MONTANA



Parcel Line Table		
Line #	DIRECTION	LENGTH
L13	N89° 58' 00"E	10.00
L14	S44° 53' 30"W	14.12
L15	N00° 11' 00"W	10.00

SIDEWALK EASEMENT DESCRIPTION

A tract of land situated in West 70.00 feet of Lot 11, Cowley Subdivision, Document No. 494878. Of record at the Yellowstone County Clerk & Recorder, City of Billings, Yellowstone County, Montana

Basis of Bearing being the plat of Cowley Subdivision, Document No. 494878.

Said tract being more particularly described as follows:
Beginning at the northwest corner of said Lot 11, point also being on the south R-O-W of Vaughn Lane; thence N 89°58'00" E along said R-O-W for a distance of 10.00 feet; thence leaving said R-O-W, S 44°53'30" W for a distance of 14.12 feet to a point on the east R-O-W of Calhoun Lane; thence N 00°11'00" W along said R-O-W for a distance of 10.00 feet to the Point of Beginning.

Said tract of land containing 50 square feet more or less.

LEGEND

SIDEWALK EASEMENT

CITY OF BILLINGS, MONTANA
SIDEWALK EASEMENT EXHIBIT

CITY W.O. 13-15

THIS EXHIBIT IS PREPARED BY THE CITY OF BILLINGS, MONTANA

RESERVED FOR CLERK AND RECORDER

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Acceptance of Billings Public Library Foundation donation

PRESENTED BY: Bill Cochran, Library Director

Department: Library

PROBLEM/ISSUE STATEMENT

The Billings Public Library Foundation received a grant through the St. Vincent Healthcare Foundation for a Reading Education Assistance Dogs (R.E.A.D.) program. This program utilizes registered therapy animals who volunteer with their owners/handlers to be reading companions to children. Children who participate in the R.E.A.D. program make enormous strides in reading and communication skills which helps build self-esteem, confidence and social skills. The Library Foundation has earmarked \$600.00 of the grant for the purchase of books to be used in the program.

Since 1999, the Intermountain Therapy Animals (ITA) group has been providing services to children via their R.E.A.D. program and have agreed to partner with the Library and bring this program to children the first Saturday of each month. The \$600 donation from the Library Foundation will allow the Library to purchase books for this program.

ALTERNATIVES ANALYZED

City Council may:

- Approve, or;
- Disapprove the donation.

FINANCIAL IMPACT

Approval of the \$600 donation will allow the Library to purchase books to be used in the R.E.A.D. program.

RECOMMENDATION

Staff recommends that the City Council accept the \$600 donation from the Library Foundation.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 02/09/2015

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

PRESENTED BY: Tom Binford, Director of Aviation & Transit

Department: Transit

PROBLEM/ISSUE STATEMENT

The City of Billings MET Transit Division was advised by the Montana Department of Transportation (MDT) - Transit Section, of the availability of a Federal grant for capital assistance available through the State of Montana.

Under the current Transportation Bill, MAP-21, Section 5310 is funding that has been allocated to the State's three larger urban systems (Missoula, Great Falls, and Billings) for capital assistance. This program will be administered by the State, and MET Transit will receive funding for two paratransit vans and two bus shelters. This funding will provide \$120,000 (80%) of the cost of the vans and \$14,080 (80%) of the cost of the bus shelters. The local match will be \$30,000 (20%) for the vans and \$3,520 (20%) for the shelters.

In order to apply for this grant, a Resolution formally authorizing the Mayor to execute the Grant Agreement with MDT is required to be included with the grant application.

ALTERNATIVES ANALYZED

City Council may:

- Approve the Resolution authorizing MET Transit to apply for the Section 5310 grant program for the amount of \$134,080 to go toward the purchase of vehicles and bus shelters; or
- Not approve the Resolution authorizing MET Transit to apply for the Section 5310 grant program in the amount of \$134,080 and direct staff on how to proceed.

FINANCIAL IMPACT

Through this grant, the City's Transit Division could receive \$134,080 of the cost for new paratransit vans and shelters during FY16.

RECOMMENDATION

Staff recommends that the City Council approve the Resolution authorizing MET Transit to apply with MDT-Transit Section for the Section 5310 grant, and the execution by the Mayor of any subsequently awarded Grant Agreement(s) required by MDT.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution

Application for Capital Assistance

AUTHORIZING RESOLUTION

RESOLUTION NO. 15-

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

WHEREAS, the City of Billings has the power to enter into agreements with the Montana Department of Transportation; and

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

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

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

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

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

3. That the City of Billings Mayor is authorized to execute grant and cooperative agreements with the Montana Department of Transportation, on behalf of the City of Billings.
4. That the Transit Manager is designated to furnish such additional information as the Montana Department of Transportation or the U.S. Department of Transportation, Federal Transit Administration may require in connection with all the applications.

APPROVED this 9th day of February 2015.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Cari Martin, CITY CLERK

CERTIFICATE

The undersigned duly qualified and acting City Clerk of the City of Billings certifies that the foregoing is a true and correct copy of a Resolution, adopted at a legally convened meeting of the Billings City Council held on February 9, 2015.

If applicant has an Official Seal, impress here.

(Seal)

Signature of Recording Officer

Title of Recording Clerk

Date



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Agency Applying
 City of Billings-Aviation and Transit Depar

State of Montana Application for Financial Assistance

(Agencies applying for capital must complete this page!)

AGENCY PROFILE

A. Organization

1. Legal Name of Applicant Agency:

City of Billings-Aviation and Transit Department-MET Transit

Name of Transit Program:

MET Special Transit

Transit Coordinator

Ron Wenger, Transit Manager

Address 1705 Monad Road

City Billings State MT Zip Code 59101

County Yellowstone Phone Number +1 (406) 657-8221 EXT.

Fax: +1 (406) 657-8419 email wengerr@ci.billings.mt.us

Website(if Available) www.mettransit.com

Tax ID # 8 1 6 0 0 1 2 3 7 DUNS# 8 0 1 3 3 4 8 3 0

Fiscal Year: July 1st, 2015 to June 20th, 2016

Coordination Plan Approval Date: Nov 13, 2014

2. Agency Sponsor:

- City
- County
- Tribal
- Private Non-Profit*
- Transit District
- Transportation Improvement Area
- Other *(Specify)

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



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

		Name	Term of Office	Affiliation
+	-	Mayor, Thomas W. Hanel	2nd Term	City of Billings
+	-	Brent Cromely	1st Term	City of Billings
+	-	Mike Yakawich	1st Term	City of Billings
+	-	Denis Pitman	2nd Term	City of Billings
+	-	Angela Cimmino	2nd Term	City of Billings
+	-	Becky Bird	1st Term	City of Billings
+	-	Richard McFadden	2nd Term	City of Billings
+	-	Jani McCall	2nd Term	City of Billings
+	-	Al Swanson	1st Term	City of Billings
+	-	Ken Crouch	1st Term	City of Billings
+	-	Shaun Brown	1st Term	City of Billings

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

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



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5. Union Affiliation (if applicable):

Union Name:

Contact

Address

City State Zip Code

Phone Number Email



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B. System Description

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

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

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

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

***If Demand/Response is this:

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

Specify

2. Service Area: City County District Reservation Other (specify)

3. Population:

What is the population of your service area?

4. Connectivity:

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

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



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C. Level and Use of Service

1. Ridership:

Annual Number of Rides

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

Elderly (60 and over)

Disabled

Under 60

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

Black

Hispanic

Asian

American Indian/Alaskan Native

Other (specify)

4. Trip Purpose: Indicate percent.

Nutrition Employment

Education Medical

Shopping Recreation

Other (specify)

5. Days/Hours of Service:

List days of the week and hours you are in service. **See Attachment 2 **

<input type="checkbox"/> Monday	AM	<input type="text" value="6:00"/>	PM	<input type="text" value="6:00"/>
<input type="checkbox"/> Tuesday	AM	<input type="text" value="6:00"/>	PM	<input type="text" value="6:00"/>
<input type="checkbox"/> Wednesday	AM	<input type="text" value="6:00"/>	PM	<input type="text" value="6:00"/>
<input type="checkbox"/> Thursday	AM	<input type="text" value="6:00"/>	PM	<input type="text" value="6:00"/>
<input type="checkbox"/> Friday	AM	<input type="text" value="6:00"/>	PM	<input type="text" value="6:00"/>
<input type="checkbox"/> Saturday	AM	<input type="text" value="8:00"/>	PM	<input type="text" value="5:00"/>
<input type="checkbox"/> Sunday	AM	<input type="text"/>	PM	<input type="text"/>

6. Marketing or Advertising:

Explain how people know about or can access your service.

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

7. Annual Service Miles:

Total annual mileage of all vehicles:



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4. List of suggested vehicles

Vehicle Description	Pass No.	Fuel Option	Floor Type	GVW (Approx.)	W/C Stations	No. Units	Cost Estimate	Total Cost
Vans								
Mini	6	Gas	Reg.	6,050#	None		28,000.00	0.00
Mini Conversion	5	Gas	Low	5,300#	One		42,000.00	0.00
Extended	12	Gas	Reg.	9,500#	None		45,000.00	0.00
Extended (4x4)	12	Gas	Reg.	9,500#	None		65,000.00	0.00
High-Top Van	9	Gas	Reg.	9,500#	One		65,000.00	0.00
Body on Van Chassis Cutaway:								
Small-ADA	12	Both	Reg.	9,500#	Six		64,000.00	0.00
Small	13	Both	Reg.	9,500#	Two		67,000.00	0.00
Medium	17	Both	Reg.	14,500#	Two		70,000.00	0.00
Medium	19	Both	Reg.	14,500#	Two	2	75,000.00	150,000.00
Medium	15	Both	Low	14,500#	Two		135,000.00	0.00
Body On Truck Chassis Cutaway:								
Large	23	Both	Reg.	19,500#	Three		95,000.00	0.00
Large	27	Both	Reg.	19,500#	Three		100,000.00	0.00
Body On Truck Chassis Medium-Duty Bus:								
Small	19	Diesel	Reg.	20,500#	Three		95,000.00	0.00
Medium	23	Diesel	Reg.	20,500#	Three		105,000.00	0.00
Medium	23	Diesel	Low	23,000#	Three		190,000.00	0.00
Medium	27	Diesel	Reg.	20,500#	Three		105,000.00	0.00
Medium	27	Diesel	Low	23,000#	Three		195,000.00	0.00
Large	35	Diesel	Reg.	23,000#	Three		115,000.00	0.00
Large	35	Diesel	Low	23,000#	Three		200,000.00	0.00
Heavy Duty Transit Bus:								
Large	26	Diesel	Low	30,000#	Two		390,000.00	0.00
Other Equipment								
Passenger Shelters						2	8,800.00	17,600.00
Routing Software Package							50,000.00	0.00
Facility							Quote	
Total Amount								167,600.00
5311 Recipients: Total Federal Assistance Request Amounts (86.58/13.42%)								145,108.08
5310 Recipients: Total Federal Assistance Request Amounts (80/20%)								134,080.00



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5. Special Vehicle Requests

If you have a special need for a type of vehicle not listed above in the "List of Suggested Vehicles" section, use the space provided to explain the vehicle that you need. Include the make/model and other pertinent info used to identify the vehicle type. Be sure to explain the specific need in the "Needs Justification" section.

6. Basic Vehicle Options

After vehicles are awarded you will receive an options form. These forms offer you the opportunity to customize your vehicle. Customizations may include the option to specify: interior/exterior colors, lift location, bike rack, drop chains, storage compartments, destination signs, etc.

7. Sources of capital matching funds

Source	Amount
Ten Mill Transit Levy	33,520.00



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8. Needs justification

Describe the need for each piece of equipment requested including if this equipment will replace existing equipment, expand service, or if this is a new service. Description of need should include: current maintenance costs and mileage of vehicle(s) being replaced and maintenance history. Provide as much detail as possible. The Capital Assistance Review Committee (CAR) will use this information to prioritize capital requests. Attach additional pages if needed.

MET Special Transit (MST) provides a very valuable service to the City of Billings. It addresses the needs of people whose disabling conditions prevent their use of the regular fixed route MET Transit bus service. This is done through contracts with some agencies/entities and through MET-Plus, which is a service operated in accordance with the requirements of the Federal Americans with Disabilities Act of 1990 (ADA). MET-Plus provides transportation to medical appointments, dialysis, work, school, group homes, day care programs, shopping, etc. The City of Billings' MET Transit continues to work on maintaining a replacement cycle of replacing paratransit vans after seven years and over 100,000 miles. The vehicles being requested in the application will replace two vans that are over seven years old, with mileage exceeding 140,000 miles at the time of replacement. In addition, maintenance cost to these vehicles is increasing due to high volume in lift usage along with excessive wear and tear on the vehicles from excessive use. Reliability is important for service maintainability and customer satisfaction.



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AUTHORIZATION TO MAKE APPLICATION

Legal Name of Applicant Agency:

BY SIGNING BELOW, I (name), on behalf
of the (applicant), declare that this

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

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

Signature: _____

Title:

Date:



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**CERTIFICATIONS
AND
INSURANCES**



APPLICANT ORGANIZATION ASSURANCES

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

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA (19) for Federal Fiscal Year 2013 at the FTA website. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.

1. FOR EACH APPLICANT

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

B. Assurance of Authority of the Applicant and Its Representative

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

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

C. Standard Assurances

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



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D. Nondiscrimination Assurance

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

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

Consistent with OMB assurances set forth in SF_424B and SF_424D, the Applicant assures that, with respect to itself or its project, the Applicant:

- (1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;
- (2) Will give FTA, the Comptroller General of the United States, and MDT, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
- (3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
- (4) Will initiate and complete the work within the applicable project time periods following receipt of MDT approval;
- (5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:
 - (a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;
 - (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;
 - (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;
 - (e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92_255, March 21, 1972, and amendments thereto, 21 U.S.C. 1174 *et seq.* relating to nondiscrimination on the basis of drug abuse;
 - (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91_616, Dec. 31, 1970, and amendments thereto, 42 U.S.C. 4581 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (a) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd_3 and 290ee_3, related to confidentiality of alcohol and drug abuse patient records;
 - (b) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and
 - (c) Any other nondiscrimination statute(s) that may apply to the project;
 - (d) The Applicant will execute such amendments to third party contracts and subagreements financed with MDT/FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and



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- (e) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;
- (7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;
- (8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Applicant and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- (9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;
- (10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with MDT/FTA assistance takes place without permission and instructions from MDT/FTA;
- (11) To the extent required by MDT/FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;
- (12) To the extent applicable, will comply with MDT/FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;
- (13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with MDT/FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or MDT;
- (14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:
- (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;
- (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
- (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
- (d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;
- (e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
- (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
- (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j_6;



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- (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
- (i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
- (j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
- (k) Provision of assistance to MDT/FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c ; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;
- (15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;
- (16) To the extent applicable, will comply with the National Research Act, Pub. L. 93_348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;
- (17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;
- (18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A_133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A_133 Compliance Supplement provisions for the U.S. DOT; and
- (19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that MDT/FTA has expressly approved otherwise in writing.



