**CITY OF BILLINGS**

**CITY OF BILLINGS VISION STATEMENT:**

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

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**AGENDA**

**COUNCIL CHAMBERS** **March 23, 2015** **6:30 P.M.**

**CALL TO ORDER:** Mayor Hanel

**PLEDGE OF ALLEGIANCE:** Mayor Hanel

**INVOCATION:** Councilmember Bird

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

**MINUTES:**

- February 23, 2015
- March 9, 2015 (pending)

**COURTESIES:**

**PROCLAMATIONS:**

- National Service Recognition Day - April 7, 2015 & VISTA 50th Anniversary Recognition

**ADMINISTRATOR REPORTS - TINA VOLEK**

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

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

A. **Bid Awards:**

1. **W.O. 15-10, Water Treatment Facility UV System.** (Opened 3/10/15) Recommend Trojan Technologies; $1,032,270.70.

2. **W.O. 15-17, WWTP Aeration Blower Improvements.** (Opened 3/10/15) Recommend Aerzen USA Corporation; $162,533.

B. **Certified Local Government Program Contract** with the State of Montana Historic Preservation Office; $5,500. Local matches: City-County Planning Division - $1,031; Yellowstone County - $1,000; City of Laurel - $469.

C. **Reimbursement Agreement** with AT&T for W.O. 12-31, East End Storm Drain Improvements, Phase II; $240,973.

D. **Acknowledge Receipt of Petition to Annex #15-01:** portions of 6th Avenue North, 4th Avenue North, 3rd Avenue North, 2nd Avenue North, 1st Avenue North, Main Street (Exposition Drive), and some alleys in the area of East Billings; City of Billings, petitioner; and set a public hearing date for April 27, 2015.

E. **Acknowledge Receipt of Petition to Vacate:** alley within Block 38, Fosters Addition, located between North 26th Street and North 27th Street and 7th Avenue North and 8th Avenue North; Honaker Realty and Thomas Properties, petitioners; and set a public hearing date of April 13, 2015.

F. **Phillips 66 Easements**

1. **Easement** to Phillips 66 for installation of a pipeline on city property at Mystic Park.

2. **Easement** from Phillips 66 for W.O. 12-31, Phase I, Yegen Drain Improvements.

**G.** **Acceptance of Donation** of 23 bus seats and frames to Billings Airport for retrofitting donated FedEx B-727 to simulate passenger aircraft and enhance ARFF training; Sarpy Transportation, Inc.; $1,200.

**H.** **Approval** of application for an AmeriCorps VISTA Project; and **authorization** for staff to negotiate and finalize the project, if awarded.

**I.** **Resolution of Intent** to construct W.O. 15-02, Miscellaneous Improvements Program; and set a public hearing date of April 13, 2015.

**J.** **Resolution of Intent** to construct W.O. 15-06, Poly Drive - 32nd to 38th Streets West; and set a public hearing date of April 13, 2015.

**K.** **Resolution of Intent** to modify the East Billings Urban Renewal District (EBURD) including tax increment authority; declare the existence of blight within the EBURD, and set a public hearing date of April 13, 2015.

**L.** **Bills and Payroll:**

**1.** February 23, 2015

**2.** March 2, 2015

## REGULAR AGENDA:

**2.** **PUBLIC HEARING AND RESOLUTION** approving FY2016-FY2020 Capital Improvement Plan (CIP), FY2016 Equipment Replacement Plan (ERP), and FY2016 Technology Replacement Plan (TRP). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

**3.** **PUBLIC HEARING AND SPECIAL REVIEW #923:** A special review for an all-beverage liquor license with gaming in a Controlled Industrial zone on approximately two acres described as Lot 4A, Block 3, Midland Subdivision, 3rd Filing, and located at 960 S. 24th Street West. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

4. **PUBLIC HEARING AND SPECIAL REVIEW #924:** A special review to allow four, nine-plex, multi-family buildings in a Residential 6000 zone on a 1.98-acre parcel of land described as Lot 4, Block 1, Chalice Acres Subdivision, generally located west of 1442 Bench Boulevard. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.)

5. **PUBLIC HEARING AND SPECIAL REVIEW #925:** A special review to allow expansion of an assisted living facility in a Residential 9600 zone on Lots 26 and 27, Block 2, Howard Heights Subdivision, located in the Billings Heights. BLW Investments, LLC, owner; AT Architecture, Inc., agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #933:** A zone change from Residential 9600 to Residential 6000 on a 17,500 square-foot parcel of land described as Lots 15-19, Block 1, College Subdivision, 1st Filing, located at 1229-1239 Poly Drive. Zoning Commission recommends approval of the zone change and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #934:** A text amendment to the Unified Zoning Regulations, Section 27-601(a) and 27-606, to allow the off-street parking and storage of Class A or Class D tow trucks in all residential zones. Zoning Commission recommends denial and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

8. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending BMCC Article 24-406 allowing a commercial tow truck classified as either Class A or Class D by the State of Montana to be parked on city streets subject to parking requirements. Staff recommends approval if City Council approves Zone Change #934 (Agenda Item 7); or staff recommends disapproval if City Council disapproves Zone Change #934 (Agenda Item 7). (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.*

**Consent 1. A. 1.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** W.O. 15-10, Water Treatment Facility UV System, Procurement Contract Award

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

## PROBLEM/ISSUE STATEMENT

Work Order 15-10 includes improvements to the Chemical Building and disinfection systems, as well as installation of a parallel filter effluent line from the Filter Building to the High Service Pump Station Transfer Pump Wetwell, at the Water Treatment Plant (WTP). This contract award is related to the procurement of a new Ultraviolet (UV) disinfection system. The work includes furnishing all goods and services required to supply a fully functional UV system, including all labor, materials, equipment, and appurtenances to design, fabricate, and deliver such a system for the Billings WTP. Also included is providing assistance to an installation contractor (who will be awarded a separate construction contract), operator training, start-up testing, placing into service, and integrating the UV system into the operations of the WTP. This UV system will greatly enhance the disinfection system at the WTP and allow upcoming regulatory requirements to be met.

A Request for Qualifications (RFQ) was published in The Billings Times on November 20 and 27 and December 4, 2014. The objective of the RFQ was to receive Statement of Qualifications (SOQs) from interested parties and pre-qualify and create a short-list of manufacturers that would meet all of the project requirements. An Invitation to Bid was sent to the three pre-qualified manufacturers on February 18, 2015. Bids were opened March 10, 2015, and Council is asked to award a contract based on the bids.

## ALTERNATIVES ANALYZED

The Council may:

• Award a contract to the low bidder, Trojan Technologies, in the amount of $1,032,270.70; or
• Reject all bids. If bids are rejected, the type of UV equipment will be unknown and the design engineers will need to design a very generic layout which would likely result in change orders during the construction phase.

## FINANCIAL IMPACT

The following bids were received and evaluated:

| **UV Supplier (Contractor)** | **Bid** |
|---|---|
| Calgon Carbon Corporation | $1,049,558.00 |
| Xylem Water Solutions | $1,205,837.09 |
| Trojan Technologies | $1,032,270.70 |

This project is being funded by water funds, as approved in the FY 2015 budget. There are sufficient funds available to cover the costs of the procurement contract. The remaining funds will be used for installation of the UV equipment, renovation of the Chemical Building, and construction of the second filter effluent line.

| | |
|---|---|
| Budget Amount | $6,523,000.00 |
| Previously Encumbered | ($1,199,100.00) |
| Award this contract | ($1,032,270.70) |
| Remaining Budget | $4,291,629.30 |

**RECOMMENDATION**

Staff recommends Council award a procurement contract for W.O. 15-10--Water Treatment Facility UV System to Trojan Technologies in the amount of $1,032,270.70.

**APPROVED BY CITY ADMINISTRATOR**

**Consent 1. A. 2.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** W.O. 15-17, WWTP Aeration Blower Improvements, Procurement Bid Award

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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## PROBLEM/ISSUE STATEMENT

The City of Billings has contracted with NorthWestern Energy (NWE) for an incentive payment to the City upon installing a new, more energy efficient turbo blower to be used in the Wastewater Treatment Plant's (WWTP) aeration process. The Incentive Agreement provides for payment from NWE to the City in an amount up to $145,000 upon satisfactory completion of the project.

This contract award is related to the pre-purchase (procurement) of a new turbo blower that meets the specifications outlined in the NWE agreement. The mechanical efficiency of a high-speed turbo blower is superior to the existing multi-stage turbine blower. The projected energy savings for installing a turbo blower is approximately 20% (420,000 kWh/yr). This blower is also designed to fit in with the aeration design currently underway as part of the WWTP's major overhaul/upgrade project. In addition to receiving the incentive from NWE, installing the turbo blower now will provide opportunities for plant staff to learn how these types of blowers are operated, maintained, and controlled well in advance of multiple turbo blowers being installed during the plant upgrade project. The bid package and associated contract have been written such that the initial blower purchased will establish what future blowers may be purchased and identify the costs associated with this future purchase--creating beneficial consistency and essentially "locking in" the price, allowing that future budget to be determined and maintained. The initial and future blowers will be installed by general contractors and will be awarded as separate construction contracts later. For the initial blower, the cost of the blower itself will likely be more than its installation costs, so pre-purchasing the equipment will eliminate having to pay substantial contractor mark-ups. These types of blowers have a fairly lengthy delivery time, so another reason for pre-purchasing the blower is to be better able to meet the deadline identified in the NWE incentive agreement.

This project was advertised February 26 and March 5, 2015 in The Billings Times and on the City's website. Bids were opened March 10, 2015, and Council is asked to award a contract based on the bids.

**ALTERNATIVES ANALYZED**

The Council may:

• Award a procurement contract to the low bidder, Aerzen USA Corporation, in the amount of $162,533.00; or
• Reject all bids, which will delay ordering and the delivery of a blower, which will likely cause the City to miss the deadline in the NWE agreement, potentially resulting in the City missing out on part or all of the incentive payment.

**FINANCIAL IMPACT**

The following bids were received and evaluated:

| **Turbo Blower Supplier (Contractor)** | **Bid** |
|---|---|
| Spencer Turbine Company | $202,340.00 |
| APG-Neuros | $195,100.00 |
| Aerzen USA Corporation | $162,533.00 |

The project is being funded by wastewater funds, as approved in the FY 2015 budget. There are sufficient funds available to cover the costs of the procurement contract.

**RECOMMENDATION**

Staff recommends Council award a procurement contract for W.O. 15-17--WWTP Aeration Blower Improvements to Aerzen USA Corporation in the amount of $162,533.00.

**APPROVED BY CITY ADMINISTRATOR**

**Consent 1. B.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Certified Local Government Program Contract

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

**Department:** Planning & Community Services

## PROBLEM/ISSUE STATEMENT

The State of Montana Historic Preservation Office has designated the City of Billings as a Certified Local Government (CLG) for historic preservation activities. As a CLG, the City is eligible to receive state funding to coordinate historic preservation efforts in our area. At its January 26, 2015 meeting, the City Council approved the application for these funds through the CLG Program. On February 27, 2014, the City received approval of its application for this grant cycle of April 1, 2015, through March 31, 2016. Two original contracts must be signed by the City's Authorized Representative (Mayor) to execute the grant program for this cycle.

## ALTERNATIVES ANALYZED

City Council may:

- Agree to participate in State CLG program and accept CLG grant funding to coordinate historic preservation activities; or
- Decline to participate in State CLG program and not accept CLG grant funding to coordinate historic preservation activities. If the City declines the CLG grant program, other funding sources would be necessary to continue the historic preservation efforts in the community.

## FINANCIAL IMPACT

If the City Council approves execution of the grant agreement, $5,500 in State of Montana Certified Local Government funding would be allocated to the community. Local match for the CLG includes $1,031 from the City-County Planning Division, $1,000 from Yellowstone County, and $469 from the City of Laurel for a total program funding of $8,000. The Planning Division will also continue to provide in-kind match through staff support of approximately 20 hours a week to administer the Yellowstone Historic Preservation Board (YHPB) activities and the CLG Grant Administration. The funding package will be used to contract with the Western Heritage Center for consulting services that assist with completion of projects identified in the YHPB Work Plan. The budget proposed with local funds and in-kind match is sufficient to meet the requirements of the CLG Grant and has been approved by the State Historic Preservation Office.

## RECOMMENDATION

Staff recommends that the City Council authorize the Mayor to sign the Certified Local Government Grant Contracts for a $5,500 Certified Local Government grant from the Montana State Historic Preservation Office.

## APPROVED BY CITY ADMINISTRATOR

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**Attachments**

CLG Contract

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AGREEMENT NUMBER MT-15-011

STATE OF MONTANA AGREEMENT

This grant agreement (Agreement) is hereby made between the City of Billings, 2825 Third Avenue North, 4th Floor, Billings, MT, 59101-1156, DUNS# 068925759 (the "Sub-grantee") and the Montana State Historic Preservation Office, Montana Historical Society ("MHS"), 225 North Roberts, PO Box 201202, Helena, Montana 59620-1202 (the "Grantor"). Liaison for the sub-grantee is Lora Mattox Liaison for the Grantor is Kate Hampton.

The State has been awarded $785,524 of grant monies from the U.S. Department of the Interior, the National Park Service under the Historic Preservation Fund for the Federal fiscal year of 2015 (October 1, 2014 – September 30, 2015). The funding for this agreement is provided by this award, CFDA number 15.904, Historic Preservation Fund Grants-In-Aid. The Federal Award Identification Number assigned by the National Park Service, is to be determined.

Section 17-1-106, Montana Code Annotated, requires any state agency which receives non-general funds to identify and recover its indirect costs (IDC). MHS's indirect cost rate is determined annually and is applied as a percentage of direct costs charged to a federal award. As defined by 2 CFR Part 200 (formerly OMB Circular A-87), MHS's current IDC rate is 11.15% for fiscal year 2015 (July 1, 2014 to June 30, 2016). IDC will not be charged in relation to this agreement.

The two parties, in consideration of mutual covenants and stipulations described below, agree as follows:

SECTION I: SERVICES

The Sub-grantee shall:

1. Maintain an active Historic Preservation Commission (HPC) that will advocate for preservation, assist the HPO to accomplish preservation goals, and fill vacancies on the HPC promptly.

2. Participate in and carry out the responsibilities for Certified Local Government program status as outlined in "The Montana Certified Local Government Manual."

3. Insure historic preservation concerns are considered at all levels of local government planning and are incorporated as goals of other local, state, and federal projects.

4. Administer local preservation ordinances.

5. Have on staff a minimum half-time designated Historic Preservation Officer (HPO) who demonstrably plays an active and consistent role in the conduct of the sub-grantee's historic preservation activities. On behalf of the Sub-grantee it is the role of HPO to conduct these activities and/or work with the HPC to:

    a. Regularly report on HPC activities at local government Commission meetings and be available for comment to these groups and other local government offices;

    b. Monitor Preservation Covenants and Agreements and provide historic preservation information and assistance to property owners;

    c. Provide technical assistance, direction, literature on historic preservation tax credits, National Register, Federal regulations and Secretary of Interior Standards;

    d. Inspect and evaluate historic properties for potential and feasible reuse and rehabilitation;

e. Coordinate, promote and participate in events such as National Historic Preservation Month and/or other preservation related activities;

f. Cooperate and communicate with the Grantor and fellow HPO/HPCs in Montana and elsewhere as appropriate; and

g. Submit semi-annual progress reports, meeting minutes and financial reports per deadlines outlined in this agreement. In the Final Progress Report, the HPO will identify the benefits the local government has derived as a result of the employment of a HPO, the needs of the local government for future professional preservation efforts, and any additional functions of the HPO carried out which further the understanding and implementation of historic preservation values and objectives in the local government.

6. Send at least one (1) person from the Certified Local Government to a State Historic Preservation Office (SHPO) - approved training. The attendee shall attend the entire training and report back to their Preservation Commission.

All work completed under this funding agreement must meet the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation as interpreted by the Grantor. Final products or services that do not fulfill the requirements of this Agreement, and do not comply with the appropriate Secretary of the Interior's Standards, will not be reimbursed, and any advance payments made in connection with such products or services must be repaid to the Grantor.

SECTION II: EFFECTIVE DATE, DURATION, AND REMUNERATION

This Agreement shall take effect on April 1, 2015 and shall terminate on March 31, 2016 unless a new termination date is set or the agreement is terminated pursuant to SECTION IV. Total payments by the "Grantor" for all purposes under this contract shall not exceed $5,500. In the event that the grantor does not receive full funding from the National Park Service, the total grant award may be reduced, as outlined in the CLG Manual. Payment shall be made on a reimbursement basis by request of Sub-grantee to the grantor.

SECTION III: CONSIDERATION AND PROCESS FOR PAYMENT

In consideration of Services rendered in this Agreement, the Grantor agrees to pay the Sub-grantee as follows:

1. The Sub-grantee agrees to submit semi-annual Progress Reports, meeting minutes, and Requests for Reimbursement. Reports will be accompanied by the following documentation:

a. The Sub-grantee's name, address and agreement number MT-15-011;

b. A report discussing the work completed during the reporting period. Include meeting agendas and minutes;

c. An itemized listing of cash or in-kind donations that comprise the nonfederal match;

d. An itemized listing of project expenses that are charged to the federal grant; If indirect costs (IDC) are claimed for reimbursement (or match), the IDC rate must be in accordance with 2 CFR Part

200.414. A copy of the IDC approval letter from the Cognizant agency must be submitted to the grantor and approved prior to any reimbursement.

e. The net request for payment (reimbursement); and

f. Products produced during the reporting period.

2. All Requests for Reimbursement must be approved by the Grantor prior to payment. Payment for work completed under this Agreement may be withheld pending the delivery and acceptance of such items. All Sub-grantees must retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of 3 years or until an acceptable audit (accessible by auditors) has been performed and all claims and audit findings involving the records have been resolved. The 3-year retention period starts from the date of the submission of the final report. A final Request for Reimbursement must be submitted within thirty (30) days of the termination of this Agreement if they are to qualify for payment.

3. All Requests for Reimbursement will be reviewed for eligibility and allow-ability under Chapters 12, 13 and 14 of the National Park Service's Historic Preservation Fund Manual and the State CLG Manual. The Sub-grantor may request a copy of the CLG Manual from the grantor and the Historic Preservation Fund Manual is available for inspection at the SHPO.

4. The Sub-grantee shall, at minimum, provide documentation detailing forty percent (40%) matching non-federal funds for the overall grant award. In order to receive the full grant award of $5,500, the minimum dollar amount of match necessary to be provided by the Subgrantee is $3,666.67 in matching in-kind services or cash. In the event that the grant award is reduced, the match requirement would be reduced proportionally. Requests for Reimbursement require the same 40% documentation relative to the amount requested. The accepted Grant Application, reviewed and approved by the Grantor, provides an estimation of sources and amounts of matching funds from the Sub-grantee.

5. The Grantor may retain final payment of federal grant funds until such time as the approved project work has been successfully completed and all conditions of this Agreement have been met.

SECTION IV: TERMINATION

1. The Sub-grantee understands and agrees the Grantor, as a state agency, is dependent upon federal and state appropriations for its funding and actions by Congress or the Montana Legislature may preclude funding this Agreement completely through the termination date stated in Section II. Should such a contingency occur, the parties agree the Grantor may set a new termination date or terminate the contract immediately, depending upon the funding remaining available for the Agreement, and the Sub-grantee will be compensated for services rendered and expenses incurred to 5:00 p.m. of the revised termination date.

2. In the event of termination, all property (except real estate) and finished or unfinished documents, data, studies, and reports purchased or prepared by the Sub-grantee under this Agreement shall, at the option of the Montana Historical Society (MHS), become the property of the MHS, and the Sub-grantee shall be entitled to compensation for any un-reimbursed expenses necessarily incurred in satisfactory performance of this Agreement. Notwithstanding the above, the Sub-grantee will not be relieved of liability to the Grantor for damage sustained by the Grantor by virtue of any breach of the Agreement by the Sub-grantee, and the Grantor may withhold any reimbursement to the Sub-grantee for the purpose of off-set until such time as the exact amount of damages due the Grantor from the Sub-grantee is agreed upon or otherwise determined.

3. Except for the provisions of SECTION IV, paragraph 1, and SECTION XII, either party may terminate this Agreement without cause thirty (30) days after delivery of written notice in hand to the other party.

4. The MHS may terminate this Agreement for failure of the Sub-grantee to perform any of the services, duties, or conditions in accordance with the time schedule contained in this Agreement. The Grantor will provide the Sub-grantee with written notification of the reasons for the Sub-grantee's performance failure and allow the Sub-grantee a period of not less than ten (10) days or more than thirty (30) days after receipt of said notification to rectify the identified failure to perform.

SECTION V: GENERAL AND SPECIFIC CONDITIONS

The Sub-grantee agrees to follow the General and Specific Conditions according to this Agreement and Chapter 5 of the Historic Preservation Fund Grants Manual.

SECTION VI: ASSIGNMENT AND PROCUREMENT PROCEDURES

1. The Sub-grantee agrees that the procurement of services, supplies, equipment, and construction will be obtained efficiently and economically and in compliance with the applicable federal laws, and of 2 CFR part 200.317 through 200.326, and Chapter 17 of the Historic Preservation Grants Manual.

2. The process for the selection of subcontractors to perform the services under this Agreement, regardless of whether by competitive bidding or negotiated procurement shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) placing unreasonable requirements on firms or individuals in order for them to qualify to do business, (2) noncompetitive practices between firms, (3) organizational conflicts of interest, and (4) unnecessary experience and bonding requirements.

3. Competitive bidding or negotiated procurement is required for all survey and planning subcontracts. Proposals shall be requested from an adequate number of sources (at least two or three sources) to permit reasonable competition. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable. The Request for Proposals shall identify the survey or planning area, population, number of properties to be inventoried, funds available and volunteer support (if applicable). The Sub-grantee shall document in writing the evaluation criteria used and the results of the technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for subcontract award. Subcontractors shall be selected on the basis of qualification, subject to negotiation of fair and reasonable compensation. Unsuccessful offerors shall be notified promptly. A copy of documentation of the selection process will be submitted to the Grantor prior to the initiation of the project.

4. Noncompetitive negotiation may be used with prior written approval from the Grantor when, after the solicitation in accordance with Section VI, 3 above, competition is determined inadequate.

5. The Sub-grantee will notify the grantor upon the selection of a subcontractor. Sub-grantee will verify Subcontractor is not on the debarred list. A copy of this contract will be submitted to the grantor for review and written approval prior to its execution.

6. Prior to the beginning of project work or any grant payment, the Sub-grantee must submit to the grantor the below listed items to demonstrate that the federal procurement requirements have been met in full:

a. Copies of the letters to qualified sources and public advertisements requesting proposals and/or invitations to bid;

b. Copy of the Sub-grantee documentation of the selection criteria and process;

c. A copy of the successful proposal and a description of the Sub-grantee reasons for selection;

d. Listing of the unsuccessful offerors; and

e. Copy of the proposed contract between the Sub-grantee and the subcontractor.

Note: The grantor must review and approve all contracts between the Sub-grantee and subcontractors prior to their execution. The parties agree that there will be no assignment or transfer of this Agreement or any interest in the Agreement and that no service required under this Agreement may be performed under subcontract unless both parties agree in writing.

SECTION VII: EQUAL EMPLOYMENT OPPORTUNITY

1. Pursuant to Sections 49-2-303 and 49-3-207 of the Montana Code Annotated and the federal Civil Rights Act of 1964, (as amended) and Equal Employment Opportunity statute, in all hiring or employment made possible by or resulting from this Agreement, the Sub-grantee: 1) will not discriminate against any employee or applicant for employment because of race, color, social condition, religion, sex, age, national origin, marital status, creed, political affiliation, or physical or mental handicap; and 2) will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. This requirement applies to, but is not limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Sub-grantor will comply with all applicable statutes and Executive Orders on equal employment opportunity, including enforcement provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17.

2. The Sub-grantee will comply with Section 504 of the Rehabilitation Act of 1973 which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

3. The Sub-grantee will comply with The Age Discrimination Act of 1975 prohibiting discrimination on the basis of age in programs and activities receiving Federal Financial assistance.

SECTION VIII: FAIR LABOR STANDARDS

The Sub-grantee agrees to comply with all Federal and State wage and hour rules, statutes, and regulations, and warrants that all applicable Federal and State fair labor standards and provisions will be complied with both by the Sub-grantee and any subcontractors, in the event that subcontracted services are employed to fulfill the terms and conditions of this Agreement are agreed upon by the grantor and the Sub-grantee.

SECTION IX: PROHIBITION AGAINST LOBBYING

The Sub-grantee must conform to provisions of 18 USC 1913:

"No part of the money appropriated by an enactment of Congress shall in the absence of express authorization by Congress be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or any other device intended or designed to influence in any matter a Member of Congress, to favor or oppose, by vote or otherwise, any legislation of appropriation by Congress, whether before or after introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the U.S. or its Departments or agencies from communicating to Members of Congress on the request of any Member of Congress, through the proper channels, requests for legislation or appropriation that they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before Congress, commonly referred-to as “lobbying" is unallowable under this Agreement.

SECTION X: INDEMNIFICATION

The Sub-grantee agrees that it will hold harmless and indemnify the MHS from any and all losses that may result to the Grantor because of negligence on the part of the Sub-grantee, its agents, representatives, or employees. The Subgrantee shall hold harmless the MHS from any and all claims arising out of the execution of this Agreement for injury to third persons, including their agents, employees, or volunteers, recipients, and to the public at large, for injury to property of persons, which arise out of any Sub-grantee's actions.

SECTION XI: WORKERS' COMPENSATION

The Sub-grantee and all independent subcontractors earning compensation under this funding agreement must elect to be bound personally and individually by the provisions of compensation plans 1, 2 or 3, but he/she may apply to Montana Workers' Compensation division for an exemption from the Worker's Compensation Act. The application must be made in accordance with the rules adopted by the division.

The division may deny the application only if it determines that the applicant is not an independent contractor. When the division approves an application it is conclusive as to the status of an independent contractor and precludes the applicant from obtaining benefits under this chapter.

SECTION XII: MODIFICATIONS AND PREVIOUS AGREEMENTS

1. This instrument contains the entire Agreement between the parties, and no previous statements, promises, or inducements made by either party or agent of either party which are not contained in this written agreement shall be valid or binding. This agreement may not be enlarged, modified, or altered except in writing signed by the parties and attached to the original of this Agreement, except as provided under Section IV (1). No change, addition, or erasure of any printed portion of this Agreement shall be valid or binding upon either party.

2. Any changes that substantially alter the scope of work or the cost of the approved project must be submitted by the Sub-grantee as a project amendment. These amendments must have prior written approval from NPS before the change is implemented. Change orders will be treated as amendments. The Sub-grantee must consult with the grantor to review the proposed change to determine if it substantially alters the scope of work or the cost of the approved project. If the grantor determines the change to be substantial, the grantor will process the amendment through NPS. Failure of the Subgrantee to notify the grantor of any such changes may be construed as just cause for revocation and/or recovery of the grant funds by the grantor.

SECTION XIII: CONFLICT OF INTEREST

No officer or employee of the MHS or member of the Society Board or State Historic Preservation Review Board and no member of the Sub-grantee's governing body at localities in which the project is situated or being carried out who exercises any functions or responsibilities, or who enjoys a position of influence in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects his or her personal or pecuniary interest. The Sub-grantee agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

SECTION XIV: COPYRIGHT PROHIBITION

1. Except as otherwise provided in the terms and conditions of the grant agreement, the Sub-grantee is free to copyright any books, publications, or other copyrightable materials developed as a result of this Agreement. However, any such copyrightable materials will be subject to a royalty-free, nonexclusive, and irrevocable license throughout the work to the Grantor and/or the US Government to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

2. Any materials produced as a result of this Agreement which are to be publicly distributed, shall include the following statement:

The (activity) that is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, U.S. Department of Interior, and administered by the SHPO of Montana. The contents and opinions do not necessarily reflect the views or policies of the U.S. Department of the Interior or the Montana Historic Preservation Office, or does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or SHPO.

3. Publications must include the nondiscrimination statement:

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, or disability in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to:

Office for Equal Opportunity
National Park Service
849 C Street, N.W.
Washington, D.C. 20240

4. The Sub-grantee shall not include in the materials produced as a result of this Agreement any copyrighted matter without the written approval of the copyright owner that provided SHPO and the United States Government with written permission to use the material in the manner provided herein.

SECTION XV: AUDITING

The Sub-grantee agrees to allow access to the records of the activities covered by this Agreement as may be necessary for legislative post audit and analysis purposes in determining compliance with the terms of this Agreement. The Sub-grantor shall maintain all administrative and fiscal records relating to this project for three years after the final grant reimbursement is made by the Grantor to the Sub-grantee. Notwithstanding the provisions of SECTION IV, this Agreement shall automatically terminate upon any refusal of the Sub-grantee to allow access to records necessary to carry out the legislative post audit and analysis functions set forth in Title 5 Chapter 12 and 13, MCA and the financial and programmatic audit conducted by the Secretary of the Interior and the Comptroller General of the United States provided for in 2 CFR part 200.333 through 200.338.

Subgrantees that expend $500,000 or more in Federal funds, shall perform an audit in compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 et seq. and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." For local governments and school districts, the subgrantee will provide the report to the State of Montana, Department of Administration, Local Government Services Bureau. All other subgrantees, such as Tribal Communities and Non-Profit Organizations, will provide the report to the Montana Historical Society, State Historic Preservation Office.

SECTION XVI: SEVERABILITY

It is understood and agreed by the parties hereto that if any term or provision of this contract is by the courts held to be illegal or in conflict with any Montana law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

SECTION XVII: EXECUTION

This Contract consists of this Agreement and pages of attachments; the original copy is to be retained by the grantor. A copy of the original and attachments, if any, has the same force and effect for all purposes as the original.

Each party has full power and authority to enter into and perform this Agreement, and the person signing the Agreement on the behalf of each party has been properly authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

To express the parties' intent to be bound by the terms of this Agreement, they have executed this document on the dates set out below:

_____ _____

**City of Billings** Date

_____ _____

**Administrator, Centralized Services Division** Date
**Montana Historical Society**

**Consent 1. C.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** W.O. 12-31 East End Storm Drain Improvements Phase II - AT&T Reimbursement Agreement

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

## PROBLEM/ISSUE STATEMENT

This Reimbursement Agreement is with AT&T for lowering fiber optic lines in the Montana Rail Link (MRL) right-of-way that are in direct conflict with two, 48-inch storm drain pipes that will be bored and jacked under the MRL tracks with the East End Industrial project. When utility conflicts are not in City right-of-way, the City pays for relocating those utilities.

## ALTERNATIVES ANALYZED

City Council may:

- Approve the Reimbursement Agreement with AT&T for relocating the fiber optic lines, or;
- Disapprove the Reimbursement Agreement. If the fiber optic lines are not relocated, the City will not be able to get the needed capacity to reduce flooding for the East End Storm Drain project.

## FINANCIAL IMPACT

The cost of the Reimbursement Agreement is $240,973.00. Funding for the Reimbursement Agreement will be out of the bonds sale for W.O. 12-31 East End Industrial Storm Drain Improvements. The payment amount is based on an AT&T estimate and the City may owe more or may owe less upon project completion and final cost accounting.

## RECOMMENDATION

Staff recommends Council approve the Reimbursement Agreement with AT&T for $240,973.00.

## APPROVED BY CITY ADMINISTRATOR

**Attachments**

AT&T Reimbursement Agreement

**REIMBURSEMENT AGREEMENT**

This AGREEMENT made this ____ day of _____, 2015, by and between AT&T Corp., on behalf of itself and its affiliated companies, which has a place of business at 3450 Riverwood Parkway, SE, Atlanta, GA 30339 ("AT&T") and City of Billings, Public Works Department, having an address 2224 Montana Avenue, Billings, MT 59101 ("CITY").

**WITNESSETH:**

**WHEREAS**, AT&T is a grantee of an easement by virtue of an easement granted by Burlington Northern and Santa Fe Railroad Company to install and maintain a buried telecommunications cable system (the "Easement Area"); and

**WHEREAS**, the Easement Area and any AT&T buried cable and associated facilities that have been placed within the Easement Area will be adversely impacted by the CITY's proposed construction activities within the Easement Area; and

**WHEREAS**, CITY will reimburse AT&T for AT&T's cost of protecting and/or lowering a section of the **AT&T Glendive, MT to Billings, MT Fiber Optic Cable**, between AT&T cable station numbers 8014+53' and 8090+34', near Billings, MT (the "Cable");

**NOW THEREFORE,** the parties agree as follows:

1. AT&T will provide engineering, plant protection, labor, materials, and supervision necessary to protect and lower existing Cable, as deemed necessary in AT&T's sole judgment (the "Work"). The Work is more particularly described in attached Exhibit A. The starting date will be set by the parties so that the Work can be completed as expeditiously as practicable.

2. CITY shall pay AT&T the actual cost of the Work, which is estimated to be **Two Hundred Forty One Thousand Nine Hundred Seventy Three Dollars** ($241,973.00) as shown in the attached Exhibit B. The estimated amount shall be due to AT&T at the execution of this agreement. Upon completion of the Work, AT&T will send a final invoice to CITY for the actual cost of the Work, and if the actual cost is greater than the estimated amount paid, the CITY agrees to pay AT&T the difference within thirty (30) days from the invoice date. If the actual cost of the Work is less than the estimated amount paid, AT&T shall pay the CITY the refund amount within sixty (60) days from the invoice date.

3. CITY agrees to exercise all due caution while working near the Cable, in order to prevent damage to the Cable. CITY agrees:

(a) to notify AT&T by telephone at 1-800 252-1133 at least forty-eight (48) hours prior to performing any construction, demolition or repairs at the Cable location;

(b) not to use at the Cable location any tool, equipment, or the machinery capable of being operated within ten (10) feet of the Cable;

(c) to perform construction, demolition, repair, modifications, additions and any other activities in compliance with all applicable laws and regulations and in a manner that does not interfere with the operations of AT&T; and

(d) not to work at the Cable location without AT&T's prior authorization and AT&T's On-Site Work Force personnel being present during the work.

4. CITY (the "Indemnifying Party") shall indemnify, defend and hold harmless AT&T (the "Indemnified Party") from and against any and all claims, demands, actions, losses, damages, assessments, charges, judgments, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) that may from time to time be asserted by third parties against the Indemnified Party because of any personal injury, including death, to any person or loss of, physical damage to or loss of use of real or tangible personal property, to the extent caused by the negligence or misconduct of the Indemnifying Party, its agents, employees or contractors. For purposes of indemnifications set forth in this Agreement, "Indemnified Party" means AT&T, its affiliates, subsidiaries, parent, successors and assigns and its and their employees, directors, officers, agents, contractors and subcontractors. The Indemnified Party:

4.1 shall notify the Indemnifying Party in writing promptly upon learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent the Indemnifying Party is prejudiced thereby;

4.2 shall have the right to participate in such defense or settlement with its own counsel and at its own expense, but the Indemnifying Party shall have control of this defense or settlement; and

4.3 shall reasonably cooperate with the defense.

5. AT&T MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANITES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT AS PROVIDED IN SECTION 4, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTIAL, INDIRECT, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR NOT, INCLUDING , BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES, OR CLAIMS OF CUSTOMERS OR OF OTHER THIRD PARTIES, OCCASIONED BY ANY CAUSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

7. CITY shall keep the Cable and other property of AT&T free from all mechanic's, artisan's, materialman's, architect's, or similar services' liens which arise in any way from or as a result of its activities and cause any such liens which may arise to be discharged or released.

8. Except for payment of the cost of the Work, neither party shall have any liability for its delays or its failure in performance due to: fire, explosion, pest damage, power failures, strikes or labor disputes, acts of God, the Elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, or other causes beyond its control, whether or not similar to the foregoing.

9. A party shall be in default if it fails to perform or observe any material term or condition of this Agreement and the failure continues unremedied for thirty (30) days after receipt of written notice (fourteen (14) days in the case of CITY's failure to pay AT&T the estimated and/or actual cost of the Work); provided, however, that when such default (excluding City's non-payment) cannot reasonably be cured within such thirty (30) day period, this period will be extended if that party promptly commences to cure the same and prosecutes such curing with due diligence. Upon the default by a party, the other party may terminate this Agreement and pursue any legal remedies it may have under applicable law or principles of equity.

10. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns. CITY shall not assign, transfer, or dispose of this Agreement or any of its rights or obligations hereunder without prior written consent of AT&T; provided, however, that CITY may assign or transfer this Agreement to a controlling or controlled affiliate or to a successor in the event of reorganization, including a merger or sale of substantially all of its assets, without the consent of AT&T. An assignment, transfer or disposition of this Agreement by CITY shall not relieve CITY of any of its obligations under this Agreement. AT&T shall have the right to assign this Agreement and to assign its rights and delegate its obligations and liabilities under this Agreement, either in whole or in party, to any party. An assignment, transfer or disposition of this Agreement by AT&T shall not relieve AT&T of any of its obligations under this Agreement. Neither this Agreement, nor any term or provision hereof, nor any inclusion by reference shall be construed as being for the benefit of any person or entity not a signatory hereto.

11. Any demand, notice or other communication to be given to a party in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered or certified mail, return receipt requested, or by commercial overnight delivery service addressed to the recipient as set forth below or to such other address or individual, as may be designated by notice given by the party to the other:

**AT&T:**

AT&T CORP.
3450 Riverwood Parkway SE
Atlanta, GA 30339
Room 162
Attention: Right of Way Dept.

With a copy to:

AT&T Corp.
One AT&T Way
Room 3A118A
Bedminster, NJ 07921
Attention: Legal Department – Network Services

**CITY**:
**City of Billings**
**Travis Harris**
**Public Works Dept.**
**Billings, MT 59101**

Any demand, notice or other communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and if given by registered or certified mail, return receipt requested or by commercial overnight delivery service on the date of receipt thereof.

12. The failure of either party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, and said provision shall nevertheless be and remain in full force and effect.

13. This Agreement shall be governed by and construed in accordance with the domestic laws of the **State of Montana** without reference to its choice of law principles.

14. Each party represents and warrants that:

(a) It has full right and CITY to enter into, execute, deliver and perform its obligations under this Agreement;

(b) It has taken all requisite corporate action to approve the execution, delivery and performance of this Agreement;

(c) This Agreement constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms, subject to bankruptcy, insolvency, creditors' rights and general equitable principles; and

(d) Its execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state or federal government agency, court or body.

15. This Agreement constitutes the entire and final agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior oral and written communications, understandings and agreements relating to the subject matter hereof, which are of no further force or effect. This Agreement may only be modified or supplemented by an instrument in writing executed by a duly authorized representative of each party.

16. Each action or claim against any party arising under or relating to this Agreement shall be made only against such party as a corporate, and any liability relating thereto shall be enforceable only against the corporate assets of such party. No party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 16 and shall be entitled to enforce the obligations of this Section 16.

17. The relationship between the parties shall not be that of partners, agents or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to federal income tax purposes. The parties, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

18. This Agreement and each of the parties' respective rights and obligations under this Agreement shall be binding upon and shall inure to benefit of the parties and each of their respective permitted successors and assigns.

19. No provision of this Agreement shall be interpreted to require any unlawful action by either party. If any section or clause of this Agreement is held to be invalid or unenforceable, then the meaning of that section or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from this Agreement with respect to the matter in question, and the remainder of the Agreement shall remain in full force and effect. However, in the event such a section or clause is an essential element of the Agreement, the parties shall promptly negotiate a replacement that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

20. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF,** the parties have caused this Agreement to be executed by their authorized representatives as of the date first above set forth.

| **CITY OF BILLINGS** | **AT&T CORP.** |
|---|---|
| _____ | _____ |
| Signature | Signature |
| _____ | Alvin S. Richardson |
| Printed Name | Printed Name |
| _____ | Sr. Technical Project Manager |
| Title | Title |
| _____ | _____ |
| Date | Date |

TAX ID:

# EXHIBIT A

## Scope of Work

**Engineer:** Duane Ward – Clearwater Consulting Group, INC.
**DATE:** 10/2/14
**TO:** AT&T – Rob Williamson
**PROJECT:** Billings, MT. East End Industrial Storm Drain Project

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The scope of work involves lowering of the existing 96 count at&t core fiber for City of Billings East End Industrial Storm Drain Project in Billings, MT. This project will encroach upon the existing fiber exposing the fiber to possible danger. The scheduled work will start approximately 50' west of AT&T marker post 1151, station number 8064+95. From this location the construction zone continues to the east for approximately 100' to at&t station number 8064+45. This project will install a new storm drain from an existing culvert tie-in near the Yegen Drain continuing under the BNSF railroad tracks to an existing culvert tie-in at 15th St in Billings, MT. This project is scheduled to start in the late winter or early spring of 2015 and may take one year to complete.

Before the City of Billings can start on the project, a new 96 count at&t fiber cable will be placed starting from the existing at&t splice vault at Sta. 8090+34, and ending at at&t assist vault at Sta. 8014+53. This work will involve boring at a minimum depth of 11' for approximately 250', installation of 6" Black Steel Pipe or equivalent and installation of (2) 250' sections of 2" HDPE Smooth Wall Innerducts. Contractor will also place (2) 36" x 60" x 24" assist vaults at each end of the bore. Contractor will expose existing conduits in possibly four locations for assist points. In these locations the conduits will be cut for fiber cable and #6 Wire installation, the conduit will then be coupled back together and back-filled. Approximately 7,881' of new 96 count fiber and approximately 7,681' of #6 Wire will be pulled/blown in from existing splice vault Sta. 8090+34 to assist vault Sta 8014+53.

At assist vault Sta. 8014+53 a new splice will be created; a PCI will be performed at Sta. 8014+53 and at existing splice vault Sta. 8090+34. Connecting the new fiber cable to the existing fiber cable.

**Note:** at&t will supply the 96 count fiber cable. All other materials will be supplied by the contractor.

The contractor will have all of the utilities located within the work area, contact the City of Billings and/or the construction company responsible for the new construction and request to have one of their inspectors present to make sure that their bore pit has been properly marked. Contractor will bore in approximately 250′ of 6″ Black Steel Pipe or equivalent, add two assist vaults, one at Sta. 8063+45 and the other at Sta. 8065+90, install (2)2″ HDPE smooth wall innerducts between stations 8065+90 to 8063+45 and pull/blow in 7,881 feet of 96 count at&t fiber cable leaving 50′ slack loops at each assist vault and 100′ in each splice vault. Contractor will also install 7,681 feet of #6 wire leaving 25′ of slack at each assist and splice vaults.

A PCI splice will be performed in the existing at&t splice vault at Sta. 8090+34 and the at&t assist vault created splice vault at Sta. 8014+53, connecting the new fiber cable to existing core cable.

Total bore footage = 250′
Total 6″ Black Steel Pipe or equivalent footage = 250′
Total 2″ HDPE smooth wall innerducts = 500′
Total assist vaults = 2
Total fiber footage = 7,581′
Total fiber pulled in conduit = 7,881′
Total #6 Wire footage = 7,681′

**Contractor Note:** The required depth on the AT&T fiber is a minimum of 48″ below final grade.

Cleanup and landscaping will be done according to City of Billings specifications.

The locations requiring the replacement for the total relocation of the conduits and AT&T fiber by station number

located on the AT&T job prints (CT 96450 sheets 581-585) are –

Sta. 8014+53 to 8090+34
AT&T Marker No. 1134 to 1159

**Remarks:** There may be costs associated for a BNSF permit if one is needed to work within the utility right-of-way. Also Bonds and Permits from City of Billings to work within city limits.

# EXHIBIT B

## AT&T Fiber Relocation ( Billings, Montana)

**SCHEDULE A** **BID ANALYSIS**

**SECTION 1**

| ITEM NO. | DESCRIPTION | EST. QTY. | ESTIMATE UNIT PRICE | ESTIMATE AMOUNT |
|---|---|---|---|---|
| 1 | Mobilization | 1 | $7,000.00 | $7,000.00 |
| 2 | City of Billings Permits & Bonds | 1 | $5,000.00 | $5,000.00 |
| 3 | Assist Point Existing Fiber Excavation & Backfill | 4 | $750.00 | $3,000.00 |
| 4 | Pipe Placement-Directional Bore 6" BSP or Equivalent | 250 | $65.00 | $16,250.00 |
| 5 | Pipe/Duct Placement-Pull Method (2) 2" Smooth Wall Conduit | 500 | $8.00 | $4,000.00 |
| 6 | Assist Vault Placement 36" x 60" x 24" Assist Vault | 2 | $2,625.00 | $5,250.00 |
| 7 | New Lightguide Cable 96 Count Fiber Cable | 8,000 | $1.05 | $8,400.00 |
| 8 | Cable Placement-Lightguide Cable Cable Placement (Pull Method) | 8,000 | $2.50 | $20,000.00 |
| 9 | Cable Removel-Lightguide Cable Cable Removel for Disposal | 7,581 | $5.00 | $37,905.00 |
| 10 | New #6 Wire #6 Wire | 7,700 | $4.00 | $30,800.00 |
| 11 | Wire Placement - #6 Wire Wire Placement(Pull Method) | 7,681 | $8.00 | $61,448.00 |
| 12 | Splicing Single Fusion 96 count Fiber | 1 | $42,670.00 | $42,670.00 |
| 13 | Marker Pole (PVC) Type Relocate/New Marker Pole | 2 | $125.00 | $250.00 |

**Section Totals** **$241,973.00**

**Consent 1. D.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Annexation #15-01: Acknowledge request to annex road right-of-way, approve resolution of intent, and set a public hearing date

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

**Department:** Planning & Community Services

## PROBLEM/ISSUE STATEMENT

The City Council annexed 12 properties in the area of East Billings between the East Billings Urban Renewal District (EBURD) and MetraPark on January 26, 2015. In coordination with these annexations, the City has begun design on a large infrastructure project to make public improvements in the East Billings area (WO #15-08 Exposition Gateway Infrastructure Improvements). The project will improve the road rights-of-way adjacent to the annexed properties as well as right-of-way between the properties and in the East Billings area. To provide continuity of jurisdiction and match the area of the public infrastructure project, the City is proposing under Section 7-2-4400, MCA to annex all of the road rights-of-way in the area, not just the rights-of-way adjacent to the annexed properties. Yellowstone County concurs with the City's annexation request and has quitclaimed any interest the County may have in the road Rights-of-way (see attached documents). The rights-of-way include portions of 6th Avenue North, 4th Avenue North, 3rd Avenue North, 2nd Avenue North, 1st Avenue North, Main Street (Exposition Drive), and some alleys in the area. This annexation would accomplish the right-of-way annexations.

The road rights-of-way are located within the five-year annexation area of the City's Limits of Annexation Map. The City Council’s policy and the state regulations under Section 7-2-4400, MCA for this type of annexation require consideration of the annexations at two separate meetings. At this meeting, the Council is scheduled to acknowledge the annexation request, approve a resolution of intent to annex the property, and set a public hearing date. At the second meeting on April 27, the Council is expected to conduct the hearing and decide if it will annex the road right-of-way. The Council also will be asked to accept the quitclaim deed from Yellowstone County regarding the road rights-of-way.

## ALTERNATIVES ANALYZED

Section 7-2-4400, MCA, allows municipalities to annex property. The only alternative that is consistent with past City Council practice is to acknowledge receipt of the right-of-way annexation, act on a resolution of intent to annex the right-of-way, and set a public hearing date for April 27 to consider the annexation.

## FINANCIAL IMPACT

The property to be annexed is road right-of-way. Portions of the right-of-way to be annexed will be maintained by the City and parts will maintained by the Montana Department of Transportation. There will be some financial cost to the City's Public Works Department for future maintenance of portions of the right-of-way to be annexed.

## RECOMMENDATION

Staff recommends that the City Council acknowledge the City Public Works request to annex the road right-of-way and Yellowstone County's support of the annexation through quitclaim deed, approve a resolution of intent to annex the right-of-way, and schedule a public hearing for April 27 to consider annexing the right-of-way.

## APPROVED BY CITY ADMINISTRATOR

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**Attachments**

Annexation Request
Annexation ROW Exhibit
Resolution of Intent for Annexation #15-01

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PUBLIC WORKS DEPARTMENT
*Engineering Division*
2224 Montana Avenue
Billings, Montana 59101
Office (406) 657-8231
Fax (406) 237-6291

# City of Billings

# Memorandum

**Date:** March 4, 2015

**To:** City-County Planning

**From:** Christina Volek, Billings City Administrator

**CC:** Dave Mumford, Debi Meling

**RE:** Annexation of Public Right of Way located in the Exposition Gateway area

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In accordance with the requirements of Montana Code Annotated (MCA) 7-2-4403 this memo is a request to annex into the corporate limits of the City of Billings, property (public right of way) in the Exposition Gateway area. The roads in this area will be reconstructed as part of the Exposition Gateway project using TIF funds in addition to some City funding. The legal description of the areas which are the subject of this annexation request are as shown on the attached sheet.

ANNEXATION # 15-01

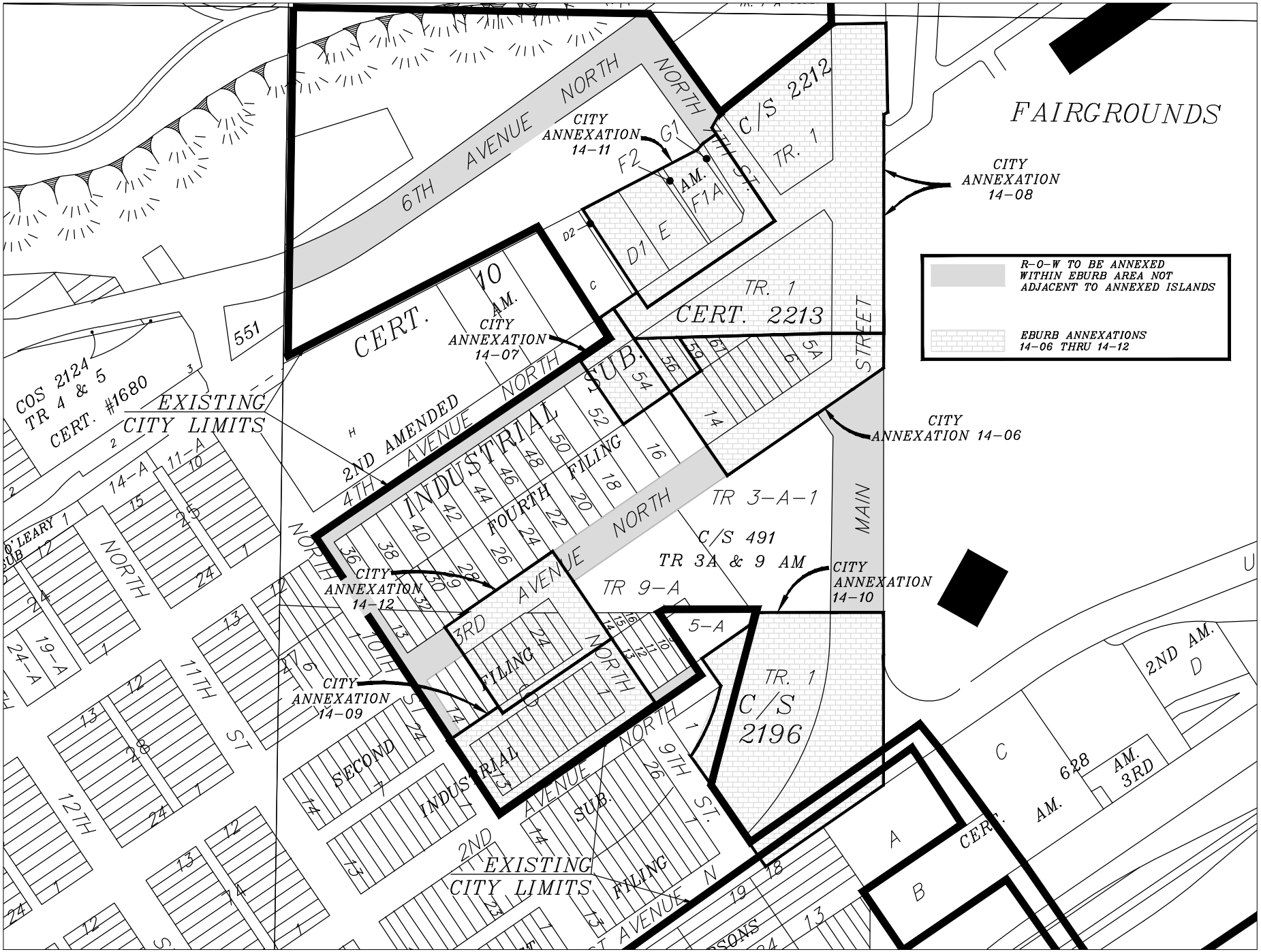
Legal Description of Property to be annexed

Tracts of land being street Right-Of-Way situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Being 6th Avenue North from the extended easterly Right-Of-Way line of North 7th Street and running in a southwesterly direction to the west section line of said Section 34;
North 7th Street from the southerly Right-Of-Way line of 6th Avenue North and running in a southeasterly direction to the extended northern lines of Certificate of Survey's 10 and 2212;
The south half of 4th Avenue North from the extended westerly lot line of Lot 53, Block 11 of Industrial Subdivision 4TH Filing, Recorded March 25, 1963, under Document Number 703562 and running in a southwesterly direction to the easterly Right-Of-Way line of North 10th Street;
3rd Avenue North from the extended westerly lot line of Lot 14, Block 11 of said Industrial Subdivision 4TH Filing, and running in a southwesterly direction to the east Right-Of-Way line of North 9th Street and from the extended westerly lot line of Lot 18, Block 6 of Industrial Subdivision 2ND Filing, Recorded June 28TH, 1949, under Document Number 451738 and running in a southwesterly direction to the easterly Right-Of-Way line of North 10th Street;
The north half of 2nd Avenue North adjacent to Lots 9 through 13, Block 5 of said Industrial Subdivision 2ND Filing;
The easterly half of North 10th Street from the extended centerline of 4th Avenue North and running in a southeasterly direction to the northerly alley Right-Of-Way line of Block 6 of said Industrial Subdivision 2ND Filing;
Main Street from the extended north line of Certificate of Survey Number 2196, Recorded July 22ND, 1983, under Document Number 1273745 and running in a northerly direction to the extended southerly Right-Of-Way line of 3rd Avenue North.

Containing 5.551 gross acres more or less.
(# 15-01) See Exhibit "A" Attached

# EXHIBIT "A" 15-01



# RESOLUTION NO. 15 -

A RESOLUTION OF THE CITY OF BILLINGS TO CONSIDER ANNEXING TERRITORY UNDER TITLE 7, CHAPTER 2, PART 44 OF THE MONTANA CODE ANNOTATED, AND FIXING A DATE FOR A PUBLIC HEARING ON THE QUESTION OF ANNEXATION

WHEREAS, the City Council of the City of Billings has determined that it is in the best interest of the City of Billings to annex the territory hereinafter described; and

WHEREAS, the City of Billings has a beneficial interest in the territory pursuant to Title 7, Chapter 2, Part 4402 of the Montana Code Annotated; and

WHEREAS, Yellowstone County supports the City Council's intent to annex said territory and has expressed its support by executing a quit claim deed to quit claim any interest Yellowstone County has in the property; and

WHEREAS, the City Council intends to consider annexing said territory pursuant to Title 7, Chapter 2, Part 44 of the Montana Code Annotated; and

WHEREAS, the boundaries of the territory that the City Council intends to consider annexing is particularly described as follows:

Tracts of land being street Right-Of-Way situated in the NW1/4 of Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:

Being 6th Avenue North from the extended easterly Right-Of-Way line of North 7th Street and running in a southwesterly direction to the west section line of said Section 34;

North 7th Street from the southerly Right-Of-Way line of 6th Avenue North and running in a southeasterly direction to the extended northern lines of Certificate of Survey's 10 and 2212;

The south half of 4th Avenue North from the extended westerly lot line of Lot 53, Block 11 of Industrial Subdivision 4TH Filing, Recorded March 25, 1963, under Document Number 703562 and running in a southwesterly direction to the easterly Right-Of-Way line of North 10th Street;

3rd Avenue North from the extended westerly lot line of Lot 14, Block 11 of said Industrial Subdivision 4TH Filing, and running in a southwesterly direction to the east Right-Of-Way line of North 9th Street and from the extended westerly lot line of Lot 18, Block 6 of Industrial Subdivision 2ND Filing, Recorded June 28TH, 1949, under Document Number 451738 and running in a southwesterly direction to the easterly Right-Of-Way line of North 10th Street;

The north half of 2nd Avenue North adjacent to Lots 9 through 13, Block 5 of said Industrial Subdivision 2ND Filing;

The easterly half of North 10th Street from the extended centerline of 4th Avenue North and running in a southeasterly direction to the northerly alley Right-Of-Way line of Block 6 of said Industrial Subdivision 2ND Filing;

Main Street from the extended north line of Certificate of Survey Number 2196, Recorded July 22ND, 1983, under Document Number 1273745 and running in a northerly direction to the extended southerly Right-Of-Way line of 3rd Avenue North.

Containing 5.551 gross acres more or less.
(# 15-01) See Exhibit "A" Attached

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

1. The Billings City Council intends to consider annexation of the above-described property.

2. Notice of the City Council's intent to annex said territory shall be published as provided in M.C.A, Title 7, Chapter 2, Part 4405, with notice that for a period of 20 days after first publication of the notice, the Billings City Clerk will receive written comments approving or disapproving of the proposed extension of the boundaries of the City of Billings.

3. The City Clerk shall forward all written communication received by the Clerk to the City Council for consideration.

4. A public hearing for the question of annexation of said territory shall be held on April 27, 2015.

5. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 44, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 23rd day of March, 2015.