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2. LOBBYING CERTIFICATION

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

3. PROCUREMENT COMPLIANCE

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

4. PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION

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

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



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5. PUBLIC HEARING

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

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

6. ACQUISITION OF ROLLING STOCK

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

7. ACQUISITION OF CAPITAL ASSETS BY LEASE

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

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

8. BUS TESTING

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

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



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9. CHARTER SERVICE AGREEMENT

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

10. SCHOOL TRANSPORTATION AGREEMENT

- A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and each subrecipient or third party contractor at any tier will:
- (1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and
 - (2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.
- B. The Applicant understands that:
- (1) The requirements of 49 CFR part 605 will apply to any school transportation service it or its subrecipients or third party contractors provide,
 - (2) The definitions of 49 CFR part 605 will apply to this School Transportation Agreement, and
 - (3) A violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

11. DEMAND RESPONSIVE SERVICE

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



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12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

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

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

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

1. The State or State organization Applicant assures that:

a. Each subrecipient is:

(1) Recognized under State law as a private nonprofit organization with the legal capability to contract with the State to carry out the proposed project, or

(2) A public body that has met the statutory requirements to receive Federal funding authorized for 49 U.S.C. 5310,

(1) The projects it has selected or will select for funding under that program were derived from a public transit-human services transportation plan that has been:

(a) Locally developed, and Coordinated, and

(2) That locally developed, coordinated plan was produced through a process that included:

(a) Representatives of public, private, and nonprofit transportation providers, nonprofit human services providers, and

(b) Participation by the public.

a. As required by 49 U.S.C. 5307(d)(1)(A), it and each subrecipient has or will have the:

(1) Legal capacity to carry out its proposed projects,

(2) Financial capacity to carry out its proposed projects,

(3) Technical capacity to carry out its proposed projects,

(4) Safety aspects of its proposed projects, and

(5) Security aspects of its proposed projects.

b. As required by 49 U.S.C. 5307(d)(1)(B), it and each subrecipient has or will have satisfactory continuing control over the use of project equipment and facilities,

c. As required by 49 U.S.C. 5307(d)(1)(C), it and each subrecipient will maintain the project equipment and facilities adequately.

e. As required by 49 U.S.C. 5307(d)(1)(G), it and each subrecipient:

(1) Has or will have the amount of funds required for the local share,

(a) As required by 49 U.S.C. 5310(c), and

(2) Will provide the local share funds from approved non-Federal sources except as permitted by Federal law, and

(3) Will provide the local share funds when needed, and

f. As required by 49 U.S.C. 5307(d)(1)(H), it and each subrecipient will comply with:

(1) The requirements of 49 U.S.C. 5301(a) for public transportation systems that:

(a) Maximize the safe, secure, and efficient mobility of people,

(b) Minimize environmental impacts, and

(c) Minimize transportation-related fuel consumption and reliance on foreign oil,



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- (2) The requirements of 49 U.S.C. 5301(d) for special efforts to:
 - (a) Design public transportation for elderly individuals and individuals with disabilities, and
 - (b) Provide public transportation for elderly individuals and individuals with disabilities, and
- (3) The requirements of 49 U.S.C. 5303 - 5306 for:
 - (a) Metropolitan and State Planning, and
 - (b) Private enterprise participation.

14. NONURBANIZED AREA FORMULA PROGRAM

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

- A. The Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- B. The Applicant assures that the project equipment and facilities will be adequately maintained;
- C. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the Applicant's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
- D. The projects in the state's Nonurbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable, the projects are included in a metropolitan Transportation Improvement Program;
- E. The Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non_Federal sources except as permitted by Federal law;
- F. The Applicant assures, as a minimum, that insurance coverage will be provided on all vehicles and/or equipment purchased under this program grant sufficient to protect MDT/FTA's matching share for the lifetime of the project;
- G. The applicant assures that it has or will have available at the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with State or Federal assistance awarded for this project;
- H. The Applicant has complied or will comply with the transit employee protective provision of 49 U.S.C. 5333(b) and has signed the "Labor Warranty Section 13(c)" certification attached to this document; and
- I. Unless otherwise noted, each of the Applicant's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c).

Signature: _____ Date

Printed Name Mayor, Thomas W. Hanel

Legal Name of Applicant Agency: City of Billings-Aviation and Transit Department-MET Transit



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**MDT NONDISCRIMINATION
AND
DISABILITY ACCOMMODATION NOTICE**

Montana Department of Transportation ("MDT") is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination on the grounds of race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, religion/creed/culture, political belief, genetic material, veteran status, or social origin/ancestry (hereafter "protected classes") by its employees or anyone with whom MDT chooses to do business.

For the duration of this contract/agreement, the PARTY agrees as follows:

(1) Compliance with Regulations: The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(2) Non-discrimination:

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
- b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of race, color, national origin, sex, age, pregnancy, parental/marital status, disability (physical or mental), religion, creed, political ideas, or genetic material.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement the PARTY assures that:



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

c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);



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- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

Signature: _____

Date

Printed Name Mayor, Thomas W. Hanel

Legal Name of Applicant Agency: City of Billings-Aviation and Transit Department-MET Transit



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LABOR WARRANTY
SECTION 13(c)

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

Signature: _____ Date

Printed Name Mayor, Thomas W. Hanel

Legal Name of Applicant Agency: City of Billings-Aviation and Transit Department-MET Transit

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Zone Change 929 - 2nd reading

PRESENTED BY: Candi Millar, Planning & Community Services Department Director

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

This is a zone change request from Agriculture Open-Space (A-1) to Planned Development (PD) with an underlying zoning of Community Commercial (CC) with special provisions for medical services, complementary uses and residential development. The location is on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road, and is an unplatted 80-acre parcel of land. The property is currently owned by Billings Clinic and is leased for agricultural production. The Council approved annexing the property at its January 26 meeting. The agent for the application is Pat Davies, P.E. of Sanderson Stewart. A pre-application neighborhood meeting was held at Faith Chapel on July 22, 2014, and a Preliminary Review meeting with surrounding owners, the applicant and city staff was held on December 16, 2014. The Zoning Commission conducted a public hearing on January 6, 2015, and is forwarding a recommendation of approval and adoption of the findings of the 10 criteria on a 5-0 vote. The City Council approved the zone change on 1st reading on January 26, 2015.

ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change as recommended by the Zoning Commission and adopt the findings of the 10 criteria;
- Deny the zone change and adopt different findings of the 10 criteria;
- Allow the applicant to withdraw the zone change; or
- Delay action on the zone change request for up to 30 days.

FINANCIAL IMPACT

The annexation and zone change will increase the city's tax base. When development occurs, additional city services will be required and additional tax revenue will be realized.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of approval and adoption of the findings of the 10 criteria for Zone Change 929 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance and PD Agreement

ORDINANCE NO. 15-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR an unplatted parcel known as the N1/2SE1/4 of Section 3, T1S, R25E, an 80 acre parcel of land, generally located on the southwest corner of the intersection of Shiloh Road and Broadwater Avenue

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 an unplatted parcel known as the N1/2SE1/4 of Section 3, T1S, R25E, an 80 acre parcel of land, generally located on the southwest corner of the intersection of Shiloh Road and Broadwater Avenue is presently zoned **Agriculture-Open Space (A-1)** and is shown on the official zoning maps within these zones.
3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Agriculture-Open Space (A-1) to Planned Development (PD)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to the **attached Planned Development Agreement (Exhibit A)** 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 January 26, 2015.

PASSED, ADOPTED AND APPROVED on second reading February 9, 2015.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk
Zone Change #929 – Broadwater & Shiloh – Billings Clinic

Exhibit A
**PLANNED DEVELOPMENT AGREEMENT
BILLINGS CLINIC WEST SUBDIVISION**

This **PLANNED DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this ____ day of _____, 20__, by and between **BILLINGS CLINIC**, formerly known as Deaconess Billings Clinic, a Montana nonprofit corporation, with mailing address at P.O. Box 37000, Billings, Montana 59107-7000 ("Billings Clinic") and **THE CITY OF BILLINGS, MONTANA**, a Municipal corporation, with mailing address at 210 North 17th Street, Billings, Montana 59101 ("City").

RECITALS

A. Billings Clinic is the owner of fee simple title to 80 acres of real property ("Property") located in Yellowstone County, Montana described as follows:

**Township 1 South, Range 25 East, of the Principal Montana Meridian,
Yellowstone County, Montana**

Section 3: N½SE¼

EXCEPT that part conveyed to the State of Montana for the benefit and use of its State Highway Commission by Bargain and Sale Deed recorded January 20, 1955, in Book 511, under Document No. 536800, records of Yellowstone County, Montana.

EXCEPT that part conveyed to the State of Montana for the benefit and use of its State Highway Commission by Bargain and Sale Deed recorded January 20, 1955, in Book 511, under Document No. 536801, records of Yellowstone County, Montana.

EXCEPT that part conveyed to the State of Montana for the benefit and use of its State Highway Commission by Bargain and Sale Deed recorded March 11, 1955, in Book 519, under Document No. 539621, records of Yellowstone County, Montana.

The Property shall be known as the **BILLINGS CLINIC WEST SUBDIVISION** (the "Subdivision").

B. Billings Clinic intends to develop the Subdivision as a mixed-use development including a Medical Services campus with other complimentary uses.

NOW THEREFORE, the parties to this Agreement establish and declare the following plan for the Subdivision which shall apply to the entire Subdivision and shall bind all of the present and future owners of Lots and Common Area within the Subdivision and shall run with the land.

1. Recitals. The foregoing Recitals are incorporated into the terms and conditions of this Agreement.

2. Development Concept and Purposes.

a. Planned Unit Development. The Property shall be developed as a Planned Unit Development in accordance with this Agreement and the Minor Plat attached hereto as **Exhibit A**. This Agreement is hereby approved and incorporated into the Ordinance.

b. Purpose. This Agreement is intended to create a subdivision with a township-like atmosphere containing a Medical Services campus with appropriate and complimentary commercial and retail uses and the possibility of residential uses. The Subdivision will contain features that promote superior functionality and way-finding, easy access to quality healthcare, a satisfying and safe environment for the individuals who work in and visit the Subdivision, easy pedestrian access, limited vehicular congestion, and pleasant and

consistent landscaping and architectural design. This Agreement is intended to provide Billings Clinic with maximum flexibility for future development within a sound development structure.

3. Definitions. Unless otherwise defined herein, all terms used in this Agreement shall have the same meanings as specified in Chapter 27 of the City of Billings, Montana Municipal Code. The following definitions apply to this Agreement:

a. Common Area. “Common Area” means any property or facility that Billings Clinic owns or creates by easement in the Subdivision that is for the common use or benefit of the Lot Owners and/or the Lot Owner’s tenants, employees, agents, patients, customers, licensees, and invitees. Common Area may include, but is not limited to, private streets, sidewalks, walking pathways, bike trails, park areas, gardens, water features, playgrounds, open spaces, and landscaped entryways and buffers within the Subdivision.

b. Common Area Director. “Common Area Director” means the person or firm appointed by Billings Clinic in accordance with the terms and conditions of this Agreement or otherwise to maintain the Common Areas within the Subdivision.

c. Medical Services. “Medical Services” shall be defined to its broadest extent to include, but not be limited to: hospitals and hospital-related services; hospital-related access points such as emergency facilities and helicopter access; medical and dental professional clinics and/or offices; medical laboratories; pharmacies; physical therapy facilities; research and testing facilities related to the practice of health and medicine; health and fitness-related businesses; and ancillary healthcare services, along with their customary accessory uses and structures.

d. Medical Services Uses. “Medical Services Uses” are uses relating to Medical Services.

e. Lot. “Lot” means a portion of the Subdivision depicted as a separately identified parcel on a recorded subdivision plat or survey that may be independently owned and conveyed. The term refers to the land as opposed to structures or other improvements on the Lot. The term does not include private streets within the Subdivision.

f. Lot Owner. “Lot Owner” means the record owner of a Lot, whether one or more.

g. Manufacturing. “Manufacturing” means to produce something by industrial process or to make something using raw materials, especially on a large industrial scale.

h. Review Committee. “Review Committee” shall mean that committee structured and appointed by Billings Clinic to have the duties and responsibilities identified in this Agreement or otherwise, including but not limited to responsibility for reviewing and approving or denying the design of all projects proposed for any Lot within the Subdivision.

i. Shiloh Corridor Requirements. “Shiloh Corridor Requirements” means the Shiloh Corridor Overlay District Zoning Regulations, Section 27-1400, et seq., City of Billings, Montana Municipal Code.

j. Shiloh Drain and Shiloh Drain Easement Area. “Shiloh Drain” and “Shiloh Drain Easement Area” mean the area established by the reservation made in the Quitclaim Deed and Reservation of Easement dated August 9, 2004 and recorded September 3, 2004 with the Yellowstone County Clerk and Recorder as Document No. 3303618.

4. Persons Bound by this Agreement. The City of Billings and all individuals, corporations, or other entities who presently have or shall hereafter acquire any interest in and to any of the Property within the Subdivision shall be held to agree to all of the terms of this Agreement and all such individuals, corporations, and other entities, their heirs, devisees, successors, assigns, tenants, and trustees shall be bound by this Agreement, the terms of which shall run with the land.

5. Regulation of Uses.

a. Permitted Land Uses within the Subdivision. The primary use of the Lots in the Subdivision shall be Medical Services Uses although other commercial, retail and professional uses and residential uses may also be permitted. In addition, the Subdivision may contain private streets, sidewalks, walking pathways, bike trails, park areas, gardens, water features, playgrounds, athletic fields, open spaces, and landscaped entryways.

b. Interim Land Uses within the Subdivision. Billings Clinic may, in its absolute and sole discretion, permit farming operations within the Subdivision.

c. Prohibited Uses within the Subdivision. The following land uses shall not be allowed as permitted uses and/or structures within the Subdivision:

i. Alcoholic Beverages. Any business or establishment that sells alcoholic beverages, including liquor stores and bars, unless operated in conjunction with a restaurant with food service and also excepting the sale of packaged beer and wine for off-premises consumption by a general retail store. A restaurant serving alcoholic beverages cannot engage in gaming or gambling activities. Alcoholic beverages may be sold at special catered events within the Subdivision with the prior express written consent of Review Committee, which consent may be withheld or granted in the exclusive discretion of the Review Committee.

ii. Billboard Signs.

iii. Casinos. Any establishment engaged in gaming or gambling activities, including casinos and bingo parlors.

iv. Clubs & Fraternal Organizations. Any clubs or fraternal organizations which serve alcoholic beverages or liquor.

v. Pornographic Materials. Any establishment selling or exhibiting pornographic materials or drug-related paraphernalia, except that such prohibition shall not limit the sale of books, periodicals, music products, and video products by a bookstore and/or music store carrying a full line of adult and/or children's titles, such as, by way of example, but not limited to, Barnes and Noble bookstores.

vi. Sexually-Oriented Businesses. Sexually-oriented businesses as defined by Section 27-611 of the City of Billings, Montana Municipal Code.

vii. Tobacco Sales. Sale of cigarettes, cigars, and tobacco products, except incidental to the operation of a general retail store.

viii. Marijuana Sales, whether for medical purposes or otherwise.

ix. Automobile & Truck Repair, Sales & Service Businesses, Auto Parts Supply, Auto & Truck Leasing and Rental, RV Sales & Service, Heavy Truck/Tractor Sales & Service.

x. Taproom, Brewery, or Microbrewery, except as incidental to a restaurant with food service.

xi. Gas Stations & Service Stations for Automobiles, Trucks, Trailers, or Recreational Vehicles.

xii. Gun and Archery Ranges and the Sale of Guns and Ammunition, unless incidental to a general retail store.

xiii. Equipment Rental Shops, unless related to Medical Services Uses.

xiv. Manufactured Homes.

xv. Deferred Deposit Lenders, Wage Brokers, Pawnbrokers and Pawn Shops, and Consumer Loan Licensee Businesses.

xvi. Bail Bond Businesses.

xvii. Tattoo Parlors.

xviii. Pool or Billiard Hall.

xix. Propane Sales.

xx. Industrial Uses that are inconsistent with commercial zoning or a commercial/Medical Services Uses development, including, but not limited to: warehouses, packing plants, grain mills, sawmills, petroleum refining, cement plants, bulk processing or storage of stone, clay, gravel, and/or glass, metal fabrication, recycling centers, cemeteries, mining, and general contractor operations.

xxi. Manufacturing Uses, unless related to Medical Services.

xxii. Second Hand Stores, Flea Markets & Junk Shops. This prohibits the sale of used household furniture and clothing, appliances, and equipment.

xxiii. Car & Truck Washes.

xxiv. Fireworks. The sale or manufacture of fireworks.

xxv. Title Loan Businesses.

xxvi. Commercial Storage Facilities & Mini Storage Facilities. This prohibits all storage rental facilities.

xxvii. Tire Sales, except as incidental to the operation of a general retail store.

xxviii. Animal Kennels or Animal Raising Facility, except that a Veterinarian can have limited overnight boarding in conjunction with the administration of veterinarian services.

xxix. Building Contractor or Subcontractor Operations.

xxx. Livestock and Farm Equipment. Any establishment engaged in the sale of livestock, ranch or farm equipment.

xxxi. Massage Parlors, excluding therapeutic massage.

xxxii. Mortuary, Funeral Home, or Crematorium.

xxxiii. Truck Stops and Truck Terminals as defined by 27-201 of the City of Billings, Montana Municipal Code.

xxxiv. Warehouses, unless incidental to Medical Services Uses.

xxxv. Adult Book Store, Adult Video Store, Adult Movie Theater or other establishment selling, renting or exhibiting pornographic materials or drug-related paraphernalia, except that this provision shall not prohibit the operation of a bookstore or video store which carries a broad inventory of books or videos and other materials directed towards the interest of the general public, as opposed to a specific segment thereof.

xxxvi. Amusement Park or Arcade.