THE CITY OF BILLINGS:

BY: _____

Thomas Hanel, MAYOR

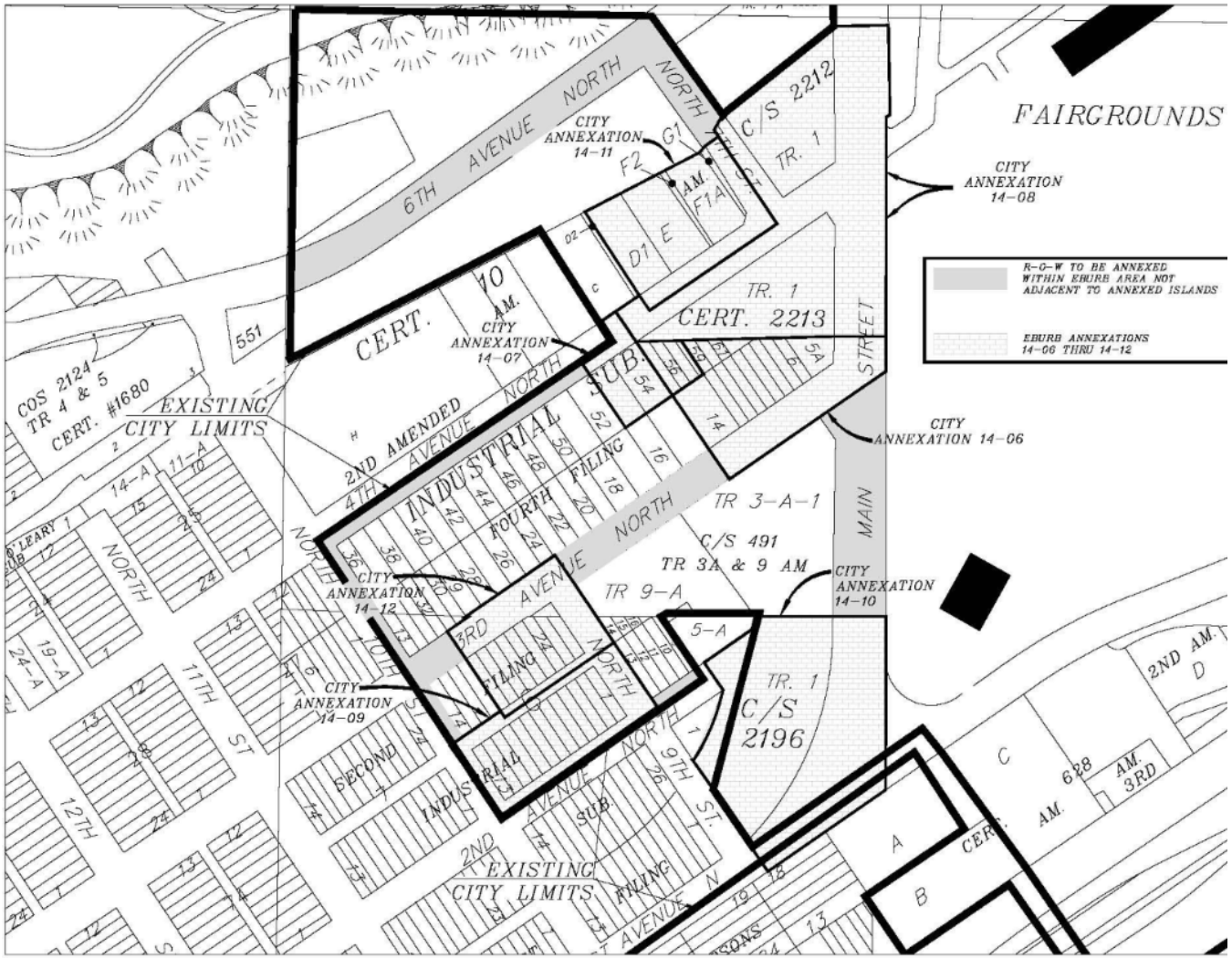
ATTEST:

BY: _____

Cari Martin, CITY CLERK

(AN #15-01)

# EXHIBIT "A" 15-01



**Consent 1. E.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Acknowledge Receipt of Petition to Vacate the alley within Block 38, Fosters Addition and Set a Public Hearing

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

---

## PROBLEM/ISSUE STATEMENT

Honaker Realty and Thomas Properties have petitioned to vacate the alley within Block 38, Fosters Addition. This alley is located between North 27th Street and North 26th Street and 7th Avenue North and 8th Avenue North. Honaker Realty is purchasing all of the lots within the block except the two properties owned by Thomas Properties. Thomas Properties owns the property that is occupied by KFC. Honaker Realty is proposing to redevelop all of the remaining properties into a hotel with parking. The alley will be utilized as a private drive with a drive thru canopy extending over the current alley way. This type of private improvement is not allowed over public right of way, so vacating the alley is the best option. The area of the alley proposed to be vacated is 6,000 square feet. There is a public sanitary sewer main within the alley which will continue to exist within an easement.

## ALTERNATIVES ANALYZED

The Council may:

- Approve acknowledgment of the petition to vacate the above-mentioned right-of-way and set a public hearing for April 13, 2015; or
- Do not acknowledge the petition and terminate the right-of-way vacation process.

## FINANCIAL IMPACT

The petitioners have provided a market analysis by a realtor for the right of way. Matt Robertson from NAI Business Properties has established the value of the right of way at $36,062.66. The petitioner will be required to pay the city this amount for the right of way.

## RECOMMENDATION

Staff recommends that Council acknowledge the receipt of a petition to vacate the alley within Block 38, Fosters Addition and set a public hearing for April 13, 2015.

## APPROVED BY CITY ADMINISTRATOR

## Attachments

Exhibit

Request to Vacate and Comparison Market

# PROPOSED ALLEY RIGHT-OF-WAY VACATION

FOSTER ADDITION, BLOCK 38
BILLINGS, MT

## RIGHT-OF-WAY VACATION EXHIBIT

| | |
|---|---|
| DRAFTED | BRM |
| REVIEWED | CJ |
| PROJECT NUMBER | 2614177 |
| ISSUE DATE | 10/30/14 |

KLJ

Oct 31, 2014 - 1:36pm - P:\Private\MT\City\Billings\2614177 Home2 by Hilton\Cadd\Model files\20140930 - Home 2.dwg (klj8.5x11Port Ribbon)

© KLJ 2014

## REQUEST TO VACATE PUBLIC RIGHT-OF-WAY
## CITY OF BILLINGS

**Description of Right-of-Way to be vacated:**
The alley adjacent to and between lots 1-12 and 13-24, block 38, Foster Addition to the City of Billings. Said alley is between 7th Ave N and 8th Ave N.

**We, being all the abutting property owners, request of the City Council the vacation of the above described:**

_____Street X Alley _____Other R/W

| SIGNATURE | DATE | PROPERTY OWNERSHIP |
|---|---|---|
| Kari K Beebe (Beebe) | 12/15/14 | Foster Addition, Block 38, Lots 7 and 8 |
| (Bargas) | 12/15/14 | Foster Addition, Block 38, Lots 9 and 10 |
| (AlleyCat Investments, LLC) | 12/1/14 | Foster Addition, Block 38, Lots 21-24 |
| (Honaker Realty LLC | 12/1/14 | Foster Addition, Block 38, Lots 1-6 and 18-20 |
| (Thomas Properties LLP | 12/1/14 | Foster Addition, Block 38, Lots 11-17 |

**(Additional signatures, if needed, can be on additional sheets.)**

**WE, the utility companies and governmental departments, listed below, approve, or disapprove this request as noted by our signatures.**

| | Approved By/Date | Disapproved By/Date |
|---|---|---|
| City Public Works | | |
| Heights Water | | |
| Montana Dakota Utilities | | |
| Northwestern Energy | | |
| Charter | | |
| CenturyLink | | |
| City/Co. Planning Board | | |

(A letter of explanation may be attached with "See Attached Letter" entered in the appropriate signature slot.)

REQUEST TO VACATE PUBLIC RIGHT-OF-WAY
CITY OF BILLINGS

**Description of Right-of-Way to be vacated:**
The alley adjacent to and between lots 1-12 and 13-24, block 38, Foster Addition to the City of Billings. Said alley is between 7th Ave N and 8th Ave N.

We, being all the abutting property owners, request of the City Council the vacation of the above described:

_____Street  __X__Alley  _____Other R/W

| SIGNATURE | DATE | PROPERTY OWNERSHIP |
|---|---|---|
| | | |

(Additional signatures, if needed, can be on additional sheets.)

WE, the utility companies and governmental departments, listed below, approve, or disapprove this request as noted by our signatures.

| | Approved By/Date | Disapproved By/Date |
|---|---|---|
| City Public Works | | |
| Heights Water | | |
| Montana Dakota Utilities | Scott Donahue 11-7-14 | |
| Northwestern Energy | | |
| Charter | | |
| CenturyLink | | |
| City/Co. Planning Board | | |

(A letter of explanation may be attached with "See Attached Letter" entered in the appropriate signature slot.)

Petitioner's interest in vacating the public right-of-way: Development is proposed in the aforementioned alley. Alley right-of-way vacation will be required in order for this development to occur.

The petitioner acknowledges and understands that the City will appoint an appraiser to estimate the value of the real property being vacated, and the petitioner agrees that the fee for the appraiser will be borne by the petitioner(s).

ATTACHMENTS:

_____Ownership Reports on all Abutting Property
_____Comments from all Utilities
_____Map of R/W to be Vacated
_____Traffic Accessibility Study (When required by the City)

AN APPLICATION FEE OF $200 MUST ACCOMPANY THIS PETITION.

Fee Received By:_____ Date:_____

REQUEST TO VACATE PUBLIC RIGHT-OF-WAY
CITY OF BILLINGS

Description of Right-of-Way to be vacated:
The alley adjacent to and between lots 1-12 and 13-24, block 38, Foster Addition to the City of Billings. Said alley is between 7th Ave N and 8th Ave N.

We, being all the abutting property owners, request of the City Council the vacation of the above described:

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| SIGNATURE | DATE | PROPERTY OWNERSHIP |
|---|---|---|
| | | |

(Additional signatures, if needed, can be on additional sheets.)

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| | Approved By/Date | Disapproved By/Date |
|---|---|---|
| City Public Works | | |
| Heights Water | | |
| Montana Dakota Utilities | | |
| Northwestern Energy | 11/10/14 | |
| Charter | | |
| CenturyLink | | |
| City/Co. Planning Board | | |

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_____Map of R/W to be Vacated
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## REQUEST TO VACATE PUBLIC RIGHT-OF-WAY
## CITY OF BILLINGS

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We, being all the abutting property owners, request of the City Council the vacation of the above described:

_____Street  X Alley  _____Other R/W

| SIGNATURE | DATE | PROPERTY OWNERSHIP |
|---|---|---|
| | | |

(Additional signatures, if needed, can be on additional sheets.)

WE, the utility companies and governmental departments, listed below, approve, or disapprove this request as noted by our signatures.

| | Approved By/Date | Disapproved By/Date |
|---|---|---|
| City Public Works | | |
| Heights Water | | |
| Montana Dakota Utilities | | |
| Northwestern Energy | | |
| Charter | 2/11/15 | |
| CenturyLink | | |
| City/Co. Planning Board | | |

(A letter of explanation may be attached with "See Attached Letter" entered in the appropriate signature slot.)

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ATTACHMENTS:

_____Ownership Reports on all Abutting Property
_____Comments from all Utilities
_____Map of R/W to be Vacated
_____Traffic Accessibility Study (When required by the City)

AN APPLICATION FEE OF $200 MUST ACCOMPANY THIS PETITION.

Fee Received By:_____ Date:_____

REQUEST TO VACATE PUBLIC RIGHT-OF-WAY
CITY OF BILLINGS

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_____Street X Alley _____Other R/W

| SIGNATURE | DATE | PROPERTY OWNERSHIP |
|---|---|---|
| | | |

(Additional signatures, if needed, can be on additional sheets.)

WE, the utility companies and governmental departments, listed below, approve, or disapprove this request as noted by our signatures.

| | Approved By/Date | Disapproved By/Date |
|---|---|---|
| City Public Works | | |
| Heights Water | | |
| Montana Dakota Utilities | | |
| Northwestern Energy | | |
| Charter | | |
| CenturyLink | Tammi Bilden | WILL REQUIRE 2/17/15 |
| City/Co. Planning Board | | |

EASEMENT TO MAINTAIN & ACCESS OVERHEAD + UNDERGROUND TELCO FACILITIES

(A letter of explanation may be attached with "See Attached Letter" entered in the appropriate signature slot.)

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ATTACHMENTS:

_____Ownership Reports on all Abutting Property
_____Comments from all Utilities
_____Map of R/W to be Vacated
_____Traffic Accessibility Study (When required by the City)

AN APPLICATION FEE OF $200 MUST ACCOMPANY THIS PETITION.

Fee Received By:_____ Date:_____

**ATTACHMENTS:**

- **X** Ownership Reports on all Abutting Property
- **N/A** Comments from all Utilities
- **X** Broker's Property Evaluation
- **X** Map of R/W to be Vacated
- **N/A** Traffic Accessibility Study (When required by the City)

**AN APPLICATION FEE OF $200 MUST ACCOMPANY THIS PETITION.**

**Fee Received By:** _____ **Date:** _____
**City Clerk**

~~**A DEPOSIT FOR AN APPRAISAL MUST ALSO ACCOMPANY THIS REQUEST.**~~

~~**Deposit Amount:** _____~~

~~**Received By:** _____ **Date:** _____~~
~~**City Clerk**~~

**Copies of City of Billings Ordinance No. 80-4269 and 90-4822, establishing the procedure and compensation to the City of Billings for Discontinuance and Vacation of City Streets, Alleys, and Rights-of-Way, are attached for reference.**

**The application fee, as stated in BMC 22-602, will be set by the City Administrator after review by the staff. The City Clerk will advertise the public hearing at least one week before the petition is acted upon by the City Council.**

**This petition is to be returned to the City Clerk, PO Box 1178, Billings, MT 59103. (First Floor, City Hall)**

**This petition must be accompanied by the statements and reports as listed in BMC 22-601 (a), (b), (c), (d), (e), and (f). (Copy attached)**

**CONTACT PERSON FOR PETITION:**

**Brent Morford at KLJ**
**Telephone No.: 406-247-2910**
**Mailing Address: KLJ**
**PO Box 80303**
**Billings, MT 59108**
**Date: 2-18-2015**

**CITY COUNCIL ACTION:** _____

**DATE:** _____

**COMPLETED FORM WITH ATTACHMENTS IS TO BE RETURNED TO BE FILED WITH THE CITY CLERK**

# FIRST MONTANA TITLE

COMPANY OF BILLINGS

*Your FIRST choice since 1955!*

January 7, 2015

Brent Morford
KLJ Engineering
2611 Gabel Road
Billings, MT 59102-7329

Dear Mr. Morford,

As requested, we have prepared and ownership report on the following legal descriptions:

Lots 1 and 2, Block 38 Foster's Addition to the Town of Billings;
Lots 3, 4, 5 and 6, Block 38 Foster's Addition to the Town of Billings;
Lots 7 and 8 Foster's Addition to The town of Billings;
Lots 9 and 10, Block 38 Foster's Addition to the Town of Billings;
Lots 11, 12, 13, 14, 15 16 and 17, Block 38 Foster's Addition to the Town of Billings;
Lots 18, 19 and 20, Block 38 Foster's Addition to the Town of Billings;
and Lots 21, 22, 23, and 24, Block 38 Foster's Addition to the Town of Billings;

As of December 16, 2014, at 5:00 PM, we find ownership as follows on the attached pages.

This report is limited to verification of the ownership of the above described property, and the liability for this report will not exceed the amount paid for said report. No search has been made for easements, restrictions, liens, judgments or other encumbrances.

First Montana Title Co.

Katrina M. Kruger

Katrina M. Kruger
Title Officer
First Montana Title
204 North 29th Street
406-248-3000
katrina@firstmontanatitle.com

**Tax Code**: A07225

**Legal Description:**

Lots 1 and 2, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Honaker Realty, LLC

Deed Reference: Warranty Deed No. 3722071

**Tax Code**: A07226

**Legal Description:**

Lots 3, 4, 5 and 6, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Honaker Realty, LLC

Deed Reference: Warranty Deed No. 3722072

**Tax Code**: A07227

**Legal Description:**

Lots 7 and 8, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Kari K. Beebe

Deed Reference: Quit Claim Deed No. 3705761

**Tax Code**: A07228

**Legal Description:**

Lots 9 and 10, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Bonnie M. Bargas

Deed Reference: Quit Claim Deed No. 3601154

**Tax Code**: A07229

**Legal Description:**

Lots 11 and 12, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Thomas Properties LLP, a Montana limited liability partnership

Deed Reference: Special Warranty Deed No. 3619121

**Tax Code**: A07230

**Legal Description:**

Lots 13, 14, 15, 16 and17, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Thomas Properties LLP, a Montana limited liability partnership

Deed Reference: Warranty Deed No. 3619121

**Tax Code:** A07233

**Legal Description:**

Lots 18, 19 and 20, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Honaker Realty, LLC

Deed Reference: Warranty Deed No. 3723045

**Tax Code:** A07234

**Legal Description:**

Lots 21, 22, 23 and 24, Block 38, of Foster's Addition to the Town of Billings, in the City of Billings, Yellowstone County, Montana, according to the official plat on file in the office of the Clerk and Recorder of said County, under Document No. 12383.

Vested: Alley Cat Investments, LLC

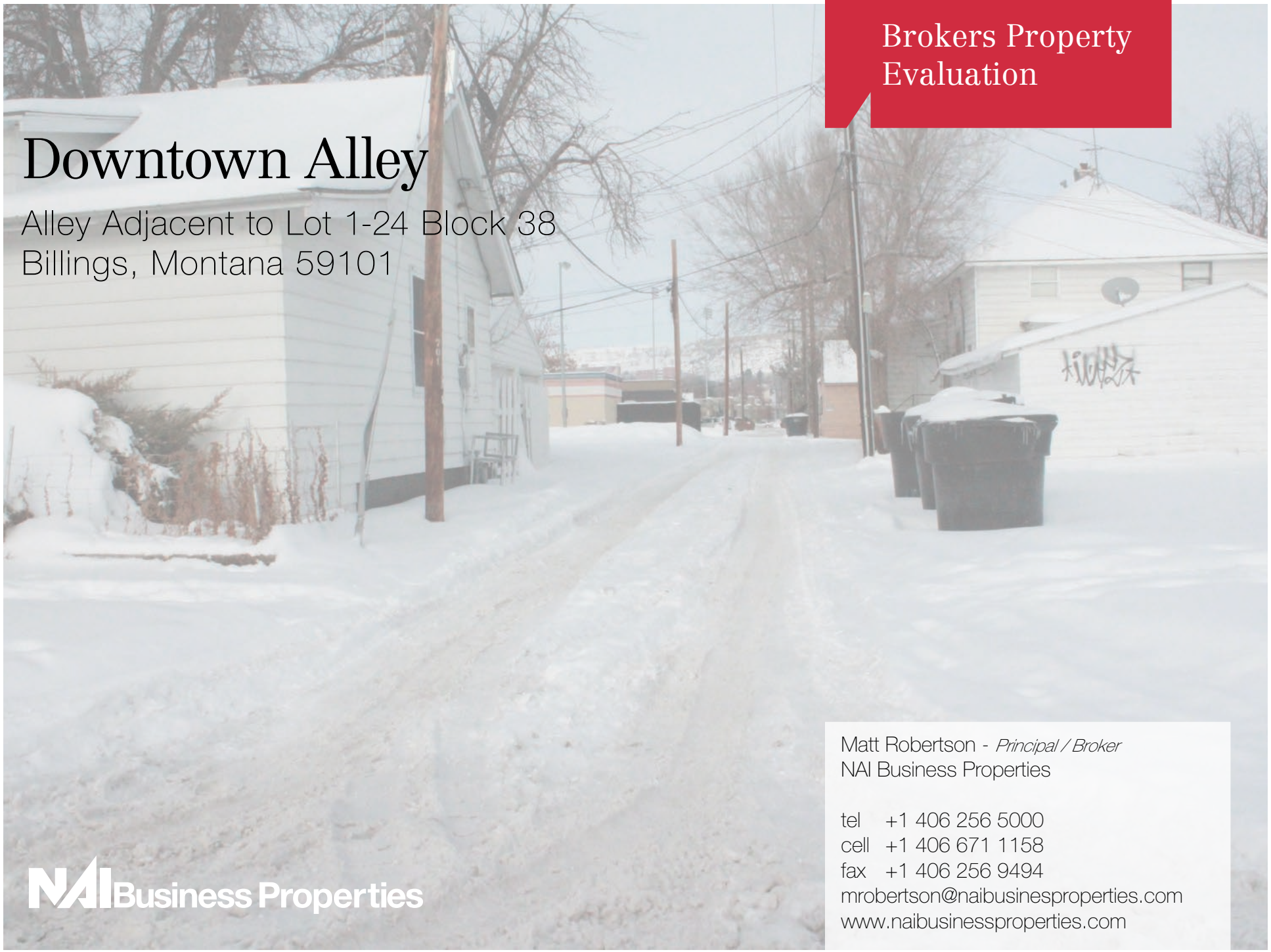
Deed Reference: Warranty Deed No. 372265

END OF OWNERSHIP REPORT.

Brokers Property Evaluation

# Downtown Alley

## Alley Adjacent to Lot 1-24 Block 38
## Billings, Montana 59101



NAI Business Properties


Matt Robertson - *Principal / Broker*
NAI Business Properties

tel +1 406 256 5000
cell +1 406 671 1158
fax +1 406 256 9494
mrobertson@naibusinesproperties.com
www.naibusinessproperties.com

# Table of Contents


3 Engagement Letter

4 Section 01

Executive Summary

6 Section 02

Property Summary

11 Section 03

Evaluation

13) Sales Comparison Approach

14) Sales Comparison Map

15 Section 04

Weighted Valuation

16 Section 05

About Us

19 Section 06

Assumptions

20 Section 07

Exhibits

20) Property Site Map

21) Property Administrative Order

# Engagement Letter

January 12, 2015

William Honaker
2700 1st Avenue North
Billings, Montana 59101

Attention: Mr. William Honaker

Dear Mr. Honaker,

The Brokers Property Evalution of a commercial property utilizes a combination of the information gathered from a drive-by exterior examination, interior site analysis, external data sources, previous lease data, property assessment data, recent comparable leases, current area leasing information, pertinent property profit and loss information, as well as a thorough photo documentation of the subject property.

The BPE includes area information, site description, structure description, county assessment data, pertinent and available documents of record, three assessments of value (Income, Sales Comparison and Cost), as well as photographs of the subject property. The descriptions and statements made in this analysis are from sources that are deemed reliable, however no warranty is made as to the accuracy thereof.

This analysis only represents the personal, impartial and unbiased professional opinion of the authors.

The liability of the analysis to the authors shall be limited to the fee collected from the client, and the authors assume no responsibility for additional costs incurred by the client on this project.

Sincerely,

Matt Robertson
Principal / Broker

NAI Business Properties
Commercial Real Estate Services, Worldwide.

o. +1 406 256 5000
m. +1 406 671 1158
e. mrobertson@naibusinesproperties.com

Section 01
Executive Summary

# Alley Adjacent to Lot 1-24 Block 38

# Downtown Alley

The subject property consists of an alley with approximately 0.138 acres, located between North 27th Street and North 26th Street in downtown Billings and is currently being utilized as an alley. The land under the improvement is fee simple interest with total size of 6,000 square feet. The improvements include a paved surface and assumed utility infrastructure (which is not included within the analysis). The author did not include any benefit or detriment due to existing utility easements located on the property. The property was owned by the city of Billings at the time of the analysis.

The property is currently located within city limits of Billings and has an assumed zoning of Community Commercial (CC) due to existing zoning of adjacent properties. The CC zoning is intended to promote uses geared towards accommodating retail, service and office facilities. The property appeared to be in fair condition at the time of the analysis.

The author assumed that the property will appeal to both individual users and developers based on its proximity to the Central Business District. The property appeared to be in fair condition based on the visual inspection.

# Executive Summary

**Date of Analysis/Effective Date**.....January 12, 2015

**Client**.....William Honaker

**Owner of Record**.....City of Billings

## Key Highlights:

- Located in Downtown Billings
- Good Access from 7th Avenue North and 8th Avenue North
- Paved Road Access
- Currently Used as an Alley

Based on a thorough analysis of the property, the most likely user would be a developer. The author's analysis and assumptions of: use/condition factors of the property, current market data, actual and market income information and general assesment of the property; results in a blended market value range of $27,120.00 to $44,400.00. Taking the above stated values the proposed Market Value is $36,062.66 ($6.01 PSF).

Section 02
Property Summary

# Overview

## Address

Alley Adjacent to Lot 1-24 Block 38

Billings, Montana 59101

## Property Legal

Alley Adajcent to Lot 1-24 Block 38 of the Foster Addition

## Conforming Use Determination

Based on the current use the property appears to be conforming (Per Article 27-301 of the Unified Zoning Regulations)

## Property GeoCode/Tax ID

NA / NA

## 2014 Assessed Market Value

| Land Assessed Value | Improvement Value | Total Assessed Value |
|---|---|---|
| NA / PSF | NA / PSF | NA / PSF |
| **2014 Tax Liability** | **SID's** | **Taxes in Arrears** |
| $ - | $ - | $ - |

## Site Specs

| | |
|---|---|
| Land Size: | 6,000 SF |
| Acres: | 0.1377 |
| Topography: | Level |
| Utilities: | No City Services |
| Zoning: | Community Commercial |
| Front Feet: *N 27th St.* | 300’ |
| Lot Depth: *7th Avenue* | 20’ |
| Frontage: | Fair |

# Property Zoning Description

Community Commercial – The Community Commercial zone is intended primarily to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community, and commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands centrally located in the trade area rather than a strip development along arterials.

## Alley Adjacent to Lot 1-24 Block 38

# Billings Area Info

Yellowstone County maintains the status as the most populated county in Montana. Billings, the business, transportation and sales hub between Denver and Calgary, Seattle and Minneapolis, is the largest city and the county seat in Yellowstone County. As of the 2012 census, the city had an estimated total population of 106,954, the only city in Montana to surpass 100,000 people. The major industries driving the economy of Billings are agriculture, energy, transportation, medical, and education. Shopping and cultural activities draw visitors from a large area as well. Billings has avoided the economic downturn that affected most of the nation 2008–2012 as well as avoiding the housing bust. With the Bakken oil play in eastern Montana and western North Dakota, the largest oil discovery in U.S. history, as well as the Heath shale oil play just north of Billings, the city's already rapid growth rate is escalating in general.

# Local Land Market Trends

Due to national economy slum and the fall of investment portfolio's new development reduced significantly within the Billings area. Over the past few years we have seen a significant drop in land values, due to excess inventory, low absorption and higher vacancy within the specific industry sectors. Lease rates have remained relatively stable within the industry types thus creating no incentive for new development. The only land sector that seems to be gaining traction is that of an industrial nature, with the increased activity in the Northeast many energy companies look to Billings as a business hub. Long run expectations for the Billings land market are positive with slow growth over the next 5+ years to reach the levels that were obtained in the early 2008's.

Sales

Vacancy

Net Absorption

Construction

Lease Rates

# Property Aerials & Map

## Site Details

The subject property borders:

| | |
|---|---|
| North: | 8th Ave N |
| South: | 7th Ave N |
| East: | Residential |
| West: | Retail and Residential |

## Traffic Counts

Traffic Count numbers are based on a blend of past three years:

| | |
|---|---|
| N 27th St.: | 21,970 ADT |
| 7th Avenue: | less than 2500 ADT |
| 8th Avenue: | less than 2500 ADT |

*ADT: Average Daily Traffic*

# Market Value Determinants

**Market Value** is the estimated amount for which a property, considered in its highest and best use, should exchange for on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently, and without compulsion or undue pressures.

In order to assess a property's market value the authors need to consider the highest and best use of the property. Four determinants are typically used in valuating a property's highest and best use and they are as follows:

**Legally Allowable** - Only those uses that are, or may be, legally allowed which may exclude uses that are not, and unlikely to become, allowed by zoning, uses forbidden by government regulations, and uses prohibited by deed restrictions or covenants. Properties with a use that predates existing zoning regulations may be legally nonconforming. Such grand fathered uses are generally legal even though they do not meet current zoning regulations. However, some such uses may not be reproduced if the legally nonconforming improvement is destroyed or damaged beyond a certain point.

**Physically Possible** - Any potential use must be physically possible given the size, shape, topography, and other characteristics of the site.

**Financially Feasible** - The proposed use of a property must generate adequate revenue to justify the costs of construction plus a profit for the developer/investor.

**Maximally Productive** – The use must generate the highest net return (profit) to the developer/investor.

For the purpose of this analysis the author's assumption of the property's highest and best use of this is as a **Development Land** and its projected use is as such unless otherwise noted.

# Valuation Explanation

*For this opinion of value the authors will be utilizing a combination of three different approaches to estimate the market value of the subject property and they are as follows:*

Income Valuation Approach considers property's estimated value is based on the net income produced or capable to produce and considers an expected/appropriate rate of return for the type, condition and location of the subject property. (Not utilized within this analysis).

Sales Comparison Approach estimates the value of a property by comparing it to other similar properties in the marketplace that have sold recently. This approach assumes that a buyer is not willing or liable to spend more than an they would for an equally desirable property. The Sales Comparison Approach involves finding sold properties comparable to the subject property, and adjusting/comparing the comparable to the subject property based on their inherent difference i.e. (Time, Motivation, Location, Construction, Condition, Type/Use and Economies of Scale).

Cost Approach considers the estimated value of a property to be the sum of all its parts, taking into consideration land value, land improvements, structure improvement, and depreciation. This approach is utilized if applicable. (Not utilized within this analysis).

*Source(s) of information used in this analysis: Yellowstone County Public Records, City of Billings Public Records, NAI Business Files, Local Appraisers, Local MLS and other local market participants.*

# Sales Comparison Approach

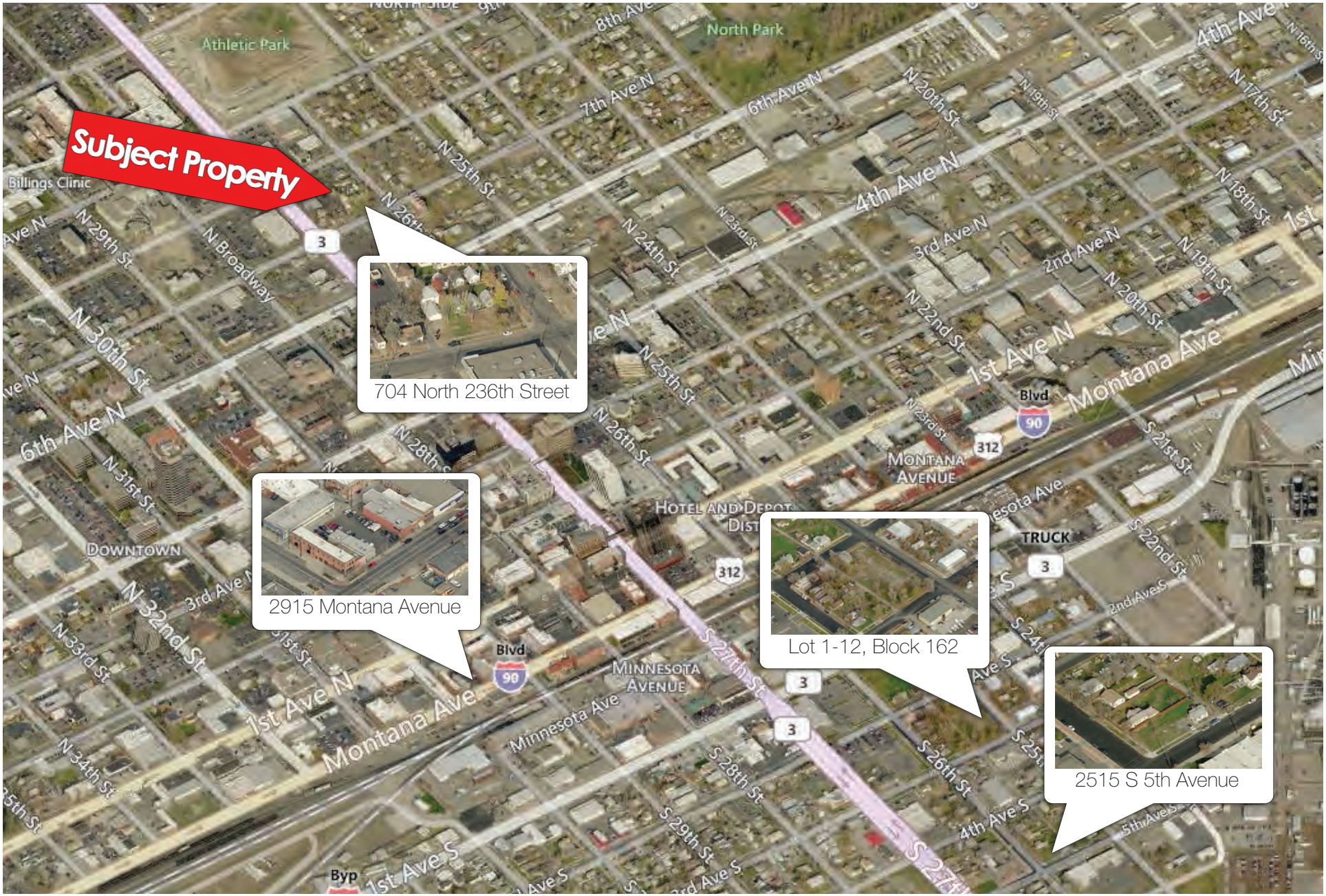
In applying the direct sales comparison approach the author has conducted a search of sold properties that fall within the comparable scope of the subject property.

| | Subject Property | Comparable #1 | Comparable #2 | Comparable #3 | Comparable #4 |
|---|---|---|---|---|---|
| | | | | | |
| **Location** | Alley Adajcent to Lot 1-24 Block 38<br>Billings, Montana | 704 North 236th Street<br>Billings, MT | 2915 Montana Avenue<br>Billings, MT | 2515 S 5th Avenue<br>Billings, MT | Lot 1-12, Block 162<br>Billings, MT |
| Date Sold | - | 10/27/14 | 1/13/12 | 2/8/11 | 5/9/14 |
| Sales Price | - | $45,590.00 | $80,000.00 | $29,000.00 | $166,000.00 |
| Topography | Level | Level | Level | Level | Level |
| Land Size (SF) | 6,000 Square Feet | 7,000 Square Feet | 9,578 Square Feet | 10,454 Square Feet | 42,000 Square Feet |
| Year Built/Remodeled | NA | NA | NA | NA | NA |
| Zoning | Community Commercial | Community Commercial | Central Business District | Community Commercial | Community Commercial |
| Coverage | NA | NA | NA | NA | NA |
| Property Type | Development Property | Office Land | Parking Lot | Multi-Family Lot | Fenced Lot |
| Condition | Fair | Good | Fair | Average | Good |
| $/SF Bldg Area/w. Land | - | $6.51 PSF | $8.35 PSF | $2.77 PSF | $3.95 PSF |
| **Comparison Criteria** | | | | | |
| Time | | Even | Even | Even | Even |
| Motivation | | Even | Even | Even | Even |
| Location | | Even | Even | Plus | Plus |
| Construction | | Even | Minus | Plus | Plus |
| Condition | | Even | Even | Even | Even |
| Type/Use | | Even | Even | Even | Even |
| Economies of Scale | | Even | Even | Even | Even |
| **Overall Adjustment** | | $ - PSF | $0.95 PSF | $1.75 PSF | $1.65 PSF |
| Adjusted $/SF | | $6.51 PSF | $7.40 PSF | $4.52 PSF | $5.60 PSF |
| Average Adjusted $/SF | $6.01 PSF | | | | |
| Adjusted Comp Value | $36,062.66 | | | | |

**Comparison Rating Criteria**

Even: No Adjustment, Similar to Subject Property. Minus: Downward Adjustment, Better than/Superior to Subject Property. Plus: Upward Adjustment, Poorer than/Inferior to Subject Property.

# Sales Comparison Map



# Weighted Total Valuation

Section 04
Weighted Value

**Income Valuation Approach** considers property's estimated value is based on the net income produced or capable to produce and considers an expected/appropriate rate of return for the type, condition and location of the subject property. This approach was not utilized within this analysis.

**Sales Comparison Approach** involves finding sold properties comparable to the subject property, and adjusting/comparing the comparable to the subject property based on their inherent difference i.e. (Time, Motivation, Location, Construction, Condition, Type/Use and Economies of Scale). This approach has been used exclusively.

**Cost Approach** considers the estimated value of a property to be the sum of all its parts, taking into consideration land value, land improvements, structure improvement, and depreciation. This approach was not utilized within this analysis.

| Approach to Value | Value Indicated | Weighting | Blended - PSF Value |
|---|---|---|---|
| Sales Comparison | $36,062.66 | 100.00% | $36,062.66 - $6.01 PSF |
| Weighted Market Value: | | | $36,062.66 - $6.01 PSF |

## Market Value Breakdown

Overall Value Range ..... $27,120.00 - $44,400.00

Weighted Market Value ..... $36,062.66 ($6.01 PSF)

Matt W. Robertson
Broker/Principal

**January 12, 2015**
Effective Date

# About NAI Business Properties

NAI Business Properties brings industry leading resources to its disposition and acquisition services. Speed, agility, and keen insight are hallmarks of our services. The result is connecting properties with our exclusive list of investors. NAI Business Properties' disposition services rely upon the skills and insights of our experienced team of brokerage, marketing and data resource management professionals. Our process begins with an internal launch meeting that unifies client's objectives with marketing and sales strategies. This launch begins a process that involves the following phases:

- Comprehensive Property Profile - competitive review and capital market summary
- Marketing Promotional Strategy Development - advertising, direct mail, email, html flyers, web listings, and a public relations tactical outline
- Sales Planning & Execution - database profile analysis, identification of network connections, and direct contact with an exclusive list of buyers
- Client Communication - communication of progress through regularly scheduled activity reports and updates
- Maximum Price - the result is the capitalization of market dynamics to achieve a competitive bid environment in order to maximum sale price

NAI Business Properties' key point of differentiation in our disposition services is the volume of strong relationships we have established with institutional, local, regional and national private equity firms, life companies, and owner/investors. We create and maintain a database of property and investor profiles that encompasses portfolio details and acquisition criteria of these nationwide firms.

The information gathered and analyzed by the NAI Business Properties team allows us to utilize the speed and the efficiency of technology to promptly connect our investors and institutional partners with properties that correspond to their acquisition requirements. Our clients have access to more opportunities and can make faster and better decisions armed with targeted information.

# Matt Robertson

Principal / Broker

## Background & Experience

Matt's process driven approach and keen market insight has assisted clients' in consistently capturing unseen revenue for their assets. This process includes reducing expenses, maximizing revenue and increasing occupancy. Investors, owners and buyers appreciate Matt's passion for the industry and personal approach which has helped him develop long-term relationships as a trusted advisor and consultant.

Matt joined NAI Business Properties in September 2009 and became an owner in June of 2012. Prior to joining NAI, Matt brokered commercial transactions that included investment, office and industrial properties within Yellowstone County from 2004 on.

As a business finance major from Montana State University - Billings Matt has excelled in investment and property analysis as well as market analytics. In college Matt was chosen as one of five top business students within the country to participate in a Global Business Leadership Conference - hosted at Leigh High University and the laccoca Institute.

## Professional Affiliations

Montana Commercial Real Estate Supervising Broker (#14178)

Society of Industrial and Office Realtors

## Education Description

Montana State University - Billings, Bachelor's Degree - *Business Finance*

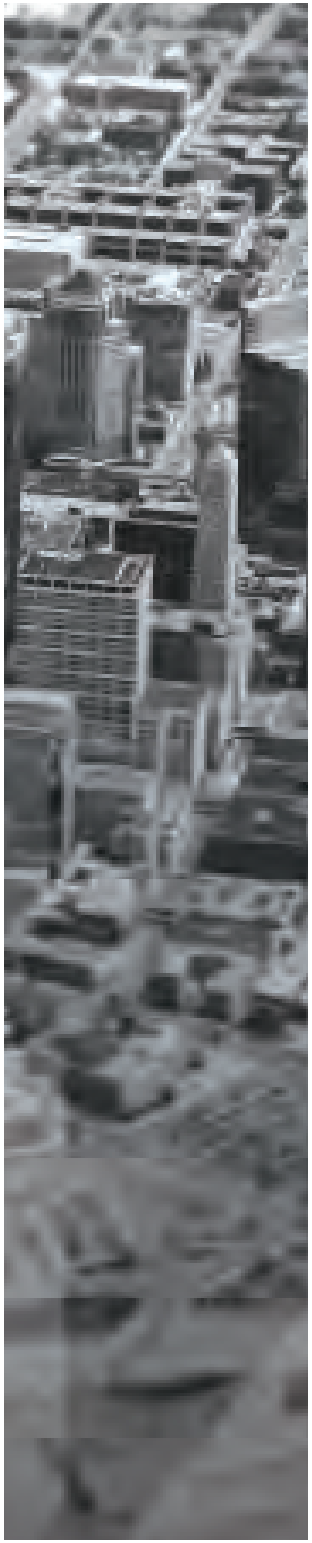
Montana Licensed Real Estate Supervising Broker

## Scope of Responsibilities

Matt Robertson has more than 10 years experience in industrial and office investment sales, as well as tenant and landlord representation.

Since joining NAI Business Properties, Matt has taken the lead in developing a strong presence in the office, industrial and investment market.

Matt has also conducted hundreds of property evaluations.



# Matt Robertson

Principal / Broker



## Significant Transactions

### Office and Industrial

| | |
|---|---|
| Northwest Scientific - Industrial | 22,000 SF |
| CN Plaza - Office | 15,980 SF |
| 1050 Broadwater Avenue - Office | 14,120 SF |
| Knox Lumber - Industrial | 45,543 SF |
| Z&G Glass - Office/Industrial | 11,094 SF |
| State Farm Operation Center - Office | 15,100 SF |
| Trolley Station - Office | 8,750 SF |

### Tenant/Buyer Representation

| | |
|---|---|
| United Way - Office | 15,100 SF |
| GTS Interior Supply - Industrial | 23,050 SF |
| Montana Tech - Bureau of Mines and Geology | 6,500 SF |
| Job Connection - Office | 8,750 SF |
| Ryco Hydraulics - Industrial | 8,600 SF |
| Energy Equity - Industrial | 13,640 SF |
| Forbidden Manufacturing - Industrial | 7,650 SF |
| Vistec Industrial Services - Industrial | 5,600 SF |
| Roger Daniel Business Park - Office | 19,500 SF |
| Riverstone Health - Industrial | 7,450 SF |

# Assumptions



This valuation has been prepared subject to the following general assumptions and limiting conditions. They are critical to the analysis and conclusion contained in this report.

No responsibility is assumed for legal or title considerations.

Title to the property is assumed to be good and marketable, free and clear of all liens or encumbrances unless otherwise stated in this report. Encumbrances considered in the valuation include but are not limited to: real estate taxes, recorded easements and/or covenants, CC&R's, purchase options or sale agreements signed leases, and unpaid bond debt.

It is assumed that any easements noted on the title report without specific locations will have no material effect on the normal use of any of the subject parcels.

Responsible ownership and competent property management are assumed unless otherwise stated in this report.

The information furnished by others is deemed to be reliable; however, no warranty is given for its accuracy.

All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.

It is assumed that there are no hidden or non-apparent conditions of the property, subsoil or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them. Unless otherwise noted, the author did not observe the existence of hazardous materials, which may or may not be present on the property. The presence of hazardous materials, if any, may impact the value of the property. The value estimate is predicated on the assumption there is no such material on or in the property, which would cause a loss in value. No responsibility is assumed for any such conditions, or for the expertise ore engineering knowledge required to discover them. Should the client have concerns over the existence of hazardous materials on or in the property, they should consider the services of a qualified, independent engineer or contractor to determine the existence and/or extent of any hazardous materials, as well as the cost associated with any required mitigation and/or removal.

It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless otherwise stated in this report.

Any forecasts or projections contained in this report are the product of the analysis of current, historical, and anticipated market conditions and assume continuation of prevailing political, social, economic, and environmental conditions. Such factors, contingent forecasts and/or projections are subject to change at any time.

It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless non-conformity has been stated, defined and considered in this evaluation report.

It is assumed that all required licenses, certificates of occupancy or other legislative or administrative authority from any local, state or national governmental, or private entity organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.

Any sketch or rendering in this report may show approximate dimensions and is included to assist the reader in visualizing the property and are not to scale. Maps and exhibits if included in this report are provided for the reader's reference only. No guarantee as to accuracy is expressed or implied unless otherwise state in this report. No survey has been made for the purpose of this report.

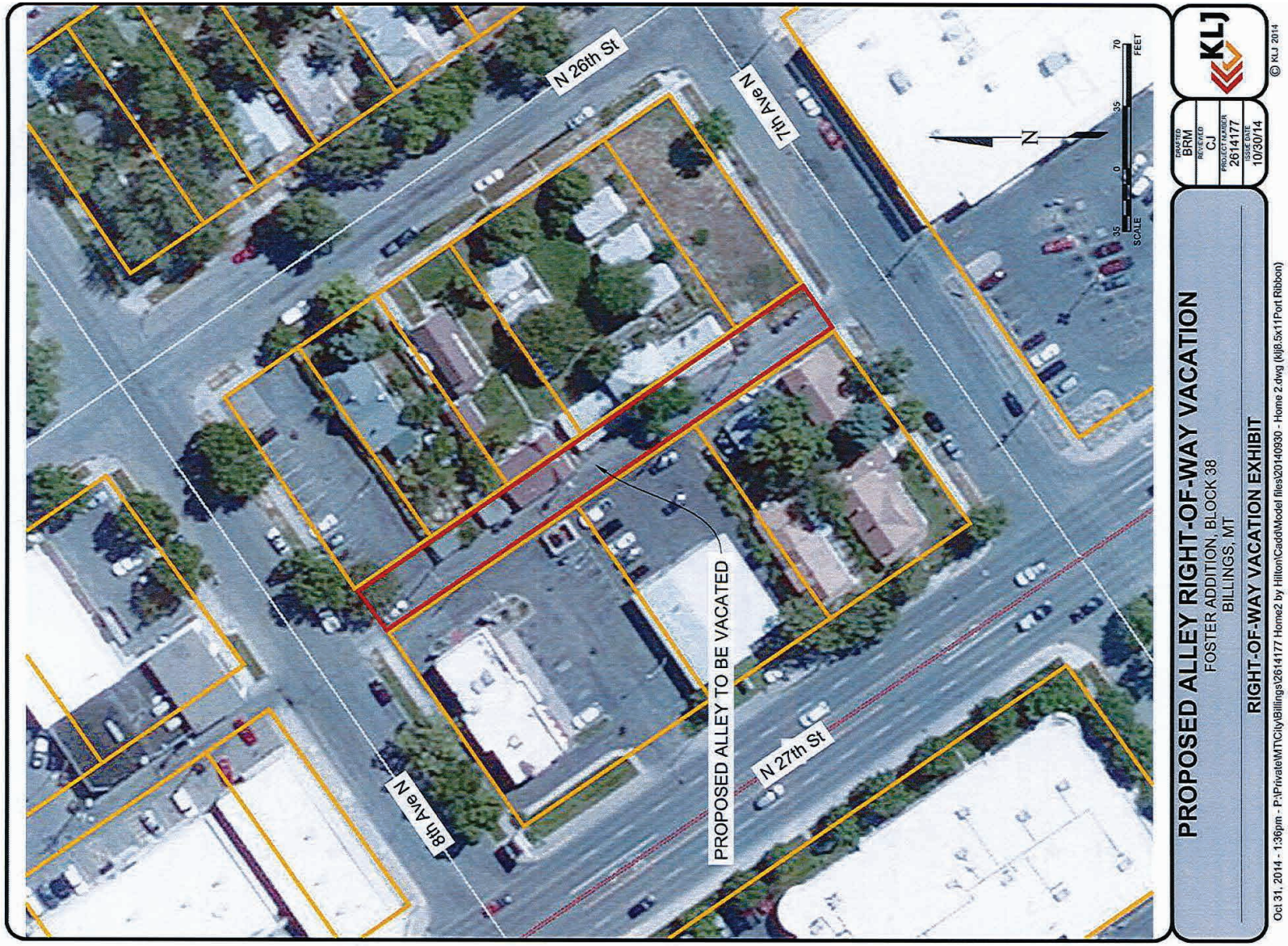
The Americans With Disabilities Act (ADA) became effective in January 1992. The author has not made a specific compliance survey or analysis of this property to determine whether it is in conformance with the various, detailed requirements of the ADA. The value estimate is predicated on the assumption that, except as identified by the author, the subject improvements comply with the ADA. It is possible that a comprehensive compliance survey could reveal additional areas in which the property does not conform to one or more of the Act's requirements. If so, this could have a negative effect upon the market value or marketability of the property.

The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and improvements must not be used in conjunction with any other valuation and are invalid if so used.

Possession of this report or a copy thereof does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed.

All photos, unless otherwise specified, are courtesy of Matt Robertson, Bing.com or Google.com.

# Site Map


N 26th St
7th Ave N
PROPOSED ALLEY TO BE VACATED
N 27th St
8th Ave N
N
SCALE
0
35
70
FEET
PROPOSED ALLEY RIGHT-OF-WAY VACATION
FOSTER ADDITION, BLOCK 38
BILLINGS, MT
RIGHT-OF-WAY VACATION EXHIBIT
DRAFTED BRM
REVIEWED CJ
PROJECT NUMBER 26144177
ISSUE DATE 10/30/14
KLJ
© KLJ 2014
Oct 31, 2014 - 1:36pm - P:\Private\MT\City\Billings\26144177 Home2 by Hilton\Cadd\Model files\20140930 - Home 2.dwg (klj8.5x11Port Ribbon)

## ADMINISTRATIVE ORDER NO. 56

Pursuant to Administrative Order, the following procedure is hereby established for determining the valuation of public rights-of-way proposed for vacation.

1. If the City of Billings and the petitioner mutually agree that vacating a public right-of-way is appropriate, and the public has no cost basis in the right-of-way, staff may recommend to the City Council that the right-of-way be returned to the adjacent property from which it was originally dedicated at no cost. This will generally be limited to rights-of-way within platted but undeveloped subdivisions. It would not generally apply to unimproved rights-of-way within otherwise developed parts of the city.

2. In all other cases, the value of public right-of-way to be vacated shall be established in accordance with City Ordinance #90-4922, except the following administrative procedure may be used in lieu of the preparation of a formal appraisal with the mutual agreement of the petitioner and the City.

   a. The value of public right-of-way to be vacated shall generally be considered to have a value equivalent to the adjacent property to which it would become attached. Costs associated with making the right-of-way whole for development (i.e., relocation of utilities, etc.) will be considered a cost of development and will not generally be deducted from the real property value.

   b. The petitioner may elect to submit comparable sales data from recent property transactions within a reasonable proximity of the proposed right-of-way vacation area. The petitioner and the City may mutually agree to a property value based upon comparable sales data in lieu of the preparation of a formal appraisal.

   c. On a case-by-case basis, the petitioner and the City may agree to a lesser value of the vacated right-of-way based upon the proposed use of the acquired land. This would generally involve proposed developments where the vacated right-of-way would be converted to open green space, park area, or other such use that could be construed as an overall public benefit.

This Administrative Order is intended to recognize the stewardship aspect of administering public assets while acknowledging the equity issues associated with vacation of right-of-way within previously undeveloped areas. It is also intended to recognize that public rights-of-way could be vacated for less than appraised value in those cases where the proposed use would reflect a general benefit to the public.

Dated this 25 day of January 1999

Mark Watson

Mark Watson, City Administrator

C:\Corel\Office7\WPWin7\Watson\ROW Admin Order.wpd

NAI Business Properties

Matt Robertson
Billings, Montana
tel +1 406 256 5000
cell +1 406 671 1158
mrobertson@naibusinessproperties.com
www.naibusinessproperties.com

# PROPOSED ALLEY RIGHT-OF-WAY VACATION

FOSTER ADDITION, BLOCK 38
BILLINGS, MT

## RIGHT-OF-WAY VACATION EXHIBIT

| | |
|---|---|
| DRAFTED | BRM |
| REVIEWED | CJ |
| PROJECT NUMBER | 2614177 |
| ISSUE DATE | 10/30/14 |

KLJ

Oct 31, 2014 - 1:36pm - P:\Private\MT\City\Billings\2614177 Home2 by Hilton\Cadd\Model files\20140930 - Home 2.dwg (klj8.5x11Port Ribbon)

© KLJ 2014

**Consent 1. F. 1.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Easement to Phillips 66 for Pipeline on City Property at Mystic Park

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

## PROBLEM/ISSUE STATEMENT

Phillips 66 has requested an easement from the City to install a pipeline. The line will cross the Yellowstone River and Mystic Park which is where the City's water treatment plant is located. Phillips 66 would like to begin construction the first week of April.

## ALTERNATIVES ANALYZED

City Council may:

- Approve the easement to Phillips 66; or
- Disapprove the easement. If the easement is not approved, Phillips 66 will need to find an alternate route for the pipeline.

## FINANCIAL IMPACT

The City typically grants easements in exchange for financial consideration in amounts usually determined by the value of the land. In this case, the City is requesting an easement from Phillips 66 which would have a similar monetary value. Staff proposes that the easements be granted to each party without costs as an exchange versus a purchase.

## RECOMMENDATION

Staff recommends that Council approve the easement to Phillips 66.

## APPROVED BY CITY ADMINISTRATOR

**Attachments**

Easement

Exhibit A

**RIGHT-OF-WAY CONTRACT**

STATE OF MONTANA §
§
COUNTY OF YELLOWSTONE §

FOR AND IN CONSIDERATION of the sum of Ten Dollars ($10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, CITY OF BILLINGS, MONTANA, herein referred to as "Grantor" whether one or more, does hereby grant unto PHILLIPS 66 PIPELINE LLC, a Delaware Limited Liability Company, and all subsidiary and affiliated companies, their successors and assigns, herein referred to as "Grantee", a right-of-way for the right from time to time to survey, construct, lay, maintain, inspect, erect, alter, operate, protect, repair, replace with same or different size pipe, relay, relocate, mark, remove and/or abandon in place one (1) pipeline; above ground valves; appurtenances; cathodic protection equipment, including the necessary electric rectifiers mounted above ground on poles with wires connecting to a source of AC or DC electricity, generators; ground beds, cables and deep wells; communication lines; electric lines and appurtenances; and fences and structures to enclose above ground facilities at the sole discretion of Grantee (all of the above herein being collectively referred to as "Facilities", and all rights granted herein being collectively referred to as the "Purpose"), over, through, upon, under and across the following described lands in Yellowstone County, State of Montana, to wit:

Pipeline to be located on and across Grantor's lands in Section 2 and 11, Township 1 South, Range 26 East, Billings, Montana, as shown on Exhibit A attached hereto and made a part hereof.

The right-of-way herein granted shall be thirty (30) feet in width, the approximate route of which is more generally described in EXHIBIT "A", attached hereto and made a part hereof, together with additional work space as needed for construction, maintenance, repair, inspection, removal and replacement of Facilities. Following construction of the pipeline, the final as-built dimensions with metes and bounds legal description will be provided as an amendment to this Right-of-Way Contract.

Grantor further grants and conveys unto Grantee the right of unimpaired ingress and egress on, over, across and through the above-described lands including lands owned, leased or claimed by Grantor which are adjacent or contiguous thereto, including the right to use existing roads on the above described lands, for all purposes necessary or incidental to the exercise of the rights herein granted, with the further right to clear all trees, undergrowth, brush, structures and other obstructions from the herein granted right-of-way. Grantor shall not impound water or build, construct, create or install, nor permit others to impound water or build, construct, create or install, any buildings, structures, fences, trees, engineering works, or any obstructions whatsoever on the herein granted right-of-way, and Grantor will not change the grade of the right-of-way without the express written consent of Grantee, which consent shall not be unreasonably withheld.

Grantor agrees that any payment made hereunder by Grantee for the right-of-way includes full payment for all construction damages to the right-of-way occuring during the construction of the Facilities, except to the extent such any such damages are caused by the negligence or willful misconduct of Grantee. Grantee agrees to pay a reasonable sum for any actual damage which may be done by Grantee to Grantor's facilities to the extent caused by Grantee's maintenance operations; provided, however, that Grantee shall not be liable to Grantor for any damages caused on the right-of-way by keeping said right-of-way clear of trees, undergrowth, brush or obstructions in the exercise of the rights herein granted. Any payment due under this Right-of-Way Contract may be made directly to any Grantor if there be more than one.

Grantee shall restore the right-of-way, as near as reasonably practical to do so, upon completion of all construction, maintenance, replacement or removal operations. Grantee shall exercise reasonable care to avoid damaging the right of way in any manner that is not consistent with the Purpose. If damage is caused by Grantee to the right of way that is not consistent with the Purpose, it shall be the responsibility

of the Grantee to repair such damage and to restore the right of way to the condition it was in prior to such damage.

Each party shall reasonably cooperate with the other party provided such cooperation is not inconsistent with the terms of this Right-of-Way Contract. and comply with reasonable requests of the other party that are not inconsistent with the Purpose for which this right-of-way is granted.

Grantor shall have the right to fully use and enjoy said premises, subject to the restrictions set forth herein, provided that any such use does not unreasonably interfere with the exercise of any of the rights and privileges herein granted to Grantee or endanger the safety of Grantee's Facilities.

Grantee agrees to bury all pipelines to a depth that is sufficient to avoid any interference with the current public utilities operations of Grantor on the right of way.

When said right-of-way is no longer useful, necessary or convenient to Grantee, Grantee shall execute and record a release of this Right-of-Way Contract. Grantee shall have no obligation to remove any of the Facilities, but shall have the option, at Grantee's sole discretion, to do so with respect to all or any of the Facilities. In the event that Grantee removes any of the Facilities, Grantee shall restore the surface, as near as reasonably practical, to its condition prior to the construction of the Facilities. In the event any of the Facilities are left in place, Grantee shall leave the Facilities in a condition that is in accordance with all applicable laws, rules and regulations.

**TO THE MAXIMUM EXTENT ALLOWED BY LAW, GRANTEE COVENANTS AND AGREES TO FULLY PROTECT, RELEASE, INDEMNIFY, DEFEND AND FOREVER HOLD GRANTOR, AND ITS OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, FINES, PENALTIES, DAMAGES, LOSSES, JUDGMENTS, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES, COSTS OF LITIGATION AND/OR INVESTIGATION), AND LIABILITIES, OF EVERY KIND, (COLLECTIVELY REFERRED TO HEREAFTER AS "CLAIMS"), INCLUDING WITHOUT LIMITATION THOSE RELATING TO INJURY OR DEATH OF ANY PERSONS WHOMSOEVER, AND/OR DAMAGE (INCLUDING ENVIRONMENTAL DAMAGE) TO, LOSS OF, OR CONTAMINATION OR POLLUTION OF, ANY PROPERTY OR RESOURCE, THAT MAY BE MADE OR COME AGAINST THE INDEMNIFIED PARTIES BY REASON OF, RESULTING FROM, OR IN ANY WAY ARISING OUT OF, GRANTEE'S EXERCISE OF ITS RIGHTS HEREUNDER, REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION WHETHER THE SAME IS CAUSED BY OR CONTRIBUTED TO BY THE INDEMNIFIED PARTIES' JOINT OR CONCURRENT NEGLIGENCE OR FAULT (WHETHER IMPOSED BY STATUTE, RULE, REGULATION OR OTHERWISE) OR STRICT LIABILITY, EXCEPT TO THE EXTENT SUCH CLAIMS ARE CAUSED BY THE INDEMNIFIED PARTIES' SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.**

The provisions of this Right-of-Way Contract are to be considered a covenant that runs with the land herein described, and the terms, conditions, and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto. The right-of-way and rights herein granted may be transferred, leased or assigned, from time to time, in whole or in part, and the rights herein granted, or any of them, may be exercised by any or all of the Grantees, their successors and/or assigns, either jointly or separately. In the event of any suit between the parties, this Right-of-Way Contract shall be enforced in accordance with Montana Law, and venue for such a cause of action shall be the State of Montana Thirteenth Judicial District Court for Yellowstone County.