6. Condition of Subdivision Lots and Improvements.

a. Maintenance of Lots. Lot Owners shall at all times, at their sole cost and expense, keep and maintain their Lot, and any improvements thereon, in a safe and clean condition and appearance and shall comply with all applicable governmental, health, fire, and safety laws, ordinances, regulations, requirements, directives and covenants. The owner of every unimproved Lot shall remove weeds, brush, and rubbish at least every three (3) months and when directed to do so by the City of Billings or Billings Clinic. The owner of every improved Lot shall remove any accumulated rubbish at regular and frequent intervals. Billings Clinic and the Common Area Director may perform any maintenance and clean-up on any Lot that is not maintained as required and may charge the Lot Owner for all costs relating to such work.

b. Noxious Weeds. All noxious weeds, as identified on the then current Yellowstone County Noxious Weed List, must be controlled on all Property within the Subdivision. All cost associated with such noxious weed control shall be the responsibility of each Lot Owner.

c. Sewer and Water Facilities. All development within the Subdivision shall be served by public sewer facilities and public water service.

d. Outside Storage. Outside storage shall not be permitted in the Subdivision except for limited, short-term outside storage during construction and designated storage areas approved by the Review Committee. No trailer (horse, boat, snowmobile, etc.), boat, camper, motor home, recreational vehicle, snowmobile, vehicle or other equipment generally associated with recreation and leisure time activity shall be situated or parked on any Lot or street in the Subdivision for more than five (5) days in any calendar year, unless it is enclosed by a garage meeting the design requirements of this Agreement and, at a minimum, the Shiloh Corridor Requirements. Notwithstanding the foregoing, the Review Committee may approve designated temporary parking for motor homes used by patients receiving Medical Services and their families.

e. **The Shiloh Drain.** Lot Owners shall at all times conduct their use and activities in a manner that will preserve the integrity of the Shiloh Drain, including the prevention of any degradation of water quality, any reduction in the flow of water, and any damage to the bed or banks of the Shiloh Drain. Lot Owners shall not conduct, permit or encourage any of the following activities:

i. The discharge of any liquid (except storm water runoff as directed by the details of an engineered storm drainage management plan), solid, or gas into the Shiloh Drain;

ii. The planting or dropping any non-native fish, animal, reptile, or plant into the Shiloh Drain area;

iii. The dumping of grass clippings or landscaping material or debris into the Shiloh Drain;

iv. The dumping of any refuse into the Shiloh Drain;

v. The polluting of the water in the Shiloh Drain; or

vi. The discharge of any Hazardous Materials into the Shiloh Drain. The term "Hazardous Materials" shall mean: petroleum products, asbestos, poly-chlorinated biphenyls, radioactive materials, and all other dangerous, toxic, or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law. The term "Environmental Law" shall mean all federal, state, county, city, local, and other statutes, laws, ordinances, and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

7. **Common Area.**

a. **General Common Area.** Billings Clinic may designate areas of the Subdivision, including the Shiloh Drain and setback buffers along public right-of-ways, as Common Areas for private streets, sidewalks, trails, pathways, park areas, gardens, water features, playgrounds, athletic fields, open spaces, green space, landscaped areas, lighting, and signage. Such Common Areas may consist of property owned by Billings Clinic outside of designated Lots or areas created by easement over Lots. The Common Area shall be developed and maintained at no cost to the City and the Lot Owners shall contribute on a prorata basis based upon Lot size to a fund for the purpose or development and maintenance of Common Areas.

b. **Private Streets.** The streets within the Subdivision shall be private streets owned by Billings Clinic to which the Lot Owners and their tenants, employees, agents, patients, customers, licensees, invitees and their successor and assigns shall be granted easements for use. Billings Clinic and the City of Billings Public Works Department will enter into a Development and Maintenance Agreement to provide for the development and maintenance of the private streets. With the development of the private streets within the Subdivision, Billings Clinic shall grant and convey to the City perpetual right-of-way easements for the purposes of constructing, reconstruction, maintaining, operating, servicing, repairing, and replacing sanitary sewers, water lines, and other utilities. The private streets shall be considered Common Area of the Subdivision and shall be maintained as Common Area by the Common Area Director. Billings

Clinic may require a minimum five (5) foot landscaped boulevard adjacent to the private streets, and the Lots within the Subdivision may be subject to reciprocal easements for the development of such buffers to serve the Subdivision. Each Lot Owner will be responsible for the development and maintenance of the landscaping contained in the landscaping buffers which shall meet specific design standards developed by Billings Clinic and enforced by the Common Area Director.

c. **Multi-Use Pathways.** Billings Clinic may provide for the development of sidewalks, trails and pathways, together with adjacent minimum five (5) foot wide landscaping buffers (“Multi-Use Pathways”) within the Subdivision to provide pedestrian and/or bicycle access throughout the Subdivision. Lots and Common Area within the Subdivision may be subject to reciprocal easements for the development, construction, and use of such Multi-Use Pathways to serve the Subdivision. No building shall be constructed within ten (10) feet of a Multi-Use Pathway easement, unless the express written consent of Billings Clinic, in its sole and absolute discretion, is obtained. Each Lot Owner will be responsible for the development and maintenance of the Multi-Use Pathways which shall meet specific design standards developed by Billings Clinic and enforced by the Common Area Director. Billings Clinic, at its discretion, can direct that certain maintenance functions relating to the Multi-Use Pathways shall be the responsibility of the Common Area Director.

8. **Site Development, Building, and Landscape Standards.** These standards are provided to establish minimum guidelines for the development of facilities within the Subdivision, including site work, landscaping, buildings and accessory structures, and parking areas. They are designed to provide developers with a guide that defines the aesthetic quality of the Subdivision and to create and maintain quality and harmony between all areas within the Subdivision, yet maintain flexibility to adjust to changes in the ever evolving arena of property development. These guidelines will not define specific styles of architectural character for the various uses possible in the Subdivision.

a. **General Development Standards.**

i. **General.** The following general development standards shall apply to the Subdivision:

- Except as specifically provided herein, the Shiloh Corridor Requirements shall be the minimum standards for the Subdivision and the underlying default zoning shall be Community Commercial.
- All site development shall be designed to encourage reciprocal access and parking between adjacent properties.
- All utilities shall be underground with any surface elements screened by structural or landforms and landscaping elements.
- All antenna and satellite receiver dishes shall be hidden from street view and otherwise screened from view by structures or landscaping elements.

ii. **Lot Coverage.** The total combined lot coverage for all structures on any Lot shall not exceed sixty percent (60%) of the total square footage of the Lot. However, a Lot Owner may request a variance for Lot coverage up to eighty percent (80%) after receiving the express written consent of the Review Committee. Approval of any Lot coverage variance will be through the City Board of Adjustments.

iii. **Setback Buffers.** In addition to the requirement of the Shiloh Corridor Requirements and setback requirements contained in the City of Billings, Montana Municipal Code relating to, among other things, clear vision triangles and arterials, the following setback buffers shall apply to the Subdivision:

- **Front Yard Setback:** Minimum of twenty-five (25) feet from the Lot line
- **Side Yard Setback:** Minimum of twenty (20) feet from the Lot line.
- **Rear Yard Setback:** Minimum of twenty (20) feet from the Lot line.

A. **Determining Setbacks.** The street side of a Lot shall be deemed to be the Front for the purposes of setbacks. If a Lot fronts two streets, the Lot Owner shall select one of the streets as the front for the purpose of determining setbacks.

B. **Building on Lot Lines.** The Review Committee, in its sole and absolute discretion, may allow the construction of buildings on Lot lines. In such event, the affected Lots must be owned by the owner, and may not be separately conveyed so long as the building remains. In the event that the Review Committee allows construction over a Lot line, no setbacks shall apply to the covered Lot line, and the combined Lots shall be treated as one (1) Lot. Upon the approval of the Review Committee, restrictive covenants shall be recorded against the affected Lots to provide that they may not be mortgaged or conveyed separately.

C. **Development of Setback Areas.** Setback areas that are not occupied by required minimum landscaping buffers may be used for driveways and parking.

D. **Required Landscaping of Buffer Areas.** All developments are required to place landscaped buffer areas adjacent to and along the length of all public rights-of-way. All landscaped buffer areas shall meet or exceed the Shiloh Corridor Requirements.

E. **Waivers and Variances.** A Lot Owner may request a variance of up to minus 10% of the setback requirements specified herein, after receiving the express written consent of the Review Committee. Approval of any setback variance will be by the City Board of Adjustments.

iv. **Green Belt Buffers Along the Shiloh Drain.** The Owners of all Lots adjoining the Shiloh Drain Easement Area shall maintain the easement area as a landscaped green belt. The Owners of all Lots along the Shiloh Drain Easement Area shall also maintain landscape space in the right-of-way up to the back of the curb or edge of the paving of the street.

v. **Height Restrictions.** Within the following perimeter of the Subdivision, building height cannot exceed forty-five (45) feet: 500 feet from Shiloh Road and 150 feet from Broadwater Avenue, 44th Street West and the southern boundary of the Subdivision. No building height restrictions exist within the interior portion of the Subdivision bounded by the above-described perimeter, except that the maximum number of stories in a building cannot exceed ten (10) stories.

vi. **Township-Like Development.** Lots may be developed with a juxtaposition of buildings of many different functions which encourages and facilitates easy pedestrian circulation, develops an identifying style, and creates a sense of place as a neighborhood environment.

b. **Site Development Standards.**

i. **Access.** Access to all Lots within the Subdivision shall be from internal private streets and by Multi-Use Pathways. Shared accesses are encouraged.

ii. **Parking.** Adequate off-street parking shall be provided by each Lot Owner for customers, visitors, and employees. Reciprocal parking arrangements between

Lots and adjacent uses are encouraged and can be utilized to ensure that the two Lots combined meet the parking requirements of this Agreement and the Shiloh Corridor Requirements. All off-street parking, access drives, and loading areas shall be paved and properly graded to ensure adequate drainage. All parking lots must be developed with proper integration of landscape and screening elements as provided herein or by other directive of Billings Clinic. The parking requirements for each Lot shall meet the standards of the City of Billings for each use proposed for a Lot, but shall not exceed 120% of the City's minimums. Each Lot Owner shall install a permanent bike rack for each building constructed on a Lot.

A. Off-Site Parking. Parking requirements may be satisfied by on-site parking, approved street parking, and off-site parking facilities, or any combination thereof. All uses must provide the required number of parking spaces designated for the use as defined by the current City of Billings Site Development Ordinance, but not more than the maximum number set forth in this PDA (120% of the City minimums). Required parking for buildings or uses located in the Subdivision shall be located within six hundred (600) feet of the building or use, which distance shall be measured along a straight line between the two (2) nearest points of the lots containing the main use and the accessory parking use.

Each off-street parking area shall be accessible by a public right-of-way and/or a private right-of-way and shall be owned or leased by the owner of the building, use, or activity served by such parking area. The term of any such lease shall be for the duration of the time that the building, use, or activity served by such parking area is in existence at such location. Each lease shall be subject to prior review by Billings Clinic and the City of Billings, and shall provided that if the right to use the designated off-site parking is for any reason terminated or forfeited prior to cessation of the use of the building, or cessation of the use or activity, Billings Clinic and the City shall be immediately advised. In case of such termination or forfeiture, the Lot Owners shall, within ninety (90) days of the termination or forfeiture, present the City and Billings Clinic with a plan to cure any parking shortage within twelve (12) months. All requirements for setbacks, landscaping, signage, and lighting shall apply to off-site parking facilities.

With respect to parking, no more than fifty (50) percent of the required parking for primarily "nighttime uses" may be provided or supplied off-site.

Handicapped accessibility requirements shall be satisfied on site.

B. Shared Parking. Billings Clinic and the City of Billings may authorize the joint use of off-street parking areas by nonresidential commercial business, Medical Services Uses, and other uses or activities, if the following conditions are met:

- No more than fifty percent (50%) of the off-street parking spaces required by this Agreement for primarily "nighttime uses" may be provided or supplied by a use in the other category, or of the other type (provided for a nighttime use by daytime use, and vice versa) by means of a joint parking lease or agreement.
- The building or use for which application is being made to utilize the off-street parking facilities of another building or use shall be located within six hundred (600) feet of such parking facilities, which distance shall be measured along a straight line between the two (2) nearest points of the lots containing the building or primary use and the lot containing the accessory parking use. Safe, lighted, and convenient pedestrian access shall connect the two (2) locations.
- The applicant shall show that there is and will be no substantial conflict between the principal operating hours at the two (2) buildings or uses for which joint use of off-street

parking facilities is proposed, and shall show that there are and will be no conflicting demands for such parking by the respective employees, customers and clients of the two (2) buildings or uses.

- At the time a building permit is applied for, the applicant shall present to Billings Clinic and the City of Billings an appropriate and enforceable lease or reciprocal parking agreement, executed by the parties concerned, for their joint use of off-street parking facilities. The term of the lease or agreement shall be for the duration of the time that each use is in existence at its said location. Each such lease or agreement shall provide that all parties thereto shall notify Billings Clinic and the City of Billings prior to its termination or dissolution for any reason, and shall provide for developing additional required parking at the share lot or at different sites for the users of the shared parking if changes occur to the ownership, types of uses, or parking needs, or if other circumstances require parking be provided at the same time and same location for the businesses served.
- No building permit shall be issued by the City of Billings until such lease or reciprocal parking agreement has first been reviewed by the City and found to meet the requirements of this PDA and to be binding and enforceable. A copy of each such agreement shall be filed with the respective building permit.
- Written approval is obtained from Billings Clinic, in its sole and absolute discretion.