This Right-of-Way Contract may be signed in counterparts with the same effect as if each executing party signed one instrument.

EXECUTED on the dates set forth in the acknowledgments, but effective for all purposes as of the _____ day of _____, 20__ (the "Effective Date").

**GRANTOR**

CITY OF BILLINGS

_____

_____
Printed Name

_____
Title

**GRANTEE**

PHILLIPS 66 PIPELINE LLC

_____

_____
Printed Name

Attorney-in-Fact_____
Title

STATE OF MONTANA §
§
COUNTY OF YELLOWSTONE §

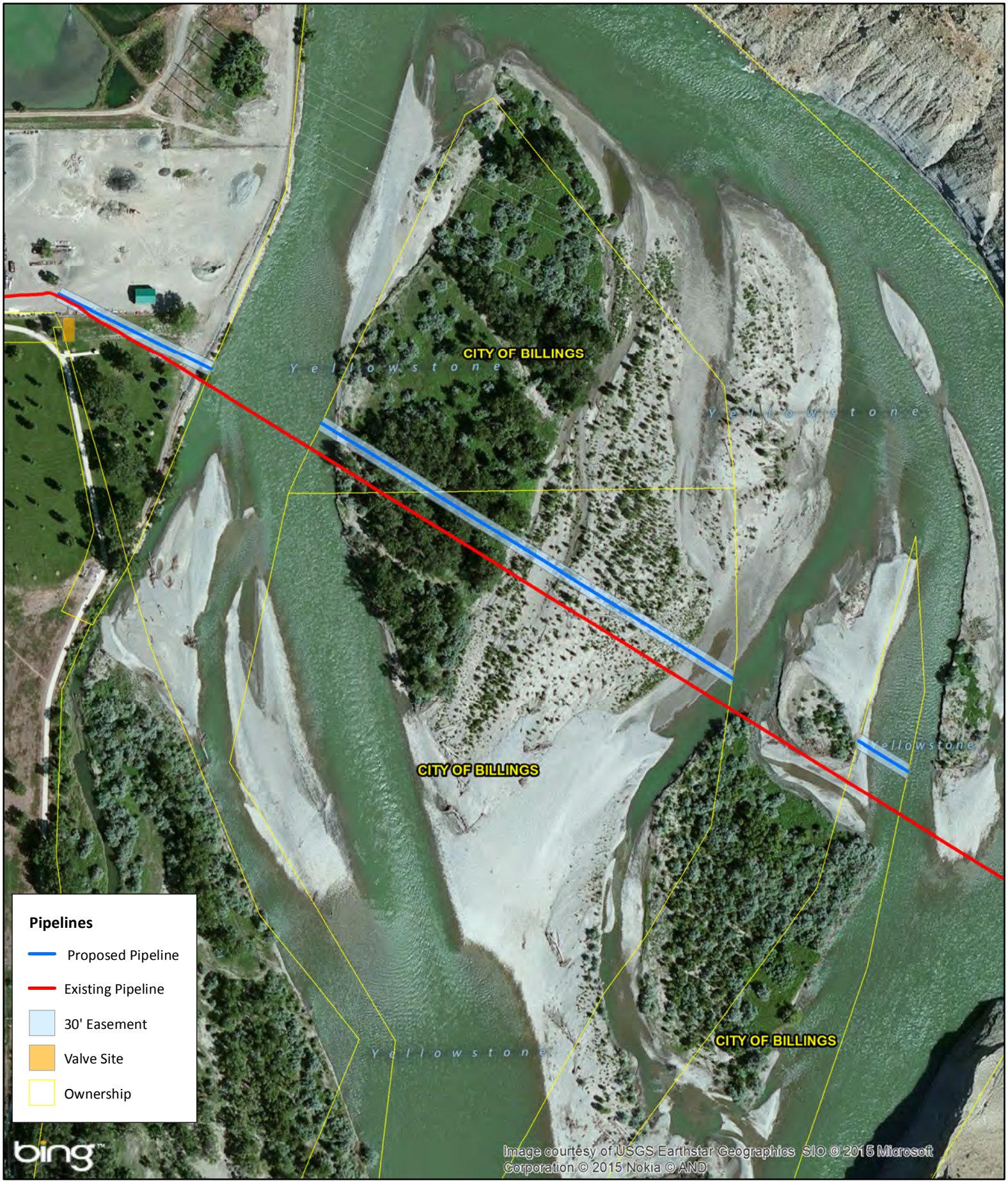
On this _____ day of _____, 2015, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as _____, of CITY OF BILLINGS, MONTANA, and acknowledged that he/she, as such _____, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said CITY OF BILLINGS, MONTANA by himself/herself as _____.

_____
NOTARY PUBLIC
Notary Public in and for _____
County
My commission expires:_____

STATE OF _____ §
§
COUNTY OF _____ §

On this _____ day of _____, 2015, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-in-Fact of PHILLIPS 66 PIPELINE LLC, and acknowledged that he/she, as such Attorney-in-Fact, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said PHILLIPS 66 PIPELINE LLC by himself/herself as Attorney-in-Fact.

_____
NOTARY PUBLIC
Notary Public in and for _____
County
My commission expires:_____

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Sources:
2015 Yellowstone Parcels
Bing Imagery

0 100 200 400 Feet

# Phillips 66

SEMINOE PIPELINE - MP 2.2
YELLOWSTONE RIVER HDD

Yellowstone County MT
Sections 2 & 11, T1S R26E

Disclaimer:

This map is for informational use only and should not be used for legal, engineering or surveying purposes.

02 March 2015

**Consent 1. F. 2.**

**Regular City Council Meeting**
**Meeting Date:** 03/23/2015
**TITLE:** W.O. 12-31 Phase I Yegen Drain Improvements - Easement
**PRESENTED BY:** David Mumford, Public Works Director
**Department:** Public Works

## PROBLEM/ISSUE STATEMENT

An easement is needed from Phillips 66 to construct the improvements for the Yegen Drain project. The project will mitigate current flooding issues by increasing the capacity of the existing drain by straightening the channel, cleaning out sediment deposits, and removing bushes and trees.

## ALTERNATIVES ANALYZED

City Council may:

- Approve the easement from Phillips 66 to the City or;
- Disapprove the easement. If the easement is not approved, then there will not be sufficient room to construct the improvements to the Yegen Drain and flooding of the area will continue to occur.

## FINANCIAL IMPACT

The City typically pays for easements in an amount usually determined by the value of the land. In this case, Phillips 66 is requesting an easement from the City which would have a similar monetary value. Staff proposes that the easements be granted to each party without costs as an exchange versus a purchase.

## RECOMMENDATION

Staff recommends that Council approve the easement from Phillips 66.

## APPROVED BY CITY ADMINISTRATOR

**Attachments**

Easement
Exhibit A
Exhibit B

**RIGHT OF WAY AGREEMENT**

STATE OF MONTANA §
§
COUNTY OF YELLOWSTONE §

FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, PHILLIPS 66 PIPELINE LLC, a Delaware Limited Liability Company, (hereinafter referred to as "Grantor"), does hereby grant unto CITY OF BILLINGS, a municipality (hereinafter referred to as "Grantee"), its successors and assigns, a nonexclusive fifty-four to eighty-two foot (54-82') wide easement ("Easement") to, as applicable, lay, maintain, inspect, alter, repair, operate, protect, replace, relay, and remove or abandon in place, in Grantor's sole option, one permanent storm water drain and culvert system for the transportation of storm water (all rights granted herein being collectively referred to as the "Purpose"), upon, through and under the following described land, situated in Yellowstone County, State of Montana (the "Property"), to wit:

A permanent storm water drain and culvert system easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as Document No. 1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Clerk and Recorder as document No.1167950; thence N33°00'44"E along the line common to said Tract 2-B and Tract 3, Certificate of Survey 960 Amended, recorded in the office of the Yellowstone County Clerk and Recorder as document No. 734668, a distance of 189.85 feet; thence continuing N 33°00'43"E, a distance of 3.12 feet; thence N53°44'35"E, a distance of 237.34 feet; thence N60°22'10"E, a distance of 70.26 feet; thence N45°05'46"E, a distance of 165.77 feet; thence N27°13'22"E, a distance of 22.23 feet; thence N15°39'39"E, a distance of 56.06 feet to a point on the line common to said Tract 2-B and Tract 1-B, Amended Tract 1 of Certificate of Survey No. 1037 recorded in the office of the Clerk and Recorder as document No.1575272; thence N48°55'41"E along said line a distance of 406.51 feet; thence continuing N48°55'41"E along the line common to said Tract 2-B and Tract 1-A of said Amended Tract 1, Certificate of Survey No. 1037, a distance of 38.90 feet; thence N89°31'41"E along the line common to said Tract 2-B and Tract 1-A, a distance of 81.47 feet; thence S42°01'35"W, a distance of 8.54 feet; thence S50°27'52"W, a distance of 112.93 feet; thence S48°55'41"W, a distance of 365.34 feet; thence S15°39'39"W, a distance of 50.86 feet; thence S27°13'22"W, a distance of 36.19 feet; thence S45°05'46"W, a distance of 181.50 feet; thence S60°22'10"W, a distance of 22.52 feet; thence S54°50'34"W, a distance of 50.91 feet; thence S50°47'50"W, a distance of 96.87 feet; thence S54°41'20"W, a distance of 120.19 feet; thence S36°12'12"W, a distance of 185.43 feet to a point on the line common to said Tract 2-B and Tract 1, Certificate of Survey No. 2000; thence N59°46'05"W along the line

common to said Tract 2-B and said Tract 1, Certificate of Survey No. 2000, a distance of 54.07 feet to the Point of Beginning, containing 67,058.81 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure 1) attached hereto.

The sidelines of said permanent easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System NAD83.

THE STORM WATER DRAIN AND CULVERT SYSTEM SHALL BE LAID IN ACCORDANCE WITH THE METES AND BOUNDS DESCRIPTION DESCRIBED AS EXHIBIT "B" AND THE PLAT DESCRIBED AS EXHIBIT "A", BOTH OF WHICH ARE ATTACHED HERETO AND MADE A PART HEREOF.

In addition to the fifty-four to eight-two foot (54-82') wide Easement described above, during the initial construction of the storm water drain and culvert system only, and in no event longer than one (1) year from the Effective Date of this Agreement, Grantee shall have the temporary right to use those portions of Grantor's property specifically described below as Temporary Construction Easements A through C as may be reasonably necessary as temporary construction work space (collectively, the "Temporary Construction Easements"), but, if and only if, no pipelines, facilities or other improvements of Grantor or any third parties located thereon are disturbed or interfered with by Grantee. Upon completion of the initial construction of the storm water drain and culvert system or one (1) year from the Effective Date of this Agreement, whichever occurs first, the right to use all or any portion of the Temporary Construction Easements shall automatically terminate.

Legal Description – Temporary Construction Easement
Lot 2-B, Amended Tract 2 of Certificate of Survey No. 2000
September, 2014

**Temporary Construction Easement A**

A temporary construction easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1571405 , Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1167950; thence S59°46'05"E along the line common to said Tract 2-

B and Tract 1, Certificate of Survey 2000, a distance of 54.07 feet to the Point of Beginning of Temporary Construction Easement "A"; thence N36°12'12"E, a distance of 185.43 feet; thence N54°41'20"E, a distance of 120.19 feet; thence N50°47'50"E, a distance of 96.87 feet; thence N54°50'34"E, a distance of 50.91 feet; thence N60°22'10"E, a distance of 22.52 feet; thence N45°05'46"E, a distance of 181.50 feet; thence N27°13'22"E a distance of 36.19 feet; thence N15°39'39"E, a distance of 50.86 feet; thence N48°55'41"E, a distance of 18.48 feet; thence S00°29'42"E, a distance of 35.45 feet; thence S15°39'39"W, a distance of 34.29 feet; thence S27°13'22"W, a distance of 41.36 feet; thence S45°05'46"W, a distance of 187.333 feet; thence S60°35'54"W, a distance of 23.38; thence S54°50'34"W, a distance of 50.21 feet; thence S50°47'50"W, a distance of 96.85 feet; thence S54°41'20"W, a distance of 117.61 feet; thence S36°13'49"W, a distance of 180.09 feet to a point on the line common to said Tract 2-B and Tract 1, Certificate of Survey No. 2000; thence N59°46'05"W along said line and distance of 20.02 feet to the Point of Beginning of Temporary Construction Easement 'A', containing 15,003.14 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure A) attached hereto.

The sidelines of said temporary easement are to be shortened or extended to prevent gaps or overlaps.
All areas are computed at ground.
All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System, NAD83

**Temporary Construction Easement B**

A temporary construction easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Clerk and Recorder as document No.1167950; thence N33°00'44"E along the line common to said Tract 2-B and Tract 3, Certificate of Survey 960 Amended, recorded in the office of the Yellowstone County Clerk and Recorder as document No. 734668, a distance of 189.85 feet to the Point of Beginning of Temporary Construction Easement 'B'; thence N29°06'12"W along the line common to said Tract 2-B and Tract 3, a distance of 59.03 feet; thence N60°53'43"E, a distance of 46.40 feet; thence S36°15'25'E, a distance of 31.69 feet; thence N53°44'35"E, a distance of 188.04 feet; thence S32°56'38"E, a distance of 20.03 feet; thence S53°44'35"W, a distance of 237.34 feet; thence S33°00'43"W, a distance 3.12 feet to the Point of Beginning of Temporary Construction Easement 'B', containing 6,474.23

square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure A) attached hereto.

The sidelines of said temporary easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System, NAD83

**Temporary Construction Easement C**

A temporary construction easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No.1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the corner common to said Tract 2-B and Tracts 1-A and 1-B of Amended Tract 1, Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as document No. 1575272; thence along the line common to said Tract 1-A and Tract 2-B, N48°55'41"E, a distance of 38.90 feet and N89°31'41"E, a distance of 81.47 feet to the Point of Beginning of Temporary Construction Easement 'C'; thence N89°31'41"E, a distance of 27.13 feet; thence S42°01'35"W, a distance of 28.19 feet; thence S50°27'52"W, a distance of 114.13 feet; thence S48°55'41'W, a distance of 9.61 feet; thence N42°43'33"W, a distance of 20.01 feet; thence N48°55'41"E, a distance of 10.45 feet; thence N50°27'52"E, a distance of 112.93; thence N42°01'35"E, a distance of 8.54 feet to the Point of Beginning of Temporary Construction Easement 'C', containing 2,915.17 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure A) attached hereto.

The sidelines of said temporary construction easement are to be shortened or extended to prevent gaps or overlaps.
All areas are computed at ground.
All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System, NAD83

Grantee shall also have the rights of ingress and egress to and from said Easement over and across existing roads on the Property for the Purpose. Any existing roads damaged by Grantee shall be repaired and left in the same condition as before use including, but not limited to, grade, drainage, gravel base, fence and gate conditions. Grantor shall have the right to fully

use and enjoy the Property unless it unreasonably interferes with the rights granted herein.

This grant is subject to all grants, easements, leases, mineral leases or rights, reservations, rights and rights-of-way heretofore reserved or granted and/or now existing on the Property and is further made without warranty of title, express or implied.

Grantor shall not construct any house, structures or permanent obstructions in the Easement that unreasonably interfere with the construction, maintenance or operation of Grantee's storm water drain and culvert system constructed hereunder.

The Easement herein granted is subject to the following terms and conditions:

1. Grantee shall pay for damages to the fences, roads, premises, or improvements of Grantor or third party(ies) on the Property caused by the exercise of Grantee's rights under this Agreement.

2. Grantee agrees to construct its storm water drain and culvert system as shown on Plat B, and to restore any existing access roads to their same condition prior to Grantee's use. Grantee shall place water bars on all access road slopes to protect against erosion.

3. Grantee shall provide Grantor with an as built centerline survey of Grantee's storm water drain and culvert system across the Easement.

4. There shall be no above-ground installations or structures on the Easement, , without the express written consent of Grantor.

5. After completion of construction, and whenever repair or maintenance is made on its storm water drain and culvert system, Grantee shall restore the ground disturbed thereby as nearly as practical to the condition thereof prior to the disturbance. Grantee shall not store or dispose of any materials, substances or debris on the Easement, including without limitation, any rocks, brush, branches, or trees which Grantee may have cleared.

6. Grantee shall notify Grantor on or before the seventh ($7^{th}$) day preceding any entry onto the Property for any non-emergency operations by Grantee, its agents or contractors. In the event an emergency requires that Grantee, it agents or contractors immediately enter the Property, Grantee shall make all reasonable efforts to notify Grantor of such entry. In either case, such notification shall include notification of the time of entry, the anticipated duration of entry, the location or locations of operations, the type and number of equipment involved and the routes to be used from public roads to the location or locations of the operations. Grantee shall comply with any reasonable request of Grantor to alter the routes to be used from public roads to the location or locations of the operations.

7. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, GRANTEE COVENANTS AND AGREES TO FULLY PROTECT, RELEASE, INDEMNIFY, DEFEND AND FOREVER HOLD GRANTOR, ITS PARENT, SUBSIDIARIES AND AFFILIATES, PARTNERS COVENTURERS, CONTRACTORS, SUBCONTRACTORS, AND THEIR SUCCESSORS AND ASSIGNS, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (HEREINAFTER COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, FINES, PENALTIES, DAMAGES, LOSSES, JUDGMENTS, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES, COSTS OF LITIGATION AND/OR INVESTIGATION), AND LIABILITIES, OF EVERY KIND, (COLLECTIVELY REFERRED TO HEREAFTER AS "CLAIMS"), INCLUDING WITHOUT**

**LIMITATION THOSE RELATING TO INJURY OR DEATH OF ANY PERSONS WHOMSOEVER, AND/OR DAMAGE (INCLUDING ENVIRONMENTAL DAMAGE) TO, LOSS OF, OR CONTAMINATION OR POLLUTION OF, ANY PROPERTY OR RESOURCE, THAT MAY BE MADE OR COME AGAINST THE INDEMNIFIED PARTIES BY REASON OF, RESULTING FROM, OR IN ANY WAY ARISING OUT OF, THE PURPOSE, REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING WITHOUT LIMITATION WHETHER THE SAME IS CAUSED BY OR CONTRIBUTED TO BY THE INDEMNIFIED PARTIES' JOINT OR CONCURRENT NEGLIGENCE OR FAULT (WHETHER IMPOSED BY STATUTE, RULE, REGULATION OR OTHERWISE) OR STRICT LIABILITY, EXCEPT TO THE EXTENT SUCH CLAIMS ARE CAUSED BY THE INDEMNIFIED PARTIES' SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.**

8. In the event Grantee abandons the rights granted herein, all rights granted herein shall terminate and Grantee shall, at the written request of Grantor, execute a proper recordable instrument evidencing such termination. The rights herein granted shall be deemed abandoned if: (a) Grantee does not construct its storm water drain and culvert system within one (1) year from the Effective Date of this Agreement; or (b) after completion of construction, Grantee's storm water drain and culvert system is not used for the Purpose herein granted at any time for a continuous period of one (1) year. Upon termination of the rights herein granted, at Grantor's sole option, Grantee shall either remove its storm water drain and culvert system from the Easement or abandon it in place.

9. No waiver of the provisions hereof shall be effective unless it is in writing and signed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver or waiver in respect of any subsequent breach or default, either of a similar or dissimilar nature, unless expressly so stated in writing.

10. This Agreement is intended solely for the benefit of the parties hereto and shall not create any rights, including without limitation any third party beneficiary rights, in any third party. Grantee shall not have the right to assign this Agreement or any of its rights hereunder, in whole or in part, by operation of law or otherwise, without the prior written consent of Grantor, which consent shall not be unreasonably withheld. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana, without regard to conflicts of law principles that might apply the law of another jurisdiction.

12. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and be enforced to the full extent permitted by law.

13. Any notice, request, instruction or other document to be given hereunder by either party to the other shall be in writing, and delivered personally, by facsimile, by messenger or overnight delivery service, or by certified mail, postage prepaid, return receipt requested, as follows:

If to Grantor, addressed to: PHILLIPS 66 PIPELINE LLC
Bill A. Hallett
Attorney-In-Fact

3010 Briarpark Drive
PWC-01-1360-19
Houston, TX 77042
Phone: (832-765-2539)
Fax: (832-765-0124)

If to Grantee, addressed to:

CITY OF BILLINGS
210 N. 27TH Street
Billings, MT 59101
Phone: (406) 657-8433
Fax: (406) 237-6291

Either party may change its representative or the address to which notice shall be directed by appropriate written notice to the other party in the manner described above.

15. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the parties and supersedes any prior understandings, covenants, promises, agreements, conditions or representations by or between the parties, whether written or oral, related in any way to the subject matter hereof. No subsequent alteration, amendment, change, modification or addition to this Agreement shall be binding upon Grantor or Grantee unless reduced to writing and signed by authorized representatives of both parties.

EXECUTED on the dates set forth in the acknowledgments, but effective for all purposes as of the _____ day of_____, 2015 (the "Effective Date").

**GRANTOR**

PHILLIPS 66 PIPELINE LLC:

By: _____

Printed Name: _____

Title: Attorney-in-Fact

**GRANTEE**

CITY OF BILLINGS:

By: _____

Printed Name: _____

Title: Mayor

STATE OF _____ §
§
COUNTY OF _____ §

On this _____ day of _____, 2015, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-in-Fact, of PHILLIPS 66 PIPELINE LLC, and acknowledged that he/she, as such Attorney-in-Fact, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said PHILLIPS 66 PIPELINE LLC by himself/herself as Attorney-in-Fact.

_____
NOTARY PUBLIC

Notary Public in and for _____ County

My commission expires: _____

STATE OF MONTANA §
§
COUNTY OF YELLOWSTONE §

On this _____ day of _____, 2015, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed as Mayor, of CITY OF BILLINGS, MONTANA and acknowledged that he/she, as such Mayor, being authorized so to do, executed the foregoing instrument as the act of his/her principal for the purposes therein contained, by signing the name of the said CITY OF BILLINGS, MONTANA by himself/herself as Mayor.

_____
NOTARY PUBLIC

Notary Public in and for _____ County

My commission expires: _____

# EXHIBIT 'A'

## STORM DRAIN EASEMENT

PERMANENT STORM DRAIN EASEMENT

| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L1 | N33°00'44"E | 2.80' |
| L2 | N33°00'43"E | 187.05' |
| L3 | N53°44'35"E | 135.26' |
| L4 | N53°44'35"E | 102.08' |
| L5 | N60°22'10"E | 70.26' |
| L6 | N45°05'46"E | 165.77' |
| L7 | N27°13'22"E | 22.23' |
| L8 | N15°39'39"E | 56.06' |
| L9 | N48°55'41"E | 406.51' |
| L10 | N48°55'41"E | 38.90' |
| L11 | N89°31'41"E | 81.47' |
| L12 | S42°01'35"W | 8.54' |
| L13 | S50°27'52"W | 112.93' |

| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L14 | S48°55'41"W | 10.45' |
| L15 | S48°55'41"W | 336.41' |
| L16 | S48°55'41"W | 18.48' |
| L17 | S15°39'39"W | 50.86' |
| L18 | S27°13'22"W | 36.19' |
| L19 | S45°05'46"W | 181.50' |
| L20 | S60°22'10"W | 22.52' |
| L21 | S54°50'34"W | 50.91' |
| L22 | S50°47'50"W | 96.87' |
| L23 | S54°41'20"W | 120.19' |
| L24 | S36°12'12"W | 185.43' |
| L25 | N59°46'05"W | 54.07' |
| L40 | N33°00'43"E | 3.12' |

TEMP. CONST. EASEMENT 'B'

| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L3 | N53°44'35"E | 135.26' |
| L4 | N53°44'35"E | 102.08' |
| L40 | N33°00'43"E | 3.12' |
| L41 | N29°06'12"W | 59.03' |
| L42 | N60°53'43"E | 46.40' |
| L43 | S36°15'25"E | 31.69' |
| L44 | N53°44'35"E | 84.80' |
| L45 | N53°44'35"E | 103.24' |
| L46 | S32°56'38"E | 20.03' |

TEMP. CONST. EASEMENT 'C'

| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L35 | N42°43'33"W | 20.01' |
| L36 | S48°55'41"W | 9.61' |
| L37 | S50°27'52"W | 114.13' |
| L38 | S42°01'35"W | 28.19' |
| L39 | N89°31'41"E | 27.13' |

TEMP. CONST. EASEMENT 'A'

| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L26 | N59°46'05"W | 20.02' |
| L27 | S36°13'49"W | 180.09' |
| L28 | S54°41'20"W | 117.61' |
| L29 | S50°47'50"W | 96.85' |
| L30 | S54°50'34"W | 50.21' |
| L31 | S60°35'54"W | 23.28' |
| L32 | S45°05'46"W | 187.33' |
| L33 | S27°13'22"W | 41.36' |
| L34 | S15°39'39"W | 34.29' |
| L47 | S0°29'42"E | 35.45' |

TRACT 1-A
AMENDED TRACT 1 OF
C/S No. 2000

TRACT 1-B
AMENDED TRACT 1 OF
C/S No. 2000

TRACT 2-B
AMENDED TRACT 2 OF
C/S No. 2000

TRACT 3
C/S No. 960

TRACT 1
C/S No. 2000

TRACT 2-B
AMENDED TRACT 2 OF
C/S No. 2000

P.O.B. TEMP. EASE. 'C'

P.O.B. TEMP. EASE. 'B'

P.O.B. PERM. EASE.

P.O.B. TEMP. EASE. 'A'

NEW PERMANENT STORM DRAIN EASEMENT 64,663.58 Sq.Ft.

TEMPORARY CONSTRUCTION EASEMENT 'C' 2915.17 Sq.Ft.

TEMPORARY CONSTRUCTION EASEMENT 'B' 6,474.23 Sq.Ft.

NEW PERMANENT STORM DRAIN EASEMENT 67,058.81 Sq.Ft.

TEMPORARY CONSTRUCTION EASEMENT 'A' 15,003.14 Sq.Ft.

NOTE: BEARINGS ARE GRID REFERENCED TO THE MONTANA COORDINATE SYSTEM NAD83. GRID TO GROUND CONVERSION: 1.00055308 ALL AREAS ARE CONVERTED TO GROUND

200 100 0 200 400

SCALE: 1" = 200'


MORRISON MAIERLE, INC.
An Employee-Owned Company
Engineers
Surveyors
Scientists
Planners
315 N. 25th Street
Suite 102
Billings MT 59101
Phone: (406) 656-6000
Fax: (406) 237-1201


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DRAWN BY: DGS
CHK'D. BY: JDI
APPR. BY: CJA
DATE: 09/2014

V:\0686\183.01\ACAD\Survey\Easements\YEGEN DRN ESMNT_LT2B_CS2200.dwg Plotted by duane schmitz on Sep/27/2014

CITY OF BILLINGS
YEGEN DRAIN
BILLINGS MT

STORM DRAIN ESASEMENT EXHIBIT
TRACT 2-B, AMENDED TRACT 2, C/S No. 2000, SEC. 34,
T.1N., R.26E., P.M.M, YELLOWSTONE COUNTY, MT

PROJECT NO.
0686.183.01

FIGURE NUMBER
FIG. A

# Exhibit B
## Legal Description – Permanent Easement
## Lot 2-B, Amended Tract 2 of Certificate of Survey No. 2000
## September, 2014

A permanent storm drain easement located in Lot 2-B, of Amended Tract 2, of Certificate of Survey No. 2000 recorded in the office of the Yellowstone County Clerk and Recorder as Document No. 1571405, Section 34, T.1N., R.26E., P.M.M., Yellowstone County, Montana, where said easement runs across, adjoins, or touches the aforementioned tract, being more particularly described as follows:

Commencing at the Southwest corner of said Tract 2-B also being the Northwest corner of Tract 1, Certificate of Survey No. 2000 recorded in the office of the Clerk and Recorder as document No.1167950; thence N33°00'44"E along the line common to said Tract 2-B and Tract 3, Certificate of Survey 960 Amended, recorded in the office of the Yellowstone County Clerk and Recorder as document No. 734668, a distance of 189.85 feet; thence continuing N 33°00'43"E, a distance of 3.12 feet; thence N53°44'35"E, a distance of 237.34 feet; thence N60°22'10"E, a distance of 70.26 feet; thence N45°05'46"E, a distance of 165.77 feet; thence N27°13'22"E, a distance of 22.23 feet; thence N15°39'39"E, a distance of 56.06 feet to a point on the line common to said Tract 2-B and Tract 1-B, Amended Tract 1 of Certificate of Survey No. 1037 recorded in the office of the Clerk and Recorder as document No.1575272; thence N48°55'41"E along said line a distance of 406.51 feet; thence continuing N48°55'41"E along the line common to said Tract 2-B and Tract 1-A of said Amended Tract 1, Certificate of Survey No. 1037, a distance of 38.90 feet; thence N89°31'41"E along the line common to said Tract 2-B and Tract 1-A, a distance of 81.47 feet; thence S42°01'35"W, a distance of 8.54 feet; thence S50°27'52"W, a distance of 112.93 feet; thence S48°55'41"W, a distance of 365.34 feet; thence S15°39'39"W, a distance of 50.86 feet; thence S27°13'22"W, a distance of 36.19 feet; thence S45°05'46"W, a distance of 181.50 feet; thence S60°22'10"W, a distance of 22.52 feet; thence S54°50'34"W, a distance of 50.91 feet; thence S50°47'50"W, a distance of 96.87 feet; thence S54°41'20"W, a distance of 120.19 feet; thence S36°12'12"W, a distance of 185.43 feet to a point on the line common to said Tract 2-B and Tract 1, Certificate of Survey No. 2000; thence N59°46'05"W along the line common to said Tract 2-B and said Tract 1, Certificate of Survey No. 2000, a distance of 54.07 feet to the Point of Beginning, containing 67,058.81 square feet more or less, subject to easements either of record or apparent on the ground, and all according to Exhibit A (Figure 1) attached hereto.

The sidelines of said permanent easement are to be shortened or extended to prevent gaps or overlaps.

All areas are computed at ground.

All measured distances are grid. For conversion to ground, multiply by 1.00055308

The basis of bearings for this legal and attached Exhibit A is the Montana Coordinate System NAD83.

**Consent 1. G.**

**Regular City Council Meeting**
**Meeting Date:** 03/23/2015
**TITLE:** Acceptance of Donation from Sarpy Transportation Inc.
**PRESENTED BY:** Tom Binford, Director of Aviation & Transit
**Department:** Airport

## PROBLEM/ISSUE STATEMENT

Sarpy Transportation Inc. wishes to donate 23 bus seats and frames to the Billings Airport. The seats are being removed from a bus that Sarpy Transportation is stripping down. The Airport will use the donated seats in the Boeing 727 aircraft that was donated to the Airport by FedEx Express in June 2013. FedEx Express donates aircraft that are being retired from their fleet of cargo aircraft to airport fire departments and/or aviation schools to enhance Aircraft Rescue Fire Fighting (ARFF) training programs. The Sarpy Transportation seat donation will complete the retrofitting of the B-727 to more closely simulate a passenger aircraft and enhance the ARFF training experience. The value of the seats and the framing is estimated to be $1,200. City Council policy requires that any donation of more than $500 must be approved by the City Council. A donation verification form has been completed by Sarpy Transportation Inc. and is on file with the City Clerk.

## ALTERNATIVES ANALYZED

The City Council may:

- Accept the $1,200 seat donation from Sarpy Transportation Inc.; or
- Not accept the $1,200 seat donation, which would result in a delay to the retrofitting of the B-727 for ARFF training.

## FINANCIAL IMPACT

There is no financial impact to the City, as the seats and frames are being donated at no cost to the Airport.

## RECOMMENDATION

Staff recommends that the City Council accept the seat donation from Sarpy Transportation Inc., valued at $1,200.

## APPROVED BY CITY ADMINISTRATOR

**Consent 1. H.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

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

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

**Department:** Planning & Community Services

## PROBLEM/ISSUE STATEMENT

The Community Development Division has been approached by the Corporation for National and Community Service (CNCS) regarding submitting an application for VISTA resources for FY2015-2016. The Division has been managing the Billings Metro VISTA Project (B-MVP) since 2009 and is in the process of completing the sixth successful year of program implementation.

The Billings Metro VISTA Project would place AmeriCorps VISTA members to reduce of risk of homelessness and create the tools people in poverty need to build sustainable futures. Priority focus areas include education, financial literacy, housing, employment, food security, access to healthcare and services benefiting Veterans and military families. Community Development Board approval for the application would allow the Community Development Division to assist in application preparation and administration of activities on behalf of several community agencies including Family Promise of Yellowstone Valley, NeighborWorks Montana, Family Service, Inc., NAMI Billings, YWCA Billings, and The Center for Children and Families.

Staff is requesting City Council authorization to submit an application to the CNCS for VISTA members who may be placed at varying times throughout the year based on availability, including member opportunities in June for Summer Associates (ten week placements), July and January (one-year placements).

## ALTERNATIVES ANALYZED

City Council may chose:
1) To submit an application for AmeriCorps VISTA Program; 2) To not submit an application for the AmeriCorps VISTA Program which will lead to the end of the Billings Metro VISTA Project and the City will not meet it's obligation to spearhead an anti-poverty strategy in order to receive Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) funding from the US Department of Housing and Urban Development.

## FINANCIAL IMPACT

In FY2014-2015, the City was awarded Project Grant status by the Corporation for National and Community Service. As a result, the Corporation for National and Community Service allocated a total grant award of over $460,000 to carry out the project. It is projected that the Corporation for National and Community Service will allocate $460,000 for FY2015-2016. The Community Development Board and City Council also approved a $50,000 CDBG allocation to support cost share members, who are prioritized to further the Division's initiatives to impact poverty and homelessness, as per the Community Development Board's request. Host Sites also contribute approximately $20,000 per year to support the project.

From July 2014 to present, 46 VISTA members have been placed through the Billings Metro VISTA Project. An additional seven members are expected to be placed as Summer Associates in June 2015.

## RECOMMENDATION

Staff and the Community Development Board recommend that the City Council authorize submission of an application for AmeriCorps VISTA and authorize City staff to negotiate and finalize the project if awarded.

## APPROVED BY CITY ADMINISTRATOR

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**Attachments**

VISTA Cumulative Accomplishments

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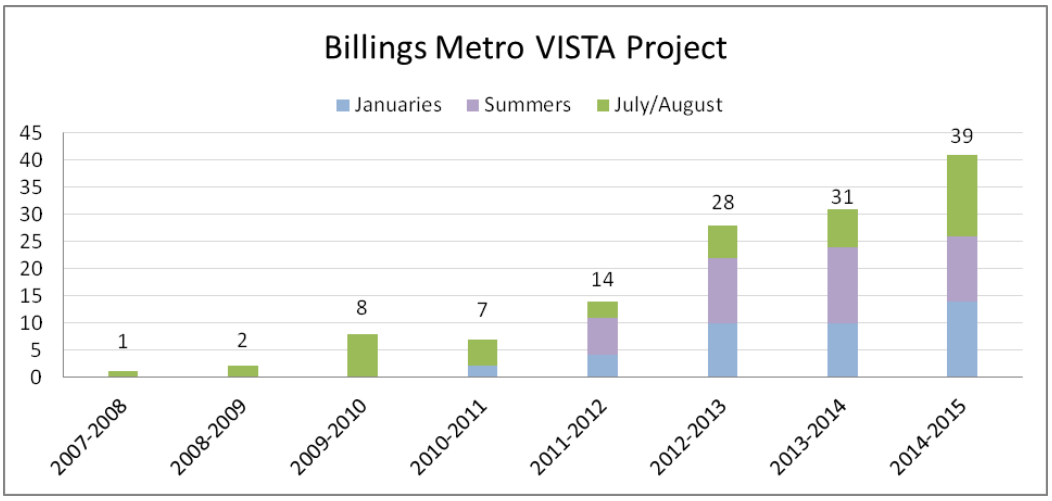
COMMUNITY DEVELOPMENT DIVISION
2825 3RD AVE NORTH, 6TH FLOOR, BILLINGS, MONTANA 59101

# *BILLINGS METRO VISTA PROJECT*

*CUMULATIVE OUTCOMES AS OF FEBRUARY 2015*

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




Since 2007, **136 VISTA members** have served on the B-MVP specifically for poverty impact and homeless initiatives. Members have generated the following outcomes:

- **$2,180,418 in financial resources** were generated (cash and in-kind) to combat poverty and homelessness, in addition to **$469,629 in resources** specific to Billings Community Connect, **totaling $2,650,047!**
- **306 capacity-building efforts** were implemented within non-profit organizations and / or the City of Billings to support efforts to impact homelessness and poverty, including community gardens, Spare Change for Real Change, the Purple 5k, Homeless Play Project, Youth Count!, etc.
- **Over 18,290 new clients** were provided with **284 new or enhanced services** designed to impact poverty and eliminate homelessness.
- A total of **5,633 new community volunteers** were recruited and trained in homeless impact initiatives.
- **139 strategic plans** impacting homelessness / poverty were implemented!
- **394 homeless families** were housed during the course of service!
- **37 organizations** have participated as Host Sites for the Billings Metro VISTA Project:

  - *Family Support Network*
  - *United Way Yellowstone County*
  - *Center for Children & Families*
  - *Mental Health Center - The HUB*
  - *Community Housing Resource Board*
  - *Billings Area Resource Network*
  - *MRM - Women & Family Shelter*
  - *Billings Public Schools - Summer Lunch*
  - *HRDC District 7*
  - *Billings Public Schools - BackPack Meals*
  - *Self Help Law Center*
  - *Billings Public Library*
  - *National Alliance on Mental Illness (NAMI) Billings*
  - *Tumbleweed Program, Inc.*
  - *Housing Authority of Billings*
  - *Nova Center for Performing Arts*
  - *Boys & Girls Club*
  - *The Salvation Army*
  - *VOA - Independence Hall*
  - *Family Service, Inc.*
  - *Billings Head Start*
  - *Friendship House*
  - *Rebuilding Together Yellowstone County*
  - *Family Promise of Yellowstone Valley*
  - *Billings Police Department*
  - *Girl Scouts of Montana & Wyoming*
  - *Billings Parks & Recreation*
  - *Pompeys Pillar*
  - *Downtown Billings Association*
  - *Billings Planning Division*
  - *Billings Community Development Division*
  - *Montana Wilderness Association*
  - *NeighborWorks Montana*
  - *Crow Veterans Administration*
  - *Red Lodge Community Foundation*
  - *YWCA Billings*
  - *HAVEN*

**Consent 1. I.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** W.O. 15-02 Miscellaneous Program - Resolution of Intent to Construct Improvements and set a Public Hearing

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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## PROBLEM/ISSUE STATEMENT

The proposed project will install curb, gutter, and sidewalk improvements at various locations in the City. This project is a continuation of the annual improvements project for dealing with tripping hazards, drainage problems, property owner requests, citizen complaints, and other miscellaneous concrete work brought to the attention of the City Engineer's Office. This program proposes a continuation of the Council policy of allocating gas tax funds for reconstruction of side street frontages on corner lots and to cover the cost of curb and gutter repair.

The proposed project also uses additional funding allocations to cover costs not normally assessed to property owners. Storm drain funds are used for repairing defective valley gutters, improperly graded curb and gutter, and substandard storm drain inlets. Water funds are used for minor adjustments of water lines. These improvements have historically been constructed under the annual Miscellaneous Program. In order to construct this year's improvements, Council must pass a Resolution of Intent and set a Public Hearing for the project in order to allow adjacent property owners to be assessed for this work.

## ALTERNATIVES ANALYZED

The Council may:

• Pass the Resolution of Intent and establish a Public Hearing date of April 13, 2015; or

• Do not pass the Resolution of Intent. If the Council does not adopt the Resolution, the property owners cannot be assessed and the work will not occur because there is no other source of financing for the replacement and new construction.

## FINANCIAL IMPACT

The proposed project is funded through multiple sources, including direct property assessments, for a total budgeted amount of $653,500.

| FY 15 Budgeted Amounts | |
|---|---|
| Estimated Assessments | $346,000 |
| Storm Drain Funds | $52,500 |
| Gas Tax Funds | $250,000 |
| Water and Sewer Funds | $5,000 |

Funding budgeted in FY 15 is sufficient for the proposed project.

**RECOMMENDATION**

Staff recommends that Council approve this Resolution of Intent for W.O. 15-02 and set a public hearing date of April 13, 2015.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Resolution of Intent
Exhibit A
Exhibit B

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RESOLUTION NO. 15-_____

A RESOLUTION RELATING TO W.O. 15-02, MISCELLANEOUS IMPROVEMENTS; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

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

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits "A" and "B" attached hereto.

2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit "B" attached hereto.

3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be $346,000.00 as described below:

| | |
|---|---|
| Construction Costs | $249,336.48 |
| Design and Construction Administration | $40,989.00 |
| Engineering & Administration | $20,760.00 |
| Revolving Fund | $17,300.00 |
| Bond Discount | $6,920.00 |
| Issuance Costs | $10,380.00 |
| Roundoff | $314.52 |
| Total Assessed Costs | $346,000.00 |

Estimated unit costs for construction only, not including engineering, legal, administrative, and bond costs as follows:

| Removal of: | Unit Price: |
|---|---|
| Flatwork Removal | $12.00/SY |
| Curb and Gutter Removal | $7.50/LF |
| | |
| New Construction: | |
| Concrete Sidewalk | $6.00/SF |
| Curb and Gutter | $23.00/LF |
| New Drive Approach | $6.75/SF |
| New Alley Approach | $6.75/SF |
| Street Reconstruction | $48.00/SY |

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against 157 separate lots, parcels, or tracts.

   The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be $2,264.95, with a high of $19,392.33, low of $0.00, and a median of $1,599.69.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.

6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.

7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS.

The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed $346,000 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is $16,480,693. The average market value is $106,327 with a high of $1,782,151 and a low of $39,835 and median value of $86,761. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.

(b) Diversity of Property Ownership. For the 155 Tax codes in this project, there are 155 separate owners. It is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.

(c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, seven (7) parcels have an SID levied against them. Parcels A04607, A04637 and A04639 are being assessed under SID 1902, with payoff amounts of $95.25, $101.52 and $101.52 and a payoff date of 2024; Parcels A06656, A06657, and A06659 are being assessed under SID 2902 with a payoff amounts of $79.53 and a payoff date of 2023; Parcel A04468 is being assessed under SID 2401, with payoff amount of $97.84, and a payoff date of 2017;

As noted in Section 4, the estimated average assessment levied by this project will be $2,232. With an average market value of $106,327, and an average yearly principal payment of $186.00 (monthly principal of $15.50) assuming 6% interest rate, the amount of assessment versus the value of the property would appear acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit “B”.

(d) Delinquencies. For tax year 2012, Zero (0) parcels were delinquent. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

(e) The Public Benefit of the Improvements. Current City Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new curb, gutter, sidewalk, and drive approaches is to be borne by the adjoining property owners.

Some of the parcels have been involved in recent construction or subdivision activity. Some of these parcels have undergone recent site developments, both residential and commercial, in which a permit was taken out, but the improvements were not constructed, or the developer has requested that the improvements be included and constructed under the proposed project. Developers generally make a request to be included in the proposed project to take advantage of the financing opportunity of the 12-year assessment. Some of these parcels are lots included in recently approved subdivisions. The improvements were required as part of the Subdivision Improvements Agreements, but were not installed by the subdivider/developer.

The remaining parcels represent a continuation of an annual improvement project for repairs of tripping hazards, deteriorated sidewalks, drainage problems, property owner requests and citizen complaints.

The project improvements are located in various Task Force areas, both commercial and residential, throughout the City.

## 8. REIMBURSEMENT EXPENDITURES.

(a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

(b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be

reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of $346,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

(e) Reimbursement Allocations. The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

9. PUBLIC HEARING. On Monday, April 13th, 2015, at 6:30 p.m., in the Council Chambers located on the Second Floor of the Police Facility, 220 North 27th Street, Billings, MT, the City Council will conduct a public hearing concerning this project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the BILLINGS TIMES, a newspaper of general circulation in the county on March 26 and April 2, 2015, in the form and

manner prescribed by law, and to mail or cause to be mailed, a copy of said Notice to every person, firm corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, on or before the same day such notice is published.

PASSED by the City Council and APPROVED this 23rd day of March, 2015.

CITY OF BILLINGS:

BY:_____
Thomas W. Hanel MAYOR

ATTEST:

_____
Cari Martin CITY CLERK

# Exhibit A

## Location of Work

## WO 15-02 Miscellaneous

2921 1ST AVE S, 202 N 29TH ST, 423 S 25TH ST, 3211 4TH AVE S, 2815 9TH AVE S, 821 S 30TH ST, 902 S 29TH ST, 2305 8TH AVE N, 2004 YELLOWSTONE AVE, 2000 YELLOWSTONE AVE, 1948 YELLOWSTONE AVE, 2124 LEWIS AVE, 701 AVENUE C, 711 AVENUE C, 743 AVENUE D, 1705 8TH ST W, 1703 8TH ST W, 715 AVENUE D, 719 AVENUE D, 1721 CLARK AVE, 1824 YELLOWSTONE AVE, 245 BIRCHWOOD DR, 239 S CRESTWOOD DR, 233 S CRESTWOOD DR, 227 S CRESTWOOD DR, 221 S CRESTWOOD DR, 211 S CRESTWOOD DR, 207 S CRESTWOOD DR, 203 S CRESTWOOD DR, 145 S CRESTWOOD DR, 139 S CRESTWOOD DR, 129 S CRESTWOOD DR, 123 S CRESTWOOD DR, 117 S CRESTWOOD DR, 111 S CRESTWOOD DR, 107 S CRESTWOOD DR, 103 S CRESTWOOD DR, 41 S CRESTWOOD DR, 29 S CRESTWOOD DR, 25 S CRESTWOOD DR, 9 S CRESTWOOD DR, 146 S CRESTWOOD DR, 140 S CRESTWOOD DR, 136 CRESTWOOD DR, 130 S CRESTWOOD DR, 122 S CRESTWOOD DR, 112 S CRESTWOOD DR, 108 S CRESTWOOD DR, 42 S CRESTWOOD DR, 36 S CRESTWOOD DR, 30 S CRESTWOOD DR, 20 S CRESTWOOD DR, 12 S CRESTWOOD DR, 223 BIRCHWOOD DR, 244 BIRCHWOOD DR, 111 ARDMORE DR, 233 FAIR PARK DR, 237 FAIR PARK DR, 2004 BELOIT DR, 231 S SANTA FE DR, 227 S SANTA FE DR, 218 FAIR PARK DR, 222 FAIR PARK DR, 228 FAIR PARK DR, 2236 BELOIT DR, 4533 VAUGHN LN, 4529 VAUGHN LN, 4525 VAUGHN LN, 1234 PARKHILL DR, 2440 BROADWATER AVE, 616 25TH ST W, 2646 MILES AVE, 2640 MILES AVE, 2632 MILES AVE, 2626 MILES AVE, 2622 MILES AVE, 2516 COOK AVE, 2510 COOK AVE, 2504 COOK AVE, 2713 DOWNER LN, 1441 15TH ST W, 1444 AVENUE B, 1438 AVENUE B, 1434 AVENUE B, 1432 AVENUE B, 1428 AVENUE B, 1411 AVENUE B, 1419 AVENUE B, 1427 AVENUE B, 1435 AVENUE B, 1439 AVENUE B, 2033 AVENUE B, 2018 AVENUE D, 1941 HEWITT DR, 2223 HEWITT DR, 2217 HEWITT DR, 2323 FOX DR, 2313 FOX DR, 2303 FOX DR, 2223 FOX DR, 2215 FOX DR, 2211 FOX DR, 2131 FOX DR, 2121 FOX DR, 2117 FOX DR, 2111 FOX DR, 2101 FOX DR, 2129 MILES AVE, 2304 AVENUE B, 2223 ASH ST, 2409 PINE ST, 3511 4TH AVE S, 112 S 35TH ST, 401 S 37TH ST, 2ND AVE S (HIGHLAND PARK), 1716 AVENUE E, 1712 AVENUE E, 1728 AVENUE F, 1121 BURLINGTON AVE, 1115 18TH ST W, 2643 BROADWATER AVE, 2637 BROADWATER AVE, 605 AVENUE C, 1420 LEWIS AVE, 1533-1535 AVENUE E, 504 GLEN DR, 1720 BROADWATER AVE, 1834 MILES AVE, 423 S 35TH ST, 418 S 35TH ST, 423 S 38TH ST, 1517 7TH ST W, 443 YELLOWSTONE AVE, 1125 BURLINGTON AVE, 1133 BURLINGTON AVE, 1137 BURLINGTON AVE, 1946 HOWARD AVE, 22 19TH ST W, 1815 ALDERSON AVE, 37 CLARK AVE, 211 CLARK AVE, 203 LEWIS AVE, 3417 POWDERHORN CIR,

# Exhibit A (page 2)

## Location of Work

## WO 15-02 Miscellaneous

3214 DURLAND DR, 1217 18TH ST W, 935 NUTTER BLVD,
2724 HOWARD AVE, 2718 HOWARD AVE, 2712 HOWARD AVE,
387 BOHL AVE, 1938 SAINT ANDREWS DR, 900 SARGEANT AT ARMS AVE,
3221 BANFF AVE, 06220 GOLDEN EAGLE CT, 2927 LEWIS AVE,
1132 ANCHOR AVE

# Exhibit B

WO 15-02 Miscellaneous

| Tax Code | SID # | SID Pay-off (A) | Delinquent (B) | WO 15-02 Assessment (C) | A + B + C | Market Value |
|---|---|---|---|---|---|---|
| A00010 | | $0.00 | $0.00 | $19,392.33 | $19,392.33 | $225,216.00 |
| A00351 | | $0.00 | $0.00 | $388.16 | $388.16 | $1,176,400.00 |
| A01198 | | $0.00 | $0.00 | $739.55 | $739.55 | $108,408.00 |
| A01345 | | $0.00 | $0.00 | $2,903.39 | $2,903.39 | $48,124.00 |
| A01754 | | $0.00 | $0.00 | $428.74 | $428.74 | $62,646.00 |
| A01765 | | $0.00 | $0.00 | $2,580.79 | $2,580.79 | $92,272.00 |
| A01833 | | $0.00 | $0.00 | $2,397.63 | $2,397.63 | $39,835.00 |
| A02093 | | $0.00 | $0.00 | $9,116.46 | $9,116.46 | $1,782,151.00 |
| A02776 | | $0.00 | $0.00 | $1,649.71 | $1,649.71 | $78,546.00 |
| A02777 | | $0.00 | $0.00 | $3,836.91 | $3,836.91 | $79,288.00 |
| A02778 | | $0.00 | $0.00 | $3,332.39 | $3,332.39 | $84,694.00 |
| A02791 | | $0.00 | $0.00 | $1,200.66 | $1,200.66 | $82,044.00 |
| A03058 | | $0.00 | $0.00 | $6,144.06 | $6,144.06 | $82,256.00 |
| A03059 | | $0.00 | $0.00 | $407.00 | $407.00 | $69,748.00 |
| A03084 | | $0.00 | $0.00 | $450.08 | $450.08 | $65,454.00 |
| A03085B | | $0.00 | $0.00 | $506.28 | $506.28 | $60,261.00 |
| A03085C | | $0.00 | $0.00 | $2,448.63 | $2,448.63 | $54,855.00 |
| A03088 | | $0.00 | $0.00 | $1,012.54 | $1,012.54 | $86,761.00 |
| A03089 | | $0.00 | $0.00 | $3,235.70 | $3,235.70 | $75,524.00 |
| A03780 | | $0.00 | $0.00 | $616.29 | $616.29 | $74,889.00 |
| A03869 | | $0.00 | $0.00 | $2,094.93 | $2,094.93 | $83,581.00 |
| A04411 | | $0.00 | $0.00 | $1,831.53 | $1,831.53 | $93,916.00 |
| A04412 | | $0.00 | $0.00 | $1,221.02 | $1,221.02 | $91,478.00 |
| A04413 | | $0.00 | $0.00 | $855.64 | $855.64 | $81,779.00 |
| A04414 | | $0.00 | $0.00 | $857.03 | $857.03 | $85,701.00 |
| A04415 | | $0.00 | $0.00 | $450.01 | $450.01 | $95,294.00 |
| A04416 | | $0.00 | $0.00 | $1,060.54 | $1,060.54 | $84,058.00 |
| A04417 | | $0.00 | $0.00 | $1,991.67 | $1,991.67 | $93,280.00 |
| A04418 | | $0.00 | $0.00 | $450.03 | $450.03 | $84,535.00 |
| A04419 | | $0.00 | $0.00 | $450.01 | $450.01 | $80,931.00 |
| A04420 | | $0.00 | $0.00 | $653.52 | $653.52 | $84,111.00 |
| A04422 | | $0.00 | $0.00 | $2,076.66 | $2,076.66 | $86,814.00 |
| A04423 | | $0.00 | $0.00 | $2,344.05 | $2,344.05 | $88,086.00 |
| A04424 | | $0.00 | $0.00 | $2,129.15 | $2,129.15 | $85,860.00 |
| A04425 | | $0.00 | $0.00 | $857.03 | $857.03 | $91,107.00 |
| A04426 | | $0.00 | $0.00 | $1,712.66 | $1,712.66 | $94,499.00 |
| A04427 | | $0.00 | $0.00 | $6,891.35 | $6,891.35 | $92,167.00 |
| A04428 | | $0.00 | $0.00 | $857.02 | $857.02 | $83,263.00 |

# Exhibit B

WO 15-02 Miscellaneous

| Tax Code | SID # | SID Pay-off (A) | Delinquent (B) | WO 15-02 Assessment (C) | A + B + C | Market Value |
|---|---|---|---|---|---|---|
| A04430 | | $0.00 | $0.00 | $3,242.18 | $3,242.18 | $87,238.00 |
| A04431 | | $0.00 | $0.00 | $531.42 | $531.42 | $86,814.00 |
| A04434 | | $0.00 | $0.00 | $450.03 | $450.03 | $80,136.00 |
| A04439 | | $0.00 | $0.00 | $592.93 | $592.93 | $89,729.00 |
| A04440 | | $0.00 | $0.00 | $775.62 | $775.62 | $92,485.00 |
| A04441 | | $0.00 | $0.00 | $3,498.87 | $3,498.87 | $83,263.00 |
| A04442 | | $0.00 | $0.00 | $857.03 | $857.03 | $89,252.00 |
| A04443 | | $0.00 | $0.00 | $1,182.62 | $1,182.62 | $83,899.00 |
| A04444 | | $0.00 | $0.00 | $971.72 | $971.72 | $89,941.00 |
| A04445 | | $0.00 | $0.00 | $3,285.19 | $3,285.19 | $81,620.00 |
| A04447 | | $0.00 | $0.00 | $3,773.60 | $3,773.60 | $86,337.00 |
| A04448 | | $0.00 | $0.00 | $1,041.33 | $1,041.33 | $84,906.00 |
| A04449 | | $0.00 | $0.00 | $4,463.18 | $4,463.18 | $89,517.00 |
| A04450 | | $0.00 | $0.00 | $1,369.48 | $1,369.48 | $84,270.00 |
| A04451 | | $0.00 | $0.00 | $2,522.05 | $2,522.05 | $87,185.00 |
| A04468 | 2401 | $97.84 | $0.00 | $2,646.46 | $2,744.30 | $116,812.00 |
| A04469 | | $0.00 | $0.00 | $1,470.42 | $1,470.42 | $82,627.00 |
| A04488 | | $0.00 | $0.00 | $653.52 | $653.52 | $87,185.00 |
| A04501 | | $0.00 | $0.00 | $1,012.54 | $1,012.54 | $88,934.00 |
| A04502 | | $0.00 | $0.00 | $694.22 | $694.22 | $81,832.00 |
| A04504 | | $0.00 | $0.00 | $1,928.31 | $1,928.31 | $92,379.00 |
| A04607 | 1902 | $95.25 | $0.00 | $943.06 | $1,038.31 | $86,602.00 |
| A04608 | | $0.00 | $0.00 | $861.65 | $861.65 | $88,881.00 |
| A04637 | 1902 | $101.52 | $0.00 | $1,467.52 | $1,569.04 | $83,263.00 |
| A04638 | | $0.00 | $0.00 | $1,671.03 | $1,671.03 | $85,224.00 |
| A04639 | 1902 | $101.52 | $0.00 | $1,510.55 | $1,612.07 | $88,775.00 |
| A04829 | | $0.00 | $0.00 | $3,887.25 | $3,887.25 | $87,343.00 |
| A05703 | | $0.00 | $0.00 | $1,271.90 | $1,271.90 | $69,324.00 |
| A05704 | | $0.00 | $0.00 | $2,035.03 | $2,035.03 | $64,660.00 |
| A05705 | | $0.00 | $0.00 | $508.76 | $508.76 | $72,292.00 |
| A05888 | | $0.00 | $0.00 | $1,071.28 | $1,071.28 | $65,667.00 |
| A05982 | | $0.00 | $0.00 | $1,345.56 | $1,345.56 | $78,175.00 |
| A06087 | | $0.00 | $0.00 | $3,434.11 | $3,434.11 | $87,609.00 |
| A06241 | | $0.00 | $0.00 | $3,792.56 | $3,792.56 | $87,503.00 |
| A06242 | | $0.00 | $0.00 | $1,599.69 | $1,599.69 | $88,298.00 |
| A06244 | | $0.00 | $0.00 | $3,114.98 | $3,114.98 | $80,931.00 |
| A06245 | | $0.00 | $0.00 | $3,310.96 | $3,310.96 | $90,418.00 |
| A06246 | | $0.00 | $0.00 | $1,093.82 | $1,093.82 | $82,733.00 |

# Exhibit B

WO 15-02 Miscellaneous

| Tax Code | SID # | SID Pay-off (A) | Delinquent (B) | WO 15-02 Assessment (C) | A + B + C | Market Value |
|---|---|---|---|---|---|---|
| A06322 | | $0.00 | $0.00 | $6,797.74 | $6,797.74 | $89,994.00 |
| A06323 | | $0.00 | $0.00 | $0.00 | $0.00 | $88,616.00 |
| A06324 | | $0.00 | $0.00 | $2,784.28 | $2,784.28 | $97,202.00 |
| A06383 | | $0.00 | $0.00 | $345.95 | $345.95 | $87,397.00 |
| A06656 | 2902 | $79.53 | $0.00 | $801.64 | $881.17 | $200,097.00 |
| A06657 | 2902 | $79.53 | $0.00 | $2,583.67 | $2,663.20 | $73,828.00 |
| A06658 | | $0.00 | $0.00 | $2,088.80 | $2,088.80 | $70,966.00 |
| A06659 | 2902 | $79.53 | $0.00 | $1,795.10 | $1,874.63 | $72,291.00 |
| A06660 | | $0.00 | $0.00 | $616.29 | $616.29 | $62,751.00 |
| A06661 | | $0.00 | $0.00 | $308.14 | $308.14 | $74,941.00 |
| A06670 | | $0.00 | $0.00 | $308.14 | $308.14 | $78,121.00 |
| A06672 | | $0.00 | $0.00 | $511.65 | $511.65 | $84,428.00 |
| A06674 | | $0.00 | $0.00 | $715.16 | $715.16 | $66,779.00 |
| A06676 | | $0.00 | $0.00 | $2,936.92 | $2,936.92 | $67,733.00 |
| A06677 | | $0.00 | $0.00 | $770.66 | $770.66 | $67,362.00 |
| A07579 | | $0.00 | $0.00 | $2,835.18 | $2,835.18 | $82,574.00 |
| A07647 | | $0.00 | $0.00 | $1,325.66 | $1,325.66 | $92,485.00 |
| A07816 | | $0.00 | $0.00 | $450.01 | $450.01 | $91,849.00 |
| A07926 | | $0.00 | $0.00 | $4,702.99 | $4,702.99 | $86,496.00 |
| A07927 | | $0.00 | $0.00 | $2,674.40 | $2,674.40 | $90,259.00 |
| A07952 | | $0.00 | $0.00 | $290.69 | $290.69 | $88,139.00 |
| A07953 | | $0.00 | $0.00 | $246.52 | $246.52 | $96,990.00 |
| A07955 | | $0.00 | $0.00 | $9,075.20 | $9,075.20 | $100,488.00 |
| A07958 | | $0.00 | $0.00 | $238.38 | $238.38 | $75,949.00 |
| A07959 | | $0.00 | $0.00 | $2,061.77 | $2,061.77 | $92,856.00 |
| A07960 | | $0.00 | $0.00 | $1,507.04 | $1,507.04 | $116,971.00 |
| A07961 | | $0.00 | $0.00 | $5,901.12 | $5,901.12 | $165,254.00 |
| A07962 | | $0.00 | $0.00 | $1,800.09 | $1,800.09 | $92,061.00 |
| A07963 | | $0.00 | $0.00 | $5,318.84 | $5,318.84 | $81,302.00 |
| A07964 | | $0.00 | $0.00 | $3,842.97 | $3,842.97 | $89,623.00 |
| A07965 | | $0.00 | $0.00 | $348.27 | $348.27 | $89,146.00 |
| A07992 | | $0.00 | $0.00 | $3,038.67 | $3,038.67 | $82,203.00 |
| A08107 | | $0.00 | $0.00 | $3,242.18 | $3,242.18 | $75,101.00 |
| A08202 | | $0.00 | $0.00 | $3,191.30 | $3,191.30 | $96,937.00 |
| A08250 | | $0.00 | $0.00 | $3,865.99 | $3,865.99 | $114,268.00 |
| A08715 | | $0.00 | $0.00 | $2,838.87 | $2,838.87 | $81,789.00 |
| A08740 | | $0.00 | $0.00 | $675.03 | $675.03 | $55,120.00 |
| A08785 | | $0.00 | $0.00 | $430.82 | $430.82 | $65,879.00 |

# Exhibit B

WO 15-02 Miscellaneous

| Tax Code | SID # | SID Pay-off (A) | Delinquent (B) | WO 15-02 Assessment (C) | A + B + C | Market Value |
|---|---|---|---|---|---|---|
| A09718 | | $0.00 | $0.00 | $2,125.79 | $2,125.79 | $80,983.00 |
| A09719 | | $0.00 | $0.00 | $308.14 | $308.14 | $82,096.00 |
| A09729 | | $0.00 | $0.00 | $4,814.11 | $4,814.11 | $92,273.00 |
| A10068 | | $0.00 | $0.00 | $3,028.96 | $3,028.96 | $76,320.00 |
| A10189 | | $0.00 | $0.00 | $308.15 | $308.15 | $93,969.00 |
| A10284 | | $0.00 | $0.00 | $2,543.78 | $2,543.78 | $77,804.00 |
| A10285 | | $0.00 | $0.00 | $7,654.48 | $7,654.48 | $69,801.00 |
| A11021 | | $0.00 | $0.00 | $366.31 | $366.31 | $77,803.00 |
| A11372 | | $0.00 | $0.00 | $1,779.26 | $1,779.26 | $96,036.00 |
| A12657 | | $0.00 | $0.00 | $816.90 | $816.90 | $66,250.00 |
| A13452 | | $0.00 | $0.00 | $0.00 | $0.00 | $89,888.00 |
| A13515 | | $0.00 | $0.00 | $5,345.28 | $5,345.28 | $63,017.00 |
| A13558 | | $0.00 | $0.00 | $3,267.61 | $3,267.61 | $92,591.00 |
| A14072 | | $0.00 | $0.00 | $2,025.09 | $2,025.09 | $88,616.00 |
| A14089 | | $0.00 | $0.00 | $1,529.74 | $1,529.74 | $64,236.00 |
| A14132 | | $0.00 | $0.00 | $7,232.45 | $7,232.45 | $57,876.00 |
| A14868 | | $0.00 | $0.00 | $3,110.82 | $3,110.82 | $81,408.00 |
| A15102 | | $0.00 | $0.00 | $716.89 | $716.89 | $96,460.00 |
| A16607 | | $0.00 | $0.00 | $2,826.96 | $2,826.96 | $94,075.00 |
| A16608 | | $0.00 | $0.00 | $1,888.19 | $1,888.19 | $89,199.00 |
| A16609 | | $0.00 | $0.00 | $1,372.48 | $1,372.48 | $77,698.00 |
| A16931 | | $0.00 | $0.00 | $5,469.34 | $5,469.34 | $93,174.00 |
| A16978 | | $0.00 | $0.00 | $3,603.63 | $3,603.63 | $87,768.00 |
| A17059 | | $0.00 | $0.00 | $561.67 | $561.67 | $90,841.00 |
| A17694 | | $0.00 | $0.00 | $3,727.57 | $3,727.57 | $141,781.00 |
| A17991 | | $0.00 | $0.00 | $597.84 | $597.84 | $196,524.00 |
| A18009 | | $0.00 | $0.00 | $3,645.96 | $3,645.96 | $84,587.00 |
| A19543 | | $0.00 | $0.00 | $0.00 | $0.00 | $135,945.00 |
| A19638 | | $0.00 | $0.00 | $3,005.09 | $3,005.09 | $151,050.00 |
| A19655 | | $0.00 | $0.00 | $8,781.18 | $8,781.18 | $77,592.00 |
| A19739 | | $0.00 | $0.00 | $3,392.25 | $3,392.25 | $100,170.00 |
| A20453 | | $0.00 | $0.00 | $816.90 | $816.90 | $91,743.00 |
| A20454 | | $0.00 | $0.00 | $3,360.68 | $3,360.68 | $93,068.00 |
| A20455 | | $0.00 | $0.00 | $1,071.28 | $1,071.28 | $89,994.00 |
| A21756C | | $0.00 | $0.00 | $1,032.79 | $1,032.79 | $66,515.00 |
| A22465 | | $0.00 | $0.00 | $460.77 | $460.77 | $111,565.00 |
| A23989 | | $0.00 | $0.00 | $4,190.59 | $4,190.59 | $93,810.00 |
| A25162D | | $0.00 | $0.00 | $816.90 | $816.90 | $75,207.00 |

# Exhibit B

WO 15-02 Miscellaneous

| Tax Code | SID # | SID Pay-off (A) | Delinquent (B) | WO 15-02 Assessment (C) | A + B + C | Market Value |
|---|---|---|---|---|---|---|
| A33126 | | $0.00 | $0.00 | $0.00 | $0.00 | $182,214.00 |
| C02146 | | $0.00 | $0.00 | $1,599.12 | $1,599.12 | $89,570.00 |
| C06505 | | $0.00 | $0.00 | $1,987.62 | $1,987.62 | $89,040.00 |

**Consent 1. J.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** W.O. 15-06 Poly Drive; 32nd to 38th Streets West - Resolution of Intent to construct improvements and set a Public Hearing

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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## PROBLEM/ISSUE STATEMENT

W.O. 15-06 will improve Poly Drive from 32nd Street West to 38th Street West. Improvements will consist of street widening, installation of curb/gutter, sidewalk, drive approaches, and other miscellaneous items. This project will also include assessments to property owners for curb/gutter, sidewalk, drive approach, and driveway improvements for lots which do not already have those improvements. In order to create the assessment district, Council must pass a Resolution of Intent and set a Public Hearing to allow for property owner comments and protests. The assessments for this section of Poly Drive are for the same types of items as were assessed to property owners for the previously constructed sections of Rimrock Road.