In case of termination or dissolution of any such lease or reciprocal parking agreement, the Lot Owner shall, within ninety (90) days of the termination or forfeiture, present the City and Billings Clinic with a plan to cure any parking shortage within twelve (12) months.

iii. Loading and Service Areas. Loading and service areas shall not be permitted in the front of any Lot within the Subdivision and shall be screened from public view from all streets. Proper integration of landscape and screening elements must be provided between loading and service areas and any street or adjoining Lot. All loading and service areas shall be designed so that vehicles may load and unload without having to back up into any private street within the Subdivision or public right-of-way. All loading and service areas shall be carefully planned, positioned, and screened from off-site ground-level view and streets. On-site views of loading and service areas shall be minimized as much as possible. Screening elements may include landscape materials, landscaped berms and/or building materials similar to those used for the building located on the Lot and shall comply with all applicable building setbacks.

iv. Garbage Collection Areas. Garbage collection areas shall adhere to the following standards:

- All outdoor garbage containers and collection areas shall be screened visually with at least a six (6) foot tall enclosure so that outdoor garbage containers and collection areas are not visible from adjacent properties or Common Areas. No garbage containers or collection areas shall be located between a street and the front of a building, unless otherwise approved in writing by Billings Clinic.

- Garbage containers and collection areas should be appropriately designed to contain all garbage generated on site and deposited between collections. Deposited garbage should not be visible from outside the garbage container or collection area.
- Refuse collection areas should be located upon the Lot to provide clear and convenient access to refuse collection vehicles and thereby minimize wear and tear to on-site and off-site developments.

v. **Accessory Structures, Fences, and Walls.** Construction of accessory structures, fences, and walls shall be according to the following standards:

- All fences shall comply with the City of Billings, Montana clear vision standards, in compliance with §27-615 of the City of Billings, Montana Municipal Code.
- No fence or wall shall exceed a height of six (6) feet, except at trash enclosures or as otherwise approved in writing by Billings Clinic. Any wall over 6 feet must have a City Building Permit.
- No fence or wall shall be constructed between a street and the front of a building, unless otherwise approved in writing by Billings Clinic.
- Accessory structures, fences, and walls shall be of a character, color, and material to match the adjacent buildings and shall coordinate with the overall architectural scheme of the adjacent buildings and shall be integrated into the landscape of the Lot.
- Lot Owners within the Subdivision are required to seek Billings Clinic's written approval, in its sole and absolute discretion, prior to erecting, constructing, or requesting a permit from the City for accessory structures, fences, and walls as set forth herein.
- Chain link fencing, or other wire-type fencing, shall not be permitted in the Subdivision.

vi. **Snow Storage.** Areas adjacent to parking lots shall be provided for on-site snow storage. The snow storage area shall not be adjacent to the streets. Common storage areas between adjacent lots are encouraged. Landscaping shall be maintained if the storage is not done in the paved parking area. Minimum parking requirements shall not be reduced for snow storage.

vii. **Site Lighting Standards.** All outdoor lighting must comply with the Shiloh Corridor Requirements and must conform to uniform lighting requirements developed by Billings Clinic.

viii. **Exterior Mechanical and Electrical Equipment and Transformers.** All exterior mechanical and electrical equipment and transformers shall be screened. Screening may consist of plantings, shrubbery, or durable enclosures. Building parapets shall be designed and built so as to screen roof-mounted mechanical and electrical equipment. If a building parapet does not adequately screen roof-mounted mechanical and electrical equipment, an unobtrusive screening device shall be used. Such screening device shall coordinate with the overall architectural scheme or the equipment shall be completely enclosed within the structure of the building. Lot Owners within the Subdivision are required to seek

Billings Clinic's written approval, in its sole and absolute discretion, prior to erecting or constructing screening devices.

ix. Utilities. All exterior utilities, including but not limited to, drainage systems, sewers, gas lines, water lines, electrical, telephone, and communication wires and equipment shall be installed and maintained underground. Lot Owners within the Subdivision are not required to seek Billings Clinic's written approval prior to installing utilities as set forth herein.

c. Landscape Design Standards. Every Lot shall be developed in accordance with the Shiloh Corridor Requirements, even if a Lot is more than 500 feet from the centerline of Shiloh Road. Billings Clinic may develop more stringent and specific landscaping standards.

i. Waiver or Variance (Modification) of Minimum Setbacks. The minimum setbacks prescribed in the Shiloh Corridor Requirements may be waived or modified after review of the design for the development of the Lot or Lots. Any Waiver or Variance must be approved, in writing, by the Review Committee before application may be made to the City Board of Adjustments. Any Waiver or Variance approved by the Review Committee and the City Board of Adjustments must be submitted to the City along with any application for a Building Permit. The criteria for waiver, to be weighed and considered by the Review Committee are set forth below. Not all of the following criteria must be satisfied, as determined in the sole discretion of the Review Committee:

- The utility easement inside the street-side Lot line shall be maintained clear without overhangs, projections, trees, signs, or other improvements obstructing access to it or placed in it.
- The design concept for development of a Lot or Lots is master planned for a streetscape urban style with building facades located close to the streets and pedestrian ways.
- Landscaping required for buffer areas is located elsewhere upon the Lots.
- Pedestrian circulation and access is maintained to interconnect to adjacent properties;
- The sightline to the fronts of existing adjacent buildings is not obstructed.
- A written approval for waiver is issued by Billings Clinic, in its sole and absolute discretion.
- Written approval from adjacent Lot Owners or users.
- A demonstration of a hardship.

ii. Irrigation. All landscaping must be irrigated with an underground sprinkler system, designed and maintained to provide sufficient water for the landscaping to grow, survive and thrive. Water conservation systems are encouraged.

iii. Loading and Service Areas. Loading and service areas shall be enclosed with either solid screen walls not to exceed six (6) feet or landscaping elements planted in such a manner to create a visually opaque screen when mature. The plant material screen must develop 75% of its maturity within three (3) years from the time of planting.

iv. **Financial Responsibility.** The Lot Owner or its tenant shall have sole financial responsibility for the installation of all landscape improvements within the right-of-way adjacent to their Lot. The landscaping within the remaining yard will be installed by each Lot Owner or its Lessee to blend with the landscaping installed in the right-of-way.

v. **Damage or Demolition.** Any demolition in the right-of-way of the landscape and irrigations system installed by Billings Clinic or the Common Area Director at vehicular access points or by other construction-related disturbances shall be repaired and restored by the Lot Owner as part of the construction efforts in the development of the Lot. The Lot Owner shall maintain water flow within any common area irrigation system during construction and re-establish the existing plantings, grading and irrigation system altered during the construction process. Any other existing on-site landscaping disturbed or demolished during repairs, additions, remodels, or other work to a building or site or by disasters must be restored, replanted, or revised to a condition equal to or better than the quality that existed prior to the work or disaster. Like-size trees and shrubs must be used for replacement or existing trees and shrubs shall be relocated.

vi. **Landscaping.** Lots shall be landscaped and maintained in a neat, clean, orderly, and healthful condition. Maintenance shall include proper pruning of trees and shrubs, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plantings. Required landscaped areas shall be provided with a permanent watering or sprinkling system which shall consist of underground piped water lines terminating in an appropriate number of sprinklers to insure a sufficient amount of water for plants within the landscaped area.

vii. **Reciprocal Landscaping Agreements.** The owner of any Lot in the Subdivision may enter into a reciprocal landscaping agreement with the owner of any other Lot in the Subdivision. The purpose of any such agreement shall be to ensure that the two Lots combined meet all of the landscaping requirements specified in this Agreement and the Shiloh Corridor Requirements. With respect to reciprocal landscaping, the affected Lots must be contiguous and must be developed to present a uniform appearance.

9. **Signs.**

a. **Signage.** Healthcare Purposes signs, as defined by Section 27-706(d) (2) City of Billings, Montana Municipal Code, shall be allowed in the Subdivision as though the Subdivision were a part of the Medical Corridor. All signs, other than Healthcare Purposes signs, shall comply with the Shiloh Corridor Requirements.

b. **Hospitals.** Nothing in this Agreement shall prohibit or restrict a hospital or clinic from using and/or displaying the types of signage required and/or mandated by any state or federal law or regulation with respect to any Hospital Emergency Room and/or Trauma Center.

c. **Sign Easement Areas.** Billings Clinic reserves an easement for Healthcare Purposes Signs, Way Finding Signs, and Green Space Signs in the Sign Easement Areas shown on the Plat. Billings Clinic reserves an easement, including ingress and egress, to access, service, install, repair, replace, and maintain signs within the Sign Easement Areas shown on the Plat. Only Healthcare Purposes Signs, Way Finding Signs, and Green Space Signs may be placed in the Sign Easement Areas. The Healthcare Purposes Signs, Way Finding Signs and Green Space Signs in the Sign Easement Areas may be Off Premises Signs. These signs may also provide public service information and announcements related to the community, the Subdivision, and the medical services community, and giving identity to the Subdivision in general.

d. **Sign Approval.** All signage in the Subdivision is subject to approval by the Review Committee. The Review Committee, in its sole and absolute discretion, may further limit or condition the use of any sign in the Subdivision that it deems to be inconsistent with the objectives for the Subdivision set forth in this Agreement. All signs shall require a Sign Permit from the City, except those signs exempt from City permits under Section 27-701, et seq. of the City of Billings, Montana Municipal Code.

e. **Sign Maintenance.** Any sign that has been approved or for which a permit has been issued shall be maintained by the Lot Owner or its tenant of the Lot on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit and this Agreement. Any damaged sign base shall be repaired within thirty (30) days. Any signage which has been damaged to such extent that it may pose a hazard to a passerby shall be repaired or removed immediately.

f. **Nonconforming Signs.** Nonconforming signs are not permitted. If any sign is erected or installed without proper permits or approvals, it shall be considered nonconforming and shall be removed. All signs which do not conform to the requirements of this Agreement are nonconforming and shall be removed or changed to conform to the requirements of this Agreement. Any sign not removed within thirty (30) days of notice of nonconformance may be removed by the Common Area Director and the costs for removal shall be the responsibility of the owner of the sign.

g. **Landscaping for Monument Signs.** All monument signs shall be located in a landscaped area. Landscaping should be appropriately sited to ensure that signs are not blocked or obscured by trees or bushes.

10. **Enforcement.**

a. **Right to Enforce.** The terms of this Agreement shall be enforced as provided for in Article 27-1100 of the City of Billings, Montana Municipal Code.

b. **Enforcement.** The terms of this Agreement shall run with the land and be binding upon and inure to the benefit of the parties hereto and the Lot Owners. The terms of this Agreement may be enforced by the parties hereto, as well as Lot Owners.

c. **Abatement and Suit.** If, at any time, Billings Clinic or any Lot Owner within the Subdivision objects (the "Objecting Party") to any other Lot Owner's performance of its obligations under this Agreement (the "Defaulting Party"), the Objecting Party shall have all of its rights and remedies at law or in equity, by statute or otherwise. All such rights and remedies shall be cumulative. The Objecting Party shall, in addition to and not in contravention of all other rights and remedies it may have under this Agreement, have the right to provide the Defaulting Party with thirty (30) days' written notice of its objection, specifying the particulars of its objection. If, within thirty (30) days of receipt of such notice, the Defaulting Party fails or refuses to take action to remedy its performance under this Agreement, the Objecting Party may perform whatever maintenance, repair, or operation, or other curative action, as needed to remedy the default. The Defaulting Party shall pay upon demand to the Objecting Party the costs of such maintenance, repair, or operation, or other curative action, together with interest allowed by law, from the date of disbursement of such costs until paid in full. The Objecting Party is not responsible for the continued maintenance, repair, or operation of the Defaulting Party's obligations under this Agreement. The Objecting Party may also prosecute a proceeding at law or in equity against the Defaulting Party to enjoin a violation of the terms of this Agreement, to cause said violation to be remedied, or to recover damages for said violation.

11. **General Provisions.**

a. **Appointment of Agent.** Billings Clinic may, in its sole and absolute discretion, hire, appoint, or designate an individual or entity to fulfill its duties and obligations

hereunder. Notice of appointment shall be made in writing and shall be recorded in the real estate records of Yellowstone County, Montana, and shall contain the legal description for the Subdivision, or any portion thereof, affected by the appointment. Notice of appointment shall also be provided to the City at the address specified herein. Once the notice of appointment has been recorded in the real estate records of Yellowstone County, Montana, Billings Clinic shall have no further responsibility or liability for the future performance or non-performance of this Agreement, and the City and all Lot Owners shall look exclusively to the appointed person or entity. Billings Clinic may, in its sole and absolute discretion, withdraw an appointment or make an additional appointment by simply recording such notice in the real estate records of Yellowstone County, Montana, and providing a copy of such notice to the City.

b. Neutral Interpretation. Billings Clinic and the City hereby stipulate and agree that this Agreement shall be construed using neutral interpretation, and that this Agreement shall not be construed in favor of any party or against any party.

c. Amendment, Modification, and Termination. This Agreement may not be amended, modified, or terminated, in whole or in part, except with the unanimous written consent of Billings Clinic and the City. All amendments and modifications shall be made in accordance with the procedures set forth under the City of Billings, Montana Municipal Code.

d. Notices. All notices or demands required to be given hereunder shall be in writing and shall be served upon the other party either personally or by registered or certified mail. Service by registered or certified mail shall be conclusively deemed made three (3) days after deposit thereof in the United States Mail, postage prepaid, addressed to the party to whom service is to be given, as hereinafter provided, and the issuance of the registry or certification receipt therefore. All notices or demands to Billings Clinic or the City shall be given at the following addresses or such other addresses as Billings Clinic or the City may from time to time designate by written notice given to the other party as hereinabove required.

If to Billings Clinic: Billings Clinic
Attn: Vice President Facility Services
PO Box 37000
Billings, Montana 59107-7000

With copies to: Legal Department
Billings Clinic
PO Box 37000
Billings, Montana 59107-7000

If to the City: City of Billings
Attn: City Clerk
P.O. Box 1178
Billings, Montana 59103

e. Waiver. Failure of one party to notify the other party of a default in the manner provided in this Agreement shall not be deemed a waiver of any rights which the non-defaulting party may otherwise have at law or in equity.

f. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

g. Limitation on Enforcement. This Agreement is for the benefit of Billings Clinic, the City, the Lot Owners, and their heirs, devisees, assigns, and trustees, and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of

this Agreement or to enforce the covenants, conditions, and restrictions contained herein, judicially or otherwise.

h. Force Majeure. Any prevention, delay or stoppage due to strikes, lock outs, labor disputes, Acts of God, inability to obtain labor or materials or reasonable substitute therefore, governmental restrictions, terrorist acts, governmental regulations, inclement weather, governmental controls, enemy or hostile government action, civil commotion, fire or other casualty and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage. All parties shall use reasonable efforts to overcome whatever may be impeding their performance of any obligation hereunder.

i. Severability. Should any provision of this Agreement be or become invalid, void, illegal or unenforceable, it shall be considered separate and severable from this Agreement, and the remaining provisions shall remain in force and be binding upon the parties hereto as though such invalid, void, illegal or unenforceable provision had not been included.

j. No Partnership. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

k. Captions and Headings. The paragraph headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

l. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

m. Construction. In construing the provisions of this Agreement, whenever the context has required, the use of a gender shall include all other genders, and the use of the singular shall include the plural, and the use of the plural shall include the singular.

n. Joint and Several Obligations. In the event any party hereto is composed of more than one person, the obligations of said party shall be joint and several.

o. Conflict. It is the intent of the parties to implement the Shiloh Corridor Requirements throughout the Subdivision. In the event of any conflict between the express terms of this Agreement and the Shiloh Corridor Requirements, the express terms and conditions of the Agreement shall govern. In the event that there is any conflict between this Agreement and other zoning regulations and/or ordinances, the terms and conditions of this Planned Development Agreement shall govern.

p. Run with the Land. The terms and conditions of this Agreement shall run with the land and shall be binding upon and shall inure to the benefit of Billings Clinic, the City, the Lot Owners, and their heirs, successors, and assigns.

q. Contact Person. Billings Clinic shall designate a contact person who may be contacted with respect to any questions, comments, or concerns. The contact person shall be the _____ or his/her designee. At the time of recording, the contact person shall be _____, _____ (telephone (406) _____).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

NOTICE

THIS AGREEMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY WITHIN THE BILLINGS CLINIC WEST SUBDIVISION, OF THE EXPRESS RESTRICTIONS PLACED UPON THE LOTS WITHIN THE BILLINGS CLINIC WEST SUBDIVISION, AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THIS AGREEMENT BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

BILLINGS CLINIC f/k/a Deaconess Billings
Clinic

THE CITY OF BILLINGS, MONTANA,
a Montana Municipal Corporation

By: _____
Name: _____
Its: _____

By: _____
Name: Thomas W. Hanel
Its: Mayor

“Billings Clinic”

Attest:

Cari Martin, City Clerk

(Seal)

“City”

STATE OF MONTANA)
 : ss
County of Yellowstone)

This instrument was acknowledged before me on the ____ day of _____, 20__, by _____, as the _____ of **BILLINGS CLINIC**, a Montana corporation, f/k/a Deaconess Billings Clinic.

[NOTARIAL SEAL]

Type or Print Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires _____ 20__

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20__ before me a Notary Public for the State of Montana, personally appeared **THOMAS W. HANEL and CARI MARTIN**, known to me to

be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they executed the foregoing instrument.

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

_____ (Signature)

(SEAL)
Name)

_____ (Printed

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

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Zone Change 930 - 2nd reading

PRESENTED BY: Candi Millar, Planning & Community Services Department Director

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

This is a zone change that will amend Section 27-306 of the Billings, Montana, City Code (BMCC) to allow Dog Grooming in Neighborhood Commercial (NC) zoning districts. In 1997, when the City and County unified the zoning regulations, dog grooming was designated as an allowed use in only 4 zoning districts – Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI). Prior to 1997, the City Zoning Regulations did not allow dog grooming or other Animal Services (SIC 075) in the CC zone. The Zoning Commission conducted a public hearing on January 6, 2015, and is forwarding a recommendation of approval on a 5-0 vote. The City Council approved the zone change on 1st reading on January 26, 2015.

ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change as recommended by the Zoning Commission;
- Deny the zone change; or
- Withdraw the zone change; or
- Delay action on the zone change for up to 30 days.

FINANCIAL IMPACT

The amendment to change and increase the allowable uses in NC zones will increase the marketability of existing or new NC zoned property. This may increase the property value of the 300+ NC zoned properties within the city limits.

RECOMMENDATION

The Zoning Commission recommends approval of Zone Change 930 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance

Attachment A – Draft Ordinance

ORDINANCE NO. 15 - _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-306 – COMMERCIAL AND INDUSTRIAL USES - TO ADD LANGUAGE TO ALLOW DOG GROOMING IN NEIGHBORHOOD COMMERCIAL ZONING DISTRICTS AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

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

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

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

Section 3. AMENDMENT. That the Billings, Montana City Code be amended by revising Section 27-306 as follows:

Sec. 27-306. District Regulations: Commercial and Industrial Uses.

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
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07 AGRICULTURAL SERVICES (EXCEPT BELOW): – Offices only 0741 Veterinary services for livestock: – Boarding – Outpatient only 0742 Veterinary services for animal specialties: – Boarding – Outpatient only 075 Animal services, except veterinary (except below): – Dog grooming* – Public animal shelters * In NC zones no outdoor exercise areas or kennels allowed	A	A	A	A	A	A	A		A
				SR		A	A		
		SR	SR	A		A	A		SR
		A*	A	A		A	A	A	A

Section 5. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. 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 7. 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 January 26, 2015

PASSED, ADOPTED AND APPROVED on second reading February 9, 2015.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel

ATTEST:

BY: _____
Cari Martin, City Clerk

Zone Change #930 – Text Amendment – Dog grooming in NC zones

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: High Sierra Subdivision, 6th Filing: Preliminary Plat Approval Extension Request

PRESENTED BY: Candi Millar, Planning & Community Services Department Director

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

High Sierra Subdivision, 6th Filing is a proposed subdivision that would create 21 lots for residential use out of 7.18 acres, and is part of a larger master planned area with multiple filings (see attached Master Plan). The property is located north of Annandale Road and east of Greenbriar Road in the Lake Hills area, and is zoned Residential-9600 (R-96) and Residential-7000-Restricted (R-70-R). City Council granted conditional approval of the preliminary plat of High Sierra Subdivision, 6th Filing on February 9, 2009. Section 23-302.M. of the City Subdivision Regulations stipulates that the conditional approval of major preliminary plats shall be in force for not more than three years unless extended by City Council to a period of time mutually agreed-upon by Council and the subdivider. The three year preliminary plat approval period expired on February 9, 2012; prior to that time the subdivider had requested and received extensions to the approval period for three additional years. The current preliminary plat approval is valid until February 9, 2015. With that approval deadline approaching, the subdivider has requested an additional two year extension. If the extension is granted, the preliminary plat approval will remain valid until February 9, 2017.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the request to extend the preliminary plat approval for two years; or
- Deny the request.

Section 23-302.M. lists seven criteria for City Council to consider when evaluating a request for a preliminary plat approval extension request. They are as follows:

1. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations.
2. Progress to date in completing the subdivision as a whole and any phases.
3. Phasing of the subdivision and the ability for the existing development to operate without the delayed development.
4. Dependence of infrastructure development on the subdivision.
5. Duration of the requested extension.
6. Demonstrated ability of the subdivider to complete the subdivision.
7. Such other factors or criteria as deemed material in the discretion of the governing body.

Planning staff's evaluation of these criteria is included in the attachments.

FINANCIAL IMPACT

Platting and subsequent development of 21 lots for residential development would increase the tax revenues for the City. Allowing the subdivider additional time to prepare the final plat documents for approval and recording should not have any direct financial impact to the City.

RECOMMENDATION

Planning staff recommends that the City Council approve the request for an extension of the preliminary plat approval date for High Sierra Subdivision, 6th Filing for two years, and set the new expiration date to February 9, 2017.

APPROVED BY CITY ADMINISTRATOR

Attachments

Letter of Request and Reasons

Review criteria

High Sierra Master Plan

Jan. 5. 2015 10:57AM

Oakland Companies

No. 1970 P. 1



January 5, 2015

Planning & Community Services Department
Attn: Juliet Spalding, AICP
510 North Broadway, 4th Floor
Billings, MT 59101

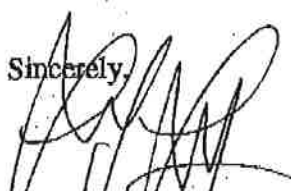
RE: High Sierra Subdivision, 6th Filing.

Dear Mrs. Spalding,

Please accept this letter as our official request to the Planning Department for a two year extension of the High Sierra 6th Filing preliminary plat approval

If you have any questions, please call my office.

Sincerely,



Landy Leep
Vice President
High Sierra II, Inc.

Cc: Mac Fogelsong, Sanderson Stewart.

Spalding, Juliet

From: Landy Leep <lleep@oaklandcompanies.com>
Sent: Thursday, January 08, 2015 4:09 PM
To: Spalding, Juliet; 'Mac Fogelsong'; Landy Leep
Subject: RE: High Sierra, 6th Prelim Plat extension

Good Afternoon Juliet,

We are requesting a two-year extension for the following reason:

As you know, the High Sierra 5th and 7th are already built. We are also in the process of beginning construction of an additional 94 lots in the 8th filing. The activity on the western portion of the High Sierra master plan continues to move ahead nicely. With the construction of the 8th filing, the western portion of the subdivision should have plenty of inventory for our customers for the 2015 building season. The 6th filing will be our first development on the eastern portion of the High Sierra master plan. There are some financial and physical reasons the 6th filing needs additional time before we begin, but I feel comfortable we would be able to start the construction within the 2 year extension time-frame.

Thanks for your consideration,

Landy Leep, VP High Sierra II, Inc.

From: Spalding, Juliet [<mailto:SpaldingJ@ci.billings.mt.us>]
Sent: Thursday, January 08, 2015 11:44 AM
To: Mac Fogelsong (mfogelsong@sandersonstewart.com); Landy Leep
Subject: High Sierra, 6th Prelim Plat extension

Good morning Landy and Mac,

I received a fax from Landy's office requesting a further 2-year extension on the preliminary plat approval on High Sierra 6th. Can you tell me anything else that I can use in my report as to the purpose, the expected development date, reason's the 2 years are needed, etc.? City Council has to consider whether or not to approve, and I need to be able to make a recommendation based on your reasons.

I have attached the criteria we are supposed to use to evaluate the request.

Thanks!

Juliet Spalding, AICP

Planner II, Subdivision Coordinator

City of Billings/Yellowstone County Planning

2825 3rd Ave. North, 4th Floor Billings, MT 59101

Phone 406.247.8684 Fax 406.675.8327

Preliminary Plat Approval Extension Request—Review Criteria

High Sierra Subdivision, 6th Filing

When considering a request for an extension of the preliminary plat approval period, the City Council may use the following criteria to evaluate the request. Below each criterion, staff has provided some information for Council to consider.

1. *Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;*

The preliminary plat for High Sierra Subdivision, 6th Filing was conditionally approved in 2009. Since that time, only minor changes to the City Subdivision Regulations have been made, and none of the amendments will cause this proposal to be out of compliance.

2. *Progress to date in completing the subdivision as a whole and any phases;*

The proposed subdivision is one filing of a larger master planned development. Platting and construction on the western filings of High Sierra (5th, 7th and 8th Filings) have been completed and this has provided a building inventory for the developer through the end of 2015. Sometime after those lots are built out, this 6th Filing would move forward.

3. *Phasing of the subdivision and the ability for the existing development to operate without the delayed development;*

The subdivider has not proposed to phase this subdivision, but will develop the improvements for all 21 lots at once. They would like to wait on development until High Sierra Subdivision, 8th Filing is completed.

4. *Dependence of infrastructure development on the subdivision;*

The subdivision improvements will complete a connection between Greenbriar Road and Annandale Road, however there are no other development plans hinging on the completion of this connection. Delay of the subdivision should not have a negative impact on infrastructure development needs.

5. *Duration of the requested extension;*

The subdivider has requested an additional two years. It is likely that the inventory from the other filings will be sold out within the next three years, and the subdivision will become more marketable as a result.

6. *Demonstrated ability of the subdivider to complete the subdivision.*

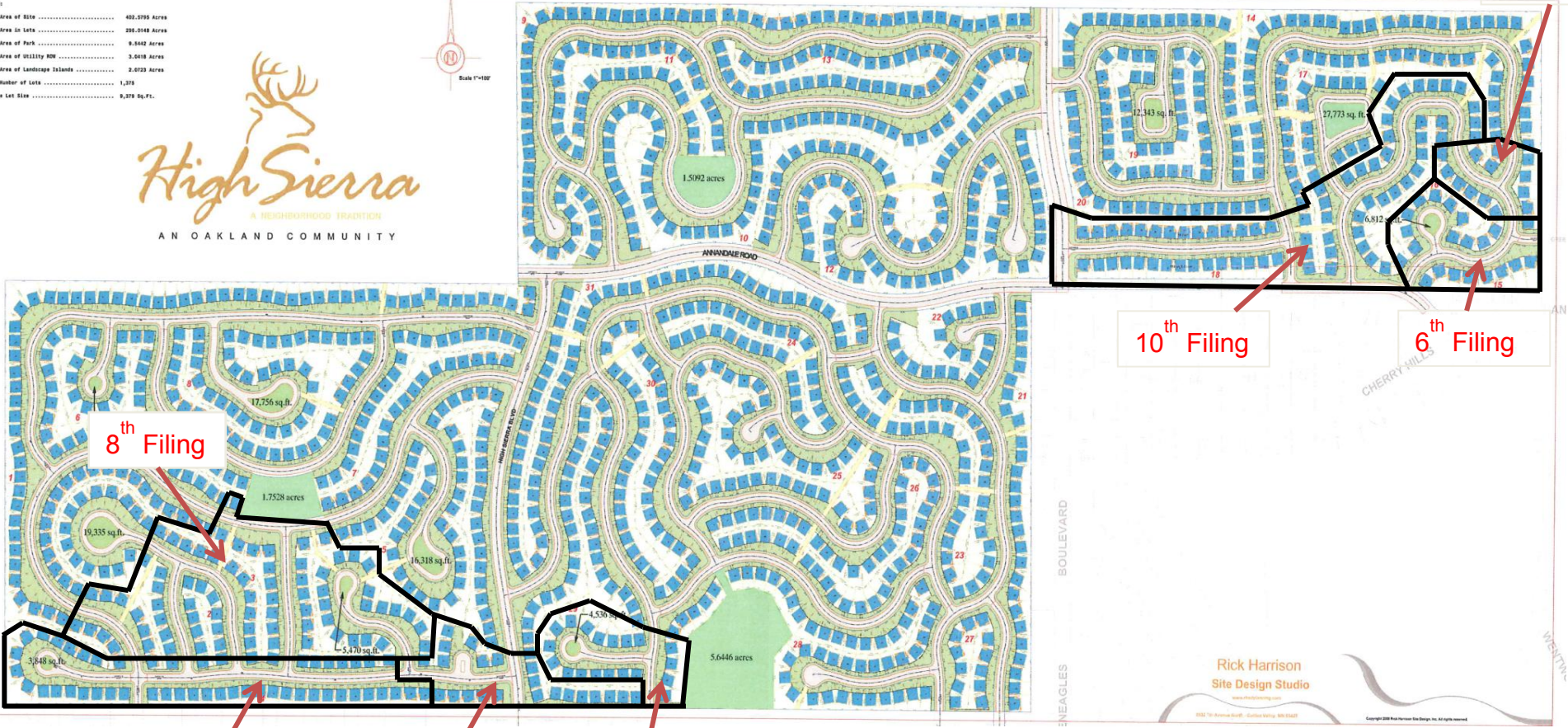
The subdivider has a history of developing similar lots at a steady pace nearby. They have indicated that they are ready to initiate the 5th Filing of the High Sierra Subdivision in a few months, and anticipate that the 6th Filing to follow thereafter.

7. *Such other factors or criteria as deemed material in the discretion of the governing body.*

ATTACHMENT: 2008 High Sierra Master Plan

Legend:

Total Area of Site	420.5795 Acres
Total Area in Lots	226.0148 Acres
Total Area of Park	9.8642 Acres
Total Area of Utility ROW	3.0418 Acres
Total Area of Landscape Islands	2.0723 Acres
Total Number of Lots	1,378
Average Lot Size	9,378 Sq. Ft.