## ALTERNATIVES ANALYZED

The Council may:

• Pass this Resolution of Intent and set a Public Hearing for the April 13th Council meeting; or

• Do not pass this Resolution of Intent and do not set a Public Hearing date. Funding for the property owner improvements would need to be found in order to continue with this section of Poly Drive.

## FINANCIAL IMPACT

The proposed project is funded through multiple sources, including direct property assessments, for a total estimated project cost of $3,621,000 as follows:

| | |
|---|---|
| Assessed Costs | $221,000 |
| Storm Funds | $500,000 |
| Sewer Funds | $200,000 |
| Arterial Funds | $2,700,000 |

Funding for the proposed project is identified in the Capital Improvement Plan and in the Fiscal Year 2015 budget.

## RECOMMENDATION

Staff recommends that Council approve this Resolution of Intent for W.O. 15-06 and set a public hearing for the April 13th Council meeting.

## APPROVED BY CITY ADMINISTRATOR

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**Attachments**

Resolution

Exh. A

Exh. B

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RESOLUTION NO. 15-_____

A RESOLUTION RELATING TO W.O. 15-06, POLY DRIVE – 32ND STREET WEST TO 38TH STREET WEST; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

WHEREAS, the city is granted the power pursuant to M.C.A. 7-14-4109 to order certain improvements without creation of a special improvement district and certain sections of curb and gutter, sidewalks, drive approaches, alley approaches and/or appurtenant features have deteriorated, settled and cracked, or none exist, or some of the foregoing do not exist; and

WHEREAS, the safety and convenience of the public require installation, construction, reconstruction, repair or replacement of curbs and gutters, sidewalks, drive approaches, alley approaches, and/or appurtenant features or combinations thereof; and

WHEREAS, said improvements should be ordered as provided by law.

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

1. INTENTION TO ORDER IN. It is the intention of the Council to order the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, driveways, alley approaches and appurtenant improvements in certain locations, which improvements and locations are more fully described in Exhibits "A" and "B" attached hereto.

2. AFFECTED PROPERTIES. All properties, which will be required to pay any portion of the costs of the improvements identified herein, are listed and the owners of those properties are identified on Exhibit "B" attached hereto.

3. ESTIMATED COSTS. The estimated assessed costs of the proposed improvements, including construction costs, project management costs, incidental expenses, engineering fees, legal fees, administrative fees and bond issuance costs, but exclusive of interest charges, will be $221,000.00 as described below:

| | | |
|---|---|---|
| Construction Costs | $ | 156,726.26 |
| Management Costs | $ | 29,337.14 |
| Engineering & Administration (6%) | $ | 13,260.00 |
| Revolving Fund (5%) | $ | 11,050.00 |
| Bond Discount (2%) | $ | 4,420.00 |
| Issuance Costs (3.0%) | $ | 6,630.00 |
| Roundoff | $ | (423.39) |

Estimated unit costs for construction only, not including engineering, legal, administrative, and bond costs are as follows:

New Construction:

| | |
|---|---|
| Concrete Sidewalk | $ 5.00/SF |
| Curb and Gutter | $12.00/LF |
| New Drive Approach | $ 6.00/SF |
| General Requirements | EA |

The actual cost to be assessed against any benefited property will be determined by the actual amount of work done adjacent to the property, and upon bid prices received by the contractor.

4. ASSESSMENT OF COSTS. All costs of constructing the curbs, gutters, sidewalks, and drive approaches, including engineering, administrative and bond costs, will be assessed against the properties which are adjacent to the improvements installed. As shown on Exhibit "B", assessments will be levied against 56 separate lots, parcels, or tracts.

   The costs for each property will vary depending upon the actual construction that is required adjacent to each property. The average total assessment, including engineering, administrative, and bond costs is estimated to be $3,946.43, with a high of $8,867.61, low of $774.06, and a median of $3,993.03.

5. PERIOD OF ASSESSMENT. The assessments for all improvements and costs shall be paid in not more than twelve (12) annual installments, plus interest, provided however, that payment of one-half of each annual installment, plus interest, may be deferred to May 31 of the year following the assessment.

6. PROPERTY OWNER OPTION TO CONSTRUCT IMPROVEMENTS. In the event that the City Council orders in the above-described improvements following the public hearing, then the owners of all properties to be assessed for the costs of said improvements will be notified of such action in writing. Said owners will have thirty (30) days from the date of said notice in which to install the required improvements at their own expense. In the event the owners do not install these improvements, the City will do so and will assess the costs against the benefited properties as described herein.

7. METHOD OF FINANCING; PLEDGE OF REVOLVING FUND; FINDINGS AND DETERMINATIONS. The City will issue **Sidewalk, Curb, and Gutter Improvement Bonds** in an aggregate principal amount not to exceed $221,000.00 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect to the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of this resolution, as estimated by the County Assessor, is $5,353,800.00. The average market value is $95,603.57 with a high of $165,148.00 and a low of $35,543.00 and median value of $91,981.50. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.

(b) Diversity of Property Ownership. For the 56 Tax codes in this project, there are 54 separate owners. It is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund.

(c) Comparison of Special Assessments, Property Taxes and Market Value. Currently, zero (0) parcels have an SID levied against them.

As noted in Section 4, the estimated average assessment levied by this project will be $3,946.43. With an average market value of $95,603.57, and an average yearly principal payment of $328.87 (monthly principal of $27.41) assuming 6% interest rate, the amount of assessment versus the value of the property would appear acceptable. As such, no unusual need for loans from the Revolving Fund would be expected. Further information comparing the total cost (estimate) to the market value for each parcel is listed in Exhibit "B".

(d) Delinquencies. For tax year 2014, Zero (0) parcels were delinquent. This rate is above the average city collection rate of 95%.

Therefore, given the delinquency history of this Project area, no unusual need for loans from the Revolving Fund would be expected.

(e) The Public Benefit of the Improvements. Current City Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new curb, gutter, sidewalk, and drive approaches is to be borne by the adjoining property owners.

Poly Drive is scheduled to be improved as part of the City's overall transportation plan, and this street reconstruction project will install both missing improvements and bring existing improvements into compliance. The subject improvements of curb/gutter, sidewalk, drive approach, and other miscellaneous items are identified as either missing or out of current Americans with Disability Act (ADA) compliance. Installation of these improvements will provide a safe, accessible walking surface for school children and other

pedestrians walking along Rimrock Road. The cost to install new improvements will be borne by the adjoining property owners per City policy, but City funding sources will fund the costs to replace non-ADA compliant but otherwise serviceable drive approaches.

The project improvement limits are scheduled to extend along Poly Drive from 32nd Street West to 38th Street West.

**8. REIMBURSEMENT EXPENDITURES.**

(a) Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

(b) Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of $221,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(d) Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

(e) Reimbursement Allocations. The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

9. PUBLIC HEARING. On Monday, April 13, 2015, at 6:30 p.m., in the Council Chambers located on the Second Floor of the Police Facility, 220 North 27th Street, Billings, MT, the City Council will conduct a public hearing concerning this project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

10. NOTICE OF PASSAGE OF RESOLUTION OF INTENTION. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the BILLINGS TIMES, a newspaper of general circulation in the county on March 26, April 2, and April 9, 2015, in the form and manner prescribed by law, and to mail or cause to be mailed, a copy of said Notice to every person, firm corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, on or before the same day such notice is published.

PASSED by the City Council and APPROVED this 23rd day of March, 2015.

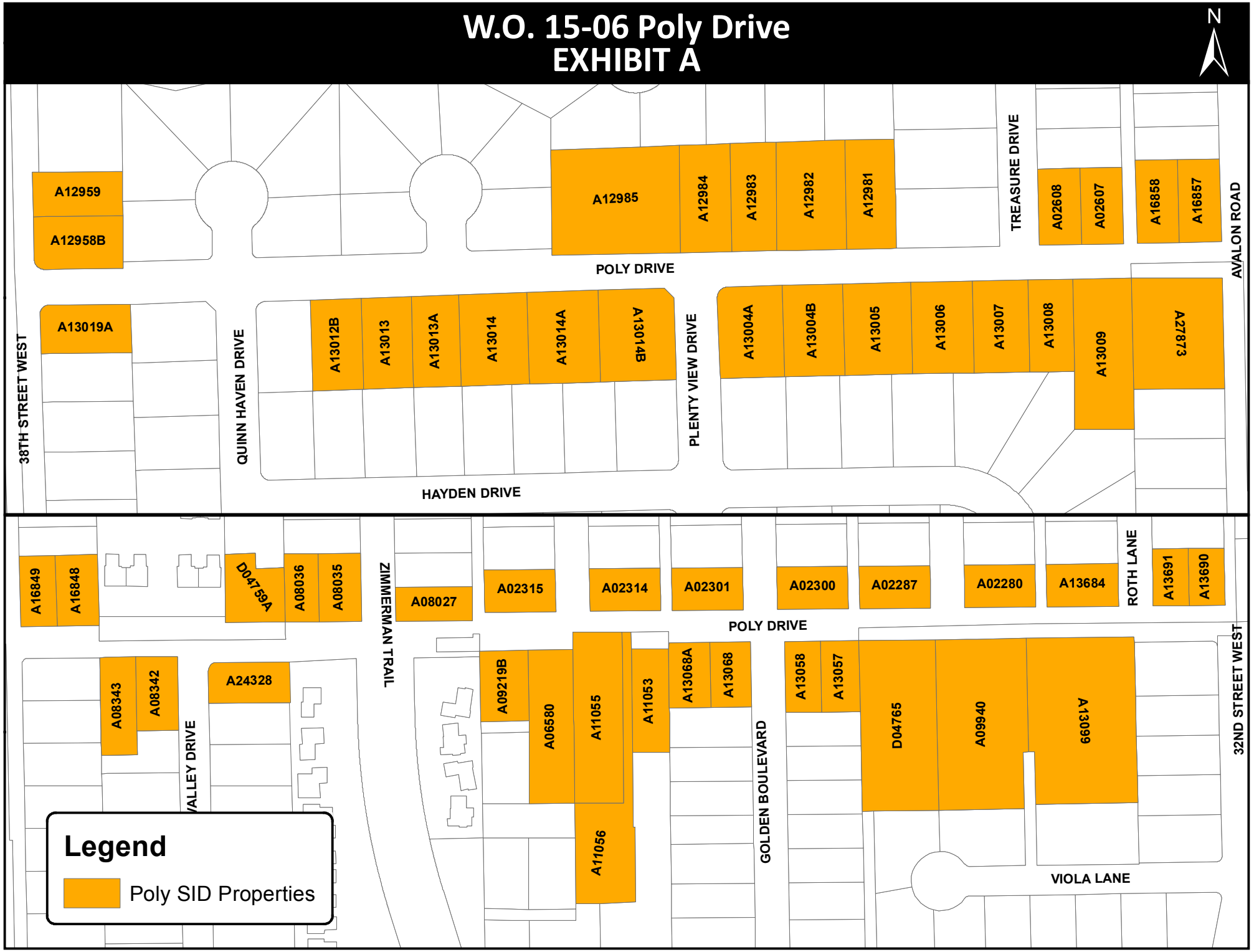
CITY OF BILLINGS:

BY:_____
Thomas W. Hanel MAYOR

ATTEST:

_____
Cari Martin CITY CLERK

# W.O. 15-06 Poly Drive
# EXHIBIT A



# Exhibit B

W.O. 15-06 Poly Drive - 32nd Street West to 38th Street West

| Parcel No. | Tax Code | SID # | SID Pay-off (A) | Delinquent (B) | WO 15-06 - Assessment (C) | A + B + C | Market Value |
|---|---|---|---|---|---|---|---|
| 1 | A02280 | | | | $ 5,975.73 | $ 5,975.73 | $ 89,729.00 |
| 2 | A02287 | | | | $ 6,223.43 | $ 6,223.43 | $ 88,669.00 |
| 3 | A02300 | | | | $ 6,173.89 | $ 6,173.89 | $ 93,969.00 |
| 4 | A02301 | | | | $ 5,229.10 | $ 5,229.10 | $ 88,775.00 |
| 5 | A02314 | | | | $ 5,418.42 | $ 5,418.42 | $ 91,425.00 |
| 6 | A02315 | | | | $ 5,657.26 | $ 5,657.26 | $ 83,899.00 |
| 7 | A02607 | | | | $ 3,307.72 | $ 3,307.72 | $ 106,476.00 |
| 8 | A02608 | | | | $ 2,750.39 | $ 2,750.39 | $ 70,330.00 |
| 9 | A06580 | | | | $ 4,226.36 | $ 4,226.36 | $ 128,154.00 |
| 10 | A08027 | | | | $ 1,702.92 | $ 1,702.92 | $ 76,797.00 |
| 11 | A08035 | | | | $ 774.06 | $ 774.06 | $ 79,712.00 |
| 12 | A08036 | | | | $ 906.75 | $ 906.75 | $ 73,087.00 |
| 13 | A08342 | | | | $ 3,305.98 | $ 3,305.98 | $ 108,332.00 |
| 14 | A08343 | | | | $ 3,305.55 | $ 3,305.55 | $ 80,136.00 |
| 15 | A09219B | | | | $ 2,225.75 | $ 2,225.75 | $ 89,146.00 |
| 16 | A09940 | | | | $ 7,579.58 | $ 7,579.58 | $ 128,684.00 |
| 17 | A11053 | | | | $ 4,675.32 | $ 4,675.32 | $ 92,273.00 |
| 18 | A11055 | | | | $ 4,347.36 | $ 4,347.36 | $ 119,992.00 |
| 19 | A11056 | | | | $ 1,080.59 | $ 1,080.59 | $ 123,278.00 |
| 20 | A12958B | | | | $ 4,216.33 | $ 4,216.33 | $ 152,004.00 |
| 21 | A12959 | | | | $ 4,788.71 | $ 4,788.71 | $ 35,543.00 |
| 22 | A12981 | | | | $ 3,949.55 | $ 3,949.55 | $ 93,439.00 |
| 23 | A12982 | | | | $ 3,717.34 | $ 3,717.34 | $ 102,025.00 |
| 24 | A12983 | | | | $ 4,892.05 | $ 4,892.05 | $ 71,921.00 |
| 25 | A12984 | | | | $ 3,965.04 | $ 3,965.04 | $ 130,645.00 |
| 26 | A12985 | | | | $ 8,652.44 | $ 8,652.44 | $ 104,357.00 |
| 27 | A13004A | | | | $ 4,334.72 | $ 4,334.72 | $ 99,216.00 |
| 28 | A13004B | | | | $ 5,077.82 | $ 5,077.82 | $ 109,392.00 |
| 29 | A13005 | | | | $ 4,334.72 | $ 4,334.72 | $ 41,552.00 |
| 30 | A13006 | | | | $ 1,503.89 | $ 1,503.89 | $ 91,690.00 |
| 31 | A13007 | | | | $ 1,317.67 | $ 1,317.67 | $ 47,059.00 |
| 32 | A13008 | | | | $ 1,381.15 | $ 1,381.15 | $ 85,277.00 |
| 33 | A13009 | | | | $ 2,668.29 | $ 2,668.29 | $ 114,215.00 |
| 34 | A13012B | | | | $ 4,179.92 | $ 4,179.92 | $ 99,746.00 |
| 35 | A13013 | | | | $ 4,474.06 | $ 4,474.06 | $ 109,339.00 |
| 36 | A13013A | | | | $ 4,021.02 | $ 4,021.02 | $ 112,519.00 |
| 37 | A13014 | | | | $ 5,094.30 | $ 5,094.30 | $ 101,654.00 |
| 38 | A13014A | | | | $ 5,895.23 | $ 5,895.23 | $ 116,706.00 |
| 39 | A13014B | | | | $ 5,322.43 | $ 5,322.43 | $ 117,607.00 |
| 40 | A13019A | | | | $ 6,175.99 | $ 6,175.99 | $ 114,904.00 |
| 41 | A13057 | | | | $ 3,504.94 | $ 3,504.94 | $ 70,437.00 |
| 42 | A13058 | | | | $ 2,720.48 | $ 2,720.48 | $ 62,858.00 |
| 43 | A13068 | | | | $ 1,580.85 | $ 1,580.85 | $ 96,884.00 |
| 44 | A13068A | | | | $ 1,182.77 | $ 1,182.77 | $ 88,510.00 |
| 45 | A13099 | | | | $ 8,867.61 | $ 8,867.61 | $ 143,630.00 |
| 46 | A13684 | | | | $ 6,220.34 | $ 6,220.34 | $ 105,099.00 |
| 47 | A13690 | | | | $ 3,299.05 | $ 3,299.05 | $ 67,628.00 |
| 48 | A13691 | | | | $ 2,741.73 | $ 2,741.73 | $ 60,579.00 |
| 49 | A16848 | | | | $ 3,518.73 | $ 3,518.73 | $ 72,981.00 |
| 50 | A16849 | | | | $ 2,749.08 | $ 2,749.08 | $ 81,652.00 |
| 51 | A16857 | | | | $ 871.81 | $ 871.81 | $ 82,415.00 |
| 52 | A16858 | | | | $ 827.57 | $ 827.57 | $ 87,821.00 |
| 53 | A24328 | | | | $ 2,442.27 | $ 2,442.27 | $ 90,259.00 |
| 54 | A27873 | | | | $ 6,622.54 | $ 6,622.54 | $ 130,062.00 |
| 55 | D04759A | | | | $ 1,840.28 | $ 1,840.28 | $ 84,164.00 |
| 56 | D04765 | | | | $ 7,181.10 | $ 7,181.10 | $ 165,148.00 |

| | | |
|---|---|---|
| Average | $ 3,946.43 | $ 95,603.57 |
| Median | $ 3,993.03 | $ 91,981.50 |
| Low | $ 774.06 | $ 35,543.00 |
| High | $ 8,867.61 | $ 165,148.00 |

**Consent 1. K.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Resolution on East Billings Urban Renewal District, Declaring Blight, Intent to Modify the District, and Setting a Public Hearing Date

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

**Department:** Planning & Community Services

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## PROBLEM/ISSUE STATEMENT

The Council is being asked to consider adopting a resolution to modify the East Billings Urban Renewal District (EBURD) originally created on November 16, 2006. The attached resolution declares the Council's intention to modify the district, including tax increment authority, describes the property involved and the blighted conditions, sets a public hearing for April 13, 2015, and directs staff to make the necessary public notifications.

Progress since 2006 has occurred within the EBURD, as evidenced by:

1. Increase in taxable value: base year value of $1,800,794, increased to a 2014 value of $2,502,968 *(Montana Department of Revenue Form AB-72T, 8-4-2014*)
2. Successful approval of both the EBURD Master Plan and the Exposition Gateway Plan
3. Successful implementation of the recommended Parking Overlay District
4. Two-way streets conversions on 2nd Avenue North and 3rd Avenue North
5. EPA Brownfields Program environmental assessments completed on 23 parcels
6. Successful adoption of the EBURD Zoning Code
7. Completed the Hospitality Corridor Study
8. Approval of a project to address flooding, storm water management, and infrastructure improvements in the eastern-most portion of the District.

However, many of the undesirable conditions continue to exist, and several properties adjacent to the District have been annexed into the City. Therefore, it would be in the best interest of the City to expand the District to encompass these adjacent properties, construct needed public infrastructure improvements, grow the tax base, increase the parking inventory, increase the inventory of residential property, stimulate mixed-use development, and further implement the visions of the EBURD Master Plan, Exposition Gateway Concept Plan, and the Hospitality Corridor Study, all of which are consistent with the adopted 2008 Yellowstone

County and City of Billings Growth Policy. For more detail on the conformance with this EBURD modification with the 2008 Growth Policy, please see Section 10 of the EBURD Plan Amendment attached to this memo.

## ALTERNATIVES ANALYZED

City Council may:

- Approve the resolution of intent to modify the EBURD.
- Not approve the resolution of intent to modify the EBURD.
- Modify the proposed boundary of the EBURD and adopt the resolution of intent.

## FINANCIAL IMPACT

The exact financial impact of modifying the EBURD is unknown. However, the 2014 taxable market value of the 14 properties to be included in the modified EBURD is approximately $93,600. The purpose of an urban renewal and tax increment district is for the public to invest in infrastructure and thereby encourage private investment that increases the taxable value. Without the public investment, it is assumed that the private investment would not occur on these properties, thus there is no “loss” of taxes from freezing the taxable value base because all taxing entities continue to collect taxes on the base value as it is today.

## BACKGROUND

The EBURD was created on November 16, 2006. The existing urban renewal plan may be modified by ordinance in accordance with the procedure described in M.C.A. § 7-15-4221. In January 2015, 12 properties encompassing about 18 acres were annexed into the City. In addition, a property owner with property at 620 North 14th and 622 North 14th adjacent to the existing EBURD and already in the City requested that these two properties also be included in the EBURD. The properties are adjacent to the existing District.

### Determination of Blight

The proposed EBURD Expansion area contains a number of underdeveloped properties and substandard facilities. The Council previously determined that the property included in the EBURD was “blighted” within the meaning of the Act in its adoption of Ordinance #06-5395 that (a) created the East Billings Urban Renewal District (EBURD) and (b) adopted an urban renewal plan for the district (November 16, 2006). Deficiencies in public and private properties located in the district led to a determination of blight, as defined by state statute. As cited in the original Urban Renewal Plan, the area still meets several definitions of blight. Further details of the determinations summarized below are found in Section 5 of the EBURD Plan Amendment attached to this memo: Deficient Structures - buildings, street infrastructure, water and sewer infrastructure, stormwater infrastructure; Deficient Land Use - surface storage lots, vacant lots, single-story structures; Protecting Public Health and Safety- conditions of blight, crime, vagrancy and potential

brownfields, as described above, reduce “social capital” and community connectedness. Flooding promotes mold growth and related health problems. The City desires to improve the quality of land use and economic development potential of these properties by including them in the EBURD.

## PROCEDURAL HISTORY

- Over the course of a year or more, the Billings Industrial Revitalization District (BIRD) Board and staff, acting as advisory to the City Council in the EBURD, met with all of the owners of County property in the area east of the EBURD, south of 6th Avenue North, North of 1st Avenue South, and west of Exposition Drive. These discussions included and followed the process that led to the adoption by the City Council and Board of County Commissioners of the Exposition Gateway Concept Plan for the subject area. The meetings also led to some of the property owners petitioning for annexation into the City.
- In addition, a property owner with property at 620 North 14th and 622 North 14th adjacent to the existing EBURD (620 North 14 is directly adjacent to the EBURD boundary and 622 North 14 is adjacent to 620 North 14th) and already in the City met with BIRD staff and requested that these two properties also be included in the EBURD.
- On January 26, 2015, the City annexed 12 properties in the Exposition Gateway Concept Plan area.
- On March 24, 2015, the Yellowstone County Board of Planning will act on a recommendation to the City Council as to the modified EBURD Plan's consistency with the Growth Policy.
- If the City Council approves the Resolution of Intent to Modify the District, Declare Blight, and set a public hearing date, the Council will conduct a public hearing on April 13, 2015 and conduct a first reading on an ordinance to expand the EBURD.
- If the City Council approves the ordinance modifying the EBURD on first reading on April 13, the Council will conduct a second reading of the ordinance on April 27. The ordinance will take effect 30 days after second reading.

## STAKEHOLDERS

The owners of the properties to be included in the modified EBURD area were contacted by the BIRD Board and staff about modifications to the District. The owners will be officially notified via letter in accordance with 7-15-4215, MCA, of the public hearing on the modified EBURD to be held April 13, 2015. Notification of the public hearing by the City Council on April 13, 2015, will be properly advertised in the Billings Times.

## CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Conformance with the Yellowstone County and City of Billings 2008 Growth Policy is one requirement for adopting or modifying an urban renewal plan. Growth Policy conformance is outlined in Section 10 of the EBURD Plan Amendment document attached to this memo. Further, the Yellowstone County Board of Planning will provide a recommendation to the City Council on the proposed EBURD Plan Amendment's conformance with the 2008 Growth Policy prior to the public hearing and first reading of the Ordinance on April 13, 2015.

**RECOMMENDATION**

Staff recommends that the City Council adopt the resolution that declares the Council's intention to modify the EBURD, including tax increment authority, describes the properties involved and the blighted conditions, sets a public hearing for April 13, 2015, and directs staff to make the necessary public notifications.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Resolution of Intent
EBURD URP Expansion
EBURD_ExpansionIV.pdf

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**ATTACHMENT A**

RESOLUTION NO. 15-

A RESOLUTION DECLARING THE CITY COUNCIL INTENT TO MODIFY THE EAST BILLINGS URBAN RENEWAL DISTRICT WITH TAX INCREMENT AUTHORITY; DECLARING THE EXISTENCE OF BLIGHT WITHIN THE EAST BILLINGS URBAN RENEWAL DISTRICT; SETTING A PUBLIC HEARING DATE; AND REQUIRING PUBLICATION AND MAILING OF THE NOTICE OF HEARING

WHEREAS, under the provisions of Montana Code Annotated, Title 7, Chapter l5, Parts 42 and 43, as amended (the "Act"), the City of Billings, Montana (the "City") is authorized, among other things, to identify and declare an area as containing blight with the intention of eliminating it through urban renewal; and

WHEREAS, the City is authorized by the Act to modify urban renewal areas with tax increment provisions by adopting a revised urban renewal plan by ordinance; and

WHEREAS, a revised urban renewal plan has been prepared for the proposed East Billings Urban Renewal District; and

WHEREAS, the City Council desires to conduct a public hearing on the draft modified urban renewal plan for the proposed East Billings Urban Renewal District to determine if it is desirable to modify the district.

NOW, THEREFORE, the City Council of the City of Billings, Montana, declares and resolves as follows:

1. Description of Proposed Modified District The area being considered for inclusion in the proposed modified urban renewal area is described as:

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.

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.

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.

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.

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.

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.

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.

Tracts of land situated in Section 33, T.1.N., R.26.E., P.M.M., Yellowstone County, City of Billings, Montana, more particularly described as: Being Lots 7-10 and Lots 11-12, Block 2, North Park Subdivision.

**Road Right-of-Way Annexed and to be included in Modified EBURD**

Being 6th Avenue North from the extended easterly Right-Of-Way line of North 7th Street and running in a southwesterly direction to the west section line of said Section 34;

North 7th Street from the southerly Right-Of-Way line of 6th Avenue North and running in a southeasterly direction to the extended northern lines of Certificate of Survey's 10 and 2212;

The south half of 4th Avenue North from the extended westerly lot line of Lot 53, Block 11 of Industrial Subdivision 4TH Filing, Recorded March 25, 1963, under Document Number 703562 and running in a southwesterly direction to the easterly Right-Of-Way line of North 10th Street;

3rd Avenue North from the extended westerly lot line of Lot 14, Block 11 of said Industrial Subdivision

4TH Filing, and running in a southwesterly direction to the east Right-Of-Way line of North 9th Street and from the extended westerly lot line of Lot 18, Block 6 of Industrial Subdivision 2ND Filing, Recorded June 28TH, 1949, under Document Number 451738 and running in a southwesterly direction to the easterly Right-Of-Way line of North 10th Street;

The north half of 2nd Avenue North adjacent to Lots 9 through 13, Block 5 of said Industrial Subdivision 2ND Filing;

The easterly half of North 10th Street from the extended centerline of 4th Avenue North and running in a southeasterly direction to the northerly alley Right-Of-Way line of Block 6 of said Industrial Subdivision 2ND Filing;

Main Street from the extended north line of Certificate of Survey Number 2196, Recorded July 22ND, 1983, under Document Number 1273745 and running in a northerly direction to the extended southerly Right-Of-Way line of 3rd Avenue North.

*A map of the modified East Billings Urban Renewal District is included in Exhibit A.*

2. Determination of blight. A requirement of Montana Annotated Code 2005 is to justify an urban renewal plan through the determination of *blight.* Blight is defined as an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodation; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:

- the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;
- inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;
- inappropriate or mixed uses of land or buildings;
- defective or inadequate street layout;
- faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- unsanitary or unsafe conditions;
- deterioration of site;
- improper subdivision or obsolete platting;
- the existence of conditions that endanger life or property by fire or other causes;

The properties in the proposed modified district may be considered blighted, as enumerated in Section 4 and Section 5 of the 2015 Expansion and Amendment to the Urban Renewal Plan.

3. Intent to Modify an Urban Renewal Area with Tax Increment Authority. Pursuant to the Act and considering the blighted conditions cited above, the City Council declares its intention to modify the East Billings Urban Renewal District and that public improvements that will stimulate private investment in the area may be financed in part through tax increment generated from the District, subject to a public hearing and adoption of the draft modified urban renewal plan by ordinance.

4. Public Hearing. A public hearing is hereby called and shall be held on April 13, 2015 at 6:30 p.m. in the Council Chambers at 220 N. 27th Street, on whether to adopt the draft modified urban renewal plan for the proposed East Billings Urban Renewal District.

5. Publication and Mailing of Notice. The City Clerk is hereby authorized and directed to cause notice of the public hearing to be published in the *Billings Times* at least once a week for two consecutive weeks prior to the date set for the hearing and to mail notice of such hearing not less than 10 days prior to the date of the hearing to the persons whose names appear

on the county treasurer's tax roll as the owners, reputed owners, or purchasers under contract for the deed of the Property, at the addresses shown on the tax roll.

APPROVED AND PASSED by the City Council of the City of Billings this 23rd day of March, 2015.

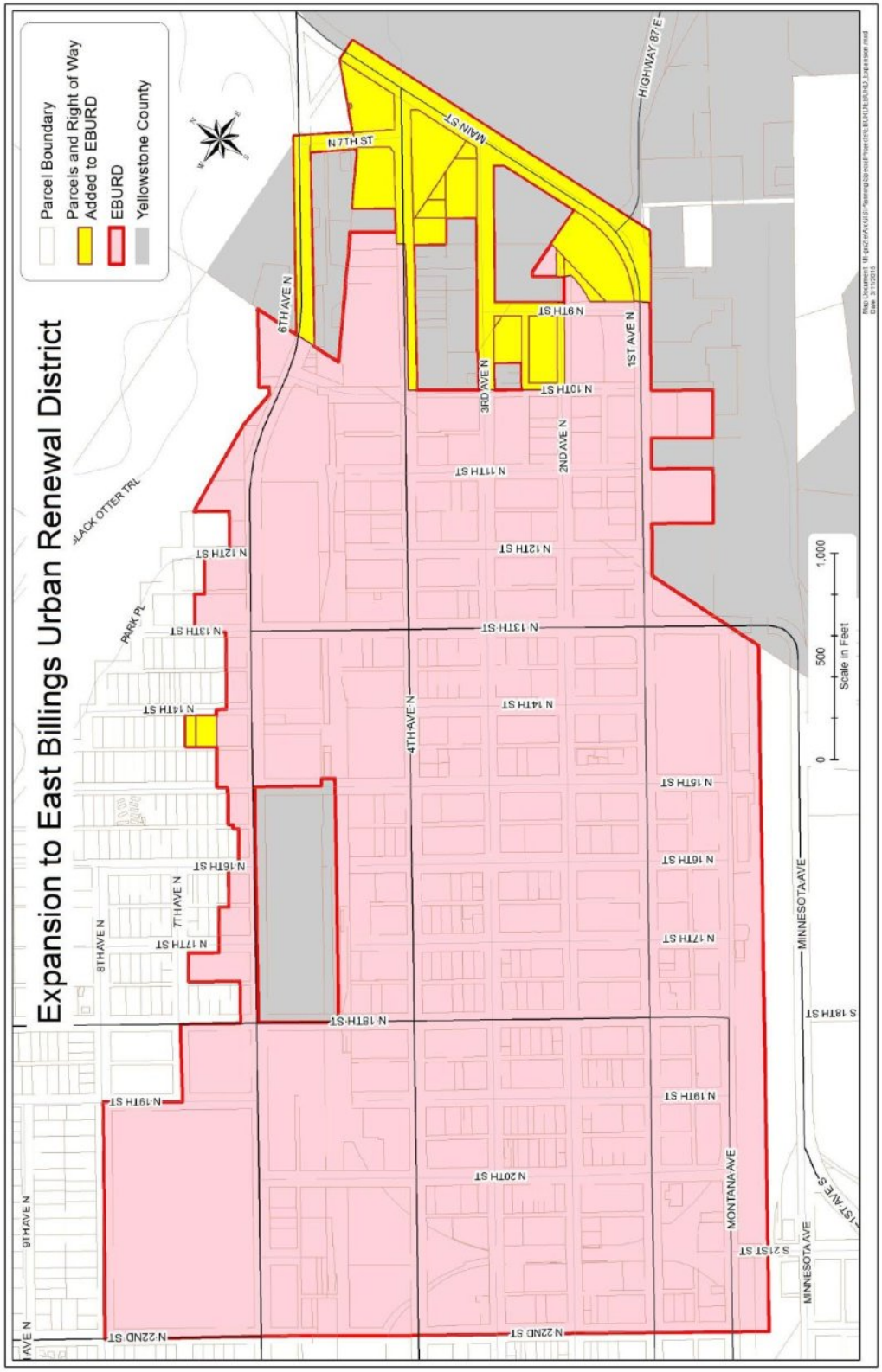
CITY OF BILLINGS:

BY:_____
Thomas W. Hanel, Mayor

ATTEST:

BY:_____
Cari Martin, City Clerk

**EXHIBIT A**


Expansion to East Billings Urban Renewal District
Parcel Boundary
Parcels and Right of Way Added to EBURD
EBURD
Yellowstone County
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# 2015 EXPANSION OF THE BILLINGS, MONTANA EAST BILLINGS URBAN RENEWAL DISTRICT, WITH TAX INCREMENT, AND AMENDMENT TO THE URBAN RENEWAL PLAN

**FOR CITY OF BILLINGS AND PLANNING REVIEW**
**February 2015**

Prepared by

Billings Industrial Revitalization District, Inc. (BIRD)
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## SECTION 1 – INTRODUCTION

On November 16, 2006, the City Council adopted Ordinance #06-5395 that (a) created the East Billings Urban Renewal District (EBURD) and (b) adopted an urban renewal plan for the district. For reasons discussed in this Amendment to the East Billings Urban Renewal District Plan ("Plan"), it has been determined that the EBURD should be expanded to include other contiguous blighted properties in need of redevelopment. Further, it has been determined that this area has been and is in need of expanded public parking, enhanced pedestrian connections and experiences, improved public safety, and infrastructure improvements to public and private properties that will alleviate flooding issues and lead to increased taxable values. The existing urban renewal plan may be modified by ordinance in accordance with the procedure described in M.C.A. § 7-15-4221. The Urban Renewal Plan of the EBURD approved by the City Council on November 16, 2006, is included by reference as part of this amended Plan and shall remain applicable except to the extent the original plan is explicitly or impliedly amended by this Plan. It is recognized as part of this Plan that the basic vision of the document known as EBURD Master Plan, adopted by the Billings City Council on September 14, 2009 (Resolution #09-18878) and by the Yellowstone County Commissioners on September 29, 2009 (Resolution #09-66), remains valid and should be considered a part. In addition, it is recognized that as part of this amended Plan, the basic vision of the document known as the Exposition Gateway Plan, approved by the Yellowstone County Commissioners on May 28, 2013, and adopted by the Billings City Council on June 24, 2013 (Resolution #13-19289) also remains valid and should be considered a part. The terms defined in "Part A.III – DEFINITIONS" of the EBURD Urban Renewal Plan shall have the same meanings in this Plan unless a contrary meaning is expressed. The expanded district proposed in this Plan is hereafter referred to as the 2015 Expanded EBURD.

## SECTION 2 – BACKGROUND

The original East Billings Urban Renewal District, a tax increment finance district, was created on November 16, 2006, by a resolution which stated that it was desirable for the City to consider an urban renewal project within the District, and found that the area contains structures and property in states of substantial deterioration, properties that are obsolete or defective, posing unsanitary or unsafe conditions, are vacant and unused, and have inappropriate uses, and that the present condition of the area substantially impairs the sound functioning of the area and its environs. The Council found that the area is a blighted area within the meaning of MCA 7-15-4210, and stated that "rehabilitation, redevelopment, or a combination thereof is necessary in the interest of public health, safety and welfare of the residents." The

Council found that undertaking measures to eradicate or diminish the blight will help to foster a more dynamic, livable, and vibrant neighborhood.

Progress has occurred within the District, as evidenced by: 1) increase in taxable value: base year value of $1,800,794, increased to a 2014 value of $2,502,968 *(Montana Department of Revenue Form AB-72T, 8-4-2014*); 2) successful approval of both the EBURD Master Plan and the Exposition Gateway Plan; 3) successful implementation of the recommended Parking Overlay District; 4) accomplishment of the recommended two-way streets conversion; 5) completion of EPA Brownfields Program environmental assessments on 23 parcels; 6) successful adoption of the EBURD Zoning Code; 7) completion of a Hospitality Corridor Study; and 8) approval of a project to address flooding, storm water management, and infrastructure improvements in the eastern-most portion of the District. However, many of the undesirable conditions continue to exist, and several out-of-City properties adjacent to the District have now petitioned and been approved for annexation into the City (City Council meeting, 1-26-2015). Therefore, it would be in the best interest of the City to expand the District to encompass adjacent properties, construct needed public infrastructure improvements, increase growth of the tax base, increase the parking inventory, increase the inventory of residential property, stimulate mixed-use development, and further implement the visions of the EBURD Master Plan and the Exposition Gateway Plan, both of which are consistent with the adopted City-County Growth Policy.

Although there has been improvement in the valuation of property in much of the District, the area defined by this proposed expanded tax increment district still has pockets of neglect and blight. The 2015 Expanded EBURD creates an opportunity to continue redevelopment in the center of Billings with a mixture of public and private investment.

The 2015 expansion of the EBURD is essential to planned development along Exposition Drive/Main Street, across from the MetraPark facilities. Public infrastructure construction within this expanded District will spur private investment consistent with the EBURD Master Plan, and especially pertinent to the vision of the Exposition Gateway Plan. It is expected that the expanded District may help fund the following projects:

## I. Business Programs and Projects

a. Business Retention and Recruitment
    i. Targeted assistance to existing and potential businesses
    ii. Development of "The EBURD Advantage" marketing materials

iii. Collaboration with and referral to Big Sky Economic Development and its business assistance programs

## II. Parking and Transportation

a. Facilitate public transit and bicycle/pedestrian-friendly growth and development
b. Collaborate with City regarding parking management practices and programs consistent with the Parking Overlay District
**c.** Plan for future needs regarding parking lots and/or structures

## III. Management, Implementation and Maintenance

a. Billings Industrial Revitalization District, Inc. or its successor, management agreement
    i. Project development
    ii. Public awareness
    iii. Advocacy and liaison between public and private sectors
b. Potential future development of Business Improvement District
    i. Development and promotion of a MetraPark-to-Downtown Corridor through the EBURD
    ii. Crime prevention and public safety:
    Cooperative Security and/or Business Watch Program

## IV. Infrastructure Improvements

a. Public
    i. Public parking
    ii. Landscaping and park development
    iii. Street construction/improvements
    iv. Streetscapes and traffic calming plans
    v. Sidewalks, curbs and gutter improvements
    vi. Storm water management
    vii. Water and waste-water line construction/improvements
    viii. Relocation of public and private utility lines

In order to make it possible to move forward with the much-needed infrastructure improvement projects referenced above, the Yellowstone County Board of County Commissioners transferred any interest it had in the public right of way on several streets within the Exposition Gateway area to the City of Billings, with Resolution 15-23, passed on March 10, 2015.

b. Public infrastructure improvements will support investments in:
    i. Workforce housing development
    ii. Parking facilities
    iii. Lodging facilities
    iv. Conference facilities
    v. Entertainment venues
    vi. Retail and restaurant enterprises

## V. Housing Improvements

a. Increase in workforce housing and live-work mixed-use projects

b. Revitalization and redevelopment of sub-standard residential housing stock

## SECTION 3 – SUMMARY OF BLIGHT FINDINGS

The area in the proposed 2015 expansion of the EBURD contains blight, particularly those parcels directly west of the MetraPark facilities which host events that attract hundreds of thousands of visitors each year. Within the district there is structural deterioration, under-utilized structures and vacant lots, and a railroad spur line that is little used. A major issue that rises to the forefront in every planning discussion is that of inadequate storm water management. Without curb and gutter to direct its flow, water pools in low spots and floods buildings. Several of the commercial buildings in the district are deteriorated and/or vacant and need demolition or renovation. Sidewalks are cracked or non-existent; alleys are deteriorated, and, in general, much of the area is below accepted standards. In contrast to the above, there are certain properties within the district in good repair but included in the district to allow for a contiguous block of land within the district and because pockets of revitalization cannot be sustained if areas of neglect and blight surround them. Over time, without ongoing managed urban renewal, even these success stories could once again decline in taxable value.

## SECTION 4 – DESCRIPTION OF BLIGHTED AREA

The 2015 expanded urban renewal area described for this amended Plan incorporates most of the Exposition Gateway area, including those properties annexed in January 2015. Major flooding problems occur with rainstorms, as the infrastructure is inadequate for storm water flow and drainage. The subject properties have been used as car sales lots, truck and truck parts sales, vacant lots partially used for equipment storage, as well as some active business enterprises. Many of these structures are unsuited to their current uses because of age obsolescence and physical deterioration.

Montana's Urban Renewal Law (Montana Code Annotated Title 7, Chapter 15, Parts 42 and 43) provides the authority to declare the existence of blighted areas and to target them for improvements. "Blighted area" is defined in Section 7-15-4206(2), M.C.A., as follows:

> *[A]n area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime; substantially impairs or arrests the sound growth of the city or its environs; retards the provision of housing accommodations; or constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by reason of:*

*(a) the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential;*
*(b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality;*
*(c) inappropriate or mixed uses of land or buildings;*
*(d) high density of population and overcrowding;*
*(e) defective or inadequate street layout;*
*(f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;*
*(g) excessive land coverage;*
*(h) unsanitary or unsafe conditions;*
*(i) deterioration of site;*
*(j) diversity of ownership;*
*(k) tax or special assessment delinquency exceeding the fair value of the land;*
*(l) defective or unusual conditions of title;*
*(m) improper subdivision or obsolete platting;*
*(n) the existence of conditions that endanger life or property by fire or other causes; or*
*(o) any combination of the factors listed in this subsection (2).*

The land being added to the Plan area in 2015 includes 14 property tax codes, as listed in Exhibit A, with total assessed value of $4,871,639. As noted in the 2006 approved Urban Renewal Plan, there are specific "target areas" that should be immediately considered for redevelopment. The properties on Exposition Drive represent an immediate opportunity to capitalize on the traffic generated by MetraPark events.

The EBURD area is part of Census Tract 2, with a population of 3,751. Within the tract, 28.98 percent of residents live below the Federal Poverty Line, with an estimated 2014 median family income of $30,263. By comparison, in the greater Billings population of 109,059, only 13.1 percent live below the Federal Poverty Line. (*www.ffiec.gov/geocode/CensusDemo 07-01-2014 & http://quickfacts.census.gov.)*

There are 1,995 housing units in Tract 2, with 61.7 percent of the units (1,231) built prior to 1960 (55 years ago or more). Of those 1,231 older units, 546 were built in 1939 or earlier. Of the 446 owner-occupied housing units in the tract, 96 percent (428) are valued at less than $200,000. In fact, 85 of the 446 units (19.1 percent) are valued at less than $100,000. Indeed, there are a few occupied housing units (16) that lack complete plumbing and/or kitchen facilities. The tract holds 1,243 units where occupants are paying rent. The majority of renters (52.4 percent) pay between $500 and $749 per month. However, 29.2 percent (363 renters) pay between $200 and $499 per month. There are even a number of renters (23) living in units at less than $200 per month. Census Tract 2 has a somewhat transient population. Of the 1,689 households, 83.9 percent, or 1,418 householders, moved into the current unit in 2000 or more recently.

Only 16 percent, or 271 householders, have resided in the current unit since 1999 or prior years. (*U.S. Census Bureau, 2008-2012 American Community Survey 5-year Estimates, Table DP04 10-22-14.*)

Public transit, walking and bicycling facilities are important for the area, as 21.6 percent of households (365) do not have a vehicle available. Moreover, the tract houses 406 students in kindergarten through eighth-grade, along with 25 high school attendees and 248 college students. In commuting to work, although the majority of those age 16 and over drove or carpooled to work (72.6 percent), a significant number - 14.9 percent (285 people) - walked to work, and 11.1 percent (212 people) used public transportation or other means of getting to work. (*U.S. Census Bureau, 2008-2012 American Community Survey 5-year Estimates, Tables DP03 & S1401 10-22-14.*)

The EBURD census tract, along with the nearby Heights-Main Street area, is designated by the Billings Police Department as "Beat 3," or the "East" patrol beat. The East Beat has experienced, over the past three years, increasing numbers of calls for service. In the year 2011, the East Beat had 7,756 calls. Number of calls increased to 9,804 in 2012, and jumped to 10,507 (third highest beat of the nine in the City) for 2013. *(Billings Police Department 2013 Annual Report, www.ci.billings.mt.us.)* Unfortunately, there have recently been two murder incidents in the area as well. Parks personnel, during the October conference on addressing homeless/transient issues, mentioned that homeless individuals are congregating under the Rims in the EBURD, as well as in North Park.

Brownfields, defined as areas with actual or perceived environmental contamination issues, can contribute to unsafe and dangerous conditions, as well as discourage redevelopment efforts. Big Sky Economic Development, in a cooperative agreement with the U.S. Environmental Protection Agency, has secured funding for environmental assessments of properties in the EBURD. With its first round of funding, Big Sky Economic Development contracted with an environmental engineering firm to assess 23 parcels of land in the EBURD to determine "Phase I" conditions (looking at the historical uses of the property and assessing any observed potential contamination issues). In addition, nine parcels were examined with more in-depth "Phase II" assessments, where soil and water testing took place. While none of the completed Phase II assessments pointed to remediation requirements, there are still a number of sites that are advised for Phase II assessment, and many parcels that have not received any environmental assessment to date. Big Sky Economic Development has secured additional EPA Brownfields Program funding with which to accomplish additional environmental assessments in the EBURD beginning in spring 2015, at no cost to property owners who volunteer for the program.

## SECTION 5 – DETERMINATION OF BLIGHT

The proposed EBURD Expansion area contains a number of underdeveloped properties and substandard facilities. The Council previously determined that the property included in the EBURD was "blighted" within the meaning of the Act in its adoption of Ordinance #06-5395 that (a) created the East Billings Urban Renewal District (EBURD) and (b) adopted an urban renewal plan for the district (November 16, 2006). Deficiencies in public and private properties located in the district lead to a determination of blight, as defined by state statute. As cited in the original Urban Renewal Plan, the area still meets several definitions of blight:

Deficient Structures in Area (*the substantial physical dilapidation; deterioration; defective construction, material, and arrangement; or age obsolescence of buildings or improvements, whether residential or nonresidential; deterioration of site)*

There are several buildings and residential structures that are over 50 years in age and do not qualify as being historically significant. Many are in poor repair and may contain potentially hazardous asbestos and lead paint.

While streets, curbs, gutters and sidewalks in some of the area are in satisfactory repair, there are areas without such improvements. Sewer and water utilities in the area are aging and/or inadequate. Flooding occurs within public right-of-way as well as on private property during heavy rain events. Several parking lots generally do not meet code requirements for paving, striping and landscaping. Many of them are cracked and crumbling. Demand for parking will continue and District managers will collaborate with the City to accommodate commercial growth in alignment with the adopted Parking Overlay District.

Deficient Land Use (*inappropriate or mixed uses of land or buildings; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness)*

In general, the 2015 expansion area is under-utilized due to the significant amount of surface used as storage or left vacant. Most structures are single-story. There are vacant lots, storage lots, and auto sales lots directly across the street from Montana's largest indoor entertainment complex and trade-show facilities. The taxable value of this district must be stabilized and encouraged to grow.

Protecting Public Health & Safety (*unsanitary or unsafe conditions; the existence of conditions that endanger life or property by fire or other causes)*

The conditions of blight, crime, vagrancy and potential brownfields, as described above, reduce "social capital" and community connectedness. Flooding promotes mold growth and related health problems.

## SECTION 6 – THE SITE AND ITS RELATIONSHIP TO THE CITY

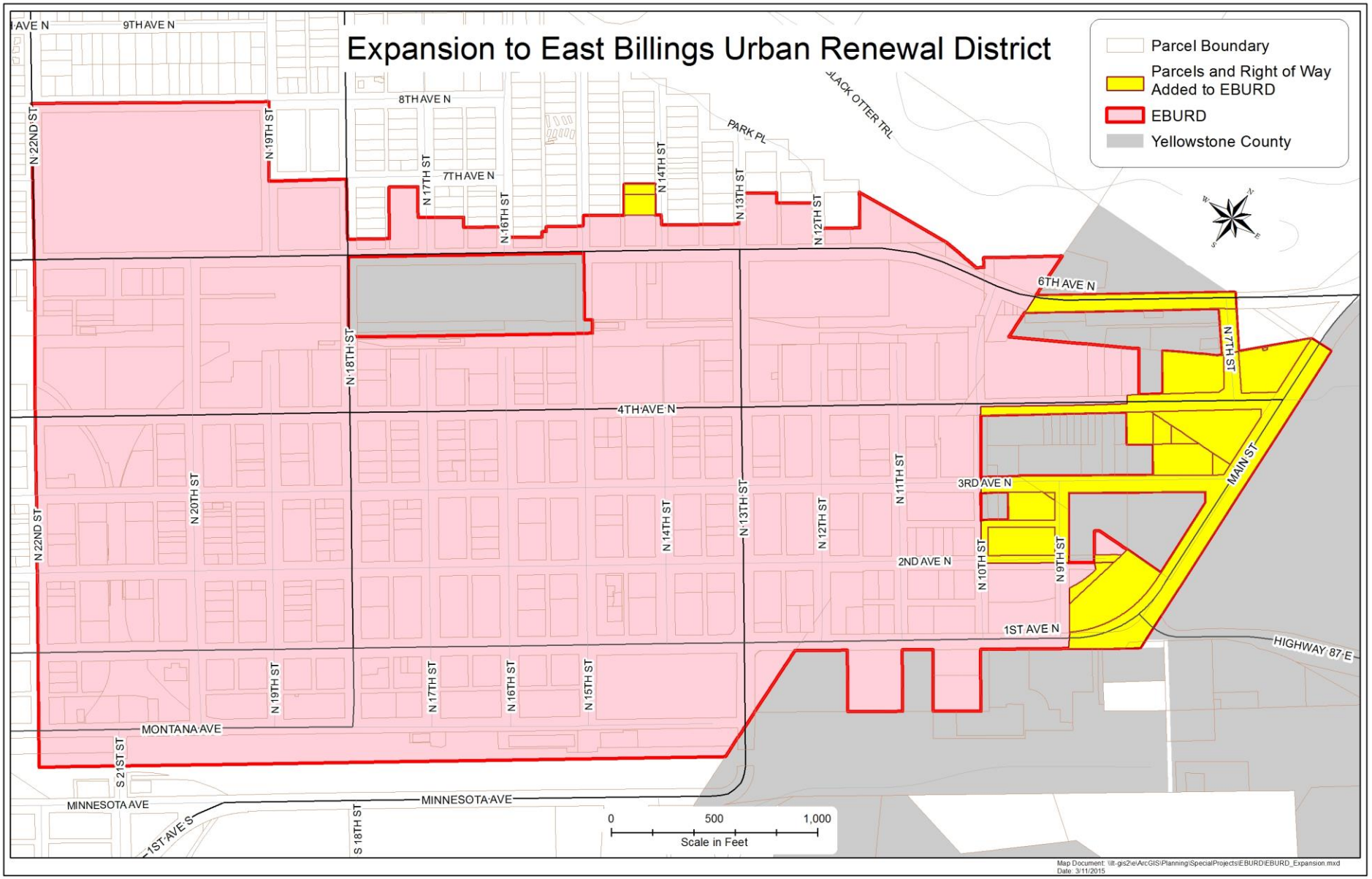
The Expanded EBURD occupies the center of the City of Billings, adjacent to the Downtown Central Business District and the medical corridor to the west; connecting to the Billings Heights area via Main Street to the northeast; welcoming visitors from Lockwood and beyond via 1st Avenue North to the southeast; and meeting up with the Rimrocks to the north.

## SECTION 7 – LEGAL DESCRIPTION

The legal description of the proposed 2015 Expanded East Billings Urban Renewal District is as follows: Beginning at a point at the centerlines of the intersection of 1st Avenue North and North 10th Street and proceeding east to the centerline of Exposition Drive/Main Street, and proceeding north from the intersection of 1st Avenue North and Exposition Drive/Main Street to the intersection of 6th Avenue North and Exposition Drive/Main Street, and from the intersection of 6th Avenue North and Exposition Drive/Main Street, proceeding west to the intersection of 6th Avenue North and North 10th Street, and proceeding south from the intersection of 6th Avenue North and Exposition Drive/Main Street to the intersection of 1st Avenue North and North 10th Street, encompassing all parcels and tax codes therein.

Please see map on following page.

In addition, we propose to add property designated as Tax Code A12053 (North Park Subd., S33, T01N, R 26E, Block 2, Lot 11-12) and property designated as Tax Code A12052 (North Park Subd., S33, T01 N, R26E, Block 2, Lot 7-10).. These lots, are slated for expansion of the Billings Carpet Cleaning activities.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Date: 3/11/2015

## SECTION 8 – PROPERTY DEVELOPERS

New development and revitalization in the proposed 2015 expanded urban renewal district will be accomplished with private investment and public-private partnerships, through the implementation of the EBURD Master Plan and the Exposition Gateway Plan. As outlined in Section 2 above, improvements in infrastructure will spur investments in workforce housing development, parking facilities, lodging facilities, conference facilities, entertainment venues, as well as retail and restaurant enterprises.

## SECTION 9 – PROJECT RELATIONSHIP TO THE EBURD MASTER PLAN & EXPOSITION GATEWAY PLAN

The proposed urban renewal area and expanded tax increment district is located generally in the center of the City and encompasses several "districts" as defined by the EBURD Master Plan and the EBURD Code. The EBURD Master Plan contemplated eventual annexation of County properties adjacent to the original urban renewal district, and this Amended Urban Renewal Plan seeks to accomplish that end.

One goal of the EBURD Plan was to develop a zoning code unique to the vision of the EBURD. The new code was established and adopted in October 2012, following several months of committee work and public meetings, with consultation from a professional firm known for, literally, writing the book on form-based code options. Form-based code considers the look of the facility and its surrounding landscape, rather than basing zoning purely on the use of the facility. The new code allows for increased flexibility in uses, which was desired by landowners and developers in the area.

Generally, the EBURD Master Plan stressed the area's ability to make a positive impact on the entire city. The Plan also recommended a private non-profit organization to assist the City of Billings with the management of the Tax Increment District through an annual work plan and contract. This expanded EBURD may be managed in a similar manner and could make use of the redevelopment and facilitation established through that management entity, the Billings Industrial Revitalization District, Inc.

The Plan names housing as an important priority, and recommends that the City continue to work with builders and developers to encourage downtown housing through various methods. Specifically, the plan encourages housing in the Rail Spur Village. However, live-work space is allowed in several EBURD districts, as outlined in the adopted EBURD Code. The formation of an expanded tax increment district will

increase funding for construction or rehabilitation of public infrastructure necessary to attract, retain, and improve housing in the area.

The guiding principles developed through the EBURD Master Plan were built upon the goals of the original Urban Renewal Plan, and continue to guide today's efforts: 1) Foster economic growth; 2) Foster distinct mixed-use, industrial, and hospitality centers; 3) Create affordable housing opportunities and choices; 4) Ensure existing industrial uses can continue to operate as desired; 5) Improve the natural beauty of the District by reintroducing trees and other features; 6) Extend pedestrian and bike trail connections to downtown, Heights, MetraPark and the Yellowstone River; 7) Integrate edges of the District with North Park neighborhood, medical corridor, and downtown; 8) Provide a variety of transportation choices and connections; 9) Complete sewer and storm water infrastructure; and 10) Understand and reduce environmental risks.

Guided by the above principles, several critical action plan steps have already been accomplished: successful approval of both the EBURD Master Plan and the Exposition Gateway Plan; successful implementation of the recommended Parking Overlay District; accomplishment of the recommended two-way streets conversion; completion of EPA Brownfields Program environmental assessments on 23 parcels, with more to take place beginning in 2015; successful adoption of the EBURD Zoning Code; completion of a transportation corridor study; and development of a plan to address flooding, storm water management, and infrastructure improvements in the eastern-most portion of the District. This amendment to the Plan and the urban renewal projects that it contemplates will continue to act upon the Plan's guiding principles.

## SECTION 10 – CONFORMANCE TO THE GROWTH POLICY

One of the requirements of Montana's Urban Renewal Law (Title 7, Chapter 15, Parts 42 and 43) is that the urban renewal plan must conform to the community's growth policy. The Yellowstone County and City of Billings 2008 Growth Policy ("Growth Policy") aligns with EBURD redevelopment in a variety of ways. This amendment to the East Billings Urban Renewal Plan is consistent with the current Growth Policy. Specifically, the expanded EBURD revitalization efforts meet several Community Goals and Objectives outlined on pages 6-16 of the 2008 Growth Policy:

A. Revitalization in the EBURD meets the goal of contiguous development and of the City's Infill Policy. Revitalization also helps to address the issue stated in the Growth Policy that urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services and threatens the

vitality of the city core and downtown area.

B. Development in the EBURD, especially in the Rail Spur Village area, works toward the goal of affordable housing for all income levels dispersed throughout the City and County. Development of housing helps to address the Growth Policy issue which stated that there is a serious lack of affordable housing for low to moderate income households.

C. Adoption of the more-flexible EBURD Code and continued development efforts in the expanded area help achieve the goal of more housing and business choices within each neighborhood. Moreover, continued development in accordance with the new code assists in addressing the stated issue that there is a desire for more mixed-use neighborhoods.

D. Addition of the Exposition Gateway area to the existing TIF District helps achieve goals to encourage economic development in the neighborhood, encourage new businesses to locate in a prime gateway area, and sets the stage for enhancement of both the functionality and the visual appeal of the entrance to Billings from Lockwood (1st Avenue North & Exposition Drive/Main Street). As noted in the Growth Policy, entryways to our communities should be attractive and not present physical barriers discouraging economic development.

E. The EBURD is adjacent to downtown Billings, and revitalization of the area, as it continues to develop, will contribute toward the vitality and increased safety for visitors and shoppers. As stated in the Growth Policy, safety is an important element.

F. Expansion of the EBURD TIF District assists in meeting the goal of more visually appealing communities, improving the image of the area across the street from the MetraPark facilities and instilling pride in this area of town. Enhancing visual appeal helps to address the Growth Policy's stated issue that there are areas in the City and County that are unattractive and present a poor image of the community.

G. Improvements to the area as envisioned in the Exposition Gateway Plan can lead to a visually appealing design that incorporates the needs not only of vehicular traffic entering the area from Lockwood and from Main Street, but also improves pedestrian access between the MetraPark facilities and new development in the Expo Gateway. Improvements in the proposed expansion area will aid in addressing the Growth Policy's issue that the design of roads, streets, and pedestrian facilities can be more attractive and functional.

H. Expansion of the EBURD TIF District will contribute toward the goal of a well-maintained network of safe and interconnected sidewalks by addressing the critical need for sidewalks, curb and gutter in the Expo Gateway area. As noted in the Growth Policy, the sidewalk system in the City needs upgrading; many sidewalks are cracked and broken, several critical sections are missing, and important sidewalk routes are not adequately maintained.

I. Expansion of the District to include the Expo Gateway area assists the City toward its goal of sanitary and

safe properties, with an improved community image and an increase in property values. Advancing toward this goal helps to address the stated issue that there are dilapidated and unsafe properties in neighborhoods.

J. Expansion of the District allows access to TIF District funding for a long-neglected infrastructure upgrade, moving the City toward its goal of equitable collection and distribution of funding for public services and facilities. Moreover, the expansion assists the City in achieving its objective to ensure that facilities and services are maintained in existing neighborhoods as new neighborhoods are added. The Growth Policy notes that funding for community facilities and infrastructure is very limited; prudent use of TIF District funds assists in solving the limited funding issue.

K. Expansion of the TIF District to include the Expo Gateway area aligns with the City's goal of adaptive reuse of vacant structures, conserving resources, preserving landmarks, preserving neighborhood integrity, and taking advantage of economic development opportunities. Adaptive reuse helps to address the stated issue that there are vacant structures around Billings and in the County that could be reused.

L. Expansion of the EBURD TIF District, leading to development of live-work enterprises and additional workforce housing options, helps move toward the goal of adequate affordable housing and more options for housing, potentially in an area very near to work opportunities. Achievement of these goals assists in solving the stated Growth Policy issue that poor housing and lack of living wage jobs puts the health of residents at risk.

The Growth Policy lists Urban Renewal Districts as an implementation strategy to revitalize neighborhoods, and expansion of the EBURD aligns well with that revitalization strategy.

## SECTION 11 – CERTAIN PLAN FEATURES AND FINANCIAL MATTERS

Section 7-15-4217, M.C.A., of the Act requires cities to make certain findings when they adopt an urban renewal plan and approve Urban Renewal Projects. These are addressed below:

1. The existing EBURD contains 133 housing units that are home to 305 people (*U.S. Census 2010, per Leslie Zolman, GISP, Montana Dept. of Commerce Census and Information Center, 5-7-2014)*. For the entire Census Tract, including the North Park neighborhood, there are 1,995 housing units, of which 1,689 are occupied and 306 are vacant (*U.S. Census Bureau, American Community Survey Table DP04, 10-22-14).* Planned projects would not displace any persons from housing. Accordingly, there is no need to have a workable and feasible plan for substitute housing until and unless such a project is developed in the future.

2. This amended East Billings Urban Renewal Plan conforms to the Growth Policy for the City as a whole, and also to the EBURD Master Plan and the Exposition Gateway Plan.

3. This Modified Plan affords maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the Expanded EBURD by private enterprise. It is unreasonable to expect that the district will be stabilized and/or redeveloped without substantial public support. Some properties within the area are dilapidated. As presently constituted, property in the district is not conducive to any sort of uniform or integrated development and, as presently existing, cannot compete with other areas of the City for substantial developments, particularly areas at the outskirts of the City. This amended Plan is intended to facilitate the identification and construction of significant Urban Renewal Projects, which would not be possible without this Plan.

4. A sound and adequate financial program exists for financing projects, which include the sale and issuance by the City of tax increment finance bonds. Subsequent approved development projects will require commitments of substantial private financing that will provide the primary means for funding construction of the improvements and revitalization efforts.

5. This 2015 Expanded EBURD may be modified at any time by the City Council as necessary to eliminate and prevent the development or spread of blighted areas, and encourage urban rehabilitation. The process for plan modification shall follow the procedures set forth in 7-15-4212 through 7-15-4219 MCA, with respect to initial adoption of this plan. For purposes of urban renewal district boundary changes only, the notice of public hearing, as described in 7-15-4215 MCA, may be mailed only to those owners whose properties are situated within the area of expansion of the Urban Renewal District boundaries. Notice will be mailed to those property owners whose properties are within the area of expansion.

## SECTION 12 – TAX INCREMENT

Tax increment financing is necessary to encourage private reinvestment within the District, which will further encourage economic growth in the District and the City, create substantial employment opportunities, and increase the tax base of the City and other taxing jurisdictions. The 2015 Expanded EBURD is hereby established as a tax increment financing urban renewal area within the meaning of the

Act, and, in particular, Section 7-15-4282 through 7-15-4293 of the Act. This Section constitutes a tax increment provision within the meaning of the Act. In connection with the expansion:

1. For the purpose of calculating the incremental taxable value each year for the life of the district, the base taxable value shall be calculated as base taxable value of the original district as of [January 1, 2006] plus the base taxable value of all real and personal property added to the district by this amended plan and as shown in Exhibit A as of January 1, 2015.

2. The City is hereby authorized to segregate the tax increment derived in the district and use and deposit such increment into the tax increment fund of the district for use as authorized by the Act and as authorized herein from time to time, including, without limitation, pledging the tax increment to repayment of Bonds.

3. The tax increment received from the district may be used to pay directly costs of an approved Development Project as may from time to time be approved by the Council. The Council also hereby authorizes the use of tax increment in the district to pay debt service on bonds issued to finance a portion of the costs of these development projects, and costs associated with the sale and security of such bonds (including any necessary reserve funds) in compliance with the Act, subject to any limitations imposed by the Montana Constitution and federal law.

4. The tax increment provision of the district will terminate upon the latter of:
   a. The fifteenth ($15^{th}$) year following the original creation of the district; or
   b. The payment or provision for payment in full or discharge of all bonds, and the payment of interest thereon, for which the tax increment has been pledged.

After termination of the tax increment provision, all taxes shall continue to be levied upon the actual taxable value of the taxable property in the district, but shall be paid into funds of the taxing bodies levying taxes within the district.

## SECTION 13 – CONCLUSIONS

The creation of this expanded East Billings Urban Renewal District will have a positive impact on central Billings, and is an essential first step in completing what may be a number of urban renewal projects.

Estimates calculated by ECO-Northwest in preparation of the Exposition Gateway Plan indicate that development in the Expo Gateway has a potential new value of nearly $65 million, with potential TIFD revenues of slightly more than $1 million *(Financial Analysis, ECO-Northwest, April 8, 2013)*. The figures are preliminary estimates; actual values and tax revenue will vary based on type, size and timing of development. Expansion of the district, in addition to further stabilizing the tax base, eliminating blight and providing renaissance to the EBURD, will also bring new employees and residents to the area.

ECO-Northwest states that the Expo Gateway District offers desirable locational attributes:

> The Gateway District has several important locational advantages relative to other areas in Billings that make it a prime area for development in the hospitality and retail sectors.
>
> - Proximity to downtown. It is centrally located near employment and commercial uses in the Central Business District, the medical campuses, and the University (directly to the west).
> - Proximity to MetraPark. The county-owned multi-function facility has an indoor arena, rodeo grounds, a horse track, open space and other facilities. MetraPark has a long history of successful operation (850,000 to 1 million visitors per year, with 30% coming from over 100 miles away, per Sandra Hawke, MetraPark, February 2009), and provides opportunities for complementary meeting space and catering facilities.
> - Proximity to the airport. It is closer to Billings Logan Airport (3 miles) than many areas in the Central Business District as well as areas in south and east Billings.
> - Proximity to amenities and commercial areas. It is in close proximity to commercial areas downtown and in Billings Heights, which is a commercial and residential hub to the north.
> - Proximity to regional highways. The District lies at the intersection of 212, I-90 and I-94.
>
> The key comparative advantage for the area is its central location *between* downtown and MetraPark (and between the West End and the Heights) on flat land with urban services. It is a good location for urban development. *(ECO-Northwest, Existing Market Conditions Assessment, May 22, 2013)*

As stated in the Exposition Gateway Plan and as stated herein, the Exposition Gateway area requires repair and improvement to streets, curbs, gutters and sidewalks and the water and sewer utilities are inadequate. The City hereby approves, as an urban renewal project for the District, [the reconstruction of the streets from Main Street to North 11th Street and between 1st Avenue North to 4th Avenue North in accordance with the Exposition Gateway Concept Plan. The streets included in the construction limits are North 9th Street, North 10th Street, 2nd Avenue North, and 3rd Avenue North. Construction includes full street construction, sidewalk, bulb-outs at the corners, on-street parking, new sanitary sewer, new water mains, and storm drain upgrades.] In order to make it possible to move forward with this much-needed infrastructure improvement project, the Yellowstone County Board of County Commissioners transferred any interest it had in the public right of way on streets within the Exposition Gateway area to the City of Billings, with Resolution 15-23, passed on March 10, 2015.

The Council through adoption of the modified East Billings Urban Renewal District hereby approves financing of the improvement project described above with proceeds of tax increment bonds payable from tax increment generated by the District. Such bonds will be issued in a principal amount such that the debt service thereon can be paid from tax increment generated by the District over a period of 25 years. The City hereby finds that there is a feasible and workable plan for financing the improvements.

Expansion of the East Billings Urban Renewal District to include the property described in this amended Plan will have a positive effect on the area and on the City. Improvements to infrastructure will surely be the catalyst in attracting the desired types of development, and will spur further achievement in reaching the goals of the overall EBURD Master Plan.

Please see Exhibit A on next page.

EXHIBIT A 2015 EBURD Expansion

| TAXID | ASSESSED VALUE | TAXID | MARKET VALUE | TAXABLE VALUE | TAXID | LOT SIZE (Approx. Sq. Ft.) |
|---|---|---|---|---|---|---|
| **1002286 Total** | $1,720.00 | **1002286 Total** | $912.00 | $23.00 | 1002286 | 0 |
| **A09340 Total** | $792,286.00 | **A09340 Total** | $621,944.00 | $15,362.00 | A09340 | 44344.08 |
| **A09343 Total** | $688,400.00 | **A09343 Total** | $540,394.00 | $13,347.00 | A09343 | 29403 |
| **A09355 Total** | $265,451.00 | **A09355 Total** | $208,379.00 | $5,147.00 | A09355 | 42383.88 |
| **A09355B Total** | $45,930.00 | **A09355B Total** | $36,055.00 | $891.00 | A09355B | 6403.32 |
| **A09373 Total** | $498,600.00 | **A09373 Total** | $391,401.00 | $9,667.00 | A09373 | 19035.72 |
| **A09374 Total** | $71,910.00 | **A09374 Total** | $56,449.00 | $1,394.00 | A09374 | 10628.64 |
| **A09375 Total** | $43,862.00 | **A09375 Total** | $34,432.00 | $850.00 | A09375 | 6054.84 |
| **D05887 Total** | $358,428.00 | **D05887 Total** | $281,366.00 | $6,949.00 | D05887 | 56628 |
| **D05888 Total** | $444,941.00 | **D05888 Total** | $349,279.00 | $8,628.00 | D05888 | 69260.4 |
| **D05893 Total** | $593,800.00 | **D05893 Total** | $466,133.00 | $11,513.00 | D05893 | 56628 |
| **D05897 Total** | $14,973.00 | **D05897 Total** | $11,754.00 | $290.00 | D05897 | 1306.8 |
| **D05898 Total** | $917,363.00 | **D05898 Total** | $720,129.00 | $17,787.00 | D05898 | 91911.6 |
| **I01092A Total** | $19,200.00 | **I01092A Total** | $15,072.00 | $372.00 | I01092A | 0 |
| **Total** | $4,756,864.00 | **Total** | $3,733,699.00 | $92,220.00 | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| A12052 | $92,800.00 | A12052 | $49,184.00 | $1,215.00 | A12052 | 15000 |
| A12053 | $21,975.00 | A12053 | $11,647.00 | $ 201.00 | A12053 | 7500 |
| Grand Total | $4,871,639.00 | | $3,794,530.00 | $93,636.00 | | |

Exhibit A figures provided by Yellowstone County GIS

# Expansion to East Billings Urban Renewal District

Parcel Boundary
Parcels and Right of Way Added to EBURD
EBURD
Yellowstone County

9TH AVE N
8TH AVE N
7TH AVE N
6TH AVE N
4TH AVE N
3RD AVE N
2ND AVE N
1ST AVE N
1ST AVE S
MONTANA AVE
MINNESOTA AVE
MINNESOTA AVE
N 22ND ST
N 20TH ST
N 19TH ST
N 18TH ST
N 17TH ST
N 16TH ST
N 15TH ST
N 14TH ST
N 13TH ST
N 12TH ST
N 11TH ST
N 10TH ST
N 9TH ST
N 7TH ST
S 21ST ST
S 18TH ST
PARK PL
BLACK OTTER TRL
MAIN ST
HIGHWAY 87 E

0 500 1,000
Scale in Feet

Map Document: \\lt-gis2\e\ArcGIS\Planning\SpecialProjects\EBURD\EBURD_Expansion.mxd
Date: 3/11/2015

**Consent 1. L. 1.**

**Regular City Council Meeting**
**Meeting Date:** 03/23/2015
**TITLE:** Payment of Claims February 23, 2015
**PRESENTED BY:** Patrick M. Weber, Finance Director
**Department:** City Hall Administration

## PROBLEM/ISSUE STATEMENT

Claims in the amount of $1,041,374.99 have been audited and are presented for City Council payment approval. A complete listing of the claims dated February 23, 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 02-23-2015

| Check Date | Check | Name | Amount | Account | Item Desc |
|---|---|---|---|---|---|
| 02/23/2015 | 782315 | A & I Distributors | $513.67 | 6010-00000-141000 | 2584830 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $3,497.22 | 6010-00000-141000 | 2584830 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $2,091.55 | 5410-31230-402310 | oil and grease landfill |
| 02/23/2015 | 782315 | A & I Distributors | $656.70 | 5410-31220-402310 | def for trucks |
| 02/23/2015 | 782315 | A & I Distributors | $2,365.55 | 6010-00000-141000 | 2589068 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $113.90 | 2110-31320-402320 | 2586699 |
| 02/23/2015 | 782315 | A & I Distributors | $1,805.20 | 5020-00000-141000 | WATER PARTS AND SUPPLIES PO NUM |
| 02/23/2015 | 782315 | A & I Distributors | $218.90 | 2110-31320-402320 | 2586699b |
| 02/23/2015 | 782315 | A & I Distributors | -$113.90 | 2110-31320-402320 | 2586699CR |
| 02/23/2015 | 782315 | A & I Distributors | $433.95 | 6010-00000-141714 | 2587343 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $1,483.35 | 6010-00000-141714 | 2587984 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $494.45 | 6010-00000-141714 | 2588166 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | -$494.45 | 6010-00000-141714 | 2590676 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $91.20 | 6010-00000-141000 | 2592043 PO NUM 297029 |
| 02/23/2015 | 782315 | A & I Distributors | $682.00 | 5610-71130-402310 | Invoice #2591717. Oil for equipment services |
| 02/23/2015 | 782318 | Adamson Police Products | $3,168.00 | 1500-21400-402270 | Item #RA40B - Winchester 40SW 180 gr Bonded |
| 02/23/2015 | 782318 | Adamson Police Products | $0.00 | 1500-21400-402270 | Item RA1200, 12 ga 00 Buck Low Recoil Ammo |
| 02/23/2015 | 782318 | Adamson Police Products | $1,320.00 | 1500-21400-402270 | Item #Q4238, 40SW 180 gr FMJ Ammo |
| 02/23/2015 | 782320 | Advanced Engineering and Environmental Services In | $4,210.26 | 5020-72110-403590 | Water & Wastewater Rate Study |
| 02/23/2015 | 782320 | Advanced Engineering and Environmental Services In | $4,360.49 | 5120-82110-403590 | Water & Wastewater Rate Study |
| 02/23/2015 | 782322 | Agilent Technologies Inc | $30,667.80 | 5030-74910-409480 | 240 AA Spectrometer/SPS 3 Autosampler |
| 02/23/2015 | 782335 | Billings Depot Inc | $5,366.67 | 6600-31100-405310 | Rent |
| 02/23/2015 | 782335 | Billings Depot Inc | $8,050.00 | 6700-31410-405310 | Rent |
| 02/23/2015 | 782336 | Billings Gazette | $198.00 | 0100-11000-403920 | 102-60001620 Finance |
| 02/23/2015 | 782336 | Billings Gazette | $914.00 | 0100-14110-403310 | 102-60001620 Finance |
| 02/23/2015 | 782336 | Billings Gazette | $264.00 | 0100-51400-403310 | 102-60001620 Finance |
| 02/23/2015 | 782336 | Billings Gazette | $495.00 | 2400-43010-403310 | 102-60001620 Finance |
| 02/23/2015 | 782336 | Billings Gazette | $555.50 | 5410-31230-403310 | 102-60001620 Finance |
| 02/23/2015 | 782336 | Billings Gazette | $951.00 | 2600-55110-403360 | 102-60003259 Library |
| 02/23/2015 | 782336 | Billings Gazette | $777.15 | 2900-65550-407275 | 102-60003603 Community Development |
| 02/23/2015 | 782336 | Billings Gazette | $69.08 | 0100-11000-403920 | Notice of Meeting-Board of Ethics |
| 02/23/2015 | 782336 | Billings Gazette | $3,186.77 | 0100-17500-403370 | acct #102-60010385 |
| 02/23/2015 | 782336 | Billings Gazette | $3,390.50 | 2090-31510-403390 | acct #102-60010385 |
| 02/23/2015 | 782336 | Billings Gazette | $392.50 | 2110-31320-403310 | acct #102-60010385 |
| 02/23/2015 | 782336 | Billings Gazette | $416.96 | 5210-15210-403370 | acct #102-60010385 |
| 02/23/2015 | 782336 | Billings Gazette | $536.24 | 5610-71100-403210 | acct #102-60010385 |
| 02/23/2015 | 782336 | Billings Gazette | $480.47 | 6010-15500-403310 | acct #102-60010385 |
| 02/23/2015 | 782336 | Billings Gazette | $430.98 | 2900-65550-407275 | Community Development |
| 02/23/2015 | 782341 | Billings Times, Inc. | $27.20 | 0100-11000-403230 | Administration |
| 02/23/2015 | 782341 | Billings Times, Inc. | $137.60 | 0100-11000-403920 | Administration |
| 02/23/2015 | 782341 | Billings Times, Inc. | $20.80 | 0100-13130-403360 | Administration |
| 02/23/2015 | 782341 | Billings Times, Inc. | $65.10 | 2400-43010-403310 | Yellowstone County Board of Planning |
| 02/23/2015 | 782341 | Billings Times, Inc. | $45.60 | 5020-72110-403310 | Public Works-Utilities |
| 02/23/2015 | 782341 | Billings Times, Inc. | $14.70 | 6600-31100-403330 | Public Works |
| 02/23/2015 | 782341 | Billings Times, Inc. | $335.70 | 5610-71100-403210 | Airport |
| 02/23/2015 | 782341 | Billings Times, Inc. | $9.60 | 5710-71410-403310 | Airport |
| 02/23/2015 | 782341 | Billings Times, Inc. | $497.70 | 6700-31410-403310 | Engineering |
| 02/23/2015 | 782341 | Billings Times, Inc. | $51.20 | 5210-15210-403370 | Parking |
| 02/23/2015 | 782341 | Billings Times, Inc. | $65.60 | 0100-15120-403310 | Finance |
| 02/23/2015 | 782341 | Billings Times, Inc. | $322.10 | 2400-43010-403310 | City-County Planning |
| 02/23/2015 | 782341 | Billings Times, Inc. | $115.20 | 2900-65010-403310 | Community Development |
| 02/23/2015 | 782341 | Billings Times, Inc. | $39.20 | 2600-55110-403290 | Library |
| 02/23/2015 | 782341 | Billings Times, Inc. | $18.40 | 2400-43010-403310 | Planning Division |
| 02/23/2015 | 782341 | Billings Times, Inc. | $48.80 | 5710-71410-403310 | MET |
| 02/23/2015 | 782341 | Billings Times, Inc. | $19.20 | 1990-15050-403590 | Planning & Community Services |
| 02/23/2015 | 782341 | Billings Times, Inc. | $142.90 | 2400-43010-403310 | Planning & Community Services |
| 02/23/2015 | 782341 | Billings Times, Inc. | $260.00 | 2090-44510-403210 | Building-Building Permit & Inspection Record |
| 02/23/2015 | 782341 | Billings Times, Inc. | $410.20 | 1500-21700-403210 | Animal Control-License Forms |
| 02/23/2015 | 782345 | Branch Group Inc | $6,017.09 | 5020-74000-402360 | 2 - AB 1756-L61 Controllogic 2 MB Memory Controller |
| 02/23/2015 | 782345 | Branch Group Inc | $6,017.09 | 5120-84300-402360 | 2 - AB 1756-L61 Controllogic 2 MB Memory Controller |
| 02/23/2015 | 782346 | Brenntag Pacific Inc | $5,939.63 | 2110-31320-404720 | hicothaw used to melt snow on streets |
| 02/23/2015 | 782355 | Curb Box Specialists Inc. | $13,310.55 | 5050-75150-403671 | Water repair list 04.25.14 - less 224 Avenue E |
| 02/23/2015 | 782359 | Desert Mountain Corporation | $4,883.28 | 2110-31320-404721 | ice slicer used to melt snow on streets |
| 02/23/2015 | 782360 | Dowl Hkm | $6,470.00 | 8400-31840-403590 | WO 15-19 Stormwater Management Manual |
| 02/23/2015 | 782361 | Downtown Billings BID, Inc. | $25,000.00 | 2030-15130-403547 | 443 - Annual Safe Zone 2015 |
| 02/23/2015 | 782361 | Downtown Billings BID, Inc. | $625.80 | 7800-15750-407680 | Paid January, distributed February 2015 |
| 02/23/2015 | 782364 | Ed Bartlett, LLC | $5,900.00 | 0100-14110-403950 | February 2015 Lobbyist Agreement |
| 02/23/2015 | 782376 | HDR, Inc. | $1,080.52 | 8450-31860-409310 | WO 09-15 GRAND AVE/ZIMMER MAN TRAIL |
| 02/23/2015 | 782376 | HDR, Inc. | $122,136.50 | 5130-84910-409390 | WO 14-11 WWTP Nutrient Upgrade Expansion & |
| 02/23/2015 | 782376 | HDR, Inc. | $1,434.41 | 5120-82110-403540 | WO 12-15 IWPI WWTF Plan; Discharge Permit |
| 02/23/2015 | 782377 | Iaff | $4,556.52 | 9000-00000-209920 | Payroll Summary |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $43.83 | 2600-55190-403226 | Invoice 83611642 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $34.54 | 2600-55190-403227 | Invoice 83611642 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $27.55 | 2600-55190-403241 | Invoice 83611642 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $4.79 | 2600-55190-403255 | Invoice 83611642 |

| Check Date | Check | Name | Amount | Account | Item Desc |
|---|---|---|---|---|---|
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $7.31 | 2600-55190-403333 | Invoice 83611642 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $31.99 | 2600-55190-403382 | Invoice 83611642 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $5.49 | 2600-55190-403222 | Invoice 83611643 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $65.21 | 2600-55190-403242 | Invoice 83611644 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $25.76 | 2600-55190-403382 | Invoice 83611644 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $685.32 | 2600-55190-403227 | Invoice 83611645 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $37.71 | 2600-55190-403241 | Invoice 83611645 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $50.36 | 2600-55190-403255 | Invoice 83611645 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $17.99 | 2600-55190-403382 | Invoice 83611645 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $30.79 | 2600-55190-403222 | Invoice 83611646 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $47.25 | 2600-55190-403226 | Invoice 83611646 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $376.26 | 2600-55190-403333 | Invoice 83611646 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $52.69 | 2600-55150-402280 | Invoice 83611647 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $102.70 | 2600-55190-403226 | Invoice 83710233 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $10.19 | 2600-55190-403227 | Invoice 83710233 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $15.90 | 2600-55190-403241 | Invoice 83710233 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $10.61 | 2600-55190-403255 | Invoice 83710233 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $18.86 | 2600-55190-403333 | Invoice 83710233 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $15.59 | 2600-55190-403227 | Invoice 83710234 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $10.61 | 2600-55190-403255 | Invoice 83710235 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $15.90 | 2600-55190-407930 | Invoice 83710235 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $11.78 | 2600-55190-403333 | Invoice 83710236 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $14.97 | 2600-55190-403227 | Invoice 83710237 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $228.06 | 2600-55190-403226 | Invoice 83710238 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $8.84 | 2600-55190-403227 | Invoice 83710238 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $37.79 | 2600-55190-403227 | Invoice 83710239 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $10.61 | 2600-55190-403255 | Invoice 83710239 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $154.99 | 2600-55190-403226 | Invoice 83710240 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $57.17 | 2600-55190-403333 | Invoice 83710240 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $123.63 | 2600-55190-403222 | Invoice 83710241 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $360.32 | 2600-55190-403226 | Invoice 83710241 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $192.97 | 2600-55190-403227 | Invoice 83710241 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $9.41 | 2600-55190-403255 | Invoice 83710241 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $109.45 | 2600-55190-403333 | Invoice 83710241 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $31.99 | 2600-55190-403382 | Invoice 83710241 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $8.97 | 2600-55190-403226 | Invoice 83710242 |
| 02/23/2015 | 782379 | Ingram Library Services Inc. | $15.90 | 2600-55190-403227 | Invoice 83710243 |
| 02/23/2015 | 782380 | Integrated Information Solutions Inc. | $3,750.00 | 6200-19110-405370 | Annual Software Maintenance for iSeries High |
| 02/23/2015 | 782380 | Integrated Information Solutions Inc. | $4,880.00 | 6200-19110-405370 | Annual Software Maintenance 8203 SN/41EEE 1/30/2015-1/31/2015 |
| 02/23/2015 | 782380 | Integrated Information Solutions Inc. | $4,990.00 | 6200-19110-405370 | Annual Hardware Maintenance 8203 SN/41EEE 1/30/15-1/31/16 |
| 02/23/2015 | 782381 | Interstate Power Systems, Inc. | $12,916.20 | 1500-22260-402320 | R007028652.01 |
| 02/23/2015 | 782381 | Interstate Power Systems, Inc. | $380.40 | 1500-22260-402320 | R007030257.04 |
| 02/23/2015 | 782383 | JBT Aero Tech, Jetway Systems | $3,418.90 | 5610-71120-402450 | Invoice #2314445. Jet bridge drive controllers |
| 02/23/2015 | 782387 | Kiner | $10,598.00 | 2030-15130-407968 | Limber Tree Yoga II - tax increment assistance |
| 02/23/2015 | 782391 | L P Anderson Tire Co. Inc. | $6,551.12 | 5610-71130-402390 | 4 New Tires for High Speed Runway Broom |
| 02/23/2015 | 782391 | L P Anderson Tire Co. Inc. | $184.10 | 5610-71130-402390 | Freight |
| 02/23/2015 | 782392 | Leigh Fisher Associates | $18,052.67 | 5610-71100-403540 | Amendment 1 - Terminal & Land Use Planning |
| 02/23/2015 | 782393 | Lenovo (United States) Inc | $9,030.00 | 6200-19110-409480 | IBM System x3650 M5<br>Quote 1403976<br>Symantec Server |
| 02/23/2015 | 782395 | Mailing Technical Services | $0.00 | 5210-15210-403110 | parking - special inserts only |
| 02/23/2015 | 782395 | Mailing Technical Services | $622.62 | 0100-15120-403110 | Finance |
| 02/23/2015 | 782395 | Mailing Technical Services | $5,158.51 | 6050-15150-403110 | Postage Fund (weekly bills) |
| 02/23/2015 | 782395 | Mailing Technical Services | $992.47 | 2600-55110-403110 | January mail service |
| 02/23/2015 | 782397 | Miller Trois LLC | $1,801.00 | 0100-43210-405311 | I15-017224 Planning & CS March rent. Miller |
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| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $583.32 | 5610-71190-403440 | 129 573 1000 1. Mud Wash. February 2015 |
| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $130.91 | 5610-71190-403440 | 229 573 1000 0. Detail Bay 1 Hertz. February |
| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $119.40 | 5610-71190-403440 | 629 573 1000 6. Detail Bay 2 National/Alamo. |
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| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $132.41 | 5610-71190-403440 | 429 573 1000 8. Detail Bay 4 Avis/Budget. |
| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $61.57 | 5610-71190-403440 | 529 573 1000 7. Detail Bay 5 Thrifty/Dollar. |
| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $386.67 | 5610-71170-403440 | 205 087 7152 2. Edwards Jet Center. February |
| 02/23/2015 | 782400 | Montana Dakota Utilities Co | $317.29 | 5610-71170-403440 | 185 580 1000 7. TSA Building. February 2015 |
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| 02/23/2015 | 782407 | Montana State Fireman's Assoc | $3,381.59 | 9000-00000-209924 | Payroll Summary |
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| 02/23/2015 | 782409 | Morrison Maierle Inc | $12,633.19 | 4050-71250-409685 | Environmental Assessment RW10R - Federal |
| 02/23/2015 | 782409 | Morrison Maierle Inc | $1,403.69 | 4050-71250-409686 | Environmental Assessment RW10R - Local Share |
| 02/23/2015 | 782409 | Morrison Maierle Inc | $15,650.00 | 4060-71190-409310 | Transfer Lot Lighting & Fence Installation - Design |
| 02/23/2015 | 782409 | Morrison Maierle Inc | $14,551.00 | 5620-71200-409310 | Ponds A, B, and C Fence Installation - Design |
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| 02/23/2015 | 782417 | NorthWestern Energy | $1,927.51 | 8100-31830-403410 | SILMD 253 ACCT# 0719644-7 |
| 02/23/2015 | 782417 | NorthWestern Energy | $152.20 | 8100-31830-403410 | SILMD 254 ACCT# 0719763-5 |

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| 02/23/2015 | 782418 | NorthWestern Energy | $50.71 | 0100-51260-403410 | 07208218 |
| 02/23/2015 | 782418 | NorthWestern Energy | $2,761.50 | 5020-74000-403410 | 07222649 |
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| 02/23/2015 | 782418 | NorthWestern Energy | $2,430.48 | 5020-74000-403410 | 07230402 |
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| 02/23/2015 | 782418 | NorthWestern Energy | $243.16 | 5120-85000-403410 | 822 Shiloh Crossing |
| 02/23/2015 | 782418 | NorthWestern Energy | $1,486.35 | 5610-71190-403410 | 1993430-6. Car Wash. February 2015 |
| 02/23/2015 | 782418 | NorthWestern Energy | $481.91 | 5610-71190-403410 | 2001846-1. Mud Wash. February 2015 |
| 02/23/2015 | 782418 | NorthWestern Energy | $208.27 | 5610-71190-403410 | 2001848-7. Detail Bay 1 Hertz. February 2015 |
| 02/23/2015 | 782418 | NorthWestern Energy | $249.06 | 5610-71190-403410 | 2001855-2. Detail Bay 2 National/Alamo. February |
| 02/23/2015 | 782418 | NorthWestern Energy | $164.96 | 5610-71190-403410 | 2001862-8. Detail Bay 3 Enterprise. February |
| 02/23/2015 | 782418 | NorthWestern Energy | $155.80 | 5610-71190-403410 | 2001865-1. Detail Bay 4 Avis/Budget. February |
| 02/23/2015 | 782418 | NorthWestern Energy | $156.53 | 5610-71190-403410 | 2001867-7. Detail Bay 5 Thrifty/Dollar. February |
| 02/23/2015 | 782418 | NorthWestern Energy | $22.24 | 5610-71170-403410 | 1341288-7. Old National/Alamo Car Wash. |
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| 02/23/2015 | 782418 | NorthWestern Energy | $463.84 | 5610-71170-403410 | 1264299-7. Old Hertz Car Wash. February 2015 |
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| 02/23/2015 | 782418 | NorthWestern Energy | $97.22 | 5610-71170-403410 | 1138926-9. Aero Interiors. February 201 |
| 02/23/2015 | 782418 | NorthWestern Energy | $7.93 | 5610-71170-403410 | 1341289-5. Old Thrifty/Dollar Car Wash. February 2015 |
| 02/23/2015 | 782418 | NorthWestern Energy | $8.42 | 5610-71170-403410 | 1341291-1. Old Enterprise Car Wash. February 2015 |
| 02/23/2015 | 782418 | NorthWestern Energy | $660.15 | 5610-71170-403410 | 1341295-2. Big Sky Ground Support. Februar 2015 |
| 02/23/2015 | 782418 | NorthWestern Energy | $655.31 | 5610-71170-403410 | 1669567-8. TSA Building. February 201 |

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| 02/23/2015 | 782418 | NorthWestern Energy | $699.58 | 1500-22210-403410 | 08715468 |
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| 02/23/2015 | 782418 | NorthWestern Energy | $35.32 | 0100-51120-403410 | 18366666 |
| 02/23/2015 | 782420 | One Eighty Communications | $40.60 | 5610-71100-403450 | Airport 2948370 Airport Alarm |
| 02/23/2015 | 782420 | One Eighty Communications | $3,644.09 | 6060-19310-403450 | Main Bill Acct 00001906 |
| 02/23/2015 | 782420 | One Eighty Communications | $235.54 | 6060-19310-403450 | Main Bill T-1 Account 00018768 |
| 02/23/2015 | 782420 | One Eighty Communications | $40.10 | 1500-21110-403450 | CPC line 247-8592 Account 00018768 |
| 02/23/2015 | 782420 | One Eighty Communications | $46.00 | 0100-51120-403450 | Dehler Park line 867-727 |
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| | | | | | Community Development Services FAX |
| | | | | | 406-294-7595 |
| 02/23/2015 | 782420 | One Eighty Communications | $40.10 | 2900-65010-403450 | Account 00018768 |
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| 02/23/2015 | 782420 | One Eighty Communications | $40.10 | 2090-44510-403450 | Account 0018768 |
| | | | | | Planning FAX 406-657-8327 |
| 02/23/2015 | 782420 | One Eighty Communications | $40.10 | 2400-43010-403450 | Account 00018768 |
| | | | | | Comm Center Long Distance Charges |
| 02/23/2015 | 782420 | One Eighty Communications | $5.00 | 1500-22250-403450 | 1500-22250-403450 |
| 02/23/2015 | 782425 | Qwest Communications | $61.16 | 2250-22320-403450 | Qwest 406-245-2296 911 Qwes |
| 02/23/2015 | 782425 | Qwest Communications | $45.65 | 2250-22320-403450 | Qwest 406-245-3107 911 Qwes |
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| 02/23/2015 | 782425 | Qwest Communications | $39.44 | 5020-74000-403450 | Qwest 406-245-3659 PUD Alarm Water Towe |
| 02/23/2015 | 782425 | Qwest Communications | $45.66 | 5610-71100-403450 | Qwest 406-245-5834 Airport Alarm |
| 02/23/2015 | 782425 | Qwest Communications | $119.32 | 1500-22250-403450 | Qwest 406-245-7469 Fire |
| 02/23/2015 | 782425 | Qwest Communications | $45.66 | 1500-21110-403450 | Qwest 406-245-7481 Police |
| | | | | | Qwest 406-248-3049 Main System T1 City/County |
| 02/23/2015 | 782425 | Qwest Communications | $228.20 | 6060-19310-403450 | Tie |
| | | | | | Qwest 406-248-3635 Fire Airport Radio Tower |
| 02/23/2015 | 782425 | Qwest Communications | $311.26 | 6070-22350-403450 | WCK |
| | | | | | Qwest 406-248-3636 Fire Airport Radio Tower |
| 02/23/2015 | 782425 | Qwest Communications | $311.26 | 6070-22350-403450 | Jellison |
| 02/23/2015 | 782425 | Qwest Communications | $47.26 | 6010-15500-403450 | Qwest 406-256-5047 Motor Poo |
| 02/23/2015 | 782425 | Qwest Communications | $45.53 | 5610-71100-403450 | Qwest 406-256-7070 Airpor |
| | | | | | Qwest 406-259-2328 PUD Sahara Sand Lift |
| 02/23/2015 | 782425 | Qwest Communications | $31.16 | 5120-85000-403450 | Station |
| 02/23/2015 | 782425 | Qwest Communications | $47.06 | 2110-31320-403450 | Qwest 406-259-3298 PW Traffic 3728 McDougall |
| | | | | | Qwest 406-259-7758 Measured Lines Depot |
| | | | | | 60% 6700 31410 403450 |
| 02/23/2015 | 782425 | Qwest Communications | $53.56 | 6600-31100-403450 | 40% 6600 31100 403450 |
| | | | | | Qwest 406-259-7758 Measured Lines Depot |
| | | | | | 60% 6700 31410 403450 |
| 02/23/2015 | 782425 | Qwest Communications | $80.33 | 6700-31410-403450 | 40% 6600 31100 403450 |
| 02/23/2015 | 782425 | Qwest Communications | $118.32 | 1500-22250-403450 | Qwest 406-373-3742 Fire RR Crossing Alarm |
| 02/23/2015 | 782425 | Qwest Communications | $45.76 | 2250-22320-403450 | Qwest 406-651-0282 Fire 5 911 Line |
| 02/23/2015 | 782425 | Qwest Communications | $91.52 | 1500-21110-403450 | Qwest 406-656-1046 PD3 FAX Line |
| | | | | | Qwest 406-656-9578 Planning Traffic Central |
| 02/23/2015 | 782425 | Qwest Communications | $31.14 | 2400-43010-407214 | Broadwater |
| 02/23/2015 | 782425 | Qwest Communications | $31.14 | 2400-43010-407214 | Qwest 406-656-9604 Planning Traffic Central 9th |
| 02/23/2015 | 782425 | Qwest Communications | $50.15 | 5610-71170-403450 | Qwest 406-256-6014 Airport P9 Building |
| 02/23/2015 | 782425 | Qwest Communications | $311.26 | 2250-22320-403450 | Qwest 406-245-7101 9-1-1 Center Landfill #2 |
| | | | | | Qwest 406-245-7102 9-1-1 Center Fox Reservoi |
| 02/23/2015 | 782425 | Qwest Communications | $311.26 | 2250-22320-403450 | #2 |
| | | | | | Qwest 406-256-7001 Solid Waste Scale House |
| 02/23/2015 | 782425 | Qwest Communications | $47.06 | 5410-31230-403450 | 5410 31230 403450 |
| 02/23/2015 | 782427 | Rimrock Foundatior | $4,144.81 | 2460-12530-403590 | Jan. State Rimrock |
| 02/23/2015 | 782427 | Rimrock Foundatior | $3,667.79 | 7380-12640-403590 | Jan. IOP Counselor |
| 02/23/2015 | 782427 | Rimrock Foundatior | $2,172.64 | 7380-12640-403990 | Jan. Case Manage |
| 02/23/2015 | 782427 | Rimrock Foundatior | $3,604.57 | 2480-12620-403560 | Jan. Day Treatment Counselo |
| 02/23/2015 | 782427 | Rimrock Foundatior | $3,749.23 | 7380-12640-403590 | Jan. IOP |
| 02/23/2015 | 782427 | Rimrock Foundatior | $3,598.57 | 7380-12640-403590 | Jan. IOP |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $1,298.02 | 2110-31320-402320 | 5-GS92649 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $1,255.36 | 1500-22260-402320 | 5-GS91966 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $188.60 | 2110-31320-402320 | 5-GS92507 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $710.56 | 1500-21120-402320 | 5-GS92606 |

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| 02/23/2015 | 782428 | Rimrock Tire Inc | $313.72 | 2090-44520-402320 | 5-GS92732 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $14.95 | 1500-21120-402320 | 5-92458 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $78.33 | 2110-31320-402320 | 5-92495 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $43.51 | 2110-31320-402320 | 5-92500 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $29.95 | 2110-31320-402320 | 5-92509 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $29.95 | 2110-31320-402320 | 5-92533 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $33.28 | 2110-31320-402320 | 5-92561 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $33.28 | 2110-31320-402320 | 5-92572 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $180.25 | 2110-31320-402320 | 5-92596 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $30.82 | 2110-31320-402320 | 5-92665 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $28.95 | 2110-31320-402320 | 5-92676 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $28.95 | 2110-31320-402320 | 5-92719 |
| 02/23/2015 | 782428 | Rimrock Tire Inc | $1,473.67 | 6300-17530-407310 | Replacement tire required for Street/Traffic #1191 #2015-009 |
| 02/23/2015 | 782431 | Sanderson Stewart | $6,186.15 | 5130-85910-409340 | WO 14-15 Bench Boulevard North Sanitary Sewe Ext |
| 02/23/2015 | 782431 | Sanderson Stewart | $66,056.02 | 5030-75910-409340 | WO 15-01 2015 Water & Sewer Project - Sch 3 17th St West |
| 02/23/2015 | 782431 | Sanderson Stewart | $1,360.00 | 2400-43010-407214 | inv 38863 Services Dec 28, 2014 - Jan 30, 2015 |
| 02/23/2015 | 782431 | Sanderson Stewart | $6,764.12 | 5030-75910-409340 | WO 14-13 Mullowney/Elysian Water & Sewer Ext |
| 02/23/2015 | 782431 | Sanderson Stewart | $10,138.66 | 5130-85910-409340 | WO 14-13 Mullowney/Elysian Water & Sewer Ext |
| 02/23/2015 | 782439 | Tarpco | $2,770.00 | 5410-31220-402290 | tarp for restore roll of |
| 02/23/2015 | 782441 | The Land Group Inc | $6,224.10 | 7690-51820-403560 | Centennial Park Master Plan update |
| 02/23/2015 | 782442 | Titan Machinery Inc | $154,955.00 | 2110-31320-409420 | 2015 Loader approved fy 14/15 |
| 02/23/2015 | 782442 | Titan Machinery Inc | -$23,875.00 | 2110-31320-409420 | Trade in of unit 1205 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $7,172.40 | 6010-00000-141000 | 209581 PO NUM 297302 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $7,026.55 | 6010-00000-141000 | 212564 PO NUM 297302 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $12,229.71 | 6010-00000-141000 | 209907 PO NUM 297303 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $3,063.56 | 5710-00000-141000 | BUS MET PO NUM 297299 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $86.79 | 1500-22260-402310 | 213448: FIRE 5 - UNLEADED DELIVERED 2/17/2015 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $193.17 | 1500-22260-402310 | 213448: FIRE 5 - BLENDED DIESEL (50 GALLONS) #1 AND (50 GALLONS) #2 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $499.84 | 1500-22260-402310 | 213449: FIRE1 - UNLEADED DELIVERED 2/17/2015 |
| 02/23/2015 | 782443 | Town & Country Supply Association | $320.66 | 1500-22260-402310 | 213449: FIRE 1 - BLENDED DIESEL (83 GALLONS) #1 AND (83 GALLONS) #2 DELIVERED 2/17/2015 |
| 02/23/2015 | 782458 | Yellowstone County Finance Dp | $13,200.00 | 1500-21110-403590 | January 2015 Inmate Billing |
| 02/23/2015 | 782459 | Yellowstone County GIS | $7,000.00 | 6200-19130-403590 | Yellowstone County MOU 3rd Quarter Fee |
| 02/23/2015 | 782461 | Zeier Consulting LLC | $3,867.50 | 1990-15050-403590 | 1502 - Professional services for January 2015 pe contract. |

**Consent 1. L. 2.**

**Regular City Council Meeting**
**Meeting Date:** 03/23/2015
**TITLE:** Payment of Claims March 2, 2015
**PRESENTED BY:** Patrick M. Weber, Finance Director
**Department:** City Hall Administration