7th Filing

5th Filing

8th Filing

8th Filing

10th Filing

6th Filing

9th Filing

Rick Harrison
Site Design Studio
www.rickharrison.com

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Regular City Council Meeting

Meeting Date: 02/09/2015
TITLE: Payment of Claims January 20, 2015
PRESENTED BY: Patrick M. Weber, Finance Director
Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$893,796.42 have been audited and are presented for City Council payment approval. A complete listing of the claims dated January 20, 2015, 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

council memo 01-20-2015

Check Date	Check	Name	Amount	Account	Item Desc
01/20/2015	781509	Architectural Doors & Hardware LLC	\$2,565.00	6500-15660-403990	Double Door replacement Inv. #4388
01/20/2015	781511	Automatic Doors Of Montana Inc	\$4,330.00	5610-71120-402450	Invoice #3795. Spare parts for revolving doors
01/20/2015	781517	Billings Community Cable	\$250.00	0100-14110-407265	October 2014- December 2014 Live broadcasts
01/20/2015	781517	Billings Community Cable	\$25,000.00	0100-14110-407266	January 2015 Quarterly Disbursement
01/20/2015	781521	Bison Motor Company	\$54,414.50	6400-21650-409440	10 interceptors from the ERP plan.
01/20/2015	781521	Bison Motor Company	\$0.00	1500-21120-409440	1 Interceptor for SRO.
01/20/2015	781521	Bison Motor Company	\$28,624.52	6400-22400-409440	2015 FORD F-250, 3/4 TON 4X4 CREW CAB, SHORT BOX PICKUP WITH TOPPER.
01/20/2015	781524	Brenntag Pacific Inc	\$5,963.62	2110-31320-404720	hicothaw for melting snow on streets
01/20/2015	781525	Bright & Beautiful	\$5,000.00	5410-31210-407390	Bright & Beautiful support
01/20/2015	781525	Bright & Beautiful	\$5,000.00	8020-31810-407390	Bright & Beautiful support
01/20/2015	781537	Chicago Title of Montana LLC	\$10,000.00	2830-65810-407277	FTHB David Grice 707 Key City Drive, Billings,
01/20/2015	781539	Cop Construction Co	\$56,466.23	1990-00000-201100	WO 14-05 SBURD Sewer Phase 1
01/20/2015	781539	Cop Construction Co	\$4,140.38	5030-00000-201100	WO 14-05 SBURD Sewer Phase 1
01/20/2015	781541	Creative Monograms	\$555.00	5020-73120-402260	Winter gear
01/20/2015	781541	Creative Monograms	\$93.75	5020-73140-402260	Winter gear
01/20/2015	781541	Creative Monograms	\$31.25	5120-83140-402260	Winter gear
01/20/2015	781541	Creative Monograms	\$657.30	5020-75000-402260	Cold weather gear
01/20/2015	781541	Creative Monograms	\$438.20	5120-85000-402260	Cold weather gear
01/20/2015	781541	Creative Monograms	\$1,591.50	5020-74000-402260	Cold weather gear
01/20/2015	781541	Creative Monograms	\$47.00	2090-44510-401170	I15-015076, Tom's coat.
01/20/2015	781544	Custom Computer Technologies Inc	\$13,000.00	2510-21870-403560	Invoice 102000107, Forensic Workstation for DCI.
01/20/2015	781546	DataProse LLC	\$6,416.42	5020-73110-403110	Monthly statement billing
01/20/2015	781546	DataProse LLC	\$2,020.86	5020-73110-403111	Monthly statement billing
01/20/2015	781546	DataProse LLC	\$4,277.61	5120-83110-403110	Monthly statement billing
01/20/2015	781546	DataProse LLC	\$1,347.24	5120-83110-403111	Monthly statement billing
01/20/2015	781548	Dept Of Natural Resources	\$5,990.40	0100-51120-405320	Land lease for Riverfront Park islands. 2015
01/20/2015	781549	Desert Mountain Corporation	\$4,280.09	2110-31320-404721	ice slicer for melting snow
01/20/2015	781549	Desert Mountain Corporation	\$3,622.84	2110-31320-404721	ice slicer used for melting snow
01/20/2015	781549	Desert Mountain Corporation	\$4,226.04	2110-31320-404721	ice slicer for melting snow
01/20/2015	781549	Desert Mountain Corporation	\$4,278.86	2110-31320-404721	ice slicer used to melt snow
01/20/2015	781550	Dowl Hkm	\$1,110.73	1990-15050-409310	WO 13-15 Calhoun Road Improvements
01/20/2015	781550	Dowl Hkm	\$3,402.19	1990-15050-409340	WO 14-05 SBURD Sewer Phase I; Amendment
01/20/2015	781550	Dowl Hkm	\$534.81	5030-75910-409340	WO 14-05 SBURD Sewer Phase I - Water Main
01/20/2015	781550	Dowl Hkm	\$37,282.67	8450-31860-409310	WO 15-06 Poly Drive - 32nd St West to 38th St
01/20/2015	781550	Dowl Hkm	\$5,064.44	5130-85910-409340	WO 15-06 Poly Drive - 32nd St West to 38th St
01/20/2015	781550	Dowl Hkm	\$3,693.22	4470-31650-409311	WO 15-06 Poly Drive - 32nd St West to 38th St
01/20/2015	781551	Downtown Billings BID, Inc.	\$13,214.88	7800-15750-407680	Paid December, distributed January 2015
01/20/2015	781553	Dykman Electrical Inc	\$6,141.22	5020-74000-402360	Motor for pump
01/20/2015	781563	Galles Filter Service	\$413.87	6010-00000-141000	323248 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$7.35	0100-51120-402320	322935
01/20/2015	781563	Galles Filter Service	\$39.50	5410-31220-402320	322935
01/20/2015	781563	Galles Filter Service	-\$39.50	5410-31220-402320	323239
01/20/2015	781563	Galles Filter Service	\$32.53	0100-51120-402320	323249
01/20/2015	781563	Galles Filter Service	\$8.64	5410-31230-402320	323282
01/20/2015	781563	Galles Filter Service	\$258.79	5410-31230-402320	misc parts shop
01/20/2015	781563	Galles Filter Service	\$40.50	5710-71440-402320	323251
01/20/2015	781563	Galles Filter Service	\$7.24	5710-71440-402320	323251
01/20/2015	781563	Galles Filter Service	\$138.45	5410-31230-402320	misc parts lf
01/20/2015	781563	Galles Filter Service	\$284.18	5410-31230-402320	misc shop parts lf
01/20/2015	781563	Galles Filter Service	\$96.34	5410-31230-402320	misc parts for lf shop
01/20/2015	781563	Galles Filter Service	\$921.79	5410-31230-402320	filters for unit#252 grinder at landfill
01/20/2015	781563	Galles Filter Service	\$175.00	5410-31230-402320	shop filters for landfill
01/20/2015	781563	Galles Filter Service	\$173.59	5410-31230-402320	misc shop parts
01/20/2015	781563	Galles Filter Service	\$437.50	5410-31230-402320	parts
01/20/2015	781563	Galles Filter Service	\$463.61	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM
01/20/2015	781563	Galles Filter Service	\$138.45	6010-00000-141000	321669 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$19.44	6010-00000-141714	321672 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$227.31	6010-00000-141000	321844 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$71.79	6010-00000-141714	322582 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$64.59	0100-51120-402320	322081
01/20/2015	781563	Galles Filter Service	\$5.43	5710-71440-402320	322582
01/20/2015	781563	Galles Filter Service	\$171.37	6010-00000-141000	322104 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$80.32	6010-00000-141000	322583 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$211.90	6010-00000-141000	322767 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$236.69	6010-00000-141000	323026 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$44.29	6010-00000-141714	322098 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$19.12	5710-71440-402320	322098
01/20/2015	781563	Galles Filter Service	\$8.64	5410-31230-402320	322719
01/20/2015	781563	Galles Filter Service	\$38.46	5410-31230-402320	322766
01/20/2015	781563	Galles Filter Service	\$129.64	5410-31230-402320	322767
01/20/2015	781563	Galles Filter Service	\$7.82	5410-31220-402320	322904
01/20/2015	781563	Galles Filter Service	\$104.20	6010-00000-141714	323025 PO NUM 296399
01/20/2015	781563	Galles Filter Service	\$139.09	6010-00000-141714	323251 PO NUM 296399
01/20/2015	781569	HDR, Inc.	\$2,354.11	5120-82110-403540	WO 12-13 IWPI Reuse and Reclamation Study
01/20/2015	781569	HDR, Inc.	\$13,200.22	5030-74910-409390	WO 15-10 WTP Chemical Building/Disinfection
01/20/2015	781577	John's Home & Yard Service	\$2,880.00	6500-15660-403660	Snow Removal at BOC Inv.

Check Date	Check	Name	Amount	Account	Item Desc
01/20/2015	781578	Junkermier, Clark, Campanella, Stevens PC	\$9,591.47	0100-15120-403530	727967 - final bill for FY 2014 audit
01/20/2015	781584	Kois Brothers Equipment Co	\$289.50	5410-31220-402320	102440
01/20/2015	781584	Kois Brothers Equipment Co	\$1,041.00	5410-31220-402320	102478
01/20/2015	781584	Kois Brothers Equipment Co	\$195.89	5410-31220-402320	102478
01/20/2015	781584	Kois Brothers Equipment Co	\$1,069.00	5410-31220-402320	102322
01/20/2015	781584	Kois Brothers Equipment Co	\$191.36	5410-31220-402320	102322
01/20/2015	781584	Kois Brothers Equipment Co	\$288.26	5410-31220-402320	102430
01/20/2015	781584	Kois Brothers Equipment Co	\$437.00	6010-00000-141000	102429 PO NUM 296400
01/20/2015	781588	Leigh Fisher Associates	\$59,178.89	5610-71100-403540	Amendment 1 - Terminal & Land Use Planning
01/20/2015	781589	LSC Transportation Consultants, Inc.	\$16,551.45	5710-71410-407335	General Transit Planning and Development
01/20/2015	781590	Mailing Technical Services	\$0.00	5210-15210-403110	parking - special inserts only
01/20/2015	781590	Mailing Technical Services	\$1,031.40	0100-15120-403110	Finance
01/20/2015	781590	Mailing Technical Services	\$4,085.69	6050-15150-403110	Postage Fund (weekly bills)
01/20/2015	781600	Montana Department Of Environmental Quality	\$378.48	5410-31230-407635	Imported Waste Tonnage Fee
01/20/2015	781600	Montana Department Of Environmental Quality	\$23,849.60	5410-31230-407635	3rd quarter Landfill license payment
01/20/2015	781601	Montana Law Enforcement Academy	\$1,500.00	1500-21400-403822	Invoice 8143, MLEA Tuition for Tyrel Flammang
01/20/2015	781601	Montana Law Enforcement Academy	\$1,500.00	1500-21400-403822	Invoice 8142, MLEA Tuition for Palmer Henrickson
01/20/2015	781601	Montana Law Enforcement Academy	\$1,500.00	1500-21400-403822	Invoice 8141, MLEA Tuition for Caleb Schultz
01/20/2015	781603	Montana Municipal Interlocal Authority	\$51,553.10	6300-17530-407311	Deductible Recovery Invoice for January 2015
01/20/2015	781606	Morrison Maierle Inc	\$6,237.44	4050-71250-409685	Environmental Assessment RW10R - Federal
01/20/2015	781606	Morrison Maierle Inc	\$693.05	4050-71250-409686	Environmental Assessment RW10R - Local Share
01/20/2015	781606	Morrison Maierle Inc	\$11,223.36	4060-71190-409310	Transfer Parking Lot - CA
01/20/2015	781606	Morrison Maierle Inc	\$1,886.19	5620-71200-409310	Reconstruct Terminal Circle - CA
01/20/2015	781606	Morrison Maierle Inc	\$5,645.42	4050-71250-409685	Amendment 10 - AIP 46 Air Carrier Ramp -
01/20/2015	781606	Morrison Maierle Inc	\$627.28	4050-71250-409686	Amendment 10 - AIP 46 Air Carrier Ramp -
01/20/2015	781606	Morrison Maierle Inc	\$3,316.23	4050-71250-409685	Amendment 10 - AIP 46 Air Carrier Ramp - CA -
01/20/2015	781606	Morrison Maierle Inc	\$368.47	4050-71250-409686	Amendment 10 - AIP 46 Air Carrier Ramp - CA -
01/20/2015	781606	Morrison Maierle Inc	\$3,285.00	5620-71200-409310	Amendment 10 - Repair 7/25 - Asphalt Cracks -
01/20/2015	781606	Morrison Maierle Inc	\$2,885.00	4070-71280-409397	Engineering Services for Airport Detention Pond D
01/20/2015	781613	NorthWestern Energy	\$629.55	5710-71430-403410	07192255
01/20/2015	781613	NorthWestern Energy	\$334.74	1500-22210-403410	07208176
01/20/2015	781613	NorthWestern Energy	\$5.78	5610-71130-403410	0712534-7. Gate 16 Closing Bill
01/20/2015	781613	NorthWestern Energy	\$234.99	5610-71130-403410	0712535-4. Employee Parking. December 2014
01/20/2015	781613	NorthWestern Energy	\$2,364.98	5610-71130-403410	0719543-1. Airport parking lot lights. December
01/20/2015	781613	NorthWestern Energy	\$59.60	2110-31320-403410	10458206
01/20/2015	781613	NorthWestern Energy	\$23.02	0100-51120-403410	11607801
01/20/2015	781613	NorthWestern Energy	\$7.40	5020-74000-403410	11608072
01/20/2015	781613	NorthWestern Energy	\$1,373.17	1500-21710-403410	11834835
01/20/2015	781613	NorthWestern Energy	\$7.40	0100-51120-403410	12422226
01/20/2015	781613	NorthWestern Energy	\$48.22	0100-51120-403410	12488631
01/20/2015	781613	NorthWestern Energy	\$8.12	8720-51980-403410	13127071
01/20/2015	781613	NorthWestern Energy	\$8.49	5020-74000-403410	13466735
01/20/2015	781613	NorthWestern Energy	\$8.59	0100-51120-403410	14093942
01/20/2015	781613	NorthWestern Energy	\$8.59	8720-51980-403410	15143886
01/20/2015	781613	NorthWestern Energy	\$11.12	5210-15240-403410	15696313
01/20/2015	781613	NorthWestern Energy	\$7.40	0100-51120-403410	15882624
01/20/2015	781613	NorthWestern Energy	\$0.98	0100-51120-403410	16926669
01/20/2015	781613	NorthWestern Energy	\$264.79	5120-85000-403410	62nd St West @ Ironwood
01/20/2015	781613	NorthWestern Energy	\$1,401.18	5020-74000-403410	5809 Canyonwoods
01/20/2015	781613	NorthWestern Energy	\$629.99	5020-74000-403410	1699 High Sierra
01/20/2015	781613	NorthWestern Energy	\$65.80	0100-51120-403410	07230451
01/20/2015	781613	NorthWestern Energy	\$0.53	2110-31320-403410	17403577
01/20/2015	781613	NorthWestern Energy	\$0.62	2110-31320-403410	17488966
01/20/2015	781613	NorthWestern Energy	\$38.53	0100-51120-403410	18366666
01/20/2015	781613	NorthWestern Energy	\$40.91	0100-51120-403410	08134892
01/20/2015	781613	NorthWestern Energy	\$8.47	8720-51980-403410	10458131
01/20/2015	781613	NorthWestern Energy	\$187.18	5020-74000-403410	11422532
01/20/2015	781613	NorthWestern Energy	\$32.06	8720-51980-403410	15138001
01/20/2015	781613	NorthWestern Energy	\$85.77	0100-51120-403410	18494088
01/20/2015	781613	NorthWestern Energy	\$86.45	0100-51120-403410	19049444
01/20/2015	781613	NorthWestern Energy	\$8.65	8720-51980-403410	19486679
01/20/2015	781613	NorthWestern Energy	\$6.22	8720-51980-403410	20558177
01/20/2015	781615	One Eighty Communications	\$40.60	5610-71100-403450	Airport 2948370 Airport Alarm
01/20/2015	781615	One Eighty Communications	\$3,643.90	6060-19310-403450	Main Bill Acct 00001906
01/20/2015	781615	One Eighty Communications	\$235.54	6060-19310-403450	Main Bill T-1 Account 00018768
01/20/2015	781615	One Eighty Communications	\$40.10	1500-21110-403450	CPC line 247-8592 Account 00018768
01/20/2015	781615	One Eighty Communications	\$46.00	0100-51120-403450	Dehler Park line 867-7275
01/20/2015	781615	One Eighty Communications	\$980.00	2600-55180-403590	Library Internet Connection Account 00001906
01/20/2015	781615	One Eighty Communications	\$79.95	6200-19110-403452	IT Internet Connection
01/20/2015	781615	One Eighty Communications	\$40.10	2900-65010-403450	Community Development Services FAX 406-294-7595 Account 00018768
01/20/2015	781615	One Eighty Communications	\$40.10	2090-44510-403450	Building FAX 406-657-8252 Account 0018768
01/20/2015	781615	One Eighty Communications	\$40.10	2400-43010-403450	Planning FAX 406-657-8327 Account 00018768

Check Date	Check	Name	Amount	Account	Item Desc
01/20/2015	781622	Sanderson Stewart	\$4,298.85	5130-85910-409340	WO 14-15 Bench Boulevard North Sanitary Sewer
01/20/2015	781622	Sanderson Stewart	\$25,368.88	5030-75910-409340	WO 15-01 2015 Water & Sewer Project - Sch 3
01/20/2015	781625	Snyder Industries	\$43,345.00	5410-31220-404270	150 300 gallon barrels
01/20/2015	781630	State Of Montana,Bldng Codes Bureau	\$5,777.02	2090-44510-407637	I15-015126 Second half of 2014 State payment.
01/20/2015	781636	Town & Country Supply Association	\$10,238.92	5610-71130-402310	Invoice #208070. Bulk purchase of fuel for snow
01/20/2015	781636	Town & Country Supply Association	\$14,493.15	6010-00000-141000	208072 PO NUM 297068
01/20/2015	781636	Town & Country Supply Association	\$4,663.74	6010-00000-141000	208384 PO NUM 297068
01/20/2015	781640	U.S. Marshals Service	\$4,378.64	7180-21600-355060	Refund incorrect equitable sharing payment.
01/20/2015	781645	Veripic Inc	\$3,480.00	1500-21200-402610	1 year software license agreement.
01/20/2015	781646	Water Control Corporation	\$3,393.28	5120-84000-402450	UV Lamps
01/20/2015	781646	Water Control Corporation	\$89,600.00	5120-84000-402450	ORD Lamps - UV lamps (320 count)
01/20/2015	781651	Yellowstone County	\$7,395.34	0100-14110-403930	Election charges for Public Safety Mill Levy Nov 4,
01/20/2015	781653	Yellowstone County GIS	\$27,500.00	2250-22320-403590	GIS SERVICE FOR 911 CENTER, FY2015
01/20/2015	781655	Yellowstone Valley Animal Shelter	\$22,146.92	1500-21700-403990	contract 11\22\14--12\21\14

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Public Hearing and Resolution Creating SILMD 314, Calhoun Lane

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

The Engineering Division has a street reconstruction project planned for Calhoun Lane in the summer of 2015. The project will include installation of street lights along those portions of Calhoun Lane that do not already have street lighting. SILMD 314 is a street light district that will pay the energy and maintenance costs for the street lighting installed by the project. At the January 12, 2015, City Council meeting Council passed the Resolution of Intent to Create SILMD 314 and set a public hearing for February 9, 2015. Legal notice of the proposed district was published and mailed to all property owners in the proposed district in accordance with State law.

The new lighting will use steel mastarm style poles with LED lamps and underground wiring. The cost of installing the new lighting will be paid for with funds from the South Billings Urban Renewal District (SBURD). The adjacent property owners will only pay for electrical energy and maintenance through an assessment on their property tax statements. The estimated annual cost for a typical residential lot with 140 feet of frontage on Calhoun is \$127. Due to the difference in time between when the new lighting will be turned on and the first tax assessments are collected, the first year tax assessment may be higher or lower than the estimated annual assessment.

The deadline for written protests to be filed with the City Clerk was Friday, January 30th. The number and percentage of valid written protests received will be reported at the February 9th Council meeting. As provided in State law, the City Council has the authority to create the district if the legal protest does not exceed 50%.

ALTERNATIVES ANALYZED

The Council may:

- Pass the resolution creating SILMD 314 to provide a source of funding for operation and maintenance of the streetlights; or
- Do not pass the resolution creating the district. If the Council does not adopt the resolution, the property owners cannot be assessed for operation and maintenance of the streetlights and the new lighting will not be installed.

FINANCIAL IMPACT

All costs of maintaining and providing energy for the lighting are paid from assessments against the properties within the light district. There are no City owned properties within the district.

RECOMMENDATION

Staff recommends the City Council approve the resolution creating SILMD 314.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution SILMD 314

SILMD 314 Exhibit A

RESOLUTION NO. 15-_____

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 314 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF SECURING AND PROVIDING ENERGY AND MAINTENANCE FOR NEW STREETLIGHTING, SETTING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATED RATE FOR ENERGY AND MAINTENANCE THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFORE FOR THE FIRST YEAR, AND THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COSTS.

WHEREAS, the City Council of the City of Billings, Montana, on the 12th day of January, 2015, passed Resolution 15-10417, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 314, setting the hearing on the creation of said District and hearing of protests against the extent and creation of said District, or any matter pertaining thereto, and thereafter gave notice by publication and mailing, all as required by law, and at said hearing which was held at the time and place specified in said Notice, all protests were heard and considered; and

WHEREAS, the City Council finds that the protests are insufficient to stop the creation of said district, and the protests are overruled and denied.

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

SECTION 1:

That the City Council of the City of Billings, Montana does hereby create a District, to be known and designated as Special Improvement Lighting Maintenance District No. 314, hereinafter called the District, for the purpose of securing and providing energy and maintenance for new street lights for lighting said District.

SECTION 2:

That the boundaries of the District are as set forth in Resolution of Intention No. 15-10417, hereinafter called the Resolution, on file in the office of the City Clerk of Billings, Montana, and by this reference is incorporated herein and made a part hereof.

SECTION 3:

That the City Council hereby finds and determines that each property described within the Resolution of Intent, are especially benefited and affected by said improvements, and each of the properties are hereby declared to be the property to be assessed for the cost and expense of the electrical energy for and maintenance of said District.

SECTION 4:

That the general character of the improvements to be made is hereby declared to be as described in the Resolution and is by this reference incorporated herein and made a part hereof.

SECTION 5:

The City of Billings intends to establish the contract rate for supplying electrical energy in accordance with the rate schedule approved by the Montana Public Service Commission. Said rate is currently estimated at \$6.30 per unit, per month, and that NorthWestern Energy Company shall provide energy to the lighting fixtures. That the City of Billings shall provide normal maintenance to lighting fixtures, poles, cables and other incidental equipment, and shall at all times own said lighting fixtures, poles, cables and other incidental equipment.

SECTION 6:

The estimate of the cost of the District per year, including City administrative costs, is the sum of \$2,204.29; that the entire cost of said District shall be paid by the owners of the property as shown in Exhibit "A" attached hereto, with each lot, parcel or piece of land within the District to be assessed for that portion of the whole cost which it's assessable lot frontage bears to the total assessable lot frontage of the entire District, exclusive of streets, avenues, alleys and public places. The estimated cost of the District per year for property owners is on the basis of approximately \$0.90936056 per linear foot.

Due to the difference in the time between when lighting service will start and the time District assessments are collected with property taxes, the first assessment will cover a period of operation greater than one year and is estimated to total \$3300.00 or approximately \$1.23762376 per lineal foot.

SECTION 7:

That the entire cost of the District shall be paid by an annual assessment against the property in the District. That all monies derived from the collection of such assessments shall be paid into a fund to be known as the "Special

Improvement Lighting Maintenance District No. 314 Maintenance Fund", and warrants shall be drawn on said fund for the payment of such cost of maintaining said lights and supplying electrical current therefore.

SECTION 8:

That reference is hereby made to the Resolution, the maps, specifications, boundaries, perimeter and data pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

PASSED by the City Council of the City of Billings, Montana and approved this 9th day of February, 2015.

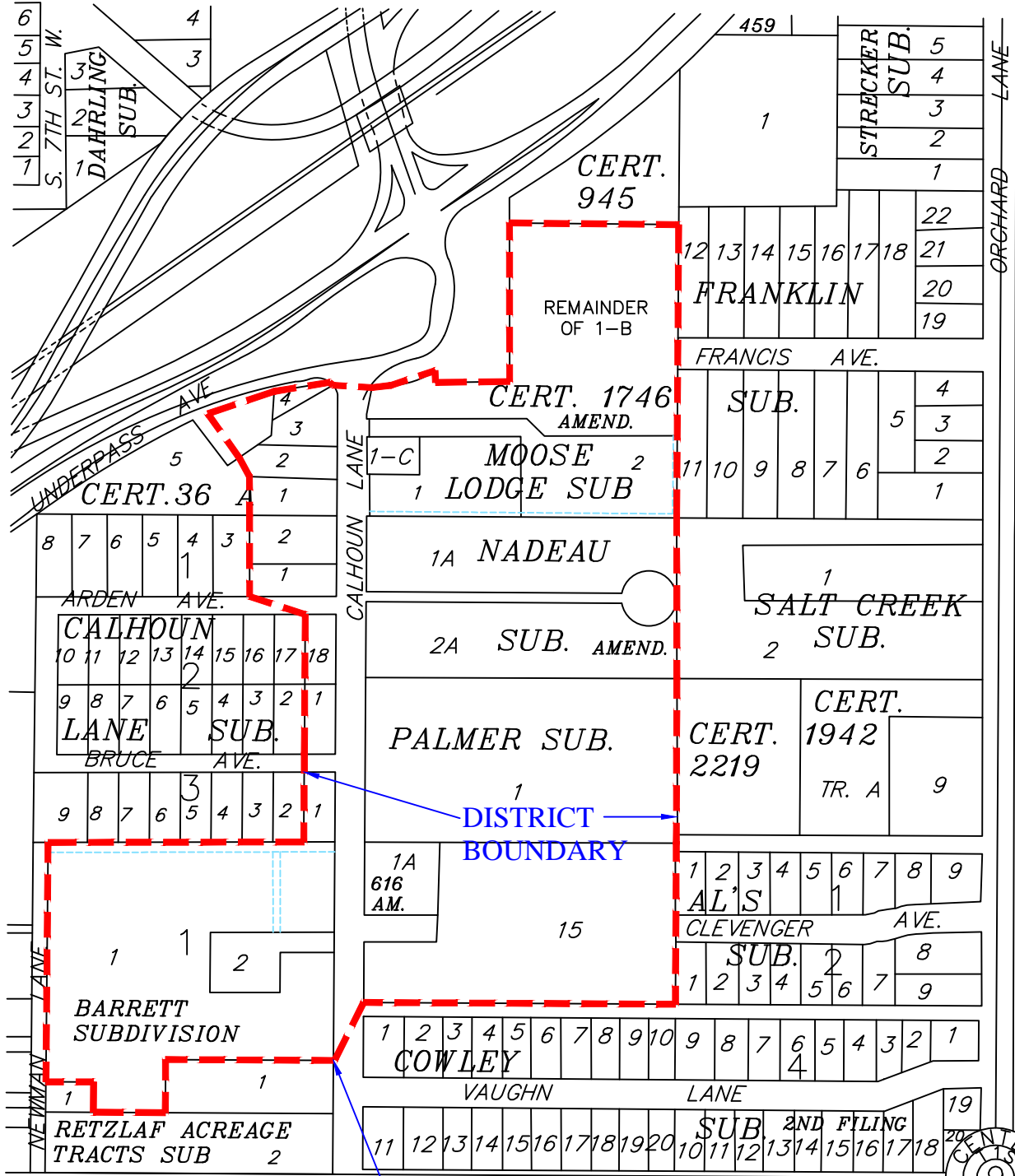
THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

EXHIBIT A SILMD 314



POINT OF BEGINNING



Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Public Hearing for Ward Ordinance First Reading - Annexations #14-06, #14-07, #14-08, #14-09, #14-10, #14-11, #14-12

PRESENTED BY: Candi Millar, Planning & Community Services Department Director

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

City election ward boundaries must be adjusted to conform to city limit amendments resulting from annexation of property into the City. The City Council approved the annexation of properties located in the East Billings area (Annexations #14-06, #14-07, #14-08, #14-09, #14-10, #14-11, #14-12) on January 26, 2015. This requires a change in the boundaries of Ward I. Ordinances to include these properties in Ward I must be executed by the Council for each property. Two readings are required for these actions. The first reading of the ordinances is scheduled for February 9, 2015 along with a public hearing, and the second reading of the ordinances is scheduled for February 23.

ALTERNATIVES ANALYZED

City Council may approve or not approve the ordinances to amend the boundaries of Ward I on first reading.

- Approving the ordinances will modify the boundaries of Ward I to include the properties located in the East Billings area.
- Denying the ordinances will not modify the boundaries of Ward I and create a problem where property inside the City Limits is not within one of the City Ward Boundaries.

FINANCIAL IMPACT

There is no budget/financial impact from these actions.

RECOMMENDATION

Staff recommends that Council hold a public hearing and approve these ordinances on first reading adding recently annexed properties to Ward I.

APPROVED BY CITY ADMINISTRATOR

Attachments

- Ward Ordinance AN#14-06
 - Ward Ordinance AN#14-07
 - Ward Ordinance AN#14-08
 - Ward Ordinance AN#14-09
 - Ward Ordinance AN#14-10
 - Ward Ordinance AN#14-11
 - Ward Ordinance AN#14-12
-

ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

A tract of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Tract of land being a portion of Industrial Subdivision 4TH Filing:
Being Lots 6 through 14 and 59 through 62, Block 11 of Industrial Subdivision 4TH Filing, Recorded March 25, 1963, under Document Number 703562, along with Vacated alley per Yellowstone County Board of Commissioners Resolution, Document Number 851395, filed November 14, 1969;

Also being Lot 5-A Block 11 of Industrial Subdivision 4TH Filing, Amended Plat of Lots 1, 2, 3, 4 & 5, Block 11, Recorded October 26, 1983, under Document Number 1284720; Including all adjacent Right-Of-Way of Main Street / US-312 / US-87 and 3RD Avenue North.