## PROBLEM/ISSUE STATEMENT

Claims in the amount of $1,159,708.29 have been audited and are presented for City Council payment approval. A complete listing of the claims dated March 2, 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 03-02-2015

| Check Date | Check | Name | Amount | Account | Item Desc |
|---|---|---|---|---|---|
| 03/02/2015 | 782462 | 1111 Entertainment LLP | $43,019.00 | 2030-15130-407968 | TIF Assistance |
| 03/02/2015 | 782463 | 3M Library Systems | $12,815.72 | 2600-55180-403690 | Invoice OF63947 |
| 03/02/2015 | 782464 | Ace Electric Inc | $229.61 | 0100-51210-402190 | Repairs to front office wiring. |
| 03/02/2015 | 782464 | Ace Electric Inc | $29,954.22 | 5620-71200-409490 | Operations Center Generator Replacement |
| 03/02/2015 | 782465 | Advanced Computer Technologies Llc | $10,000.00 | 0100-12200-403553 | Hosting and Maintenance of DCCM |
| 03/02/2015 | 782475 | Border States Electric | $100.14 | 5020-00000-141000 | WATER PARTS AND SUPPLIES PO NUM |
| 03/02/2015 | 782475 | Border States Electric | $473.46 | 5020-00000-141000 | ELECTRICAL FOR WTP & WWTP PO NUM |
| 03/02/2015 | 782475 | Border States Electric | $2,283.75 | 5120-84300-403660 | Repair-control keypad |
| 03/02/2015 | 782475 | Border States Electric | $106.93 | 1500-22260-402320 | 908766885 |
| 03/02/2015 | 782475 | Border States Electric | $1,961.04 | 2110-00000-141318 | STREET LIGHTS PO NUM 296974 |
| 03/02/2015 | 782475 | Border States Electric | $18.38 | 2110-31320-402430 | signal cable |
| 03/02/2015 | 782475 | Border States Electric | $1,860.00 | 5020-74000-403823 | CCV205 Rockwell Training |
| 03/02/2015 | 782475 | Border States Electric | $1,860.00 | 5120-84300-403823 | CCV205 Rockwell Training |
| 03/02/2015 | 782475 | Border States Electric | $1,860.00 | 5020-74000-403823 | CCV206 Rockwell Training |
| 03/02/2015 | 782475 | Border States Electric | $1,860.00 | 5120-84300-403823 | CCV206 Rockwell Training |
| 03/02/2015 | 782475 | Border States Electric | $511.17 | 5020-00000-141000 | ELECTRICAL FOR WTP & WWTP PO NUM |
| 03/02/2015 | 782479 | Business Tax Section | $155.23 | 5130-00000-201100 | retainage correction for "ghosting" issues |
| 03/02/2015 | 782479 | Business Tax Section | $44.44 | 8400-00000-201100 | retainage correction for "ghosting" issues |
| 03/02/2015 | 782479 | Business Tax Section | -$199.67 | 0100-15120-408120 | retainage correction for "ghosting" issues |
| 03/02/2015 | 782479 | Business Tax Section | $4,384.29 | 4980-55110-409220 | Construction of new Library, demolition of existing |
| 03/02/2015 | 782479 | Business Tax Section | $18.30 | 4980-00000-201100 | Jackson Retainage Release 5 |
| 03/02/2015 | 782479 | Business Tax Section | $302.57 | 5620-71200-409490 | Operations Center Generator Replacement |
| 03/02/2015 | 782480 | Carquest Auto Parts | $264.54 | 5020-00000-141000 | WATER PARTS AND SUPPLIES PO NUM |
| 03/02/2015 | 782480 | Carquest Auto Parts | $13.79 | 5020-75000-402410 | Lock tite for flashers |
| 03/02/2015 | 782480 | Carquest Auto Parts | $9.20 | 5120-85000-402410 | Lock tite for flashers |
| 03/02/2015 | 782480 | Carquest Auto Parts | $103.59 | 5020-74000-402360 | Generator batteries |
| 03/02/2015 | 782480 | Carquest Auto Parts | $5.34 | 6010-00000-141000 | 1910-333198 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $58.88 | 6010-00000-141000 | 1910-333198 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $10.93 | 6010-00000-141000 | 1910-333395 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $8.26 | 5410-31220-402320 | 1910-332738 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $2.35 | 2110-31320-402320 | 1910-332794 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $50.14 | 6010-15530-402650 | 1910-333060 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $5.24 | 6010-15530-402650 | 1910-333291 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $100.79 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $11.45 | 5120-85000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $11.59 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $25.99 | 5120-85000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $57.52 | 5120-84000-402450 | Air filter/silcone |
| 03/02/2015 | 782480 | Carquest Auto Parts | $17.14 | 5020-73120-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $47.40 | 5020-00000-141000 | WATER PARTS AND SUPPLIES PO NUM |
| 03/02/2015 | 782480 | Carquest Auto Parts | $52.27 | 5020-74000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $88.29 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $15.50 | 6010-00000-141000 | 1910-331078 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $284.40 | 6010-00000-141000 | 1910-331405 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | -$284.40 | 6010-00000-141000 | 1910-331486 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $143.28 | 6010-00000-141000 | 1910-331487 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $80.56 | 6010-00000-141000 | 1910-331540 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $28.78 | 6010-00000-141000 | 1910-331887 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $68.42 | 6010-00000-141000 | 1910-331948 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $62.79 | 6010-00000-141000 | 1910-332403 PO NUM 297032 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $27.99 | 2110-31320-402320 | 1910-331078 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $17.40 | 6010-15530-402410 | 1910-331079 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $30.68 | 2110-31320-402320 | 1910-331629 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $75.32 | 5410-31220-402320 | 1910-331758 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $158.41 | 2110-31320-402320 | 1910-331921 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $25.70 | 6010-15530-402650 | 1910-332394 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $27.42 | 5410-31220-402320 | 1910-332403 |
| 03/02/2015 | 782480 | Carquest Auto Parts | $4.39 | 5020-74000-402450 | Grease fitting |
| 03/02/2015 | 782480 | Carquest Auto Parts | $449.28 | 5020-00000-141000 | WATER PARTS AND SUPPLIES PO NUM |
| 03/02/2015 | 782480 | Carquest Auto Parts | $45.05 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $34.14 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $103.59 | 5120-84000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $33.87 | 5020-74000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $5.67 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $31.48 | 5120-85000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $15.39 | 5120-85000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $17.14 | 5020-73120-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $54.43 | 5020-73120-402380 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $5.54 | 5120-84000-402450 | Air filter |
| 03/02/2015 | 782480 | Carquest Auto Parts | $33.66 | 5020-74000-402450 | Filters |
| 03/02/2015 | 782480 | Carquest Auto Parts | $25.07 | 5020-73140-402410 | Compression tester |
| 03/02/2015 | 782480 | Carquest Auto Parts | $8.36 | 5120-83140-402410 | Compression tester |
| 03/02/2015 | 782480 | Carquest Auto Parts | $13.25 | 5020-73140-402410 | Carb tool |
| 03/02/2015 | 782480 | Carquest Auto Parts | $4.41 | 5120-83140-402410 | Carb tool |
| 03/02/2015 | 782480 | Carquest Auto Parts | $34.14 | 5120-85000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $100.79 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $37.53 | 5120-85000-402320 | NONSTOCKING ITEMS-P.U.D. |

| Check Date | Check | Name | Amount | Account | Item Desc |
|---|---|---|---|---|---|
| 03/02/2015 | 782480 | Carquest Auto Parts | $48.96 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $82.84 | 5020-73120-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $14.95 | 5120-84000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782480 | Carquest Auto Parts | $16.00 | 5020-75000-402320 | NONSTOCKING ITEMS-P.U.D. |
| 03/02/2015 | 782482 | Chicago Title of Montana LLC | $15,000.00 | 2830-65810-407277 | FTHB Becky McColley 1131 Jordan Circle, |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $1,300.00 | 5610-71120-403660 | Invoice #3880. Stock Panels |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $750.00 | 5610-00000-141000 | Invoice #3881. Safety Edges for Inventory |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $155.00 | 5610-71190-403660 | Invoice #3904. Detail Bay 3 Enterprise Exit Door |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $155.00 | 5610-71190-403660 | Invoice #3905. Detail Bay 4 Avis/Budget Replace |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $2,080.00 | 5610-00000-141000 | Invoice #3892. Detail Bay Springs Inventory |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $555.00 | 5610-71190-403660 | Invoice #3893. Replace bottom section in CW1 hit |
| 03/02/2015 | 782484 | Connor's Garage Door Service | $530.00 | 5610-71190-403660 | Invoice #3894. Service and adjusted door and |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $22.67 | 5410-31220-402320 | 004-98665 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $50.00 | 5410-31220-402320 | 004-98665 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $3,327.80 | 2110-31320-402320 | 004-98743 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $91.58 | 5120-85000-402320 | 004-98882 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $69.96 | 5410-31220-402320 | 004-98896 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $4.71 | 5410-31220-402320 | 004-98896 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | -$91.58 | 5120-85000-402320 | 004-98902 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $720.60 | 5410-31220-402320 | 004-98953 |
| 03/02/2015 | 782488 | Cummins Rocky Mountain Llc | $3,597.80 | 5120-85000-403660 | Repair generator |
| 03/02/2015 | 782491 | Desert Mountain Corporation | $4,910.31 | 2110-31320-404721 | ice slicer for melting snow |
| 03/02/2015 | 782497 | Ecoverse Industries Ltd | $18,321.83 | 5410-31220-402320 | 50077 |
| 03/02/2015 | 782497 | Ecoverse Industries Ltd | $841.80 | 5410-31220-402320 | 50077 |
| 03/02/2015 | 782497 | Ecoverse Industries Ltd | $62.16 | 6010-15530-402650 | 50077 |
| 03/02/2015 | 782497 | Ecoverse Industries Ltd | $66.30 | 5410-31220-402320 | 50155 |
| 03/02/2015 | 782497 | Ecoverse Industries Ltd | $13.39 | 5410-31220-402320 | 50155 |
| 03/02/2015 | 782499 | Empire Garage Owner's Association | $9,155.70 | 5210-15940-403660 | City of Billings February Assessment. |
| 03/02/2015 | 782501 | Esco Corporation | $4,977.00 | 5410-31230-402320 | grinder at landfill |
| 03/02/2015 | 782505 | Ferguson Enterprises Inc | $28,550.59 | 5020-00000-141000 | SYSTEMS PO NUM 297280 |
| 03/02/2015 | 782516 | Hellas Construction Inc | $28,500.00 | 8730-51990-409370 | Payment 1 for professional engineering services to |
| 03/02/2015 | 782522 | Intermountain Traffic, LLC | $12,855.00 | 2110-31320-402430 | Aldis Gridsmart system per quote# 140617-2a |
| 03/02/2015 | 782527 | Jackson Contractor Group Inc | $434,044.71 | 4980-55110-409220 | Construction of new Library, demolition of existing |
| 03/02/2015 | 782527 | Jackson Contractor Group Inc | $1,811.69 | 4980-00000-201100 | Retainage Release #5 |
| 03/02/2015 | 782530 | Kadrmas Lee & Jackson | $37,044.62 | 1990-15050-409310 | WO 15-07 Orchard Lane |
| 03/02/2015 | 782530 | Kadrmas Lee & Jackson | $18,313.04 | 4710-31610-409310 | SID 1382 Colton Boulevard |
| 03/02/2015 | 782530 | Kadrmas Lee & Jackson | $2,088.65 | 5030-75910-409340 | SID 1382 Colton Boulevard |
| 03/02/2015 | 782530 | Kadrmas Lee & Jackson | $3,213.32 | 8400-31840-409310 | SID 1382 Colton Boulevard |
| 03/02/2015 | 782530 | Kadrmas Lee & Jackson | $15,721.97 | 2050-31310-409310 | SID 1382 Colton Boulevard |
| 03/02/2015 | 782544 | LSC Transportation Consultants, Inc. | $11,818.53 | 5710-71410-407335 | General Transit Planning and Development |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $98.23 | 5210-15950-403440 | 79915212090 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $24.13 | 0100-51260-403440 | 0619431000 6 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $262.66 | 6500-15660-403440 | 1307331000 8 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $488.91 | 1500-22210-403440 | 5336531000 1 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $26.24 | 5120-85000-403440 | 7354531000 2 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $2,945.13 | 6500-15660-403440 | 7576331000 2 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $5,040.67 | 6500-15660-403440 | 9897331000 0 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $734.59 | 6500-15660-403440 | 9937331000 4 |
| 03/02/2015 | 782550 | Montana Dakota Utilities Co | $430.36 | 1500-22210-403440 | 4421901000 4 |
| 03/02/2015 | 782554 | Morrison Maierle Inc | $7,504.29 | 5630-71220-409390 | Amendment 13-Wetland Delineation, Surveys & |
| 03/02/2015 | 782554 | Morrison Maierle Inc | $46,579.69 | 5130-85910-409340 | WO 15-01 Sch 2 2015 Sewer Main Replacement |
| 03/02/2015 | 782557 | Moulton Bellingham PC | $16,297.25 | 0100-16110-403560 | Inv. 111583, Watters v. City |
| 03/02/2015 | 782557 | Moulton Bellingham PC | $2,573.50 | 5610-71100-403590 | Invoice #111300. Jon Marchi Bankruptcy |
| 03/02/2015 | 782561 | NorMont Equipment Company | $357.00 | 2110-31320-402320 | gutter wire for sweeper brooms |
| 03/02/2015 | 782561 | NorMont Equipment Company | $82.62 | 2110-31320-402410 | contractor shovels |
| 03/02/2015 | 782561 | NorMont Equipment Company | $91.80 | 2110-31320-402290 | green and white marking paint |
| 03/02/2015 | 782561 | NorMont Equipment Company | $1,470.00 | 2110-31320-402420 | telspar sign post |
| 03/02/2015 | 782561 | NorMont Equipment Company | $141.75 | 2110-31320-402290 | green and white marking paint |
| 03/02/2015 | 782561 | NorMont Equipment Company | $60.90 | 2110-31320-402410 | manure fork for cleaning ditches |
| 03/02/2015 | 782561 | NorMont Equipment Company | $1,207.50 | 2110-31320-402320 | poly tube broom for sweepers |
| 03/02/2015 | 782563 | NorthWestern Energy | $46.00 | 5210-15940-403410 | Closing electrical bill for Howard Wu's space at |
| 03/02/2015 | 782563 | NorthWestern Energy | $9.30 | 0100-51120-403410 | 07230907 |
| 03/02/2015 | 782563 | NorthWestern Energy | $9.30 | 0100-51120-403410 | 07231707 |
| 03/02/2015 | 782563 | NorthWestern Energy | $372.33 | 8720-51980-403410 | 10590933 |
| 03/02/2015 | 782563 | NorthWestern Energy | $1,309.96 | 5210-15910-403410 | 15942824 |
| 03/02/2015 | 782563 | NorthWestern Energy | $338.58 | 5710-71480-403410 | 17847567 |
| 03/02/2015 | 782563 | NorthWestern Energy | $1,467.09 | 0100-51270-403410 | Monthly electrical charges. |
| 03/02/2015 | 782563 | NorthWestern Energy | $6,449.31 | 6500-15670-403410 | 01005073 |
| 03/02/2015 | 782563 | NorthWestern Energy | $532.62 | 1500-22210-403410 | 07125370 |
| 03/02/2015 | 782563 | NorthWestern Energy | $97.63 | 0100-51220-403410 | 07126832 |
| 03/02/2015 | 782563 | NorthWestern Energy | $25.41 | 5710-71480-403410 | 07127640 |
| 03/02/2015 | 782563 | NorthWestern Energy | $394.88 | 1500-22210-403410 | 07208408 |
| 03/02/2015 | 782563 | NorthWestern Energy | $187.00 | 5020-74000-403410 | 07222524 |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 08317026 |
| 03/02/2015 | 782563 | NorthWestern Energy | $2,229.85 | 5210-15910-403410 | 15696362 |
| 03/02/2015 | 782563 | NorthWestern Energy | $460.40 | 5210-15950-403410 | 21283197 |
| 03/02/2015 | 782563 | NorthWestern Energy | $200.69 | 6070-22350-403410 | 07215809 |

| Check Date | Check | Name | Amount | Account | Item Desc |
|---|---|---|---|---|---|
| 03/02/2015 | 782563 | NorthWestern Energy | $8.65 | 0100-51120-403410 | 07222375 |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 07222474 |
| 03/02/2015 | 782563 | NorthWestern Energy | $94.93 | 0100-51120-403410 | 07222557 |
| 03/02/2015 | 782563 | NorthWestern Energy | $67.28 | 0100-51120-403410 | 07222664 |
| 03/02/2015 | 782563 | NorthWestern Energy | $14.66 | 0100-51120-403410 | 07222698 |
| 03/02/2015 | 782563 | NorthWestern Energy | $12.28 | 0100-51120-403410 | 07222920 |
| 03/02/2015 | 782563 | NorthWestern Energy | $27.18 | 0100-51120-403410 | 07222938 |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 07229057 |
| 03/02/2015 | 782563 | NorthWestern Energy | $107.07 | 0100-51120-403410 | 07230352 |
| 03/02/2015 | 782563 | NorthWestern Energy | $8.78 | 0100-51120-403410 | 07230360 |
| 03/02/2015 | 782563 | NorthWestern Energy | $181.87 | 0100-51120-403410 | 07230378 |
| 03/02/2015 | 782563 | NorthWestern Energy | $60.91 | 0100-51120-403410 | 07230428 |
| 03/02/2015 | 782563 | NorthWestern Energy | $17.90 | 0100-51120-403410 | 07230550 |
| 03/02/2015 | 782563 | NorthWestern Energy | $27.04 | 0100-51120-403410 | 07230568 |
| 03/02/2015 | 782563 | NorthWestern Energy | $8.76 | 0100-51120-403410 | 07230576 |
| 03/02/2015 | 782563 | NorthWestern Energy | $33.40 | 0100-51120-403410 | 07230584 |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 07229339 |
| 03/02/2015 | 782563 | NorthWestern Energy | $250.20 | 5610-71170-403410 | 0712817-6. IP-House. February 2015 |
| 03/02/2015 | 782563 | NorthWestern Energy | $63,631.73 | 5120-84000-403410 | 725 Hwy 87 East |
| 03/02/2015 | 782563 | NorthWestern Energy | $597.56 | 5020-74000-403410 | Airport Rd/17th West/HWY 3/Waldo |
| 03/02/2015 | 782563 | NorthWestern Energy | $2,676.20 | 5020-73140-403410 | 2251 Belknap Ave |
| 03/02/2015 | 782563 | NorthWestern Energy | $14,273.08 | 5020-74000-403410 | 2251 Belknap Ave |
| 03/02/2015 | 782563 | NorthWestern Energy | $53,524.06 | 5020-74000-403410 | 2251 Belknap Ave |
| 03/02/2015 | 782563 | NorthWestern Energy | $892.07 | 5120-83140-403410 | 2251 Belknap Ave |
| 03/02/2015 | 782563 | NorthWestern Energy | $326.48 | 5610-71170-403410 | 0712792-1. IP-7. February 2015 |
| 03/02/2015 | 782563 | NorthWestern Energy | $16.36 | 5610-71170-403410 | 0712799-6. IP-8. February 2015 |
| 03/02/2015 | 782563 | NorthWestern Energy | $1,207.44 | 5610-71170-403410 | 0712800-2. IP-9. February 2015 |
| 03/02/2015 | 782563 | NorthWestern Energy | $62.73 | 5610-71130-403410 | 0719616-5. ARFF Facility Lights. February 2015 |
| 03/02/2015 | 782563 | NorthWestern Energy | $2,804.73 | 5210-15920-403410 | 07208341 |
| 03/02/2015 | 782563 | NorthWestern Energy | $35.69 | 0100-51120-403410 | 07222573 |
| 03/02/2015 | 782563 | NorthWestern Energy | $0.00 | 0100-51120-403410 | 07222607 |
| 03/02/2015 | 782563 | NorthWestern Energy | $0.00 | 0100-51120-403410 | 07222615 |
| 03/02/2015 | 782563 | NorthWestern Energy | $0.00 | 0100-51120-403410 | 07222623 |
| 03/02/2015 | 782563 | NorthWestern Energy | $0.00 | 0100-51120-403410 | 07222656 |
| 03/02/2015 | 782563 | NorthWestern Energy | $0.00 | 0100-51120-403410 | 07222680 |
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| 03/02/2015 | 782563 | NorthWestern Energy | $0.00 | 0100-51120-403410 | 07230527 |
| 03/02/2015 | 782563 | NorthWestern Energy | $284.51 | 6600-31100-403410 | Electricity |
| 03/02/2015 | 782563 | NorthWestern Energy | $426.76 | 6700-31410-403410 | Electricity |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 07231624 |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 07236441 |
| 03/02/2015 | 782563 | NorthWestern Energy | $7.45 | 0100-51120-403410 | 07236458 |
| 03/02/2015 | 782563 | NorthWestern Energy | $20.31 | 0100-51120-403410 | 07894371 |
| 03/02/2015 | 782564 | NPC Research | $1,919.79 | 7380-12640-403990 | Jan. NPC |
| 03/02/2015 | 782564 | NPC Research | $1,203.13 | 2480-12630-403560 | Jan. NPC |
| 03/02/2015 | 782569 | Public Works-Administration | $7,164.00 | 5050-75150-403671 | PWU Jan 2015 Engineering Permits - WSRP |
| 03/02/2015 | 782569 | Public Works-Administration | $2,694.00 | 5020-75000-403680 | PWU Jan 2015 Engineering Permits - Watermain |
| 03/02/2015 | 782569 | Public Works-Administration | $104.00 | 5120-85000-403680 | PWU Jan 2015 Engineering Permits - Sewermain |
| 03/02/2015 | 782577 | Sanderson Stewart | $50,379.14 | 2010-15070-409310 | WO 15-08 Exposition Gateway |
| 03/02/2015 | 782581 | Six Robblees Inc | $2,541.84 | 5710-71440-402390 | AUTO &TRUCK MAINT.ITEMS |
| 03/02/2015 | 782581 | Six Robblees Inc | $473.64 | 5020-00000-141000 | WATER PARTS AND SUPPLIES PO NUM |
| 03/02/2015 | 782593 | Town & Country Supply Association | $14,702.64 | 5610-71180-402313 | Invoice #209944. QTA Car Rental Fuel |
| 03/02/2015 | 782593 | Town & Country Supply Association | $13,959.47 | 5710-00000-141000 | BUS MET PO NUM 297330 |
| 03/02/2015 | 782596 | Turbiville Industrial Electric Works | $3,008.81 | 5120-84300-403660 | Repair ABB centrifuge back drive |
| 03/02/2015 | 782597 | Valmont Industries Inc | $1,851.30 | 2110-00000-141318 | STREET LIGHTS PO NUM 296986 |
| 03/02/2015 | 782597 | Valmont Industries Inc | $1,254.00 | 2110-00000-141318 | STREET LIGHTS PO NUM 296987 |
| 03/02/2015 | 782597 | Valmont Industries Inc | $1,312.30 | 2110-00000-141318 | STREET LIGHTS PO NUM 296988 |
| 03/02/2015 | 782597 | Valmont Industries Inc | $1,312.30 | 2110-00000-141318 | STREET LIGHTS PO NUM 296989 |
| 03/02/2015 | 782597 | Valmont Industries Inc | $1,312.30 | 2110-00000-141318 | STREET LIGHTS PO NUM 296990 |
| 03/02/2015 | 782598 | Verizon Wireless | $200.09 | 1500-21700-403450 | Animal Shelter MDT |
| 03/02/2015 | 782598 | Verizon Wireless | $738.61 | 7170-21660-403450 | CCSIU Cell/PTT |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 7170-21660-403450 | CCSIU Air Card |
| 03/02/2015 | 782598 | Verizon Wireless | $80.02 | 7170-21660-403450 | CCSIU RAVEN |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 0100-13130-403450 | City Administration 406-839-4295 Bruce McCandless |
| 03/02/2015 | 782598 | Verizon Wireless | $80.02 | 0100-43210-403450 | Code Enforcement Air Cards |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 1500-22210-403450 | Fire MiFi 406-839-3253 |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 2200-22330-402410 | Fire HAZMAT MDT 406-670-1284 |
| 03/02/2015 | 782598 | Verizon Wireless | $1,080.45 | 1500-22210-403450 | Fire MDT |
| 03/02/2015 | 782598 | Verizon Wireless | $80.02 | 6200-19110-403450 | ITD |
| 03/02/2015 | 782598 | Verizon Wireless | $80.08 | 2600-55170-403450 | Library Outreach Air Cards |
| 03/02/2015 | 782598 | Verizon Wireless | $3,991.38 | 1500-21110-403450 | Police MDT Toughbooks |
| 03/02/2015 | 782598 | Verizon Wireless | $470.28 | 5710-71470-403160 | MET Transit Tablets |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 1500-21110-403450 | Police ICAC 406-690-7347 |

| Check Date | Check | Name | Amount | Account | Item Desc |
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| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 1500-21110-403450 | Police MiFi 406-633-0820 |
| 03/02/2015 | 782598 | Verizon Wireless | $160.04 | 1500-21110-403450 | Police US Marshall Toughbooks |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 0100-51120-403450 | PRPL-PARKS PMD Air Card<br>406-794-6977 |
| 03/02/2015 | 782598 | Verizon Wireless | $240.06 | 2090-44510-403450 | PW-Building Air Cards |
| 03/02/2015 | 782598 | Verizon Wireless | $216.05 | 5020-75000-403450 | PW-Distribution Collection Tablets 60%/40%<br>60% 5020-75000-403450<br>40% 5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $144.04 | 5120-85000-403450 | PW-Distribution Collection Tablets 60%/40%<br>60% 5020-75000-403450<br>40% 5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $100.05 | 6700-31410-403450 | PW Engineering |
| 03/02/2015 | 782598 | Verizon Wireless | $70.03 | 2110-31320-403450 | PW-Streets 406-697-0361 iPad<br>406-633-1991 iPad |
| 03/02/2015 | 782598 | Verizon Wireless | $18.02 | 5020-75000-403450 | PWBELKNAP-AIR 60% 40%<br>60% 5020-75000-403450<br>40% 5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $12.00 | 5120-85000-403450 | PWBELKNAP-AIR 60% 40%<br>60% 5020-75000-403450<br>40% 5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $162.53 | 5020-73120-403450 | Meter Reader Account 4420118965-00001<br>502-73120-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $120.03 | 7170-21660-403450 | CCSIU MDT |
| 03/02/2015 | 782598 | Verizon Wireless | $81.33 | 5020-75000-403450 | PW-DIS-COLL CITYWORKS 60%/40%<br>5020-75000-40345<br>5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $54.22 | 5120-85000-403450 | PW-DIS-COLL CITYWORKS 60%/40%<br>5020-75000-40345<br>5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $40.01 | 1500-21110-403450 | POLICE IPAD ST JOHN 406-690-5955<br>1500-21110-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $240.06 | 2110-31320-403450 | PW-STREETS CITY WORKS<br>21110-31320-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $542.43 | 5610-71100-403450 | Airport |
| 03/02/2015 | 782598 | Verizon Wireless | $146.70 | 1500-21700-403450 | Animal Shelter |
| 03/02/2015 | 782598 | Verizon Wireless | $86.32 | 7170-21660-403450 | CCSIU |
| 03/02/2015 | 782598 | Verizon Wireless | $54.33 | 0100-16110-403450 | Legal |
| 03/02/2015 | 782598 | Verizon Wireless | $52.60 | 1500-22250-403450 | Comm Center 911 |
| 03/02/2015 | 782598 | Verizon Wireless | $67.43 | 6500-15650-403450 | Facilites BOC<br>Plus 70% of 406-672-3027 |
| 03/02/2015 | 782598 | Verizon Wireless | $84.77 | 6500-15670-403450 | Facilities City Hall<br>Plus 30% of 406-672-3027 |
| 03/02/2015 | 782598 | Verizon Wireless | $79.15 | 0100-15120-403450 | Finance Pat Weber |
| 03/02/2015 | 782598 | Verizon Wireless | $807.33 | 1500-22210-403450 | Fire Department |
| 03/02/2015 | 782598 | Verizon Wireless | $73.96 | 0100-17500-403450 | Human Resources |
| 03/02/2015 | 782598 | Verizon Wireless | $13.15 | 6200-19130-403450 | ITD GIS |
| 03/02/2015 | 782598 | Verizon Wireless | $13.15 | 6200-19110-403450 | ITD |
| 03/02/2015 | 782598 | Verizon Wireless | $26.30 | 2600-55170-403450 | Library Outreach |
| 03/02/2015 | 782598 | Verizon Wireless | $336.62 | 2600-55120-403450 | Library |
| 03/02/2015 | 782598 | Verizon Wireless | $42.86 | 0100-11000-403450 | Mayor |
| 03/02/2015 | 782598 | Verizon Wireless | $54.98 | 6010-15500-403450 | Motor Pool |
| 03/02/2015 | 782598 | Verizon Wireless | $192.14 | 0100-12200-403450 | Drug Court |
| 03/02/2015 | 782598 | Verizon Wireless | $90.90 | 0100-12120-403450 | Municipal Court Judge |
| 03/02/2015 | 782598 | Verizon Wireless | $13.15 | 2400-43010-403450 | Planning |
| 03/02/2015 | 782598 | Verizon Wireless | $3,292.21 | 1500-21110-403450 | Police |
| 03/02/2015 | 782598 | Verizon Wireless | $499.99 | 2510-21870-402190 | Police Forensic 406-794-6880<br>406-698-7323 |
| 03/02/2015 | 782598 | Verizon Wireless | $90.67 | 2510-21870-403450 | Police Forensic 406-794-6880<br>406-698-7323 |
| 03/02/2015 | 782598 | Verizon Wireless | $500.45 | 1500-21110-403450 | Police Resource Officers |
| 03/02/2015 | 782598 | Verizon Wireless | $28.64 | 2490-21960-403450 | Police DV 406-698-1391 |
| 03/02/2015 | 782598 | Verizon Wireless | $128.04 | 5210-15210-403450 | Parking |
| 03/02/2015 | 782598 | Verizon Wireless | $194.73 | 0100-51100-403450 | PRPL Admin |
| 03/02/2015 | 782598 | Verizon Wireless | $296.10 | 0100-51210-403450 | PRPL Recreation |
| 03/02/2015 | 782598 | Verizon Wireless | $71.83 | 0100-51400-403450 | Cemetery |
| 03/02/2015 | 782598 | Verizon Wireless | $43.97 | 0100-51120-403450 | Parks PMD |
| 03/02/2015 | 782598 | Verizon Wireless | $969.76 | 0100-51120-403450 | Parks |
| 03/02/2015 | 782598 | Verizon Wireless | $219.97 | 0100-51120-403450 | Parks Irrigation |
| 03/02/2015 | 782598 | Verizon Wireless | $125.72 | 6600-31100-403450 | Public Works Admin |
| 03/02/2015 | 782598 | Verizon Wireless | $148.57 | 2090-44510-403450 | Building |
| 03/02/2015 | 782598 | Verizon Wireless | $234.47 | 6700-31410-403450 | Engineering |
| 03/02/2015 | 782598 | Verizon Wireless | $190.14 | 5410-31210-403450 | Solid Waste |
| 03/02/2015 | 782598 | Verizon Wireless | $361.94 | 2110-31320-403450 | Streets |
| 03/02/2015 | 782598 | Verizon Wireless | $197.85 | 5410-31230-403450 | Solid Waste On Call |
| 03/02/2015 | 782598 | Verizon Wireless | $460.33 | 5020-75000-403450 | Distribution & Collection 60% 5020-75000-403450<br>Distribution & Collection 40$ 5120-85000-403450 |

| Check Date | Check | Name | Amount | Account | Item Desc |
|---|---|---|---|---|---|
| 03/02/2015 | 782598 | Verizon Wireless | $306.89 | 5120-85000-403450 | Distribution & Collection 60% 5020-75000-403450 |
| | | | | | Distribution & Collection 40$ 5120-85000-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $659.30 | 5020-74000-403450 | Water Treatment |
| | | | | | PWBelknap-WT |
| 03/02/2015 | 782598 | Verizon Wireless | $443.58 | 5020-73120-403450 | PWBLKNP MTRSHOP |
| 03/02/2015 | 782598 | Verizon Wireless | $69.82 | 5020-73110-403450 | Belknap Office 60% 5020-73110-403450 |
| | | | | | Belknap Office 40$ 5120-83110-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $46.56 | 5120-83110-403450 | Belknap Office 60% 5020-73110-403450 |
| | | | | | Belknap Office 40$ 5120-83110-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $87.28 | 5020-73140-403450 | PWBLKNP STORES 75% 5020-73140-403450 |
| | | | | | PWBLKNP STORES 25% 5120-83140-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $29.10 | 5120-83140-403450 | PWBLKNP STORES 75% 5020-73140-403450 |
| | | | | | PWBLKNP STORES 25% 5120-83140-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $923.06 | 5120-84000-403450 | Wastewater Treatment Plant |
| 03/02/2015 | 782598 | Verizon Wireless | $23.04 | 6060-19310-403450 | TeleComm Manager |
| 03/02/2015 | 782598 | Verizon Wireless | $92.05 | 5710-71420-403160 | On Call MET |
| 03/02/2015 | 782598 | Verizon Wireless | $39.34 | 5710-71410-403450 | MET Transit |
| 03/02/2015 | 782598 | Verizon Wireless | $92.33 | 0100-43210-403450 | Code Enforcement |
| 03/02/2015 | 782598 | Verizon Wireless | $57.70 | 0100-51120-403450 | Parks Seasonal |
| 03/02/2015 | 782598 | Verizon Wireless | $254.90 | 5020-74000-403450 | PWVLKNP ELECTRICIANS 50%/50% |
| | | | | | 50% 5020-74000-403450 |
| | | | | | 50% 5120-84300-403450 |
| 03/02/2015 | 782598 | Verizon Wireless | $254.91 | 5120-84300-403450 | PWVLKNP ELECTRICIANS 50%/50% |
| | | | | | 50% 5020-74000-403450 |
| | | | | | 50% 5120-84300-403450 |
| 03/02/2015 | 782602 | Western Heritage Center | $1,000.00 | 2600-55110-403590 | Invoice 1658 |
| 03/02/2015 | 782602 | Western Heritage Center | $2,000.00 | 2380-43670-407290 | invoice 1662 |

**Regular 2.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Public Hearing and Resolution Approving the FY 2016 - FY 2020 Capital Improvement Plan and the FY 2016 Equipment and Technology Replacement Plans

**PRESENTED BY:** David Mumford, Public Works Director

**Department:** Public Works

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## PROBLEM/ISSUE STATEMENT

The final draft of the FY 2016-2020 Capital Improvement Plan (CIP), the FY 2016 Equipment Replacement Plan (ERP), and the FY 2016 Technology Replacement Plan (TRP) were presented to the City Council at the February 17, 2015 work session. Staff requests that the Council hold a public hearing and consider final adoption of the Fiscal Year (FY) 2016 to FY 2020 CIP, the FY 2016 ERP and the FY 2016 TRP.

## ALTERNATIVES ANALYZED

After holding the public hearing, Council may:

- Adopt the CIP, ERP, and TRP as presented; or,
- Take no action which will not allow the items in the CIP, ERP, and TRP to be included in the City's budget for Fiscal Year (FY) 2016; or,
- Amend the program(s) to include any desired projects and changes, and adopt the CIP, ERP, and TRP as amended; or
- Defer action to a later Council meeting.

## FINANCIAL IMPACT

The CIP, ERP, and TRP are financial tools that indicate the City's priorities when the budgets are prepared for the City's departments. The FY 2016 CIP budget totals $104,708,512. The recommended replacements for the ERP total $7,048,532 for FY 2016. The FY 2016 TRP totals $768,014 of which $355,314 is for capital and $412,700 is for non-capital. Copies of the CIP, ERP, and TRP are on file in the City Clerk's Office.

## RECOMMENDATION

Staff recommends that Council approve the FY 2016 to FY 2020 CIP, the FY 2016 ERP and the FY 2016 TRP.

## APPROVED BY CITY ADMINISTRATOR

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**Attachments**

RESOLUTION 15-_____

A RESOLUTION ADOPTING THE FY 2016–2020 CAPITAL IMPROVEMENT PLAN, FY 2016 EQUIPMENT REPLACEMENT PLAN, AND FY 2016 TECHNOLOGY REPLACEMENT PLAN

WHEREAS, the Capital Improvement Plan (CIP), Equipment Replacement Plan (ERP), and Technology Replacement Plan (TRP) are financial tools adopted by the City Council as an indication of its priorities for funding projects in future budget years; and

WHEREAS, the City Council of the City of Billings was presented on February 17, 2015, with staff recommendations for the Fiscal Year (FY) 2016–2020 CIP, the FY 2016 ERP and the FY2016 TRP; and

WHEREAS, the City Council held a public hearing on the proposed Plans at its March 9, 2015, meeting.

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

Section 1: The FY 2016–2020 CIP, the FY 2016 ERP and the FY2016 TRP are hereby adopted as presented by staff on February 17, 2015.

Section 2: City staff is hereby directed to utilize the adopted plans to prepare the FY 2016 departmental budgets that will be incorporated into the comprehensive FY 2016 City of Billings budget, which will be presented for City Council review and approval at a future City Council meeting.

APPROVED AND PASSED by the City Council of the City of Billings this 9th day of March 2015.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

_____
Cari Martin, City Clerk

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Special Review 923 - Public Hearing

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

**Department:** Planning & Community Services

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## PROBLEM/ISSUE STATEMENT

This is a special review request to allow the location of an All Beverage Liquor License with gaming in Suites F & G (a 3,470 sf tenant space) in a Controlled Industrial (CI) zone, Lot 4A, Block 3, Midland Subdivision, 3rd Filing. The property is about 2 acres in size and is generally located at 960 S 24th Street West. The City Zoning Commission conducted a public hearing on March 3, 2015, and is forwarding a recommendation of conditional approval and adoption of the findings of the three criteria on a 4 to 0 vote.

## ALTERNATIVES ANALYZED

The Planning Division reviewed the application and the three criteria for special review and recommended conditional approval to the Zoning Commission. The Zoning Commission concurred with this recommendation. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria, and conforms to all parts of the Unified Zoning Regulations. The location is in one of the zoning districts that allows an all beverage license with gaming by special review approval. The application is conforming to the purposes of the regulations and the 2008 Growth Policy. The location of an additional license in this area should have no impact on the surrounding uses or neighbors. The application also conforms to the second and third criteria. There will be remodeling to the interior of the tenant spaces but no exterior expansion of the building. Planning staff is recommending conditions for this special review based on the approval criteria for special review uses.

The Zoning Commission recommends to the following conditions of approval:

## PROPOSED CONDITIONS

1. The special review approval shall be limited to Lot 4A, Block 3, Midland

Subdivision, 3rd Filing.
2. The special review approval is for the location of an all beverage license with gaming and no other use is intended or implied.
3. Any expansion of the interior space greater than 347 square feet will require an additional special review approval. The addition of an outdoor seating area will require an additional special review approval.
4. There shall be no outdoor public address system or outside announcement system, whether permanent or temporary, of any kind.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.
**NOTE** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

## FINANCIAL IMPACT

If the special review is approved, a building permit application fee will be submitted, and a new business license will be purchased for the new use. Property improvements will be added to the assessed value of the property, that may in turn increase property tax revenue to the City.

## BACKGROUND

This is a special review to locate a CASH casino in 2 vacant tenant spaces (Suites F and G) in an existing multi-tenant building located at 960 S 24th Street West. The property is easily accessible from S 24th Street West through Grant Road that also provides access to several businesses and hotels in the area. The City has approved 22 locations in the area for alcoholic beverage service but most are restaurants and may or may not offer gaming. This would be a bar with a casino, a different type of venue than is currently available. Old Chicago Pizza to the north does advertise a Speak Easy Casino but it is attached to the restaurant. There are no churches, parks with playing fields or playgrounds or schools within 600 feet of this proposed location. The City recently approved another similar bar and casino, Dotty's Casino, for a tenant space at 900 S 24th St West just north of Old Chicago Pizza.

## STAKEHOLDERS

The Zoning Commission conducted a public hearing on March 3, 2015, and received the staff recommendation and testimony from the applicant, Grant Agnew. No other testimony was received.

Mr. Agnew stated the 2 suites on the southwest corner of the building have had high turn over of tenants. He was approached by Century Gaming to convert these 2 units for a CASH Casino and thought this would be a plus for the surrounding market and for stabilizing his building tenancy. In response to a question from the Commission, Mr. Agnew stated he would not consider attaching a microbrewery to the casino tenant. He stated while this may be allowed in the future by the state, it was not a use he was interested in promoting in his building. Mr. Agnew stated most of his tenants are 9 am to 5 pm businesses with a few open later until 8 pm or 10 pm depending on service appointments. Mr. Agnew stated the CASH Casino would be open from 8 until 2 am. In response to a question from the Commission, Mr. Agnew stated he wants to start on the remodel as soon as the special review is approved with targeted opening of the business for June 1, 2015.

The Zoning Commission member Dan Wagner moved to recommend conditional approval and adoption of the findings of the 3 criteria and the motion was seconded by Mike Boyett. The motion passed on a 4 to 0 vote.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

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

**RECOMMENDATION**

The Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 923 on a 4 to 0 vote.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Zoning Map

Site photos

Site Plan and Applicant letter

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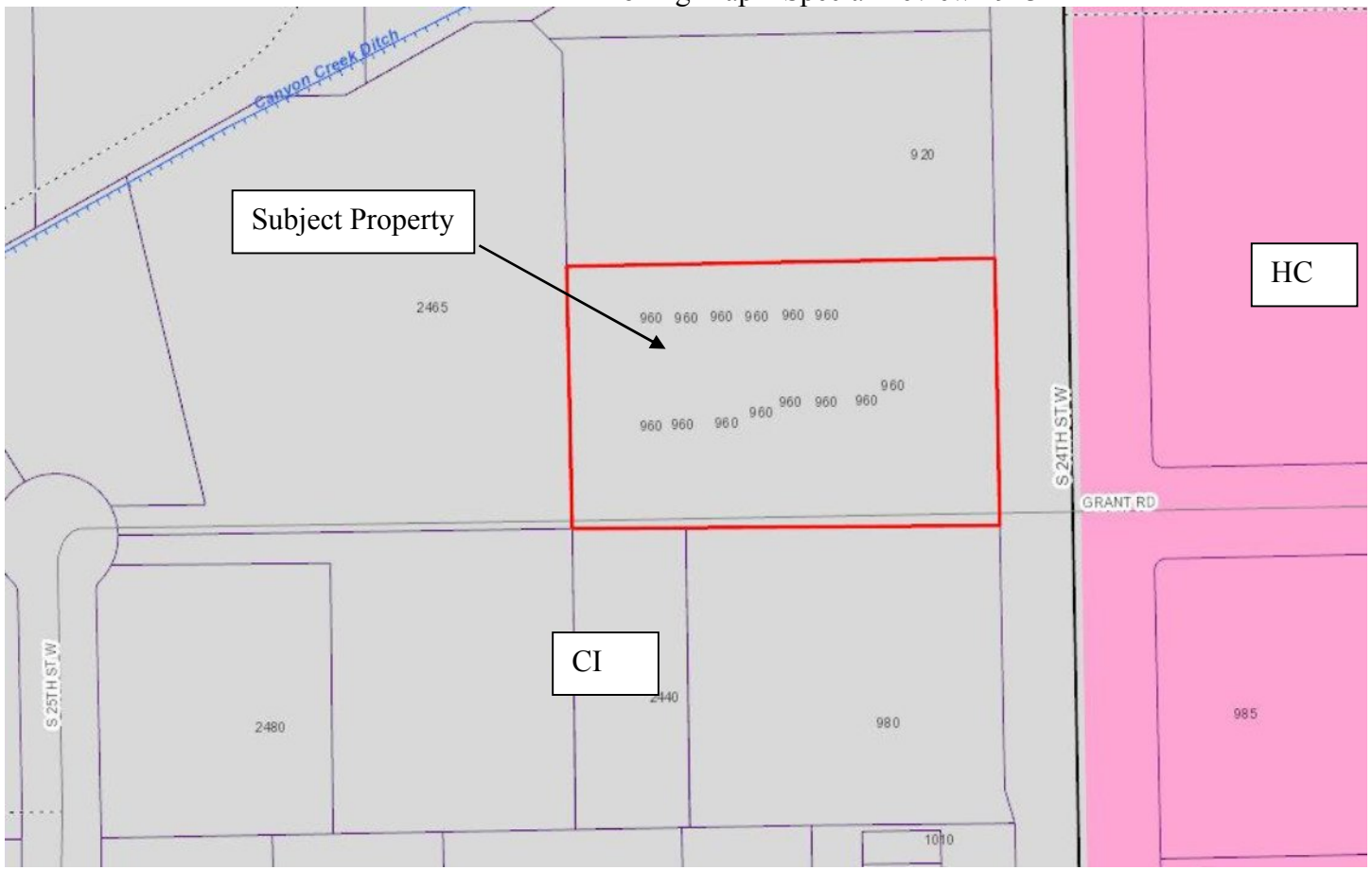
**Attachment B**

Zoning Map – Special Review #923




Subject Property

**Attachment C**

Site Photos – Special Review #923

Subject Property from Grant Road

View east along Grant Road to S 24th St West intersection

**Attachment C, continued**

Site Photos – Special Review #923

View south and east along Grant Road

View south across Grant Road

**Attachment C, continued**

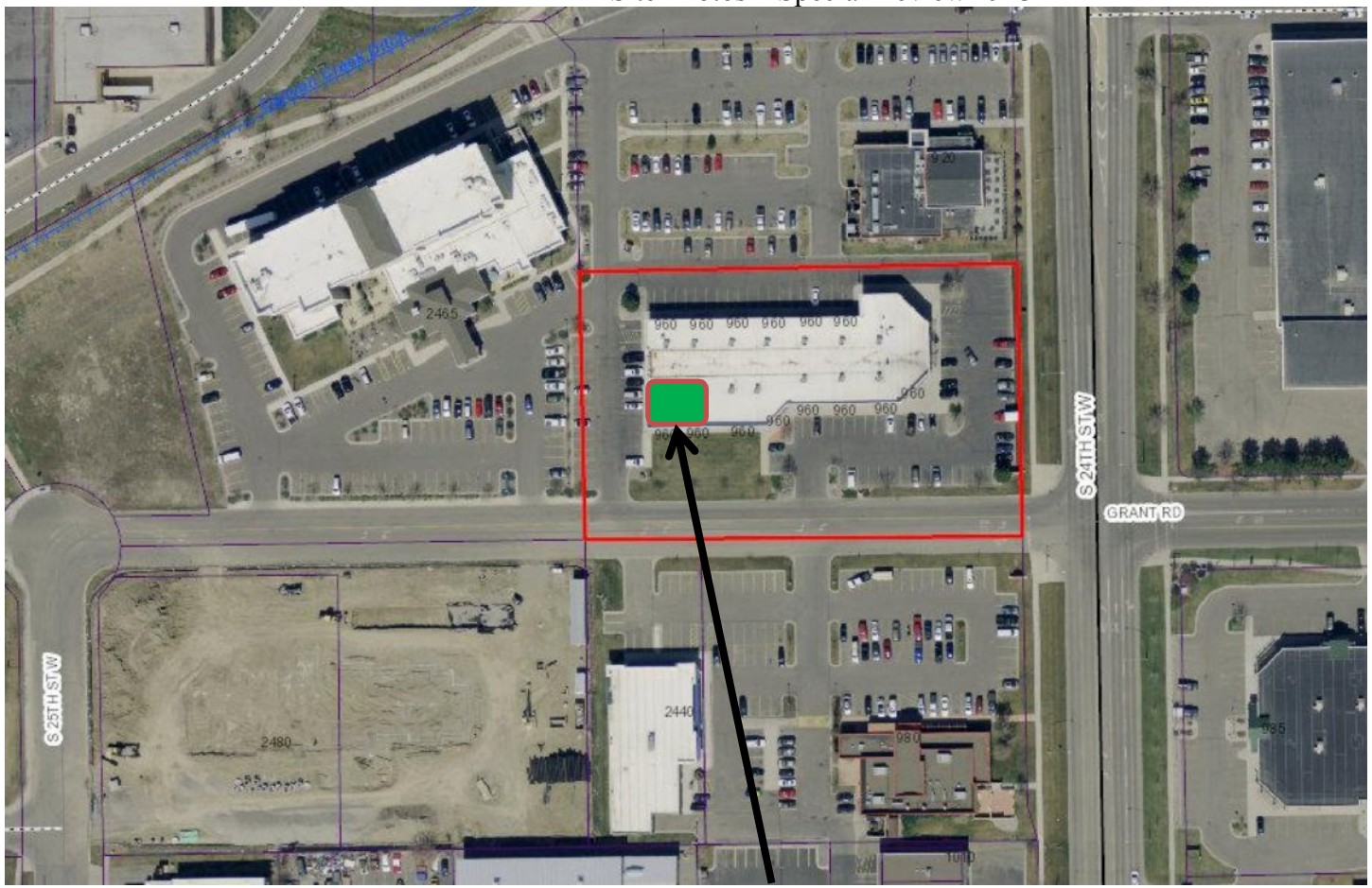
Site Photos – Special Review #923

View south and west across Grant Road

View north and west from Grant Road

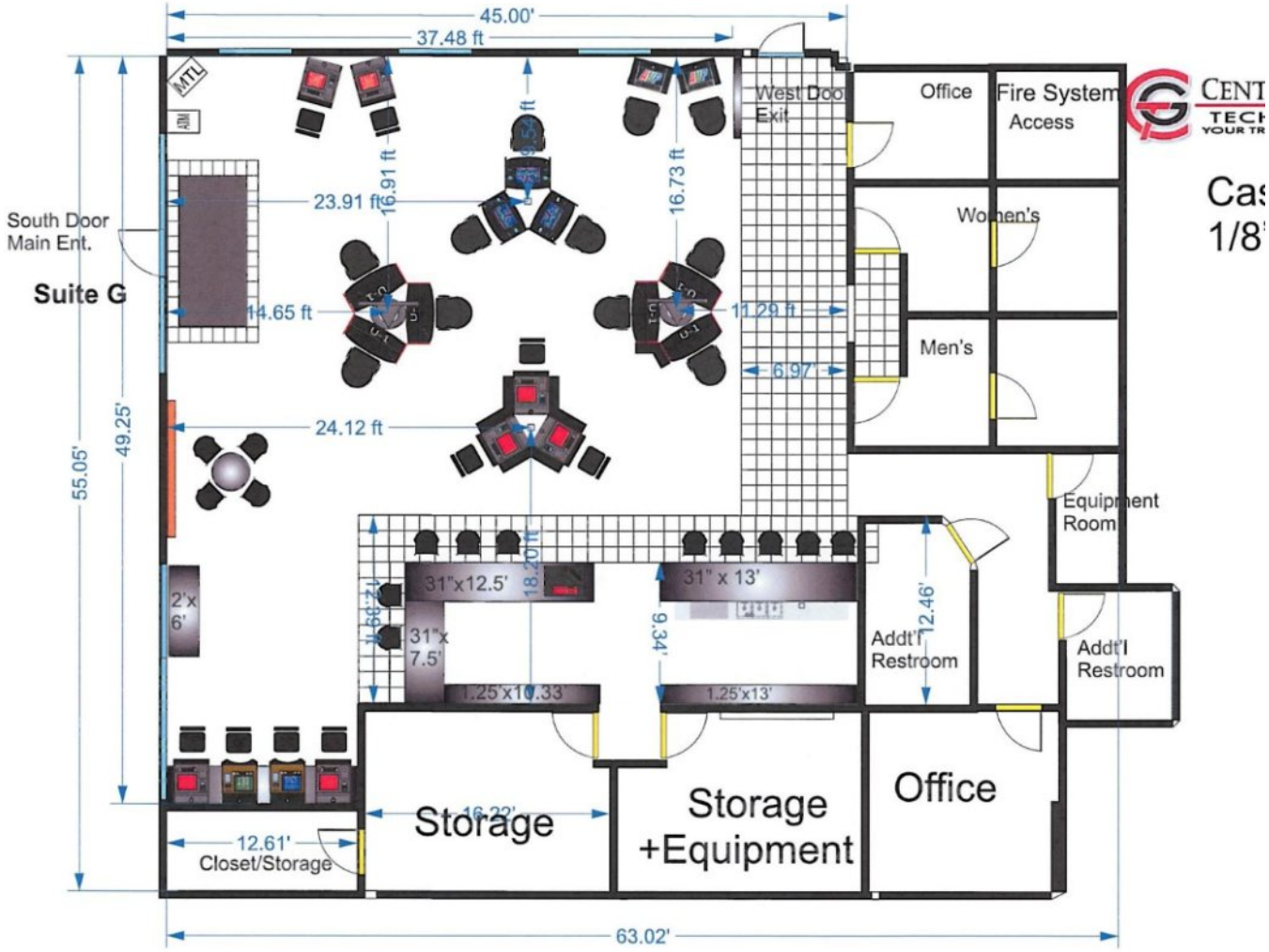
**Attachment C, continued**

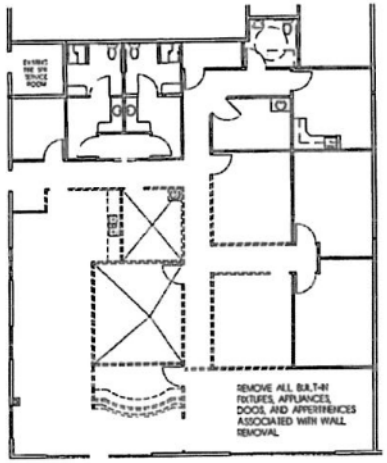
Site Photos – Special Review #923




Suites F and G

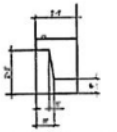
**Attachment D** - Special Review 923



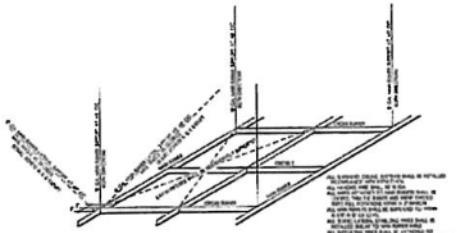



DASHED LINE WALLS SHALL BE REMOVED

DEMOLITION PLAN

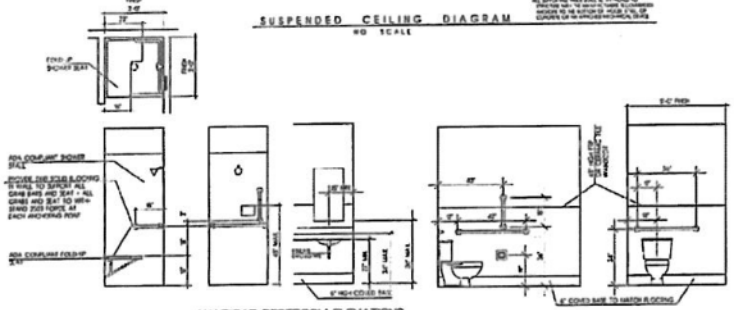


DRINKING FOUNTAIN



SUSPENDED CEILING DIAGRAM

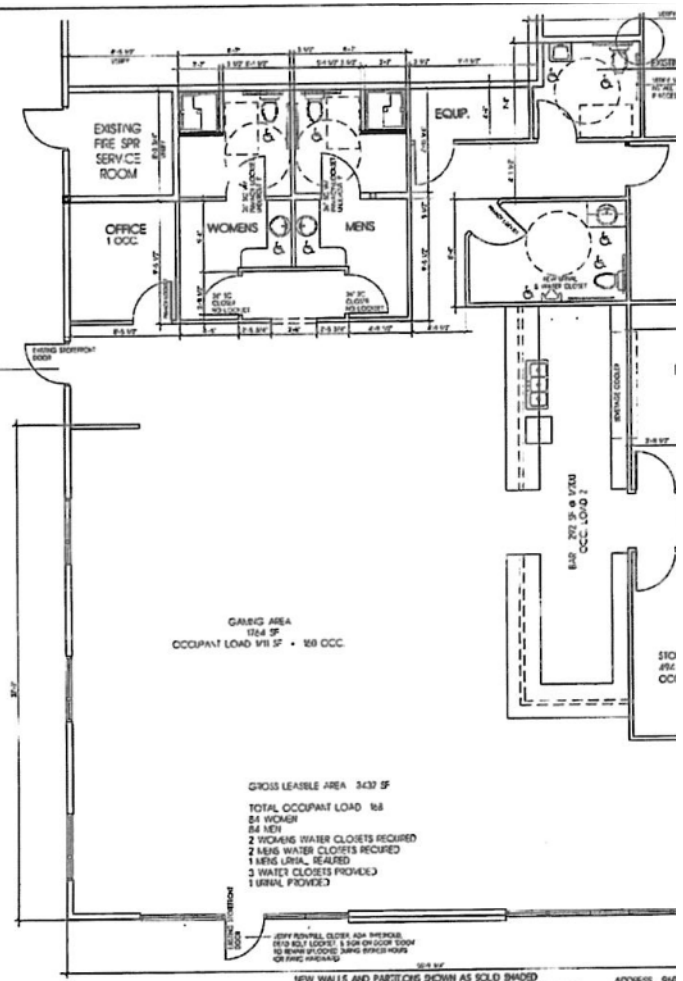
NO SCALE



HANDICAP RESTROOM ELEVATIONS

SCALE

ALL MATERIALS INDICATED ABOVE ARE CODE REQUIRED
IF SUBSTITUTIONS SHALL BE APPROVED BY THE BUILDING INSPECTOR OR THE ARCHITECT




NEW WALLS AND PARTITIONS SHOWN AS SOLID SHADED
FROM SLAB TO ROOF TRUSS BOTTOM CHORD

FLOOR PLAN

SCALE

GENERAL NOTES:

ACCESSIBILITY NOTES

ADDRESS
OWNER:
BUILDER:
GROSS BUILDING
TYPE OF CONSTRUCTION
SUBJECT PREMISES
REMODEL OF
OCCUPANCY:
OCCUPIED AREA
MET OCCUPANT
EXITS REQUIRED

Hilton Garden
Inn
G F
24
Spaces
South
Image Landsat
1996
45°45'09.36" N 108°34'37.59" W elev

# SPECIAL REVIEW APPLICATION

# CITY OF BILLINGS

## INSTRUCTIONS

All questions must be answered fully. Please type or print. You may attach further pages if additional space is needed. All plans and other exhibits submitted with this application will be retained as a part of the permanent record.

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

***Land Use Element***

**1. ISSUE:** *Neighborhoods are experiencing pressures from new development and land use changes.*
***This proposal places a casino and bar in an area that is already home to other restaurants and casinos, instead of mixing it into non-familiar industries or close to residential neighborhoods.***

**2. ISSUE:** *The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites.*
***This proposal will place a high quality atmosphere and construction that is in keeping with the character of nearby restaurant and casino businesses.***

**4. ISSUE:** *Urban sprawl threatens the rural character of land surrounding Billings, increases the cost of providing public services, and threatens the vitality of the city core and downtown area.*
***This proposal places a new business in an established retail mall space without being free standing separate from other establishments by large open areas and parking lots.***

**6. ISSUE**: *There is a desire for more mixed use neighborhoods.*
***This proposal will place an alternative entertainment destination for the guests of the Hilton Garden Inn next door. In addition, The Marriott is planning on locating directly across the street from this proposed location, in April 2015. The Marriott is planning on 92 rooms for guests. This proposal will allow the instant service for those new guests in the retail trade area instead of adding to additional traffic flow throughout the City of Billings.***

***Economic Development Element***

**1. ISSUE:** *We need to continue a cohesive focus in economic development.*
**2. ISSUE:** *Lack of living-wage jobs*
***This proposal will create living wage jobs for multiple employees and suppliers of the services.***

**3. ISSUE:** *Entryways to our communities should be attractive and not present physical barriers discouraging economic development.*
***This proposal will locate a viable business in an area that is heavily frequented by newcomers to Billings and those from surrounding communities. This will anchor customers into an area close***

***to the Interstate and thoroughfares of Billings so they do not have to drive through town.***

8. **ISSUE:** *Billings needs to attract businesses that pay higher wages.*
***This proposal will meet the objectives of improving the quality of life for residents, strengthening the local economy and creating living wage jobs.***

***Aesthetics Element***
**This proposal will have no negative impact on the aesthetics elements addressed in the Growth Policy Statement.**

***Natural Resources Element***
**This proposal will have no negative impact on the natural resources elements addressed in the Growth Policy Statement.**

***Open Space and Recreation Element***
**This proposal will have no negative impact on the open space and recreation elements addressed in the Growth Policy Statement.**

***Transportation Element***
**2. ISSUE:** *Safe and efficient traffic circulation around and through the City.*
***This proposal will place the casino and bar on established thoroughfares and immediate interstate highway access.***

**3. ISSUE:** *Lack of adequate traffic control.*
**5. ISSUE:** *Obstacles to efficient and safe traffic flow.*
***This proposal will situate the new business where traffic flow has been already established and safely monitored.***

**12. ISSUE:** *Deterioration of air quality due to vehicle emissions.*
***This proposal will locate the casino and bar in a centrally located entertainment and motel district. By doing this, the proposal will create less need for potential customers to drive to reach the destination.***

***Public Facilities and Services Element***
**7. ISSUE:** *There are vacant structures around Billings and in the County that could be reused.*
***This proposal will absorb two vacant retail suites in a retail strip center on a main thoroughfare of Billings. This will delete two empty suite fronts.***

***Cultural and Historic Resources Element***
***Because this proposal is situated in an established retail and motel area, it will have no negative impact on the cultural and historic resources elements addressed in the Growth Policy Statement.***

***Community Health Element***
**This proposal will have no negative impact on the community health elements addressed in the Growth Policy Statement.**

B. Why is there a need for the intended use of the property at this location?

1. ***The location of this casino and bar at this location will fill two empty retail suites in the Heritage Plaza.***
2. ***The longer the suites sit empty, the harder it is to fill them, and the City of Billings will suffer from empty buildings with no occupancy.***

C. How will the public interest be served if this application is approved?

1. ***This casino and bar will compliment the restaurants in the area and service the guests of Hilton Garden Inn, and the new Marriot Hotel opening April 2015, that are across the parking lot and street, respectively, from this proposed location.***

D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

***The proposal calls for the two suites to be joined into one unit. The casino and bar will hold twenty gaming machines and 32 chairs. The present suites are not compatible for the use and will require internal building and permanent leasehold improvement construction.***

***Special review is being sought because the present retail office suites are not designed for such use.***

**Regular City Council Meeting**
**Meeting Date:** 03/23/2015
**TITLE:** Special Review 924 - Public Hearing
**PRESENTED BY:** Candi Millar, Planning & Community Services Department Director
**Department:** Planning & Community Services

## PROBLEM/ISSUE STATEMENT

This is a special review to allow four, nine-plex multi-family buildings (36 dwelling units) in a Residential 6,000 (R-60) zone on Lot 4, Block 1, Chalice Acres Subdivision, a 1.98 acres parcel of land, generally located west of 1442 Bench Boulevard. The property received previous special review approval for seven, four-plex multi-family dwellings (28 units) in 2008. The Zoning Commission conducted a public hearing on March 3, 2015, and is forwarding a recommendation of denial and adoption of the findings of the three criteria on a 3 to 1 vote.

## ALTERNATIVES ANALYZED

The Planning Division reviewed this application with other city departments and recommended denial based on the findings of the three criteria. The Zoning Commission concurred with this recommendation.

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations, and the 2008 Growth Policy, including any neighborhood plans, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is in a zoning district, R-60, where multi-family dwellings are allowed by special review approval. In fact, a previous special review for 28 dwelling units in seven multi-family dwellings has been conditionally approved for this property (2008). The form of the application is correct and the submitted site plan appears to be in conformance with site development and zoning regulations for the R-60 zoning district.

There is a concern that the short concrete apron in front of the garage doors on each building will invite parking across the sidewalk and out into the parking lane of the private road. There is no indication on the site plan how solid waste service will be provided or collected. Typically, multi-family developments are required to

have a central solid waste collection location that all residents use. The site plan shows no exterior fencing on the property boundary and no trees are shown on the landscape plan. The applicant submitted a Traffic Accessibility Study for the City Traffic Engineer to review. This review by the City is not yet complete. One of the recommendations of the report is to move the existing private driveways for 1432 and 1448 Bench Boulevard on to the new private road and to place stop signs where it intersects Bench Boulevard. (see Traffic Analysis Attachment).

The application does not conform to the second and third criteria. The zoning regulations adopted by the City Council have the purpose of promoting health, safety and general welfare and to implement the 2008 Growth Policy and the Billings Heights Neighborhood Plan. The proposed site plan placing 7,784 square foot buildings, 2 stories tall (28 feet) close to exterior property lines (10 feet minimum and 60 feet maximum) with 60 feet of concrete and asphalt between the front facades of buildings is not promoting the health, safety or welfare of the neighborhood. There are no 2-story structures to the north, east, or south of this property. To the west is the Volunteers of American apartment complex. This is a 3 story structure but it is 140 feet west of this parcel and 100 feet from the closest single family home on Winemiller Lane to the south. The single family dwelling at 1424 Bench Boulevard is 10 feet from the south property line of this parcel. This is a split level home that is oriented to the northeast. The site plan shows a 5-foot wide planting area next to this property line with "bushes and shrubs" but no fencing or other buffer between the south end of the new private road and the front of this single family dwelling. As stated previously, the applicant could accommodate the same number of units with fewer units per building (six 6-plex buildings).

Careful site design is necessary to ensure compatibility with adjacent uses. This site design has not been done carefully and details for landscaping, screening, storm water management, solid waste collection are incomplete or missing. A full 2-story structure in the mass and scale as proposed is not compatible with the surrounding uses. A 9-unit building could be designed that may fit within this neighborhood but it would not have a 140 foot façade without any front doors. The property is poised to provide a walkable neighborhood but sidewalks are only provided in front of the buildings and do not connect to any existing or proposed sidewalk on Bench Boulevard. The Heights Neighborhood Plan adopted in 2006 indicated the area between Bench Boulevard and Main Street should be developed with a mixture of housing choices and uses. This property has been approved for 28 dwelling units and could still be developed with 4-plex multi-family dwellings.

**FINANCIAL IMPACT**

If the special review is approved, a site plan would be submitted for approval that requires a review fee. Additional review fees are required for buildings, storm water plan review, utility connections and similar items. Development of the property will increase the property value and will increase taxable value of the property. City fees for arterial and storm water fees will increase based on the development. These fees are currently capped as a "vacant" parcel.