Containing 2.143 gross and 1.258 net acres more or less.
(# 14-06) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-06)



ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

A tract of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Tract of land being a portion of Industrial Subdivision 4TH Filing;
Being Lots 53 through 58, Block 11 of Industrial Subdivision 4TH Filing,
Recorded March 25, 1963, under Document Number 703562, along with
Vacated alley per Yellowstone County Board of Commissioners Resolution,
Document Number 851395, filed November 14, 1969; Including all adjacent
Right-Of-Way 4TH Avenue North.
Containing 0.846 gross and 0.682 net acres more or less.
(# 14-07) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-07)



ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

Tracts of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Tract 1, Certificate of Survey Number 2212, Recorded October 26, 1983, under Document Number 1284766;
Tract 1, Certificate of Survey Number 2213, Recorded October 26, 1983, under Document Number 1284767. Including all adjacent Right-Of-Way of Main Street / US-312 / US-87, 4TH Avenue North & North 7th Street.
Containing 5.691 gross and 2.893 net acres more or less.
(# 14-08) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

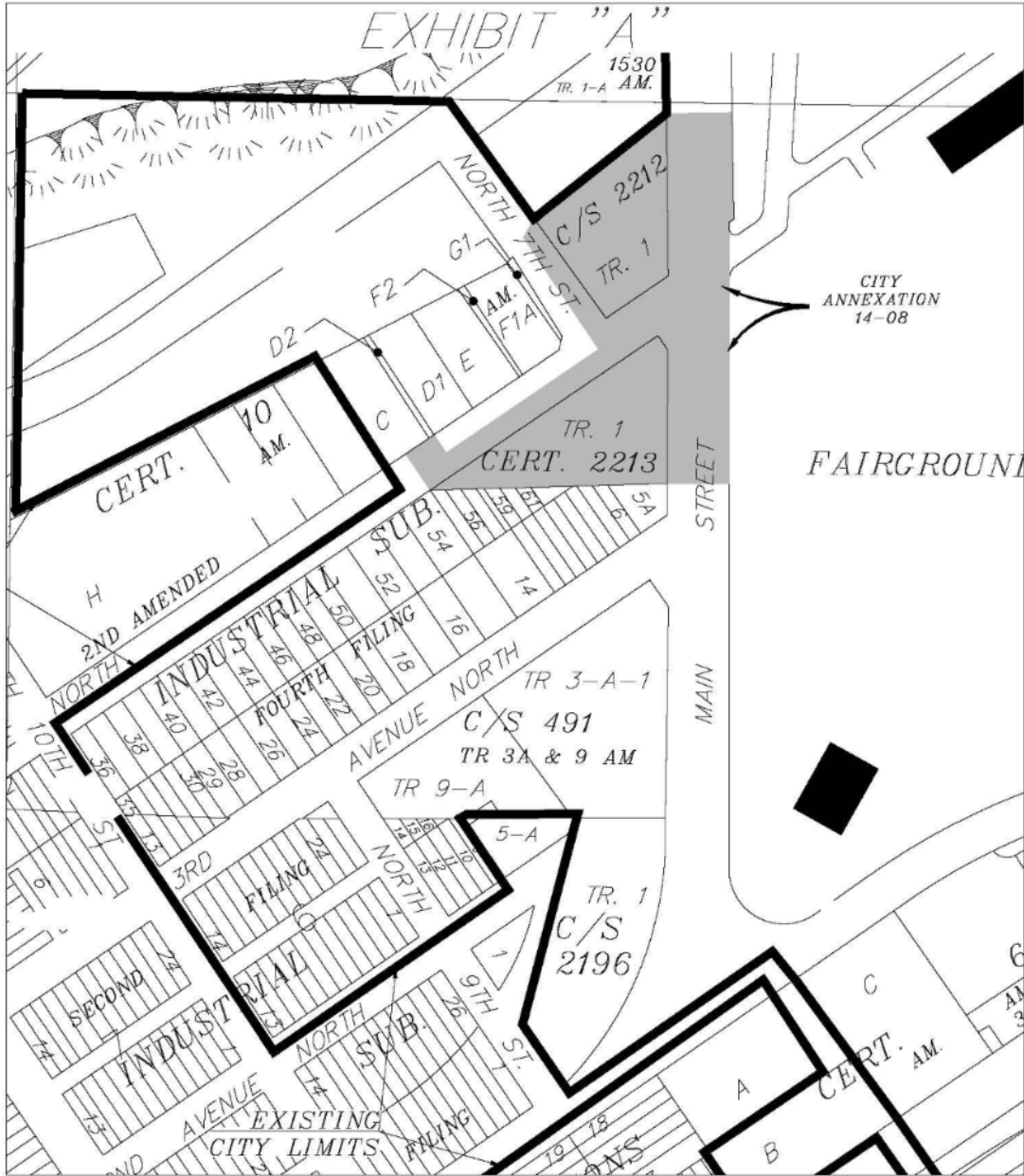
THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-08)



ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

A tract of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Tract of land being a portion of Industrial Subdivision 2ND Filing:
Being Lots 1 through 13, Block 6 of Industrial Subdivision 2ND Filing, Recorded June 28TH, 1949, under Document Number 451738. Including all adjacent Right-Of-Way of North 10TH Street, North 9TH Street, 2ND Avenue North and alley Right-Of-Way within said Block 6.
Containing 1.902 gross and 1.018 net acres more or less.
(# 14-09) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-09)



ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

A tract of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Being Tract 1, Certificate of Survey Number 2196, Recorded July 22ND, 1983, under Document Number 1273745. Including all adjacent Right-Of-Way of Main Street / US-312 / US-87, 1ST Avenue North, 2ND Avenue North and adjacent alley.

Containing 4.204 gross and 2.110 net acres more or less.
(# 14-10) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-10)

ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

Tracts of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Tracts D1, E and F2, Second Amended Certificate of Survey Number 10, Recorded March 26, 1954, under Document Number 521451;
Tracts F-1A and G-1, Amended Tracts F-1 and G of the Second Amended Certificate of Survey Number 10, Recorded November 26, 1979, under Document Number 1149504. Including all adjacent Right-Of-Way of 4TH Avenue North & North 7th Street.
Containing 1.792 gross and 1.298 net acres more or less.
(# 14-11) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

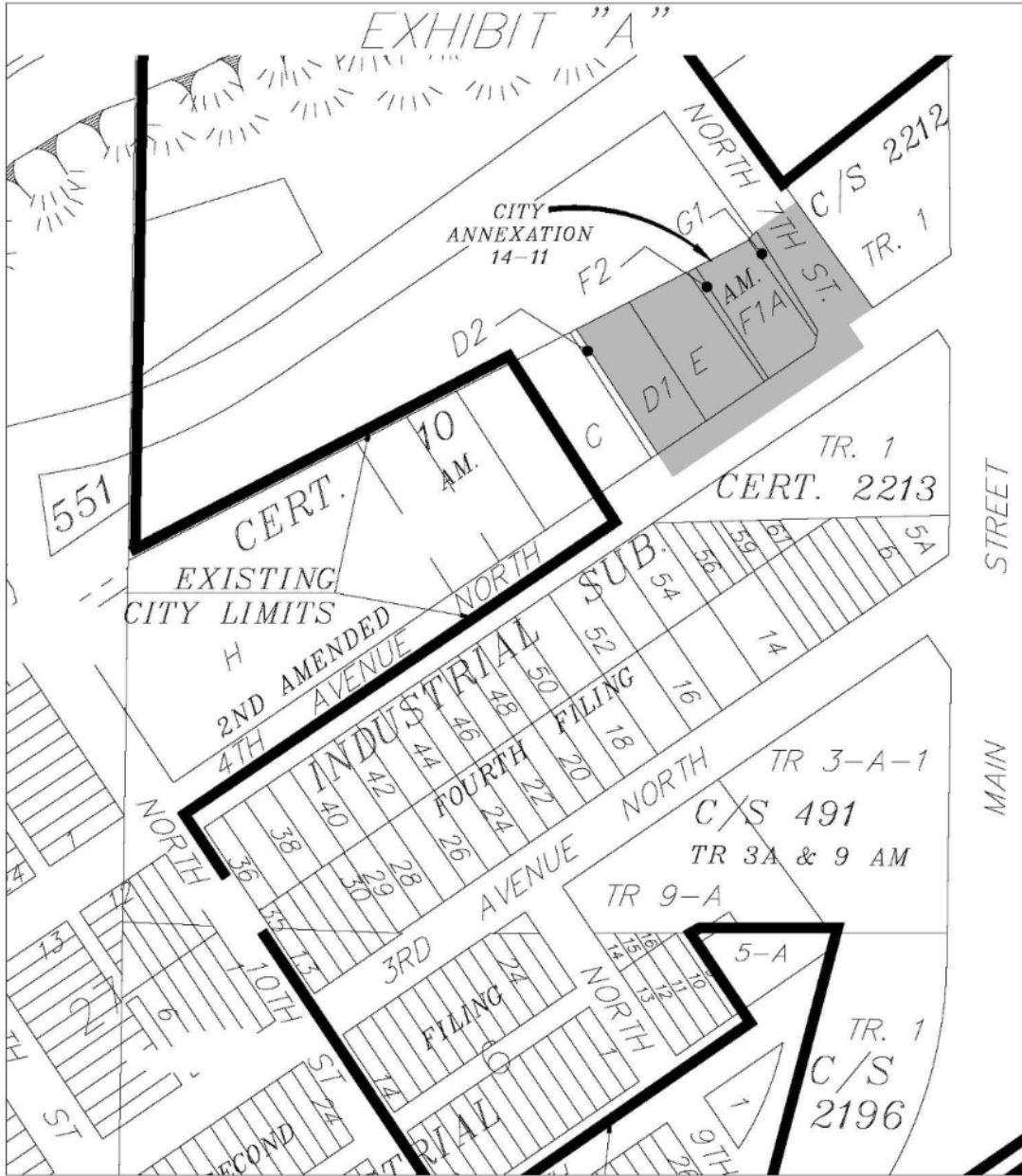
THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-11)



ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward I the following described real property:

Tracts of land situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Being Lots 18 through 26, Block 6 of Industrial Subdivision 2ND Filing, Recorded June 28TH, 1949, under Document Number 451738;
Also being Tract 7 of Corrected Plat of Second Amended Plat of Certificate of Survey No. 491 Recorded October 10th, 1961, under Document Number 670519. Including all adjacent Right-Of-Way of North 9TH Street, 3RD Avenue North and alley Right-Of-Way within said Block 6.
Containing 1.513 gross and 0.700 net acres more or less.
(# 14-12) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-12)

Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Public Hearing for Ward Ordinance First Reading - Annexation #14-14

PRESENTED BY: Candi Millar, Planning & Community Services Department Director

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

City election ward boundaries must be adjusted to conform to city limit amendments resulting from annexation of property into the City. The City Council approved the annexation of property located at 616 Shiloh Road (Annexation #14-14) on January 26, 2015. This requires a change in the boundaries of Ward V. Two readings are required for this action. The first reading of the ordinance is scheduled for February 9, 2015 along with a public hearing, and the second reading is scheduled for February 23.

ALTERNATIVES ANALYZED

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

- Approving the ordinance will modify the boundaries of Ward V to include the property located at 616 Shiloh Road.
- Denying the ordinance will not modify the boundaries of Ward V and create a problem where property inside the City Limits is not within one of the City Ward Boundaries.

FINANCIAL IMPACT

There is no budget/financial impact from this action.

RECOMMENDATION

Staff recommends that Council hold a public hearing and approve this ordinance on first reading adding recently annexed property to Ward V.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ward Ordinance

ORDINANCE NO. 15-_____

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

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

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward V the following described real property:

A tract of land situated in the SE1/4 and the NE1/4 of Section 3 and the NW1/4 of Section 2, T.1S., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Being a parcel of unplatted land, being the N1/2, SE1/4 of Section 3, T.1S., R.25E., P.M.M. Including all adjacent Right-Of-Way of Shiloh Road, Broadwater Avenue, Howard Avenue and Shiloh Drain.

Containing 84.643 gross and 79.138 net acres more or less.

(# 14-14) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of February, 2015.

PASSED by the City Council on the second reading this 23rd day of February, 2015.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

(AN 14-14)

EXHIBIT "A"



Regular City Council Meeting

Meeting Date: 02/09/2015

TITLE: Resolution Approving a \$15,000 Council Contingency Fund Contribution for Optimist Park Master Plan

PRESENTED BY: Tina Volek, City Administrator

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

The South Billings Urban Renewal Association (SBURA) has asked the City Council to match \$25,000 from the South Billings Boulevard Urban Renewal District (SBBURD) tax increment fund (TIF) to create a master plan for Optimist Park, located at Morgan Avenue and Hallowell. Although partly developed, the current master plan consists of only two maps. To ensure future improvements are suited to and appropriate for the park, a master plan needs to be created to control and limit further development, in accordance with the needs of the community and the limitations and constraints of the park site.

The City Council authorized a \$10,000 contribution from the Fiscal Year 2014 (FY '14) Council Contingency Fund to the Parks, Recreation and Public Lands (PRPL) FY '15 budget. At a January 12, 2015, work session, the City Council unanimously approved an initiative to add an additional \$15,000 from the FY '15 Council Contingency Fund to the PRPL budget. Approval of the attached resolution is necessary to complete the transfer, which is contingent upon the allocation of \$25,000 of TIF from the SBBURD.

ALTERNATIVES ANALYZED

City Council may:

- Approve the transfer of \$15,000 from the FY '15 Council Contingency Fund to the PRPL budget for the Optimist Park Master Plan, bringing the total City Council Contingency contribution to the plan to \$25,000;
- Postpone action to another date; or
- Disapprove the contribution, which would mean a future master plan might have to be funded entirely by the City's General Fund.

FINANCIAL IMPACT

The FY '15 Council Contingency Fund has a balance of \$62,752.96, leaving \$47,752.96 in the fund if the proposed contribution is made.

RECOMMENDATION

Staff recommends that the Council approve a \$15,000 contribution for the Optimist Park Master Plan be transferred from FY '15 Council Contingency to the PRPL budget to supplement the \$10,000 contributed in the same way in FY '14 for a total of \$25,000. The transfer is contingent on a \$25,000 SBBURD match to help fund the study.

APPROVED BY CITY ADMINISTRATOR

Attachments

Optimist Mater Plan Contribution

RESOLUTION NO. 15-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA,
APPROVING USE OF UP TO AN ADDITIONAL \$15,000 OF COUNCIL CONTINGENCY
FUNDS TO HELP CREATE A MASTER PLAN FOR OPTIMIST PARK**

WHEREAS, Optimist Park is a 16-acre facility at Morgan Avenue and Hallowell with a Craft House, multi-trail system, playground, restrooms and several game fields; and

WHEREAS, the only Master Plan for Optimist Park consists of two maps; and

WHEREAS, a Master Plan is intended to control and limit development in accordance with the needs of the community and the limitations and constraints of the park site, and to ensure future improvements are suited to and appropriate for the park; and

WHEREAS, the South Billings Urban Renewal Association (SUBRA) has asked the City to develop such a plan for Optimist Park, and will consider matching a \$25,000 City contribution with \$25,000 from its own funds to create the Optimist Park Master Plan; and

WHEREAS, the City Council at its June 9, 2014, meeting authorized by resolution a transfer of \$10,000 from the Council Contingency Fund to help develop such a plan for the Park; and

WHEREAS, at a January 12, 2015, work session, the City Council approved an initiative to supplement the 2014 Council Contingency Fund allocation with an additional \$15,000 from the FY2016 fund, bringing the total City contribution to \$25,000.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BILLINGS MONTANA DOES HEREBY RESOLVE to allocate up to an additional \$15,000 from the Council Contingency Fund, Acct. No. 010-1110-411.79-70, to the Parks, Recreation and Public Lands 'FY 16 budget to help develop an Optimist Park Mater Plan, contingent on a matching contribution of \$25,000 from SBURA for the project.

APPROVED AND ADOPTED THIS 9 DAY OF FEBRUARY, 2015.

Billings City Council

Thomas W. Hanel, Mayor

ATTEST:

Cari Martin, City Clerk