**BACKGROUND**

This property received a previous special review conditional approval in 2008 (Special Review 856) for seven, 4-plex multi-family dwellings (28 units). The owner has not acted on this approval since 2008, except for the filing of the Chalice Acres Subdivision to create lots for the three existing homes along the Bench Boulevard frontage and this large vacant lot west of those homes. The subdivision provided two access easements for the large vacant lot anticipating the construction of the seven, 4-plex multi-family dwellings. The owner now contemplates an additional eight dwelling units and a re-configuration from 4-plex buildings to 9-plex buildings. Prior to the special review in 2008, another special review was approved for one of the parcels subsumed by the Chalice Acres Subdivision. This special review would have allowed two 10-plex multi-family dwellings (Special Review 767). Since this parcel was integrated into the new subdivision, the owner can no longer act on this special review approval.

The City has considered several special review requests for multi-family dwellings in R-60 in Billings Heights since zoning was adopted in 1972. Fourteen applications have been made for this type of development; three have been denied and three have been withdrawn. Eight applications have been conditionally approved. Four of the eight have been limited to 4-plex multi-family dwellings. The remaining four applications were approved for five to 10-plex multi-family dwellings. These four applications are located within the Eagle's Nest Subdivision west of Main Street.

This is a special review request to allow 36 dwelling units in four, nine-unit buildings on Lot 4, Block 1 of Chalice Acres Subdivision. The property is approximately two acres in area and is located just west of three single family dwellings that have frontage on Bench Boulevard. To the west is the Volunteers of America apartment complex that has access to Main Street and is zoned Highway Commercial (HC). The subject property received a previous special review approval for 28 dwelling units in seven, four-unit buildings. The owner has a vested right to move forward with this previous approved plan, or with this new plan if it is approved by the City Council. The applicant could also accomplish 36 dwelling units by developing six, six-unit buildings and still meet the lot area requirements.

The applicant has submitted a site plan and a typical elevation of the proposed

9-unit buildings. The buildings would be 139 feet in length and 56 feet wide. The elevation plan shows 9 tuck-under garages on each front façade with a 2nd story living area above the garage. The proposed roof line is a 6:12 pitch with 3 gables shown on the front façade. There are no exterior front entrance doors for each dwelling unit. The elevation plan shows an exterior door on each end of the building to perhaps access a common interior hallway. A floor plan was not included with the submitted site plan. Recent examples of this type of apartment building configuration are included in the Site Photos attachment.

The applicant states the reason for the request is to construct 3-bedroom rental apartments based on a market analysis in Billings Heights. The applicant states the interior entrance from each garage to the living area will be more secure than a front door for each dwelling unit. The site plan shows a private road that loops around from Bench Boulevard. The proposed road is 34 feet in width with an 8-foot concrete apron in front of the garage doors that provide access to the buildings. The 8-foot apron is not deep enough to park a vehicle without blocking the proposed 4-foot wide sidewalk and part of the parking lane on the private road. It is likely residents will park on the apron in any case. The off-street parking regulations for the City of Billings require 1.5 parking spaces for each dwelling unit in a multi-family development where 2 or more bedrooms are provided in each unit. Each unit will have 1 garage space and there are enough parking spaces on the private road to provide at least an additional 18 parking spaces. The site plan shows 4-foot curb sidewalks in front of each building but no other sidewalks to connect out to Bench Boulevard. As stated above, these sidewalks will likely be blocked by cars parked in front of the garage doors. There is little usable outdoor space other than the private street. The larger spaces to the north of Building 1 and west of Building 3, as shown on the site plan, are scheduled to be used for storm water management and cannot be developed for outdoor activities. The east side of Building 4 is 15 feet from the rear property line of 1442 Bench Boulevard, a single family home. There is a 36-foot wide lawn area west of Building 2 that may have some suitability for outdoor activities if it is not needed for storm water management.

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 3, 2015, and received the staff recommendation and testimony from the applicant, Gene Culver and agent, William Smith of Octagon Engineering. Testimony against the request was received from Chris Jones, property owner at 1442 Bench Boulevard. Testimony in favor of the request was received from Pat Schindele, real estate broker for the owner.

William Smith, P.E., from Octagon Engineering and agent for the applicant, testified in favor of the request. he stated the fundamental reason for the 9-plex design was safety and security of the residents of the units. The units will not have

front doors but the doors on either end of the front will provide secure access to a central hallway that will provide access to each unit. He stated each unit will have access through a rear door to the back yard of each building. He stated the proposed private road meets the engineering and fire department requirements of 34 feet from back of curb to back curb. He stated all the curbing will be roll over curbing. He stated the buildings will face each other to enhance security along the street and have cutoff lighting over the garage doors to prevent spill over of light to adjacent property. He stated each unit is required to have 1.5 parking spaces by city code. Each unit will have a 1-stall garage space and there will be at least 18 on-street spaces to meet the requirement. The spaces on the street count toward the minimum since the street is a private street. Mr. Smith stated there will be no parking in front of the garage doors because of the curbing and sidewalk. He stated they could amend the site plan to push the buildings back from the sidewalk and curb to allow a 20 foot parking space in front of each garage door to provide 2 spaces for each dwelling unit. He stated the full design of the storm water control system including the detention areas north of Building 1 and west of Building 3 has been completed but is not required to be submitted with the special review. He stated the system will retain a 100-year storm event as required by city code. Mr. Smith submitted a simplified floor plan for the 9-plex buildings. He stated the plan shows a 3 foot cantilevered canopy over each garage door, the entry door to the common corridor on each end of the building, interior stairwells on each end of the building and a coin-op laundry on the first floor. Mr. Smith submitted a revised site plan with notation of the missing items from the staff report including the central solid waste collection area west of Building 1, a central mailbox location north of Building 4, and a 6 foot wide crushed gravel walking path along the south property line out to Bench Boulevard. He stated the site plan meets all the zoning requirements for setbacks, building separations, height and lot coverage. He state the walking path on the south property line cannot be concrete since there is an existing electrical utility easement. Mr. Smith stated the drive approaches off Bench Boulevard have all been reviewed and approved by MDT, Sanderson Stewart and the City Engineer as part of the Bench Boulevard reconstruction project scheduled in the next few years. Mr. Smith stated the proposed building height of 28 feet is the same height that was previously approved for the 7 4-plex site plan (SR 856 in 2008).

In response to a question from the Commission, Mr. Smith stated there are no other projects in the Billings area designed or developed by his firm and he has no other projects planned for Billings. He stated each unit will be either 2 or 3 bedrooms based on their market analysis. He stated based on the average number of persons per household (Census average of 2.3) this would translate to about 83 new residents in the four 9-plex buildings. He stated the on-street parking available for parallel parking is easily 18 additional spaces with more available.

Gene Culver, property owner and applicant, testified in favor of the request. He

presented a 3-ring binder of information to the Commission. He stated the request is in response to demand for infill development but not at the currently approved density of 28 units. He stated the buildings are the same height previously approved and the combined square footage of the 2 of the approved 4-plexes would exceed the foot print of the proposed 9-plexes. He stated the cost of the infrastructure improvements to access the property will not pencil out for seven 4-plexes for market rate rental units. Mr. Culver stated the 3-story apartments to the west are compatible with the proposed design. He stated the area is a mixed bag of uses from older single family homes to commercial uses to the large apartment building to the west. He stated the home at 1424 Bench Boulevard noted in the staff report will be over 50 feet to the closest 9-plex. He stated the staff's suggestion of six 6-plex buildings for the same number of units could not be designed for this property He stated the site will be landscaped and have screening fence where is adjoins residential or commercial uses.

Pat Schindele, real estate broker for the owner, stated he has been trying to sell the property for over 5 years and has entertained 5 buy/sell agreements but none have closed. He stated the primary reason is the cost of development is too high for the 4-plex design at 28 units. He stated he has a potential buyer if the 9-plexes are approved. He stated he gets a call on the property every week but buyers are not interested in the 4-plex design. He stated buyers are only interested in the higher unit buildings.

Chris Jones, owner of one of the single family homes east of this property, testified in opposition to the request. He stated the new traffic generated from this many units would be too much for his property. He understood the property would have 4-plexes but this new request is just too dense for this lot. He stated he does not think there will be enough parking for all the residents. He stated the increase of 8 dwelling units does not seem large unless you look at the over all site plan. He stated if a sidewalk is place on the access street north of his house, people would be walking right under two of his bedroom windows.

Mr. Culver provided rebuttal testimony. He stated they have met the required number of parking spaces and they do not intend to put a sidewalk on the north leg of the access street. He stated they could increase parking if they are allowed to push the buildings back another 8 to 10 feet from the curb. Staff provide clarification of the required setbacks from exterior property lines. Staff stated that Building 4 could not be moved back from the access road since it just meets the required setback as shown on the site plan. Staff stated other buildings could be adjusted to provide 1 additional parking space in front the garage doors.
Mr. Culver stated the likely market for these rentals are single parent families or seniors. These renters would have one car not two so parking will not be an issue.

In response to a question from the Commission, Mr. Culver stated the price point for rentals will be in the $750 to $900 per month range. In response to a question

from the Commission, Mr. Schindele said he did not know why the seven, 4-plex project was not constructed as approved in 2008. He stated it was likely due to infrastructure costs. Mike Boyett, Commission member, stated it is his experience that garage space is used more often for storage of stuff and not cars. Mr. Schindele stated the rental agreement and property management will dictate where parking must occur. Mr. Schindele clarified the price point expected for the rental units would be more in the range of $900 to $1,300 per month. He stated this would be in line with the rents for the apartments on Fantan west of Main Street.

Mike Boyett made a motion to recommend denial and adoption of the findings of the 3 criteria and the motion was seconded by Dan Wagner. Mr. Wagner stated he concurred with the staff analysis on the building height, bulk and intended density. He stated this is too much project for this site. Dennis Ulvestad concurred with the analysis. Commission Chair Leonard Dailey, Jr. stated he was ambivalent on the staff analysis. He stated if the owner needs additional units to make the project work, there should be a solution through re-design of the site plan. The Commission voted 3 in favor and 1 opposed to the motion to recommend denial. Chairman Dailey cast the dissenting vote.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

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

**RECOMMENDATION**

The Zoning Commission recommends denial and adoption of the findings of the 3 criteria for Special Review 924 on a 3 to 1 vote.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Zoning Map
Site photos
Site plan and Applicant letter
Traffic Analysis Report

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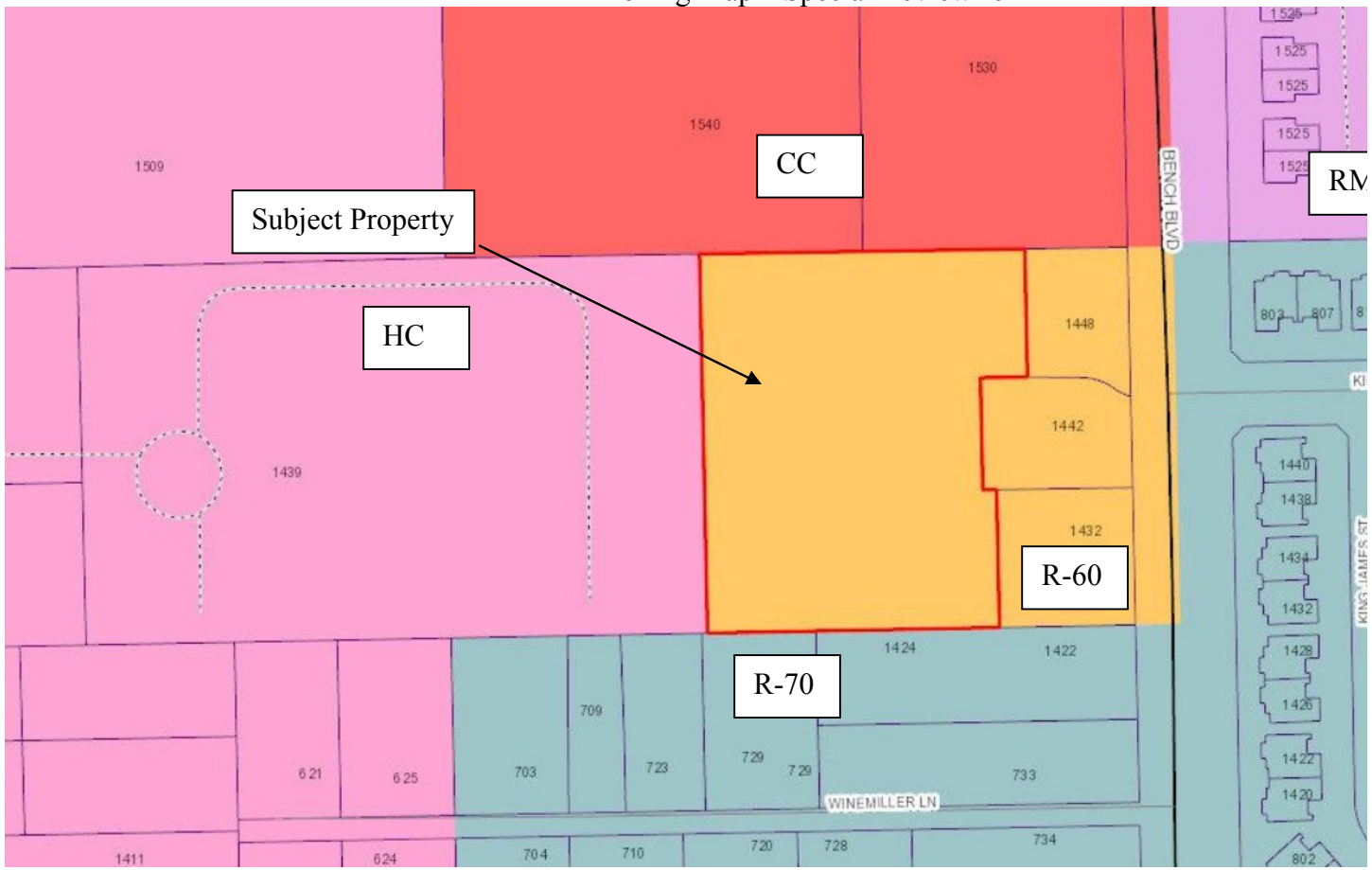
**Attachment B**

Zoning Map – Special Review #924




Subject Property

**Attachment C**

Site Photos – Special Review #924

Subject Property from Bench Boulevard – south of 1432 Bench Boulevard

Volunteers of America apartment complex west of subject property

**Attachment C, continued**

Site Photos – Special Review #924

View north along Bench Boulevard

View north east across Bench Boulevard

**Attachment C, continued**

Site Photos – Special Review #924

View south along Bench Boulevard

View south and east across Bench Boulevard

**Attachment C, continued**

Site Photos – Special Review #924

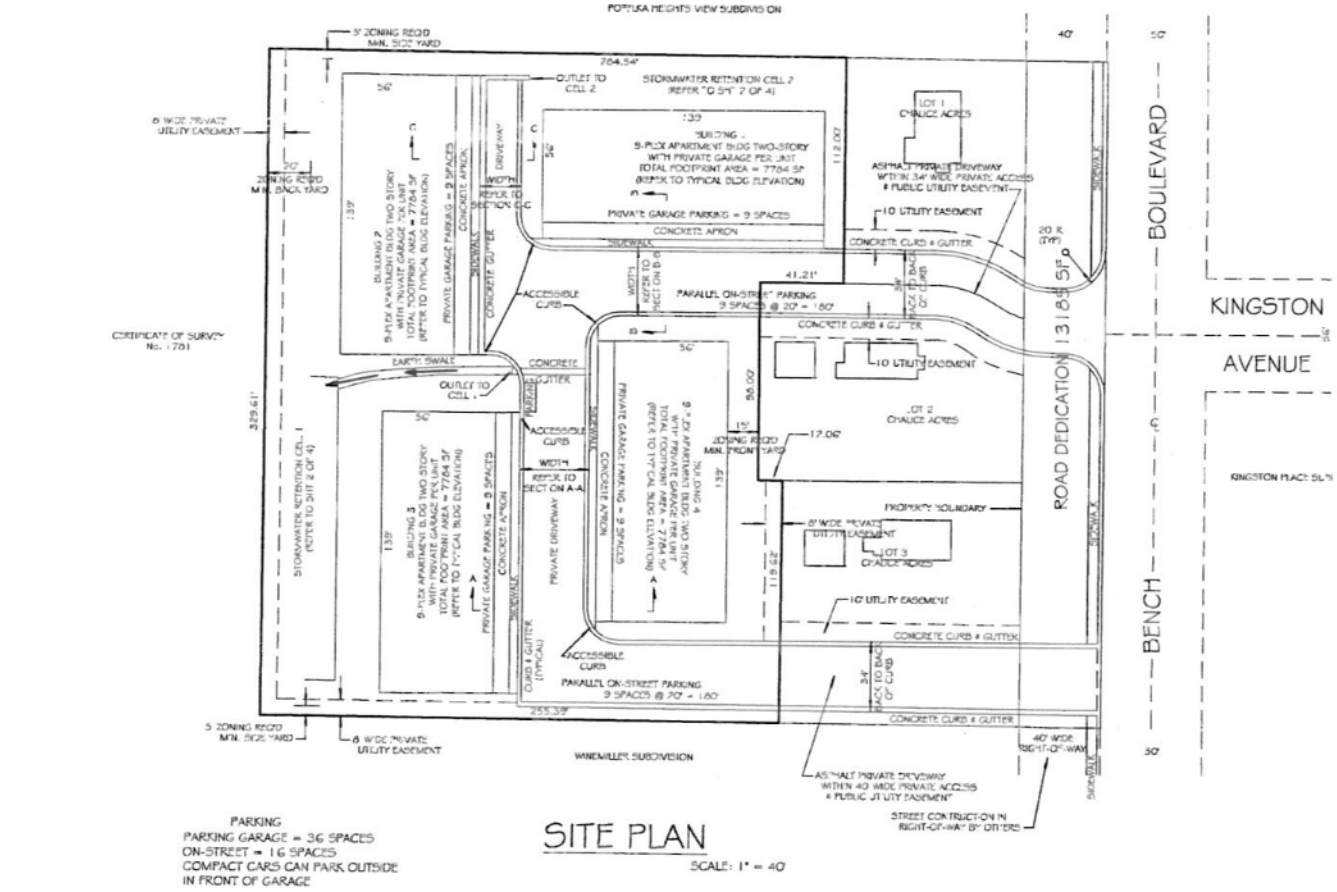
Similar style multi-family dwellings – garage doors

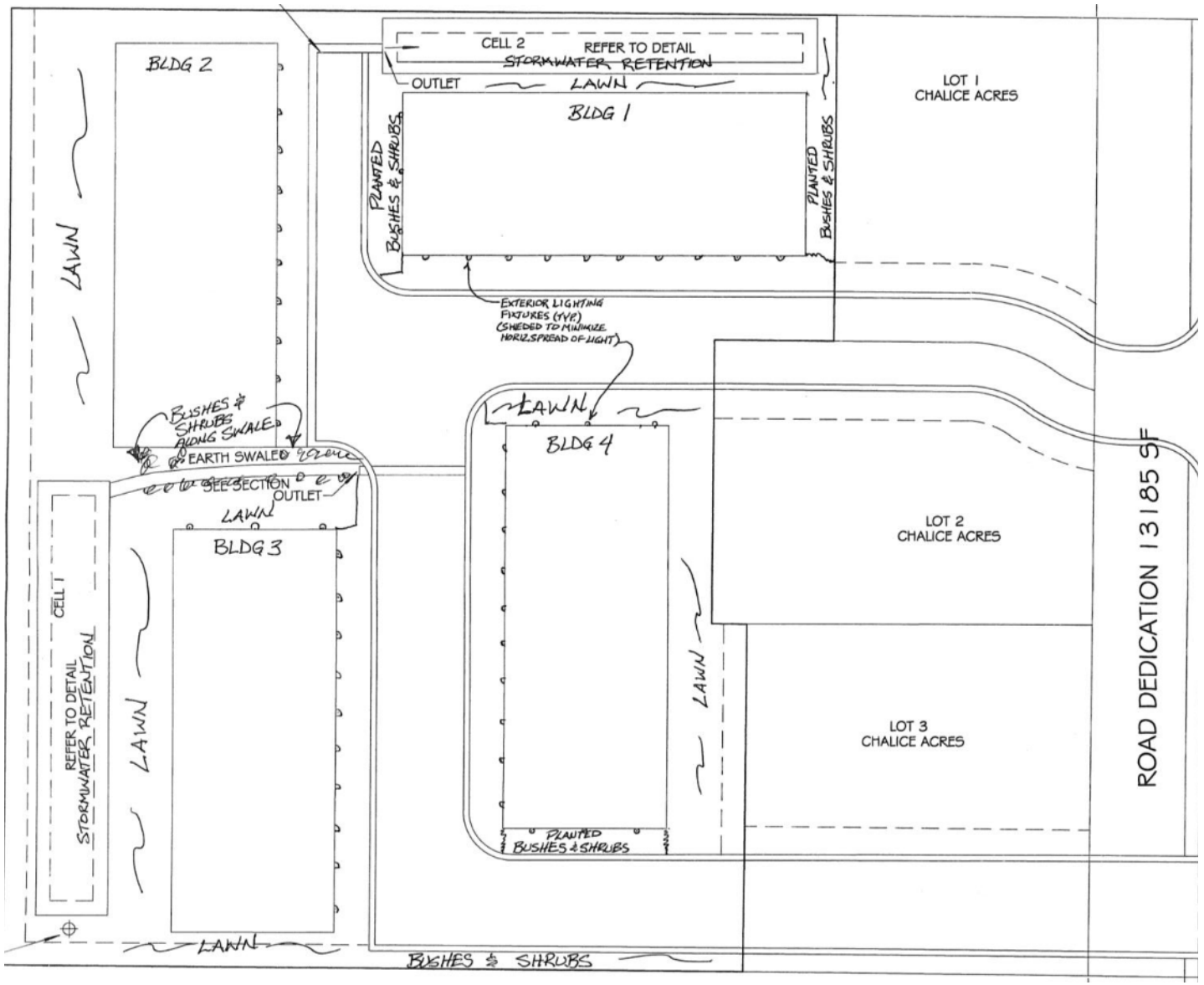
Similar style multi-family dwellings – garage doors

**Attachment C, continued**

Site Photos – Special Review #924

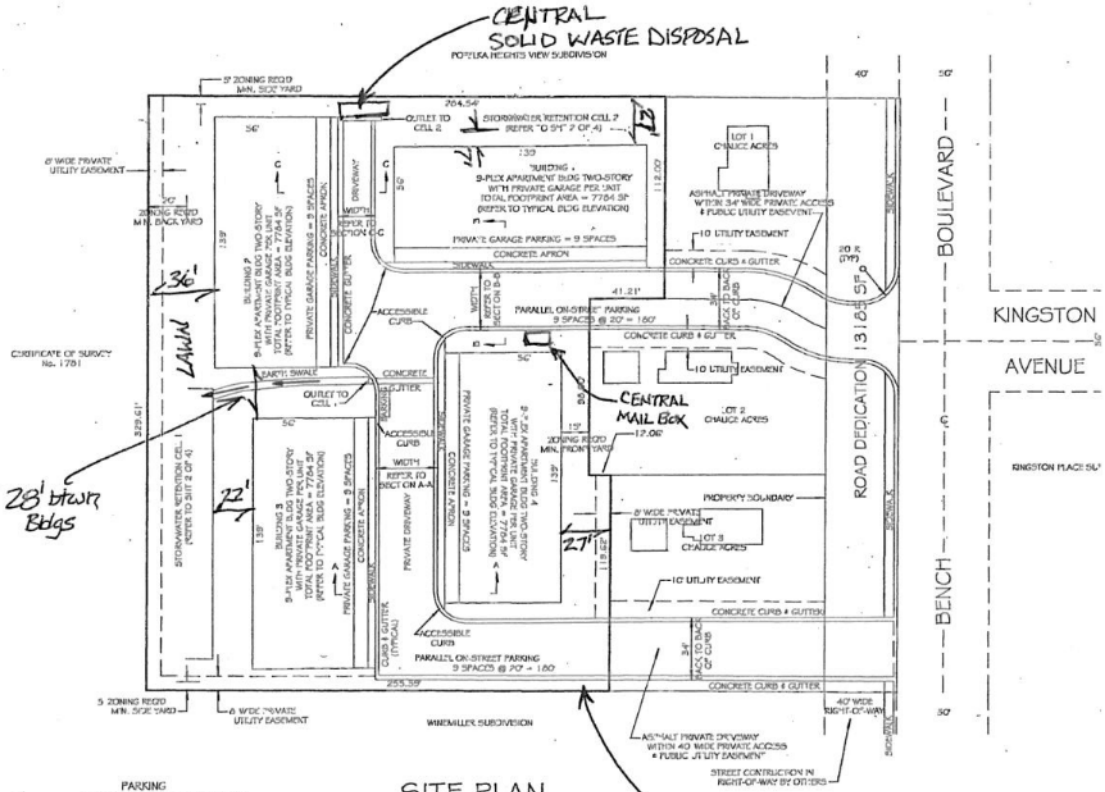
Special Review 924
Site Plan and Applicant Letter




CELL 2
REFER TO DETAIL
STORMWATER RETENTION
OUTLET
LAWN
BLDG 1
BLDG 2
PLANTED BUSHES & SHRUBS
PLANTED BUSHES & SHRUBS
LOT 1
CHALICE ACRES
EXTERIOR LIGHTING FIXTURES (TYP.) (SHIELDED TO MINIMIZE HORIZ. SPREAD OF LIGHT)
LAWN
BUSHES & SHRUBS ALONG SWALE
EARTH SWALE
SEE SECTION
OUTLET
LAWN
BLDG 4
BLDG 3
LOT 2
CHALICE ACRES
CELL 1
REFER TO DETAIL
STORMWATER RETENTION
LAWN
LAWN
LOT 3
CHALICE ACRES
PLANTED BUSHES & SHRUBS
ROAD DEDICATION 13185 SF
LAWN
BUSHES & SHRUBS

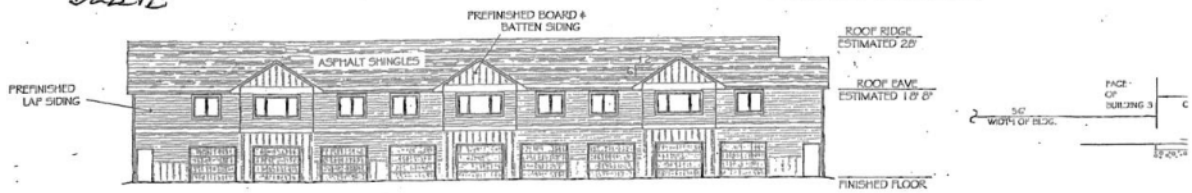
# SITE PLAN

FOR
LOT 4 OF CHALICE ACRES SUBDIVISION (LOT AREA: 86,261 SF)
LOCATED IN THE NE1/4 OF SECTION 22, T1N, R26E, P.M.M.,
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA
PREPARED TO SHOW PROPOSED DEVELOPMENT
OF 4-NINE PLEX RESIDENTIAL APARTMENT BUILDINGS,
IBC OCCUPANCY CLASSIFICATION RESIDENTIAL GROUP R-2

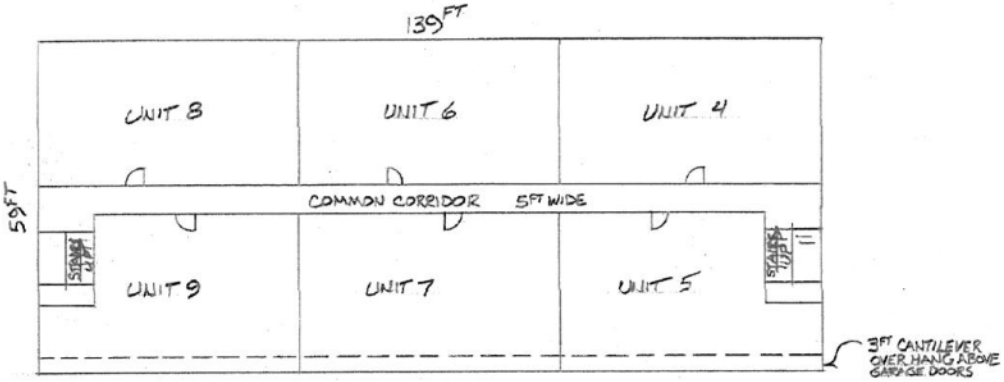



SITE PLAN
SCALE: 1" = 40'

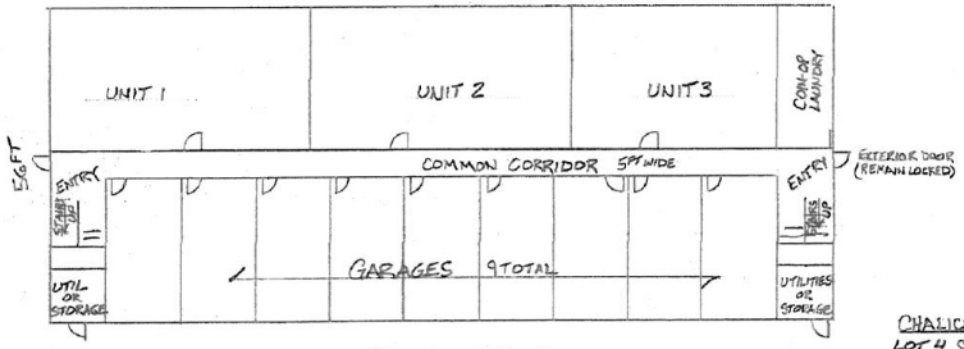
PARKING
PARKING GARAGE = 36 SPACES
ON-STREET = 18 SPACES
COMPACT CARS CAN PARK OUTSIDE IN FRONT OF GARAGE
DELETE




TYPICAL BUILDING ELEVATION
(SCHEMATIC)




SECOND FLOOR PLAN




FIRST FLOOR PLAN

CHALICE ACRES
LOT 4 SPECIAL REVIEW

Chalice Acres Subdivision Lot 4
Special Review Application for
Four Nineplex Apartment Buildings
Answers to Application Questions

A. In what ways is this proposal consistent with the goals and policies of the adopted Growth Policy?
The following list presents the points of consistency which this proposed development shares with the City of Billings/Yellowstone County Growth Policy:

- Improves the quality of life for residents on multiple fronts.
- Concentrates growth pattern by establishing higher density in-fill.
- Compatible with existing uses on properties of similar size in the neighborhood.
- More beneficial to the area than developing this 86,261 sq. ft lot with 14 single family or 24 duplex residences, which are alternatives within R-6000 zoning classification.
- Provides affordable rental housing conveniently located in Billings Heights.
- Location within walking distance of the new Heights middle school will provide increased tax base to the school district.
- Will create visually attractive buildings surrounded by appealing open space, maintained lawns and irrigated landscape.
- Location is within walking distance of grocery stores and a wide variety of shopping opportunities.
- The development's private streets, curbs, gutters and sidewalks, designed to tie into the public street infrastructure scheduled to be constructed along Bench Boulevard this summer, increase safety for vehicles and pedestrians.
- The new infrastructure will provide convenient and safe movement of vehicle traffic and pedestrians through the development and onto Bench Boulevard.
- Development's site layout is designed to enhance the inter-connectedness between the buildings and the residents.
- The dimensions, layout and proximity between the four buildings in this development are visually and functionally compatible with surrounding developments on properties of similar size in the area.
- Adequate and well placed exterior lighting will be provided on the buildings to effectively illuminate sidewalks and open areas at night, while minimizing the horizontal spread of light onto neighboring properties.
- Private garages and common laundry facility directly accessible from within each building are features which increase safety and security of the residents.

B. Why is there a need for the intended use of the property at this location?

Market analysis conducted by the property owner/developer has demonstrated that quality three bedroom apartments are in short supply in the Heights. In addition, quality features including attractive two story buildings surrounded by maintained landscape, attached private garages accessible directly from inside the building and usable open lawn area adjacent to the buildings are expected to make these units standout in the Heights rental market.

Space and plumbing will be provided within most floor plans for personal washer and dryer units. In addition, a common laundry facility with coin-op machines will be directly connected to each building and accessible only from inside the building to enhance the convenience and increase the security for residents.

C. How will the public interest be served if this application is approved?

Many of the Growth Policy community goals and objectives applicable to this type of development are affirmatively addressed by this proposal. This project is compatible with existing facilities on neighboring properties of comparable size.

This project provides affordable housing which is in high demand and short supply in the Heights. Features built into this project include attractive buildings and maintained landscape with lawns for use by the residents and guests.

This property is located within walking distance of grocery stores, a variety of stores and shops, and the new middle school. The intersections of the project's private street into the new public infrastructure being constructed along Bench Boulevard, which includes curbs, gutters and sidewalks, will enhance access and safety for drivers and pedestrians.

Private garages and central laundry facilities accessible from within each building will greatly increase the personal security of the residents.

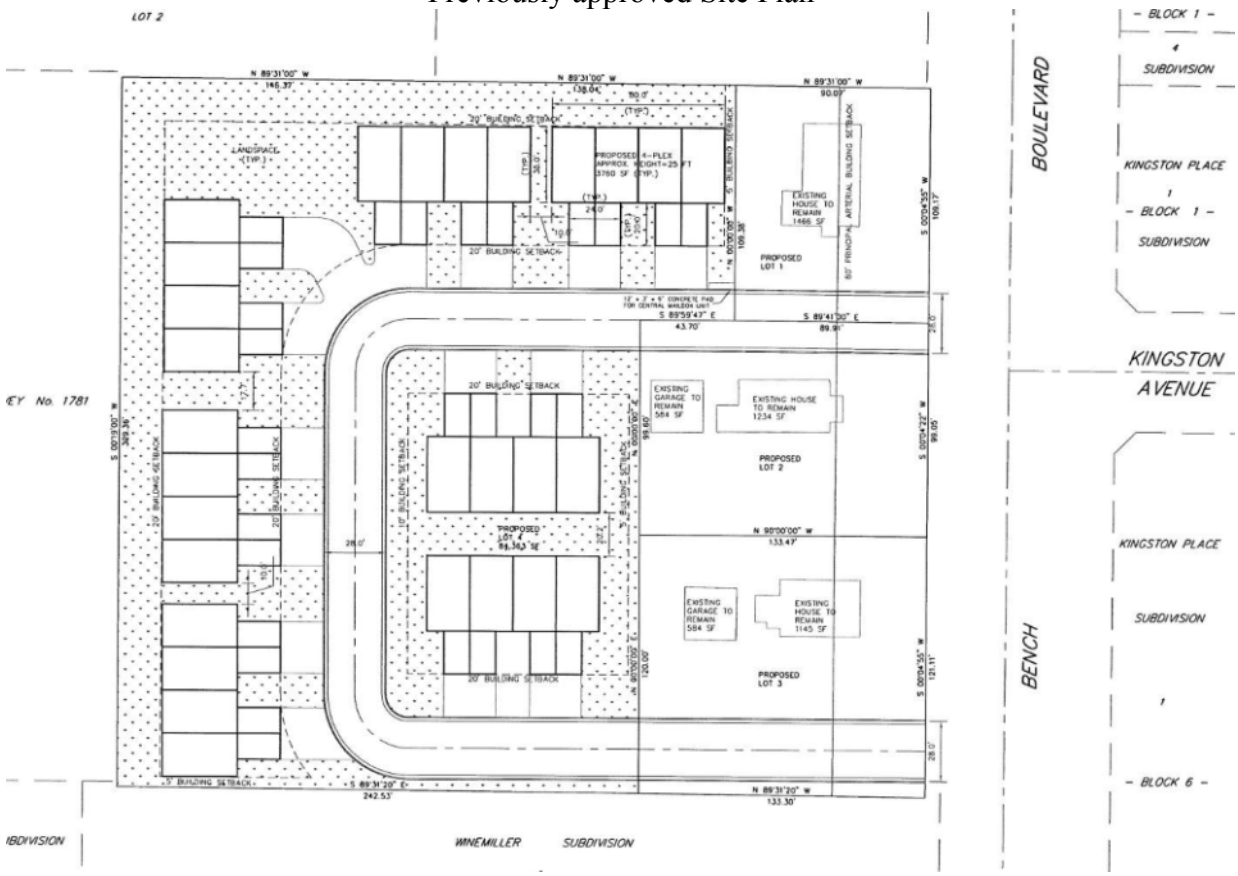
D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

Lot 4 of Chalice Acres Subdivision is 86,216 sq. ft or 1.98 acres in area. Located within R-6000 zoning classification, a gradation of multiple family densities up to 10 units per building is provided as alternative to the commonly accepted single family option. The number of higher density units allowed is limited by the area of the property. (Refer to the chart entitled "Zoning Classification Districts" in zoning code Sec. 27-308.) In accordance with the R-6000 zoning classification, a nineplex building must occupy an area of no less than 17,500 sq. ft.

Upon thorough study and deliberation on this subject, the owner/developer of this property and the project engineer believe that four nineplex buildings constitute the highest and best use of this property. These four buildings require a minimum lot size of 70,000 sq. ft. A total of 36 units on Lot 4 provide a compatible fit with similar uses existing on neighboring lots of similar or larger size. In addition, this proposal addresses the Growth Policy's goal of higher density in-fill development in compatible neighborhoods within the city.

A total of four two story buildings with each building containing nine individual apartments are proposed. Because this multiple family density is toward the upper end of the maximum density allowed within the R-6000 zoning classification, a special review is required to ensure compatibility with existing land uses in the neighborhood.

Previously approved Site Plan

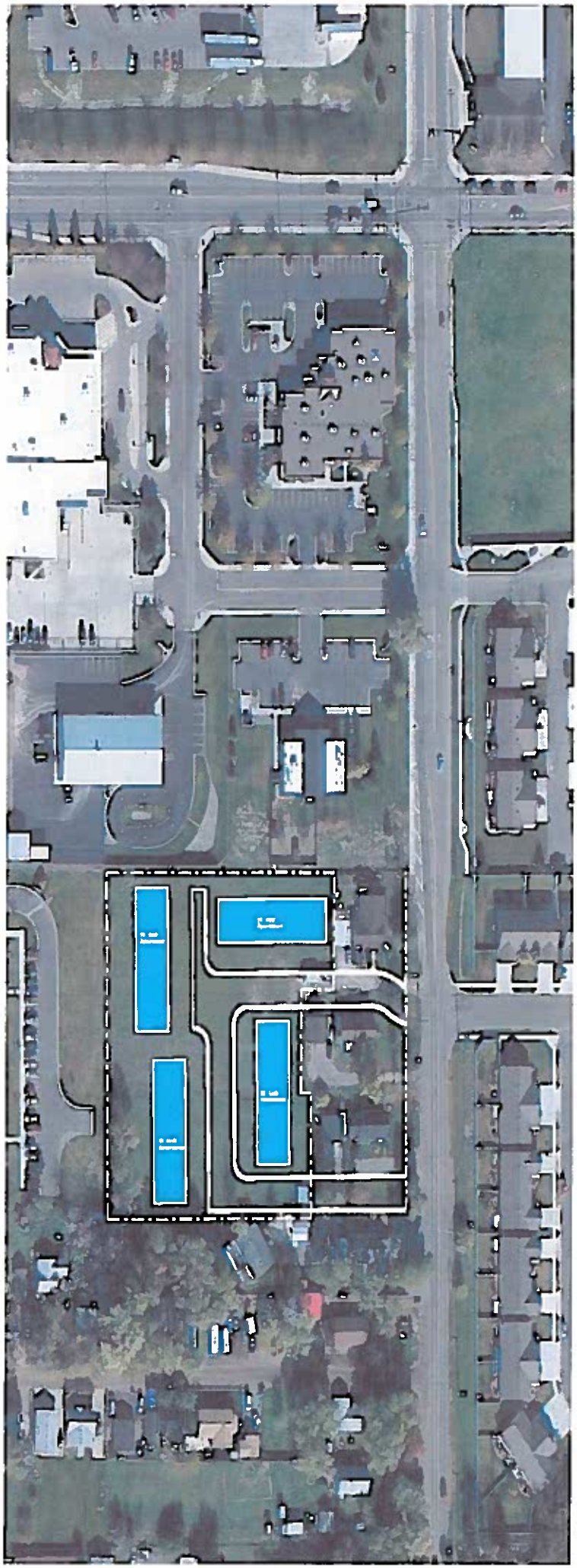



Conditions of approval Special Review #856 (2008)

The conditions of approval for Special Review #856 are as follows:

1. The special review approval shall be limited to Tract 2, C/S 193 and Tract 1, C/S 1531 as shown on the site plan dated December 18, 2007.
2. This special review approval is for the construction of 7 four-plex multifamily dwellings and no other use or expansion of this use is approved or implied with this conditional approval.
3. Development of the site shall be in substantial conformance with the site plan dated December 18, 2007, unless specifically modified by these conditions. Deviations from the approved site plan that change the location of buildings or increase the number of dwelling units will require additional special review approval.
4. This approval shall be limited to 28 dwelling units in 7 structures as shown on the site plan dated December 18, 2007.
5. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.
6. The north access road shall be re-aligned to coincide with Kingston Avenue that enters Bench Boulevard opposite the subject property. Any new alignment will be approved by the City Engineer.
7. The proposed 28-foot wide access road will be widened to 34 feet and be designed and constructed in accordance to city standards for a new residential street. The street design will be approved by the City Engineer and the City Fire Department.
8. Landscaping shall be provided as shown on the site plan dated December 18, 2007, and as required by Section 27-1100, of the Unified Zoning Regulations.

9. A 6-foot high sight-obscuring fence shall be constructed along the entire length of the north and south property lines excluding any required clear vision area. The fence shall be constructed of standard fencing materials. No chain link or wire fencing will be used for a sight-obscuring fence. The fence will shield the development from the commercial development to the north and the single family developments to the south.
10. These conditions of special review approval shall run with the land described in this special review approval and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
11. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City regulations that apply.
12. The effective date of this approval is concurrent with the effective date of ZC #834, April 10, 2008.



# TRAFFIC ACCESSIBILITY STUDY

for

# Chalice Acres Subdivision Lot 4

Billings, MT

Prepared for

KINCAID LAND, LLC

Prepared by

MARVIN & ASSOCIATES
1300 North Transtech Way
Billings, MT 59102

April 2014

# TRAFFIC ACCESSIBILITY STUDY

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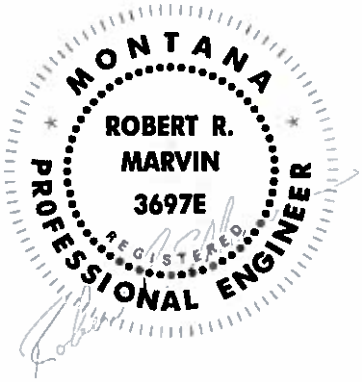



April 2014
P.T.O.E. # 259

## TABLE OF CONTENTS


| | PAGE |
|---|---|
| INTRODUCTION | 1 |
| SITE LOCATION & DESCRIPTION | 1 |
| EXISTING CONDITIONS | 3 |
| Streets & Intersections | 3 |
| Traffic Volumes | 3 |
| Capacity | 5 |
| TRIP GENERATION | 6 |
| TRIP DISTRIBUTION | 8 |
| TRAFFIC ASSIGNMENT | 8 |
| TRAFFIC IMPACTS | 10 |
| Traffic Volumes | 10 |
| Capacity Impacts | 12 |
| Safety Impacts | 13 |
| Pedestrians | 13 |
| FUTURE ACCESS OPERATIONS | 13 |
| CONCLUSIONS & RECOMMENDATIONS | 14 |

APPENDIX A – EXISTING CAPACITY CALCULATIONS

APPENDIX B - EXISTING PLUS SITE CAPACITY CALCULATIONS

APPENDIX C – FUTURE CONDITIONS CAPACITY AT ACCESSES

## LIST OF TABLES


| | PAGE |
|---|---|
| Table 1. Capacity Analysis Summary 2014 Existing Conditions | 6 |
| Table 2. Capacity Analysis Summary 2014 Existing Plus Site Traffic | 12 |


## LIST OF FIGURES


| | PAGE |
|---|---|
| Figure 1. Site Location Map | 2 |
| Figure 2. Existing (2014) Traffic Volumes | 4 |
| Figure 3. Site Generated Trip Distribution & Traffic Assignment | 9 |
| Figure 4. Existing (2014) Plus Site Generated Traffic | 11 |
| Figure 5. Recommended Traffic Control & Access Features | 15 |

Marvin & Associates

# Chalice Acres Subdivision Lot 4

# TRAFFIC ACCESSIBILITY STUDY

## INTRODUCTION

This report summarizes a traffic accessibility study completed for the Chalice Acres Subdivision Lot 4 development in Billings, Montana. The proposed Chalice Acres Lot 4 property is located on the west side of Bench Boulevard approximately 850 feet south of the Wicks Lane and Bench Boulevard intersection (see Figure 1). This property is currently undeveloped and all of the surrounding property is occupied by businesses and residences.

Octagon Engineering prepared a site plan for the developer, Kincaid Land, LLC. The developer retained Marvin & Associates to provide a Traffic Accessibility Study (TAS) after having had discussions with City of Billings Public Works staff. City of Billings staff indicated that the study should focus on the accesses and the key intersection of Wicks Lane and Bench Boulevard. Therefore, this study focuses on the two site accesses and the intersection of Wicks Lane and Bench Boulevard.

The study methodology and analysis procedures within this study employ the latest technology and nationally accepted standards in the area of site development and transportation impact assessment. Recommendations made within this report are based on accepted standards and the professional judgment of the author.

## SITE LOCATION & DESCRIPTION

Figure 1 shows the proposed Chalice Acres Lot 4 site plan overlaid on a Google aerial photo. There are two accesses proposed for the Chalice Acres Lot 4 property. The northern access would be aligned to enter Bench Boulevard opposite Kingston Avenue, a local street serving an existing townhouse development. The southern access would be located approximately 180 feet south of Kingston Avenue. There would be a single circulation road within the site that would access the four apartment buildings. Each of the buildings would have 10 apartment units.

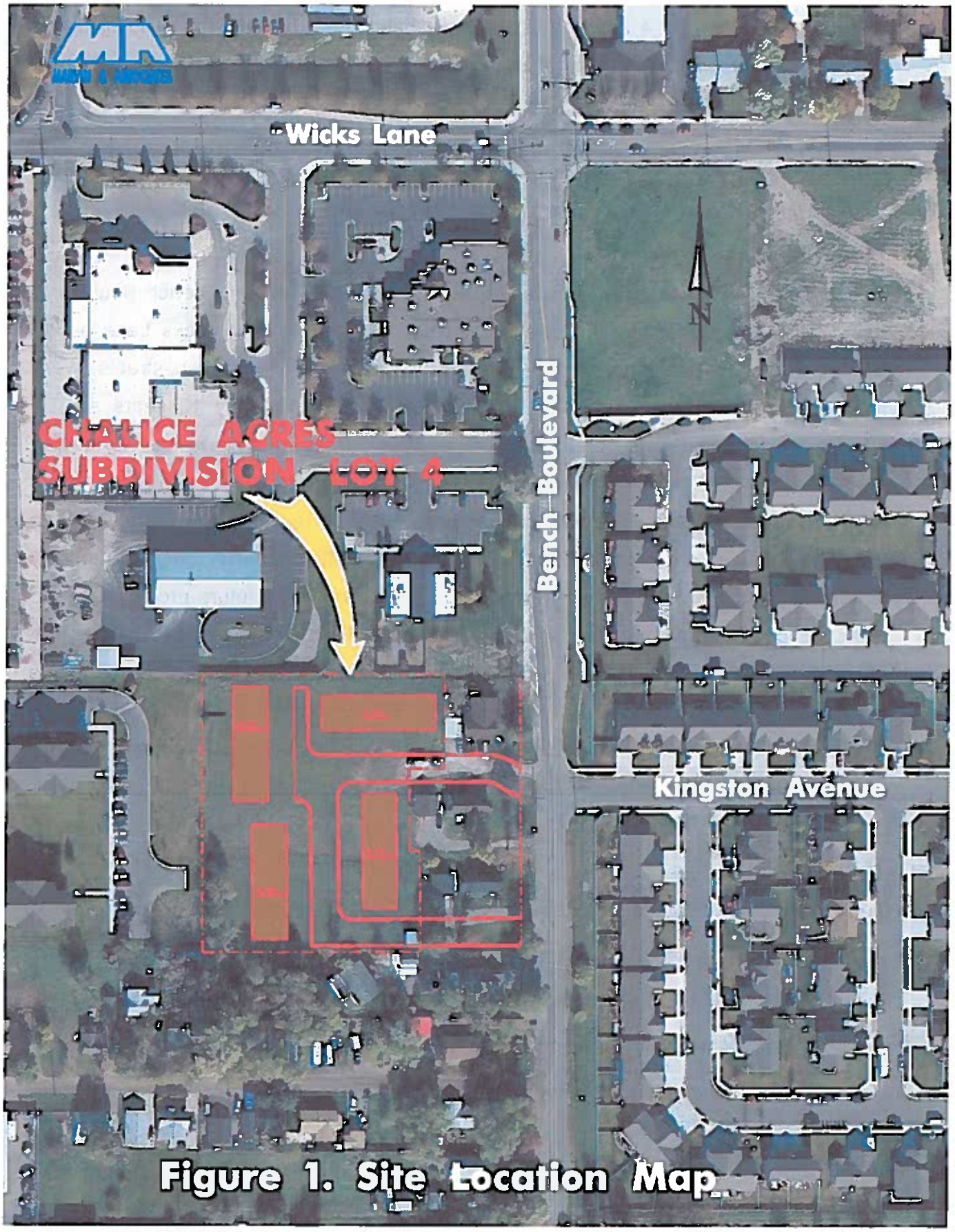



Figure 1. Site Location Map

The Chalice Acres Lot 4 apartments will have parking in front of each building and it has been assumed that the City of Billings Building Department has or will check that the number of spaces agree with City Building Codes.

## EXISTING CONDITIONS

### Streets & Intersections

The adjacent and potentially impacted streets are Wicks Lane and Bench Boulevard, along with the intersection of those two streets (see Figure 1). Wicks Lane and a portion of Bench Boulevard, along with the intersection of those two streets, were reconstructed as part of the Walmart development approximately 12 years ago. A project that connected Bench Boulevard to Main Street at 6th Avenue North was constructed in 2012 and reconstruction of Bench Boulevard from Metra to Hilltop Road was completed in 2013. The new connection resulted in redistribution of traffic at the Bench Boulevard and Wicks Lane intersection. Traffic patterns are substantially different than those used to design the original intersection. A future project has also been designed that will reconstruct Bench Boulevard from Hilltop Road to HWY 87 at Main Street, north of Wicks Lane. That project will result in modifications to the Wicks Lane and Bench Boulevard intersection and the typical section all along Bench Boulevard. The future typical section on Bench Boulevard will accommodate two thru lanes with a center two-way left-turn lane with bike lanes on each side of the roadway.

### Traffic Volumes

Turning movement counts were taken between 4:30 and 5:45 pm on April 1 and April 2, 2014 at the Wicks Lane and Kingston Avenue intersections with Bench Boulevard. Figure 2, on the following page, illustrates turning movement counts and average weekday traffic (AWT) on the surrounding streets and intersections. AWT volumes in Figure 2 were not counted but were estimated using turning movement counts and daily traffic variation factors from the MDT permanent count station data on Main Street.

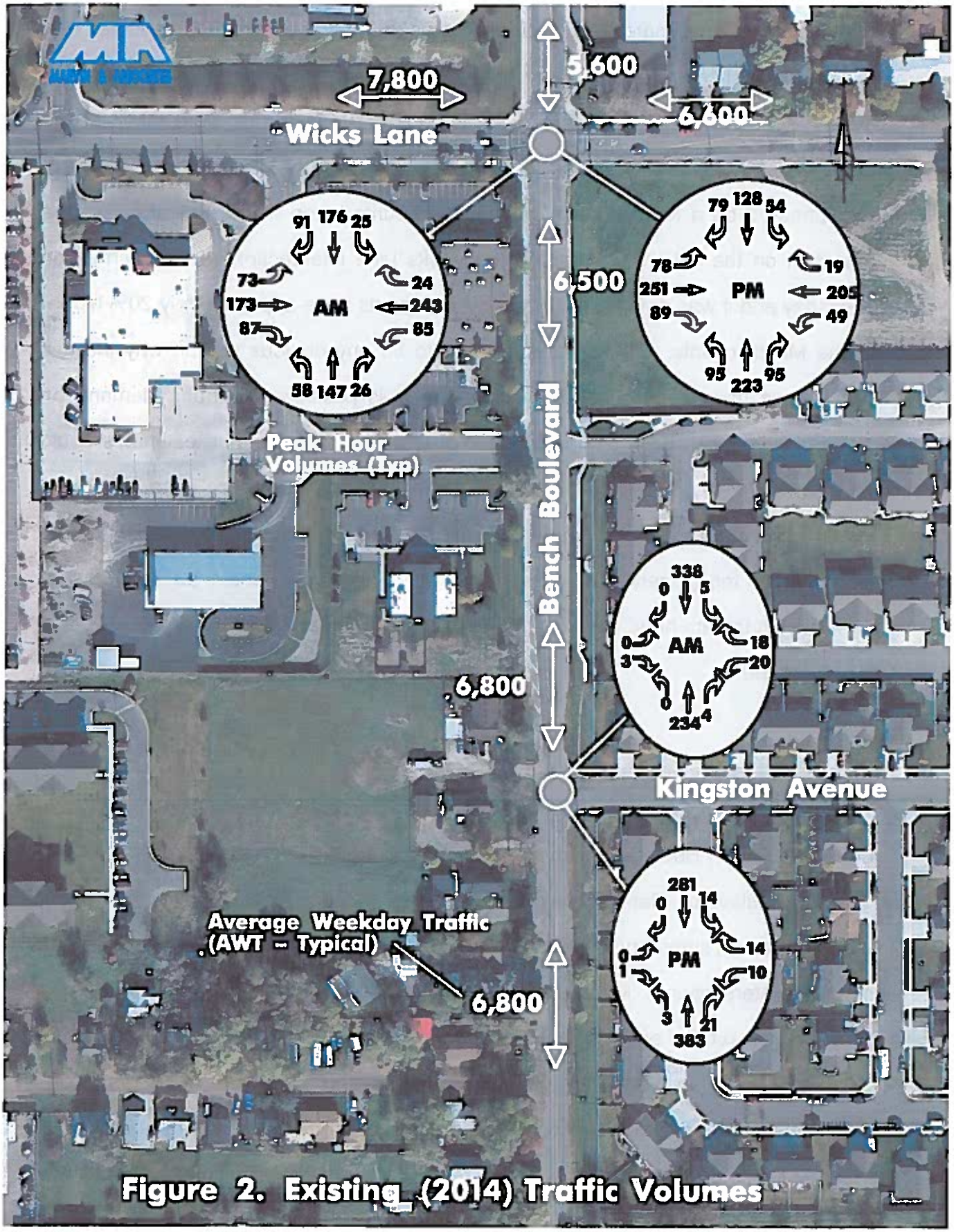



Figure 2. Existing (2014) Traffic Volumes

The traffic counts are approximately the same as the average peak hour volumes that would be experienced at these intersections over the course of a year, according to the daily and seasonal factors. It should be noted that traffic counts were taken at the intersection of Wicks lane and Bench Boulevard on Thursday March 27, 2014. Since there appeared be a large imbalance between counts taken at the Kingston Avenue intersection on the following Tuesday, the Wicks lane intersection was recounted on Wednesday and it was determined that the April counts were approximately 20% higher than the March counts. There doen't appear to be any obvious reason why the two counts should have been subtantially different. It is possible that traffic demand on Bench Boulevard can be highly variable. Thus, design hour volume estimates could have a low level of confidence. Peak am hour hour traffic volumes were calculated using directional splits, historic hourly counts, and a traffic balancing routine. Since the peak pm hour trip generation potential of the development would be substantially greater than in the am hour, it was felt that the cost of performing actual am hour counts was not justified.

***Capacity***

Capacity calculations were completed for the stop controlled intersection of Kingston Avenue and Bench Boulevard and for the signal controlled intersection of Wicks Lane and Bench Boulevard. Capacity calculations can be found in Appendix A of this report. Table 1 provides a summary of measures of effectiveness (MOEs) for each approach at each of the intersections. MOEs include the control delay in seconds per vehicle, the level of service (LOS), and the volume to capacity (V/C) for each of the intersection approach legs. It can be seen that all of the movements at both of the intersections have a LOS of "B" or better, which indicates that that all movements are operating at acceptable levels of service.

**Table 1. Capacity Analysis Summary 2014 Existing Conditions**

| Intersection | MOE | NB | | SB | | EB | | WB | |
|---|---|---|---|---|---|---|---|---|---|
| Movement Group | | L | TR | L | TR | L | TR | L | TR |
| Bench Boulevard & Wicks Lane Peak AM Hour | Control Delay (s/veh) | 10.4 | 10.9 | 9.9 | 11.4 | 11.2 | 12.0 | 11.3 | 12.1 |
| | LOS | B | B | A | B | B | B | B | B |
| | V/C Ratio | 0.16 | 0.26 | 0.06 | 0.34 | 0.20 | 0.35 | 0.21 | 0.36 |
| | Queue Length (95%) | 2 | 3 | 1 | 4 | 2 | 4 | 2 | 5 |
| Movement Group | | L | TR | L | TR | L | TR | L | TR |
| Bench Boulevard & Wicks Lane Peak AM Hour | Control Delay (s/veh) | 10.8 | 12.1 | 10.4 | 10.9 | 11.2 | 12.8 | 11.0 | 11.8 |
| | LOS | B | B | B | B | B | B | B | B |
| | V/C Ratio | 0.23 | 0.45 | 0.16 | 0.26 | 0.20 | 0.46 | 0.15 | 0.30 |
| | Queue Length (95%) | 6 | 6 | 2 | 4 | 3 | 5 | 2 | 4 |
| Movement Group | | LTR | | LTR | | LR | | LR | |
| Kingston Avenue & Bench Boulevard Peak AM Hour | Control Delay (s/veh) | 8.0 | | 7.8 | | 10.4 | | 13.3 | |
| | LOS | A | | A | | B | | B | |
| | V/C Ratio | 0.00 | | 0.00 | | 0.01 | | 0.10 | |
| | Queue Length (95%) | 0.0 | | 0.0 | | 0.0 | | 0.4 | |
| Movement Group | | LTR | | LTR | | LR | | LR | |
| Kingston Avenue & Bench Boulevard Peak PM Hour | Control Delay (s/veh) | 7.9 | | 8.4 | | 9.9 | | 14.6 | |
| | LOS | A | | A | | B | | B | |
| | V/C Ratio | 0.00 | | 0.01 | | 0.00 | | 0.08 | |
| | Queue Length (95%) | 0.0 | | 0.0 | | 0.0 | | 0.3 | |

## TRIP GENERATION

Trip generation rates found in the ITE Trip Generation report, Ninth Edition, were evaluated and it was found that these rates could be applied specifically to the type of development being proposed on this site. The ITE Trip Generation Code 220 for Apartments was used with the independent variable for this land-use being the number of apartments (40 units). The following rates and calculations were used:

AWT: T=6.65(X) = 6.65(40) = 266 AWT

Peak AM: T=0.49(X)+3.73 = 0.49(40)+3.73 = 23 (20% entering)

Peak PM: T=0.55(X)+17.65 = 0.55(40)+17.65 = 40 (65% entering)

The following peak am and pm hour trip generation numbers would apply to the two accesses:

| | | |
|---|---|---|
| AM Hour: | 5 Enter | 18 Exit |
| PM Hour: | 26 Enter | 14 Exit |

In addition to total trip generation numbers, it is sometimes important to know the type of trips to properly evaluate traffic impacts. Some percentage of total trips could be assigned to the pedestrian mode, since there are significant complimentary trip attractors within walking distance of the proposed development. However the total trip generation numbers are so low that any fraction thereof would be irrelevant.

Internal capture trips are of significant importance for certain developments. In this case, it doesn't appear that there would be any significant internal capture trips.

There are also three classifications of trip types related to use of the street system: 1) Primary purpose trips are trips for which the development is a primary destination from any particular origin. 2) Diverted linked trips are trips made to the development as a secondary destination and are diverted from a path between an origin and a primary destination. 3) Passerby trips are also trips made to a development as a secondary destination, but the primary trip path is on the adjacent street system, i.e. stop on the way home from work. For this development, it was assumed that no passerby trips could be considered.

The combination of all trip types results in the net number of new or system added trips. In this case, the net number of trips would equal the total trips as stated above.

## TRIP DISTRIBUTION

There are various methods of determining the directional distribution of trips to and from site developments and subdivisions. For large and complex developments within the middle of a large urbanized area, the task is best accomplished by creating a computerized transportation model of the urban street system and including the proposed development changes. Trip distribution for moderate sized developments may be completed by manipulation of data provided by a current transportation plan. Smaller developments or developments on the fringe of a small urban area can be easily handled by using existing traffic volumes on adjacent streets or by an area of influence method, or both. In this case, the use of existing traffic patterns at the existing intersections would provide an acceptable means of distributing trips.

The analogy method of trip distribution resulted in an estimated distribution of 45% to and from the north and 55% to and from the south on the Bench Boulevard. Of the 45% trips distributed north of the site, 30% would be directed to and from the west on Wicks Lane with 10% to and from the north on Bench Boulevard and the remaining 5% would be to and from the east on Wicks Lane.

## TRAFFIC ASSIGNMENT

Assignment of site traffic to the street system and site access points is normally dependent upon several factors, directional distribution, passerby distribution and operational conditions at the site and on the street system. Directional distribution was discussed in the previous section. Assignment of traffic to the access points is influenced by internal site circulation, number of approaches, internal travel time and capacity of the access movements. In this case, it was determined that travel times and delays would result in approximately 45% of the site traffic assigned to the north access and 55% to the south access, which is directly proportional to the trip distribution.

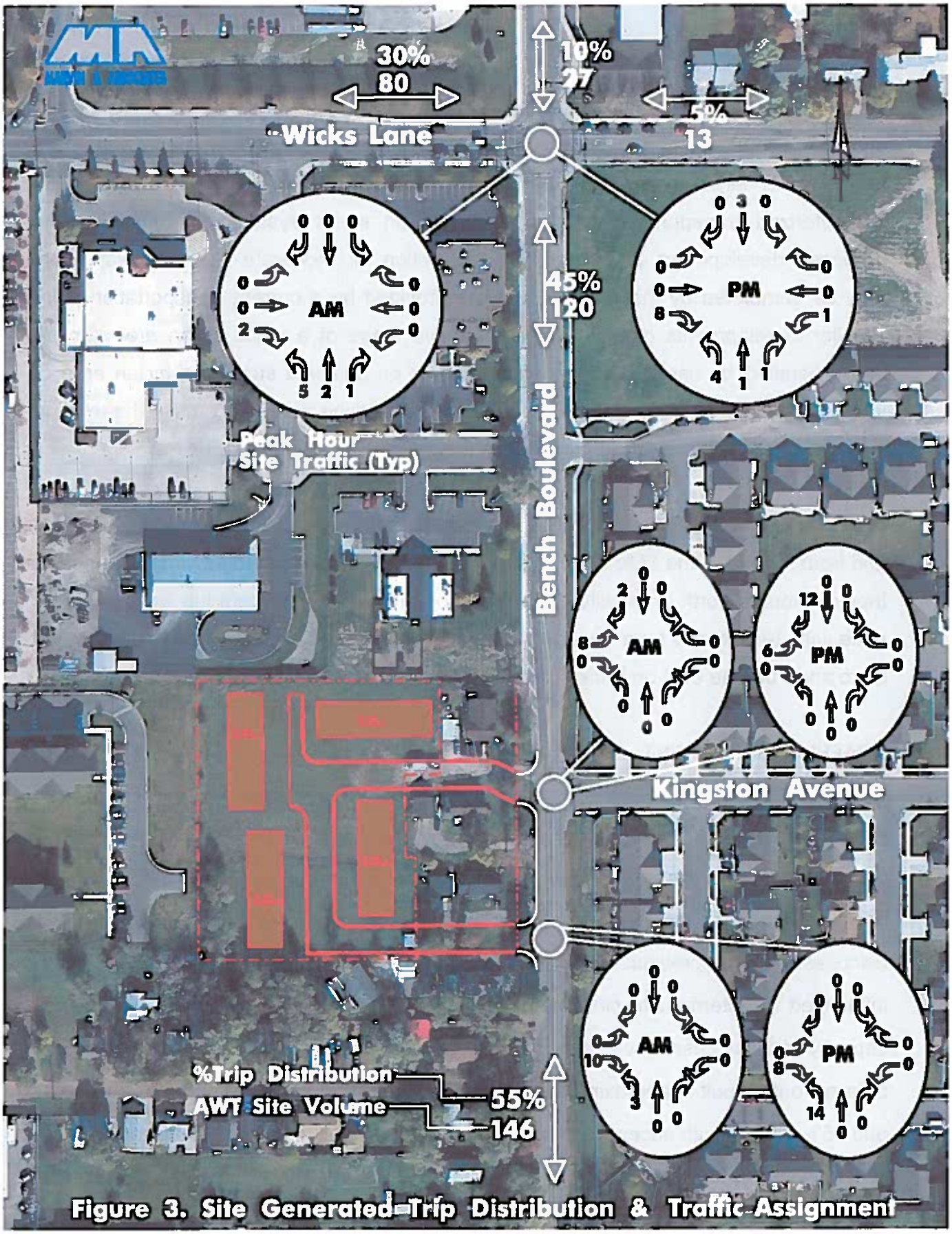



Figure 3. Site Generated Trip Distribution & Traffic Assignment

Figure 3 shows the percentage trip distribution, average weekday traffic (AWT) assignment, and the peak am and pm hour traffic assignments. It can be seen that in the am and pm hours all of the traffic to and from the north would use the northern approach and all of the site traffic to and from the south would use the southern approach due to the relative travel times and delays associated with each access. In actual operations, there may be vehicles accessing the site using all of the turning movement options for a variety of reasons, but the theoretical demand for those movements shown as zero would not exist based on the site development circulation and access patterns.

## TRAFFIC IMPACTS

### Traffic Volumes

Figure 4 presents a summary of peak am and pm hour volumes at the access points and on the surrounding street system. The turning movement volumes are calculated by adding the site traffic assignment to existing traffic volumes. Also shown in Figure 4, are the relative percentage increase that site traffic would add to existing AWT volumes. The largest percentages increases would occur on Bench Boulevard adjacent to the proposed development due to access movements into and out of the site. The percentage increase in traffic on Bench Boulevard would only be approximately 2%. Normally traffic counting samples can only estimate average traffic conditions within 10% accuracy and from the two separate counts taken at Wicks and Bench, it appears that traffic volumes can vary by more than 20% in a one week period. Therefore, it can be assumed that the 2% increase could be considered insignificant.

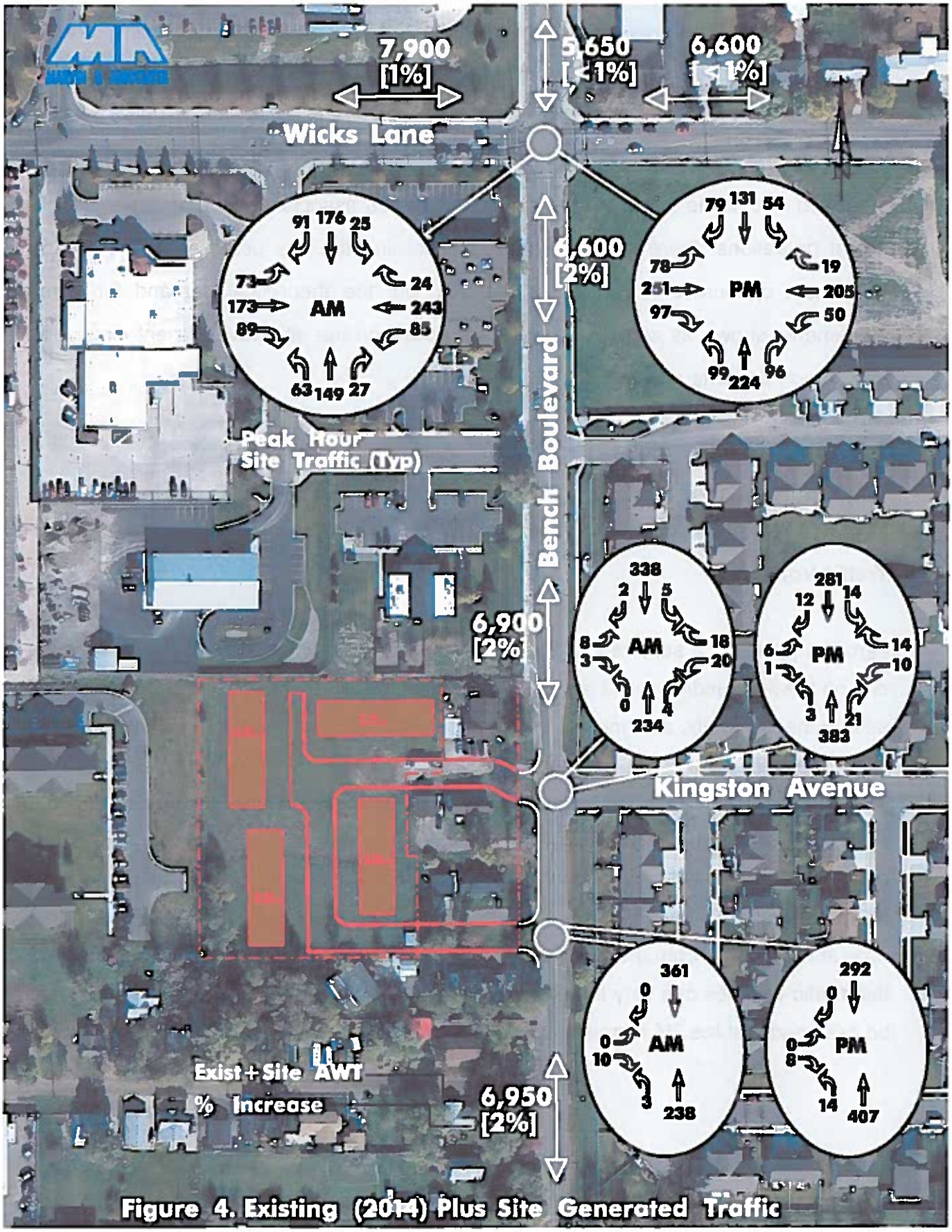



Figure 4. Existing (2014) Plus Site Generated Traffic

**Capacity Impacts**

Appendix "B" contains capacity calculations for existing plus site traffic (peak hour) conditions. Table 2 is a summary of capacity impacts at the site accesses and at the intersection of Wicks Lane and Bench Boulevard in the same format as contained in Table 1.

**Table 2. Capacity Analysis Summary 2014 Existing Plus Site Traffic**

| Intersection | MOE | NB | | SB | | EB | | WB | |
|---|---|---|---|---|---|---|---|---|---|
| *Movement Group* | | L | TR | L | TR | L | TR | L | TR |
| *Bench Boulevard & Wicks Lane Peak AM Hour* | *Control Delay (s/veh)* | 10.5 | 10.9 | 9.9 | 11.4 | 11.2 | 12.1 | 11.3 | 12.1 |
| | *LOS* | B | B | A | B | B | B | B | B |
| | *V/C Ratio* | 0.17 | 0.26 | 0.06 | 0.34 | 0.20 | 0.35 | 0.21 | 0.36 |
| | *Queue Length (95%)* | 3 | 4 | 1 | 4 | 2 | 4 | 2 | 5 |
| *Movement Group* | | L | TR | L | TR | L | TR | L | TR |
| *Bench Boulevard & Wicks Lane Peak AM Hour* | *Control Delay (s/veh)* | 10.8 | 12.1 | 10.4 | 10.9 | 11.2 | 12.9 | 11.0 | 11.8 |
| | *LOS* | B | B | B | B | B | B | B | B |
| | *V/C Ratio* | 0.24 | 0.45 | 0.16 | 0.26 | 0.20 | 0.47 | 0.16 | 0.30 |
| | *Queue Length (95%)* | 5 | 5 | 2 | 4 | 4 | 6 | 2 | 3 |
| *Movement Group* | | LTR | | LTR | | LR | | LR | |
| *Kingston Avenue & Bench Boulevard Peak AM Hour* | *Control Delay (s/veh)* | 8.0 | | 7.8 | | 14.5 | | 13.4 | |
| | *LOS* | A | | A | | B | | B | |
| | *V/C Ratio* | 0.00 | | 0.00 | | 0.05 | | 0.10 | |
| | *Queue Length (95%)* | 0.0 | | 0.0 | | 0.2 | | 0.4 | |
| *Movement Group* | | LTR | | LTR | | LR | | LR | |
| *Kingston Avenue & Bench Boulevard Peak PM Hour* | *Control Delay (s/veh)* | 7.9 | | 8.4 | | 17.8 | | 14.7 | |
| | *LOS* | A | | A | | C | | B | |
| | *V/C Ratio* | 0.00 | | 0.01 | | 0.05 | | 0.08 | |
| | *Queue Length (95%)* | 0.0 | | 0.0 | | 0.2 | | 0.3 | |
| *Movement Group* | | LT | | | | LR | | | |
| *Southern Site Access & Bench Boulevard Peak AM Hour* | *Control Delay (s/veh)* | 8.0 | | | | 10.7 | | | |
| | *LOS* | A | | | | B | | | |
| | *V/C Ratio* | 0.00 | | | | 0.03 | | | |
| | *Queue Length (95%)* | 0.0 | | | | 0.1 | | | |
| *Movement Group* | | LTR | | | | LR | | | |
| *Southern Site Access & Bench Boulevard Peak PM Hour* | *Control Delay (s/veh)* | 7.9 | | | | 10.1 | | | |
| | *LOS* | A | | | | B | | | |
| | *V/C Ratio* | 0.01 | | | | 0.02 | | | |
| | *Queue Length (95%)* | 0.0 | | | | 0.1 | | | |

In comparing Table 1 to Table 2 it can be seen that all movements at the accesses and intersection would still operate at or above LOS "B". It can also be seen that the addition of site generated traffic to the proposed access at the Kingston Avenue intersection would operate at LOS "C" while the south access would operate at LOS "B". Since none of the MOEs would be impacted to any significant degree, it could be

concluded that additional traffic generated by the site development would not impact the efficiency of existing traffic operations.

**Safety Impacts**

In addition to capacity impacts, safety of the proposed site layout and access would be a prime factor in consideration of impacts to the street system. Increased traffic volumes at the access points wouldn't necessarily result in an increased number of accidents due to increased exposure rates. At certain points along the system, usually at intersections, safety concerns are the greatest. From observations of existing conditions, the biggest factor that could be involved with potential safety would be sight distance at the approaches. Since there are no immoveable objects that currently obstruct sight distance, the only obstructions would be queued vehicles. Since there are only single lanes in each direction and the capacity calculations indicate that queues will be no more than a single vehicle, conflicts should not exist. Turn lane warrants were examined and it was discovered that the projected traffic volumes would be well under the warranting values.

**Pedestrians**

Pedestrian access to the site from the public street system is not expected to be significant and the movement of pedestrians between adjacent developments doesn't have the potential to be substantial. Existing pedestrian traffic in the area was minimal with the only pedestrian activity occurring at the intersection of Wicks and Bench.

## FUTURE ACCESS OPERATIONS

Consideration of access operations in the future need to be assessed to determine if future traffic increases on the roadway system would change the efficiency of the proposed accesses. Since a future MDT project will widen Bench Boulevard and will provide a continuous center turn-lane, bike lanes and sidewalks, evaluation of future operations assumed that the improvements would be in-place within the next 5 years. Capacity calculations using an annual growth rate of 2% along with the planned typical road section were completed (Appendix C). It was determined that the northern access

at the intersection of Kingston Avenue would operate at LOS "C" while the southern access would operate at LOS "B". Thus, the planned access should provide acceptable levels of service in future years.

**CONCLUSIONS & RECOMMENDATIONS**

The proposed subdivision development would generate new vehicular trips on the existing street system. On a daily basis, new traffic on Bench Boulevard would represent an increase of approximately 2% of existing traffic volumes on Bench Boulevard. The proposed accesses to the site property would operate at acceptable levels of service initially and well into the future. Capacity calculations at the existing intersection of Wicks Lane and Bench Boulevard indicate that the proposed site development traffic would not degrade existing levels of service to any substantial degree and additional vehicle queues at that intersection would not impede operations on Bench Boulevard.

The only identifiable development conditions that need to be addressed would be associated with potential safety concerns. The study analysis indicates that no additional measures such as additional traffic lanes are warranted as a mitigation measure. Since the development accesses will be constructed as street approaches, it would be necessary to install stop signs at their intersections with Bench Boulevard. Internally, traffic speeds should be relatively low (20 mph or less). However, the internal curves are 90 degree turns and the line of sight on the inside of those curves could present a safety problem if any permanent structure or landscaping is placed in the corner areas. Therefore, the sight lines on those corners should be maintained (see Figure 5).

Figure 5 shows new driveway locations for two of the three existing residential houses fronting on Bench Boulevard. The existing driveways would be too close to the access streets and the driveway approaches should be moved to the new subdivision streets, as shown.

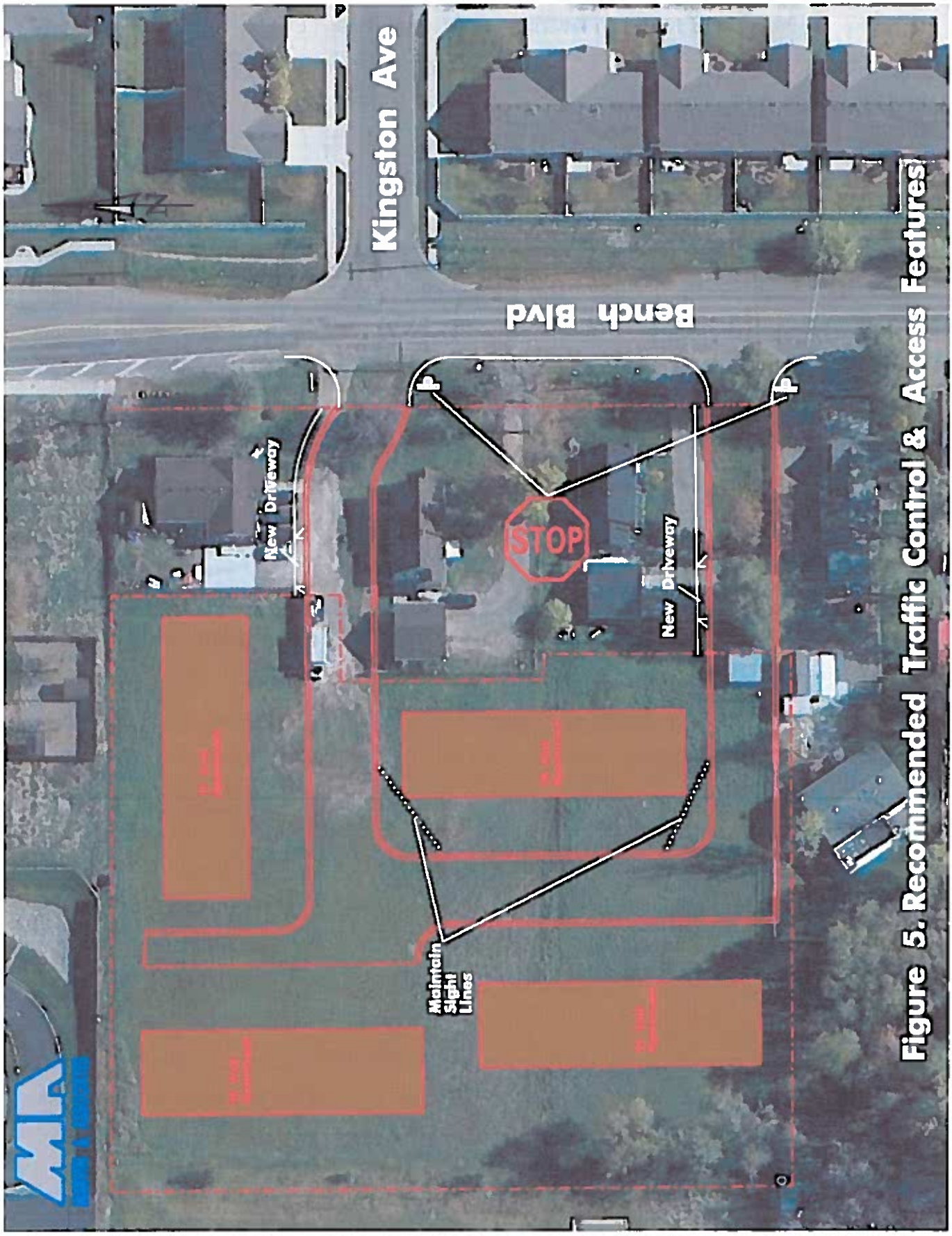



Figure 5. Recommended Traffic Control & Access Features

# APPENDIX "A"

## Existing Capacity Calculations

# HCM Analysis Summary

2014 Existing | Wicks/Bench | Area Type: Non CBD
R Marvin | 4/3/14 | Analysis Duration: 15 mins.
AM Hour | Case: Bench Wicks Capacity Exist AM

| Lanes | | | Geometry: Movements Serviced by Lane and Lane Widths (feet) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Approach | Outbound | Lane 1 | | Lane 2 | | Lane 3 | | Lane 4 | | Lane 5 | | Lane 6 | |
| EB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| WB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| NB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| SB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |

| | East | | | West | | | North | | | South | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Data | L | T | R | L | T | R | L | T | R | L | T | R |
| Movement Volume (vph) | 73 | 173 | 87 | 85 | 243 | 24 | 58 | 147 | 26 | 25 | 176 | 91 |
| PHF | 0.86 | 0.86 | 0.86 | 0.91 | 0.91 | 0.91 | 0.80 | 0.80 | 0.80 | 0.87 | 0.87 | 0.87 |
| % Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lane Groups | L | TR | | L | TR | | L | TR | | L | TR | |
| Arrival Type | 3 | 3 | | 3 | 3 | | 3 | 3 | | 3 | 3 | |
| RTOR Vol (vph) | | 32 | | | 8 | | | 8 | | | 35 | |
| Peds/Hour | | 5 | | | 5 | | | 5 | | | 5 | |
| % Grade | | 0 | | | 0 | | | 0 | | | 0 | |
| Buses/Hour | | 0 | | | 0 | | | 0 | | | 0 | |
| Parkers/Hour (Left\|Right) | --- | --- | | --- | --- | | --- | --- | | --- | --- | |

Signal Settings: Actuated | Operational Analysis | Cycle Length: 60.0 Sec | Lost Time Per Cycle: 9.0 Sec

| Phase: | | 1 | | 2 | | 3 | 4 | 5 | 6 | 7 | 8 | Ped Only |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| EB | | LTP | | | | | | | | | | |
| WB | | LTP | | | | | | | | | | |
| NB | | | | LTP | | | | | | | | |
| SB | | | | LTP | | | | | | | | |
| Green | | 25.0 | | 26.0 | | | | | | | | 0 |
| Yellow | All Red | 3.5 | 1.0 | 3.5 | 1.0 | | | | | | | |

| | Capacity Analysis Results | | | | | | | | Approach: | |
|---|---|---|---|---|---|---|---|---|---|---|
| App | Lane Group | Cap (vph) | v/s Ratio | g/C Ratio | Lane Group | v/c Ratio | Delay (sec/veh) | LOS | Delay (sec/veh) | LOS |
| EB | | | | | | | | | | |
| | L | 423 | 0.084 | 0.417 | L | 0.201 | 11.2 | B | 11.8 | B |
| | TR | 762 | 0.145 | 0.417 | TR | 0.348 | 12.0 | B | | |
| WB | | | | | | | | | | |
| | L | 441 | 0.088 | 0.417 | L | 0.211 | 11.3 | B | 11.9 | B |
| | * TR | 784 | 0.152 | 0.417 | TR | 0.364 | 12.1 | B | | |
| NB | | | | | | | | | | |
| | L | 462 | 0.068 | 0.433 | L | 0.156 | 10.4 | B | 10.8 | B |
| | TR | 809 | 0.110 | 0.433 | TR | 0.255 | 10.9 | B | | |
| SB | | | | | | | | | | |
| | L | 515 | 0.024 | 0.433 | L | 0.056 | 9.9 | A | 11.2 | B |
| | * TR | 793 | 0.145 | 0.433 | TR | 0.335 | 11.4 | B | | |

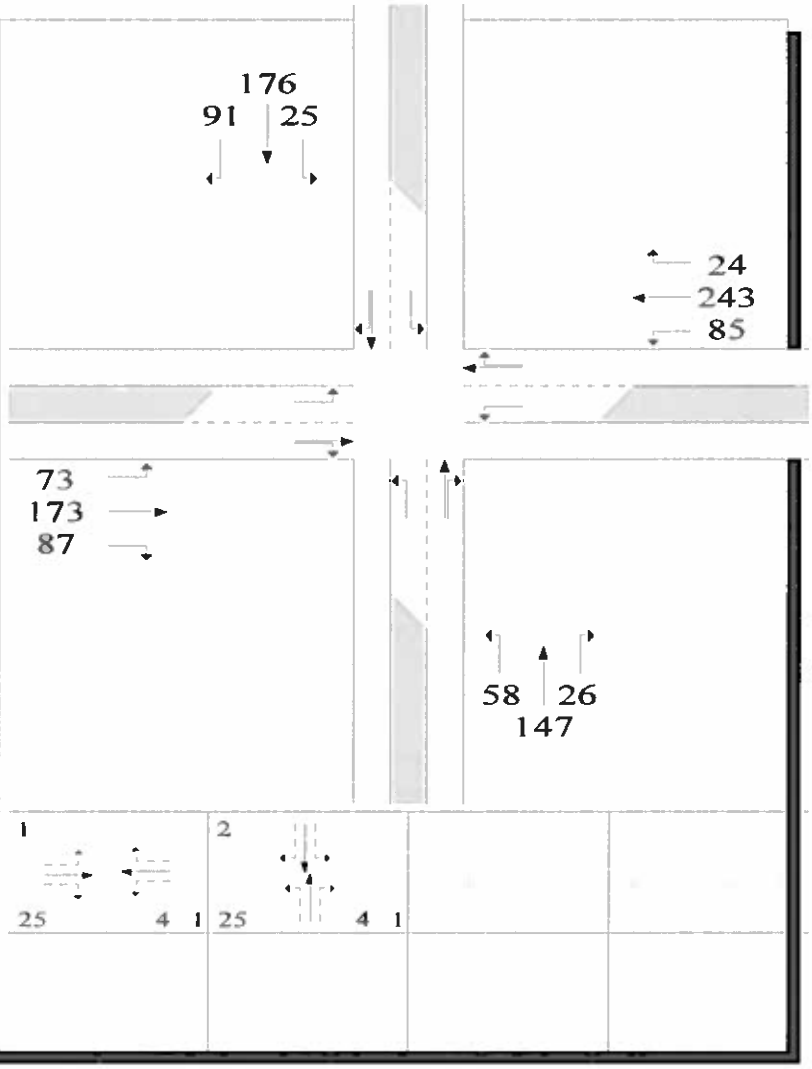
Intersection: Delay = 11.5 sec/veh | Int. LOS=B | $X_c$= 0.35 | * Critical Lane Group | $\Sigma$(v/s)Crit= 0.30

# NETSIM Summary Results

2014 Existing
R Marvin
AM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist AM

| App | Lane Group | Queues Per Lane Avg/Max (veh) | Average Speed (mph) | Spillback in Worst Lane (% of Peak Period) |
|---|---|---|---|---|
| EB | L | 1 / 2 | 10.7 | 0.0 |
| | TR | 2 / 4 | 18.4 | 0.0 |
| | | | | |
| | All | | 16.9 | 0.0 |
| WB | L | 1 / 2 | 15.1 | 0.0 |
| | TR | 3 / 5 | 16.7 | 0.0 |
| | | | | |
| | All | | 16.5 | 0.0 |
| NB | L | 1 / 2 | 9.9 | 0.0 |
| | TR | 2 / 3 | 17.9 | 0.0 |
| | | | | |
| | All | | 16.0 | 0.0 |
| SB | L | 0 / 1 | 12.2 | 0.0 |
| | TR | 3 / 4 | 17.1 | 0.0 |
| | | | | |
| | All | | 16.7 | 0.0 |
| Intersect. | | | 16.5 | |



# HCM Analysis Summary

2014 Existing
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist PM

Area Type: Non CBD
Analysis Duration: 15 mins.

| Lanes | | | Geometry: Movements Serviced by Lane and Lane Widths (feet) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Approach | Outbound | Lane 1 | | Lane 2 | | Lane 3 | | Lane 4 | | Lane 5 | | Lane 6 | |
| EB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| WB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| NB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| SB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |

| | East | | | West | | | North | | | South | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Data | L | T | R | L | T | R | L | T | R | L | T | R |
| Movement Volume (vph) | 78 | 251 | 89 | 49 | 205 | 19 | 95 | 223 | 95 | 54 | 128 | 79 |
| PHF | 0.86 | 0.86 | 0.86 | 0.91 | 0.91 | 0.91 | 0.80 | 0.80 | 0.80 | 0.87 | 0.87 | 0.87 |
| % Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lane Groups | L | TR | | L | TR | | L | TR | | L | TR | |
| Arrival Type | 3 | 3 | | 3 | 3 | | 3 | 3 | | 3 | 3 | |
| RTOR Vol (vph) | | 36 | | | 6 | | | 32 | | | 31 | |
| Peds/Hour | | 5 | | | 5 | | | 5 | | | 5 | |
| % Grade | | 0 | | | 0 | | | 0 | | | 0 | |
| Buses/Hour | | 0 | | | 0 | | | 0 | | | 0 | |
| Parkers/Hour (Left\|Right) | --- | --- | | --- | --- | | --- | --- | | --- | --- | |

Signal Settings: Actuated  Operational Analysis  Cycle Length: 60.0 Sec  Lost Time Per Cycle: 9.0 Sec

| Phase: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Ped Only |
|---|---|---|---|---|---|---|---|---|---|
| EB | LTP | | | | | | | | |
| WB | LTP | | | | | | | | |
| NB | | LTP | | | | | | | |
| SB | | LTP | | | | | | | |
| Green | 25.0 | 26.0 | | | | | | | 0 |
| Yellow All Red | 3.5 1.0 | 3.5 1.0 | | | | | | | |

| | | Capacity Analysis Results | | | | | | | Approach: | |
|---|---|---|---|---|---|---|---|---|---|---|
| App | Lane Group | Cap (vph) | v/s Ratio | g/C Ratio | Lane Group | v/c Ratio | Delay (sec/veh) | LOS | Delay (sec/veh) | LOS |
| EB | | | | | | | | | | |
| | L | 465 | 0.082 | 0.417 | L | 0.196 | 11.2 | B | 12.5 | B |
| | * TR | 770 | 0.192 | 0.417 | TR | 0.460 | 12.8 | B | | |
| WB | | | | | | | | | | |
| | L | 363 | 0.062 | 0.417 | L | 0.149 | 11.0 | B | 11.6 | B |
| | TR | 785 | 0.127 | 0.417 | TR | 0.304 | 11.8 | B | | |
| NB | | | | | | | | | | |
| | L | 517 | 0.100 | 0.433 | L | 0.230 | 10.8 | B | 11.8 | B |
| | * TR | 795 | 0.195 | 0.433 | TR | 0.450 | 12.1 | B | | |
| SB | | | | | | | | | | |
| | L | 381 | 0.071 | 0.433 | L | 0.163 | 10.4 | B | 10.8 | B |
| | TR | 789 | 0.111 | 0.433 | TR | 0.256 | 10.9 | B | | |

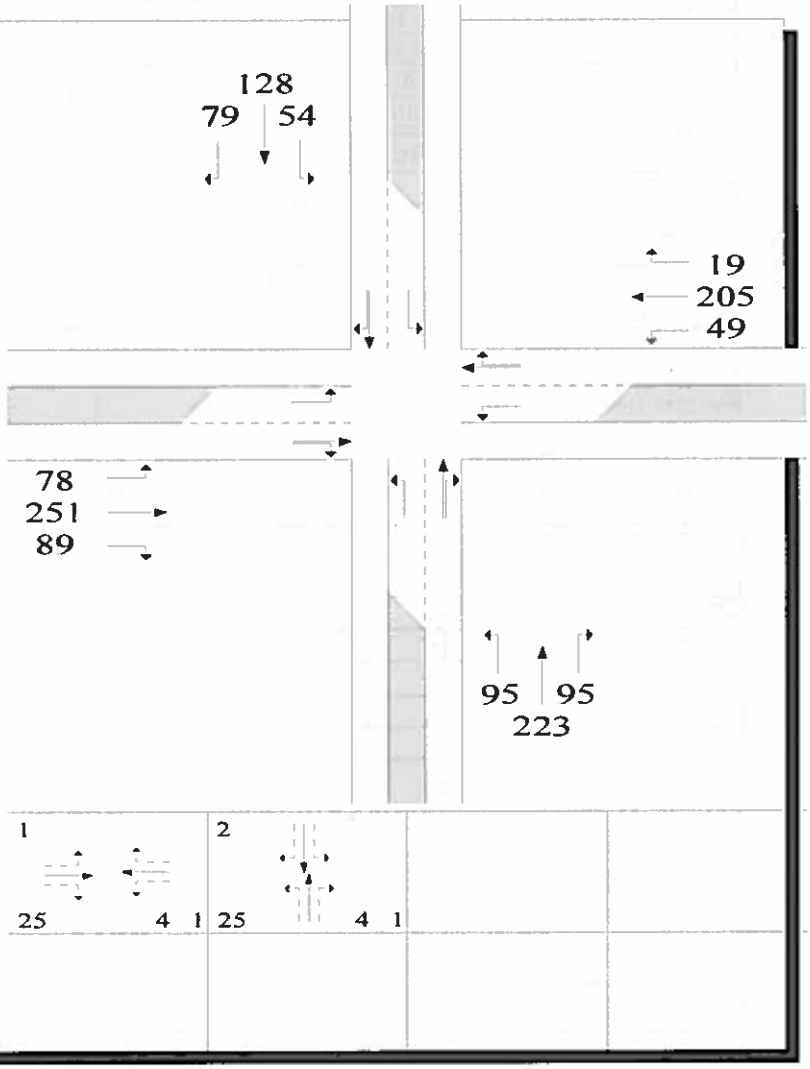
Intersection: Delay = 11.8 sec/veh  Int. LOS=B  $X_c$ = 0.45  * Critical Lane Group  $\Sigma$(v/s)Crit= 0.39

# NETSIM Summary Results

2014 Existing
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist PM

| App | Lane Group | Queues Per Lane Avg/Max (veh) | Average Speed (mph) | Spillback in Worst Lane (% of Peak Period) |
|---|---|---|---|---|
| EB | L | 1 / 3 | 11.1 | 0.0 |
| | TR | 4 / 5 | 17.6 | 0.0 |
| | | | | |
| | All | | 16.5 | 0.0 |
| WB | L | 1 / 2 | 8.9 | 0.0 |
| | TR | 2 / 4 | 18.2 | 0.0 |
| | | | | |
| | All | | 17.0 | 0.0 |
| NB | L | 2 / 6 | 7.8 | 0.0 |
| | TR | 3 / 6 | 16.2 | 0.0 |
| | | | | |
| | All | | 14.2 | 0.0 |
| SB | L | 1 / 2 | 9.6 | 0.0 |
| | TR | 2 / 4 | 18.7 | 0.0 |
| | | | | |
| | All | | 16.9 | 0.0 |
| Intersect. | | | 15.8 | |



# TWO-WAY STOP CONTROL SUMMARY

| General Information | | Site Information | |
|---|---|---|---|
| Analyst | *R Marvin* | Intersection | *Bench & Kingston* |
| Agency/Co. | *Marvin Associates* | Jurisdiction | *City of Billings* |
| Date Performed | *4/2/2014* | Analysis Year | *2014 Existing* |
| Analysis Time Period | *Peak AM* | | |

Project Description *Chalice Acres Sub Lot 4*

East/West Street: *Kingston Avenue* | North/South Street: *Bench Boulevard*

Intersection Orientation: *North-South* | Study Period (hrs): *0.25*

## Vehicle Volumes and Adjustments

| Major Street | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *0* | *234* | *4* | *5* | *338* | *0* |
| Peak-Hour Factor, PHF | *0.81* | *0.81* | *0.81* | *0.89* | *0.89* | *1.00* |
| Hourly Flow Rate, HFR (veh/h) | *0* | *288* | *4* | *5* | *379* | *0* |
| Percent Heavy Vehicles | *0* | -- | -- | *0* | -- | -- |
| Median Type | *Undivided* | | | | | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *1* | *0* | *0* | *1* | *0* |
| Configuration | *LTR* | | | *LTR* | | |
| Upstream Signal | | *0* | | | *0* | |

| Minor Street | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *0* | | *3* | *20* | | *18* |
| Peak-Hour Factor, PHF | *0.50* | *1.00* | *0.50* | *0.75* | *1.00* | *0.75* |
| Hourly Flow Rate, HFR (veh/h) | *0* | *0* | *6* | *26* | *0* | *24* |
| Percent Heavy Vehicles | *0* | *0* | *0* | *0* | *0* | *0* |
| Percent Grade (%) | | *0* | | | *0* | |
| Flared Approach | | *N* | | | *N* | |
| Storage | | *0* | | | *0* | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *0* | *0* | *0* | *0* | *0* |
| Configuration | | *LR* | | | *LR* | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | *LTR* | *LTR* | | *LR* | | | *LR* | |
| v (veh/h) | *0* | *5* | | *50* | | | *6* | |
| C (m) (veh/h) | *1191* | *1281* | | *482* | | | *672* | |
| v/c | *0.00* | *0.00* | | *0.10* | | | *0.01* | |
| 95% queue length | *0.00* | *0.01* | | *0.35* | | | *0.03* | |
| Control Delay (s/veh) | *8.0* | *7.8* | | *13.3* | | | *10.4* | |
| LOS | *A* | *A* | | *B* | | | *B* | |
| Approach Delay (s/veh) | -- | -- | *13.3* | | | *10.4* | | |
| Approach LOS | -- | -- | *B* | | | *B* | | |

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# TWO-WAY STOP CONTROL SUMMARY

| General Information | | Site Information | |
|---|---|---|---|
| Analyst | *R Marvin* | Intersection | *Bench & Kingston* |
| Agency/Co. | *Marvin Associates* | Jurisdiction | *City of Billings* |
| Date Performed | *4/2/2014* | Analysis Year | *2014 Existing* |
| Analysis Time Period | *Peak PM* | | |

Project Description *Chalice Acres Sub Lot 4*

East/West Street: *Kingston Avenue* | North/South Street: *Bench Boulevard*

Intersection Orientation: *North-South* | Study Period (hrs): *0.25*

## Vehicle Volumes and Adjustments

| Major Street | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *3* | *383* | *21* | *14* | *281* | *0* |
| Peak-Hour Factor, PHF | *0.81* | *0.81* | *0.81* | *0.89* | *0.89* | *0.89* |
| Hourly Flow Rate, HFR (veh/h) | *3* | *472* | *25* | *15* | *315* | *0* |
| Percent Heavy Vehicles | *0* | -- | -- | *0* | -- | -- |
| Median Type | *Undivided* | | | | | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *1* | *0* | *0* | *1* | *0* |
| Configuration | *LTR* | | | *LTR* | | |
| Upstream Signal | | *0* | | | *0* | |

| Minor Street | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *0* | | *1* | *10* | | *14* |
| Peak-Hour Factor, PHF | *0.50* | *1.00* | *0.50* | *0.75* | *1.00* | *0.75* |
| Hourly Flow Rate, HFR (veh/h) | *0* | *0* | *2* | *13* | *0* | *18* |
| Percent Heavy Vehicles | *0* | *0* | *0* | *0* | *0* | *0* |
| Percent Grade (%) | | *0* | | | *0* | |
| Flared Approach | | *N* | | | *N* | |
| Storage | | *0* | | | *0* | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *0* | *0* | *0* | *0* | *0* |
| Configuration | | *LR* | | | *LR* | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | *LTR* | *LTR* | | *LR* | | | *LR* | |
| v (veh/h) | *3* | *15* | | *31* | | | *2* | |
| C (m) (veh/h) | *1257* | *1077* | | *406* | | | *730* | |
| v/c | *0.00* | *0.01* | | *0.08* | | | *0.00* | |
| 95% queue length | *0.01* | *0.04* | | *0.25* | | | *0.01* | |
| Control Delay (s/veh) | *7.9* | *8.4* | | *14.6* | | | *9.9* | |
| LOS | *A* | *A* | | *B* | | | *A* | |
| Approach Delay (s/veh) | -- | -- | *14.6* | | | *9.9* | | |
| Approach LOS | -- | -- | *B* | | | *A* | | |

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# APPENDIX "B"

## Existing Plus Site Traffic Capacity Calculations

# HCM Analysis Summary

2014 Existing Plus Site | Wicks/Bench | Area Type: Non CBD
R Marvin | 4/3/14 | Analysis Duration: 15 mins.
AM Hour | Case: Bench Wicks Capacity Exist Plus AM

| Lanes | | | Geometry: Movements Serviced by Lane and Lane Widths (feet) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Approach | Outbound | Lane 1 | | Lane 2 | | Lane 3 | | Lane 4 | | Lane 5 | | Lane 6 | |
| EB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| WB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| NB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| SB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |

| | East | | | West | | | North | | | South | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Data | L | T | R | L | T | R | L | T | R | L | T | R |
| Movement Volume (vph) | 73 | 173 | 89 | 85 | 243 | 24 | 63 | 149 | 27 | 25 | 176 | 91 |
| PHF | 0.86 | 0.86 | 0.86 | 0.91 | 0.91 | 0.91 | 0.80 | 0.80 | 0.80 | 0.87 | 0.87 | 0.87 |
| % Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lane Groups | L | TR | | L | TR | | L | TR | | L | TR | |
| Arrival Type | 3 | 3 | | 3 | 3 | | 3 | 3 | | 3 | 3 | |
| RTOR Vol (vph) | | 32 | | | 8 | | | 8 | | | 35 | |
| Peds/Hour | | 5 | | | 5 | | | 5 | | | 5 | |
| % Grade | | 0 | | | 0 | | | 0 | | | 0 | |
| Buses/Hour | | 0 | | | 0 | | | 0 | | | 0 | |
| Parkers/Hour (Left\|Right) | --- | --- | | --- | --- | | --- | --- | | --- | --- | |

Signal Settings: Actuated | Operational Analysis | Cycle Length: 60.0 Sec | Lost Time Per Cycle: 9.0 Sec

| Phase: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Ped Only |
|---|---|---|---|---|---|---|---|---|---|
| EB | LTP | | | | | | | | |
| WB | LTP | | | | | | | | |
| NB | | LTP | | | | | | | |
| SB | | LTP | | | | | | | |
| Green | 25.0 | 26.0 | | | | | | | 0 |
| Yellow / All Red | 3.5 / 1.0 | 3.5 / 1.0 | | | | | | | |

| | | Capacity Analysis Results | | | | | | | Approach: | |
|---|---|---|---|---|---|---|---|---|---|---|
| App | Lane Group | Cap (vph) | v/s Ratio | g/C Ratio | Lane Group | v/c Ratio | Delay (sec/veh) | LOS | Delay (sec/veh) | LOS |
| EB | | | | | | | | | | |
| | L | 423 | 0.084 | 0.417 | L | 0.201 | 11.2 | B | 11.9 | B |
| | TR | 761 | 0.146 | 0.417 | TR | 0.351 | 12.1 | B | | |
| WB | | | | | | | | | | |
| | L | 439 | 0.088 | 0.417 | L | 0.212 | 11.3 | B | 11.9 | B |
| | * TR | 784 | 0.152 | 0.417 | TR | 0.364 | 12.1 | B | | |
| NB | | | | | | | | | | |
| | L | 462 | 0.074 | 0.433 | L | 0.171 | 10.5 | B | 10.8 | B |
| | TR | 809 | 0.113 | 0.433 | TR | 0.260 | 10.9 | B | | |
| SB | | | | | | | | | | |
| | L | 514 | 0.024 | 0.433 | L | 0.056 | 9.9 | A | 11.2 | B |
| | * TR | 793 | 0.145 | 0.433 | TR | 0.335 | 11.4 | B | | |

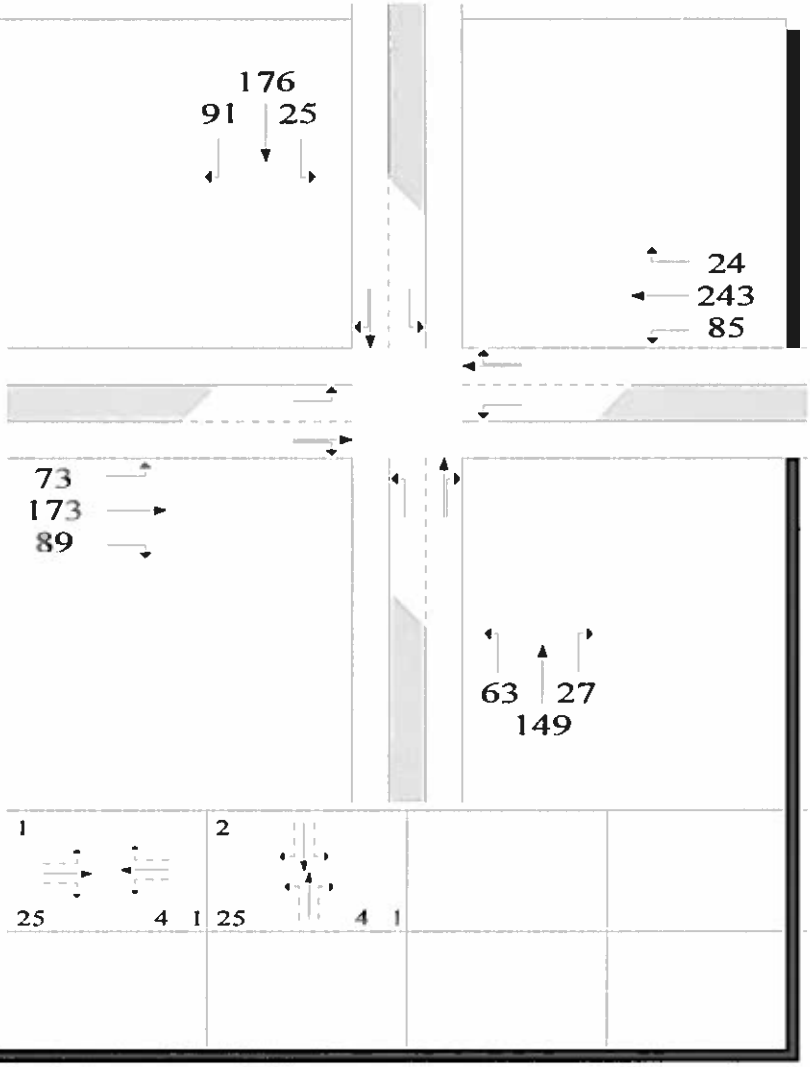
Intersection: Delay = 11.5 sec/veh | Int. LOS=B | $X_c$ = 0.35 | * Critical Lane Group | $\Sigma$(v/s)Crit = 0.30

# NETSIM Summary Results

2014 Existing Plus Site
R Marvin
AM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist Plus AM

| App | Lane Group | Queues Per Lane Avg/Max (veh) | Average Speed (mph) | Spillback in Worst Lane (% of Peak Period) |
|---|---|---|---|---|
| EB | L | 1 / 2 | 10.4 | 0.0 |
| | TR | 3 / 4 | 18.1 | 0.0 |
| | | | | |
| | All | | 16.6 | 0.0 |
| WB | L | 1 / 2 | 14.6 | 0.0 |
| | TR | 3 / 5 | 16.6 | 0.0 |
| | | | | |
| | All | | 16.4 | 0.0 |
| NB | L | 1 / 3 | 7.5 | 0.0 |
| | TR | 2 / 4 | 18.8 | 0.0 |
| | | | | |
| | All | | 15.5 | 0.0 |
| SB | L | 0 / 1 | 12.3 | 0.0 |
| | TR | 3 / 4 | 17.2 | 0.0 |
| | | | | |
| | All | | 16.8 | 0.0 |
| Intersect. | | | 16.3 | |



# HCM Analysis Summary

2014 Existing Plus Site | Wicks/Bench | Area Type: Non CBD
R Marvin | 4/3/14 | Analysis Duration: 15 mins.
PM Hour | Case: Bench Wicks Capacity Exist Plus PM

| Lanes | | | Geometry: Movements Serviced by Lane and Lane Widths (feet) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Approach | Outbound | Lane 1 | | Lane 2 | | Lane 3 | | Lane 4 | | Lane 5 | | Lane 6 | |
| EB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| WB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| NB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |
| SB | 2 | 1 | L | 12.0 | TR | 12.0 | | | | | | | | |

| | East | | | West | | | North | | | South | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Data | L | T | R | L | T | R | L | T | R | L | T | R |
| Movement Volume (vph) | 78 | 251 | 97 | 50 | 205 | 19 | 99 | 224 | 96 | 54 | 131 | 79 |
| PHF | 0.86 | 0.86 | 0.86 | 0.91 | 0.91 | 0.91 | 0.80 | 0.80 | 0.80 | 0.87 | 0.87 | 0.87 |
| % Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lane Groups | L | TR | | L | TR | | L | TR | | L | TR | |
| Arrival Type | 3 | 3 | | 3 | 3 | | 3 | 3 | | 3 | 3 | |
| RTOR Vol (vph) | | 36 | | | 6 | | | 32 | | | 31 | |
| Peds/Hour | | 5 | | | 5 | | | 5 | | | 5 | |
| % Grade | | 0 | | | 0 | | | 0 | | | 0 | |
| Buses/Hour | | 0 | | | 0 | | | 0 | | | 0 | |
| Parkers/Hour (Left\|Right) | --- | --- | | --- | --- | | --- | --- | | --- | --- | |

Signal Settings: Actuated | Operational Analysis | Cycle Length: 60.0 Sec | Lost Time Per Cycle: 9.0 Sec

| Phase: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Ped Only |
|---|---|---|---|---|---|---|---|---|---|
| EB | LTP | | | | | | | | |
| WB | LTP | | | | | | | | |
| NB | | LTP | | | | | | | |
| SB | | LTP | | | | | | | |
| Green | 25.0 | 26.0 | | | | | | | 0 |
| Yellow All Red | 3.5 1.0 | 3.5 1.0 | | | | | | | |

| | | Capacity Analysis Results | | | | | | | Approach: | |
|---|---|---|---|---|---|---|---|---|---|---|
| App | Lane Group | Cap (vph) | v/s Ratio | g/C Ratio | Lane Group | v/c Ratio | Delay (sec/veh) | LOS | Delay (sec/veh) | LOS |
| EB | | | | | | | | | | |
| | L | 465 | 0.082 | 0.417 | L | 0.196 | 11.2 | B | 12.5 | B |
| | * TR | 767 | 0.197 | 0.417 | TR | 0.473 | 12.9 | B | | |
| WB | | | | | | | | | | |
| | L | 355 | 0.065 | 0.417 | L | 0.155 | 11.0 | B | 11.6 | B |
| | TR | 785 | 0.127 | 0.417 | TR | 0.304 | 11.8 | B | | |
| NB | | | | | | | | | | |
| | L | 515 | 0.104 | 0.433 | L | 0.241 | 10.8 | B | 11.8 | B |
| | * TR | 795 | 0.196 | 0.433 | TR | 0.453 | 12.1 | B | | |
| SB | | | | | | | | | | |
| | L | 379 | 0.071 | 0.433 | L | 0.164 | 10.4 | B | 10.8 | B |
| | TR | 789 | 0.113 | 0.433 | TR | 0.261 | 10.9 | B | | |

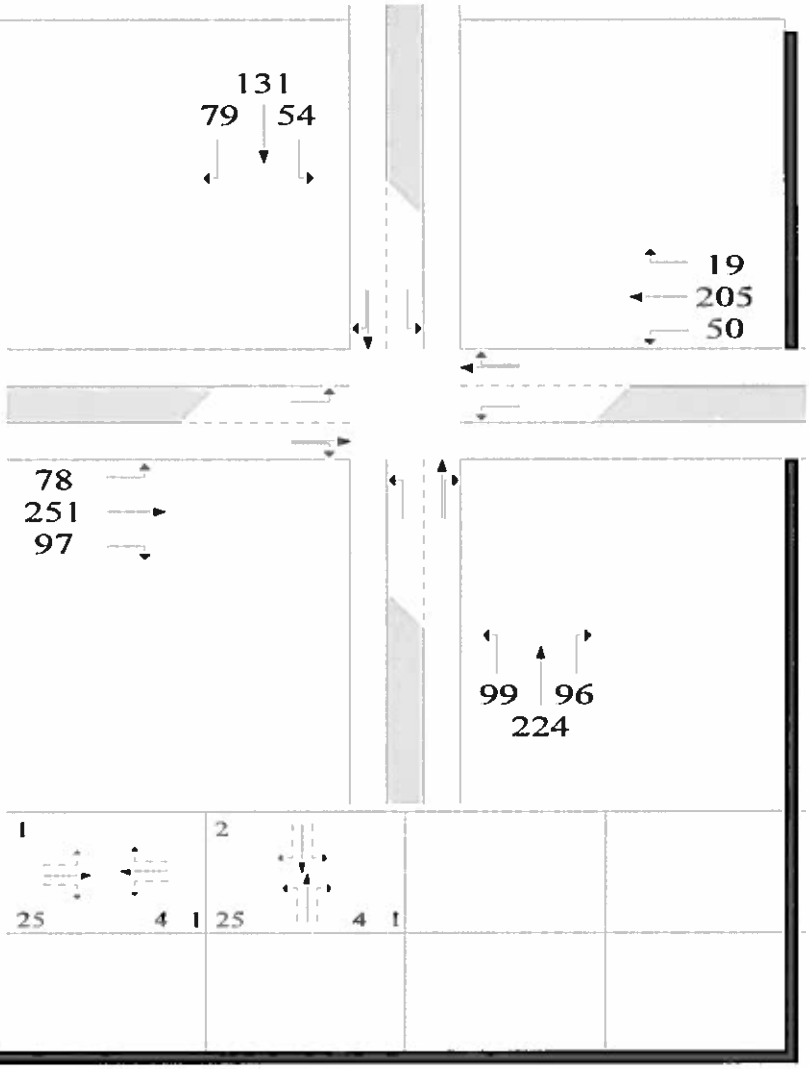
Intersection: Delay = 11.8 sec/veh | Int. LOS = B | $X_c$ = 0.46 | * Critical Lane Group | $\Sigma$ (v/s)Crit = 0.39

# NETSIM Summary Results

2014 Existing Plus Site
R Marvin
PM Hour

Wicks/Bench
4/3/14
Case: Bench Wicks Capacity Exist Plus PM

| App | Lane Group | Queues Per Lane Avg/Max (veh) | Average Speed (mph) | Spillback in Worst Lane (% of Peak Period) |
|---|---|---|---|---|
| EB | L | 1 / 4 | 9.5 | 0.0 |
| | TR | 4 / 6 | 17.2 | 0.0 |
| | | | | |
| | All | | 15.9 | 0.0 |
| WB | L | 1 / 2 | 7.6 | 0.0 |
| | TR | 2 / 3 | 18.0 | 0.0 |
| | | | | |
| | All | | 16.5 | 0.0 |
| NB | L | 1 / 5 | 9.7 | 0.0 |
| | TR | 3 / 5 | 17.4 | 0.0 |
| | | | | |
| | All | | 15.8 | 0.0 |
| SB | L | 1 / 2 | 10.1 | 0.0 |
| | TR | 2 / 4 | 18.4 | 0.0 |
| | | | | |
| | All | | 16.8 | 0.0 |
| Intersect. | | | 16.1 | |



# TWO-WAY STOP CONTROL SUMMARY

## General Information

| | |
|---|---|
| Analyst | *R Marvin* |
| Agency/Co. | *Marvin Associates* |
| Date Performed | *4/2/2014* |
| Analysis Time Period | *Peak AM* |

## Site Information

| | |
|---|---|
| Intersection | *Bench & Kingston* |
| Jurisdiction | *City of Billings* |
| Analysis Year | *2014 Existing Plus Site* |
| | |

Project Description *Chalice Acres Sub Lot 4*

East/West Street: *Kingston Avenue* | North/South Street: *Bench Boulevard*

Intersection Orientation: *North-South* | Study Period (hrs): *0.25*

## Vehicle Volumes and Adjustments

| **Major Street** | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *0* | *234* | *4* | *5* | *338* | *2* |
| Peak-Hour Factor, PHF | *0.81* | *0.81* | *0.81* | *0.89* | *0.89* | *0.89* |
| Hourly Flow Rate, HFR (veh/h) | *0* | *288* | *4* | *5* | *379* | *2* |
| Percent Heavy Vehicles | *0* | -- | -- | *0* | -- | -- |
| Median Type | *Undivided* | | | | | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *1* | *0* | *0* | *1* | *0* |
| Configuration | *LTR* | | | *LTR* | | |
| Upstream Signal | | *0* | | | *0* | |

| **Minor Street** | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *8* | | *3* | *20* | | *18* |
| Peak-Hour Factor, PHF | *0.50* | *1.00* | *0.50* | *0.75* | *1.00* | *0.75* |
| Hourly Flow Rate, HFR (veh/h) | *16* | *0* | *6* | *26* | *0* | *24* |
| Percent Heavy Vehicles | *0* | *0* | *0* | *0* | *0* | *0* |
| Percent Grade (%) | | *0* | | | *0* | |
| Flared Approach | | *N* | | | *N* | |
| Storage | | *0* | | | *0* | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *0* | *0* | *0* | *0* | *0* |
| Configuration | | *LR* | | | *LR* | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | *LTR* | *LTR* | | *LR* | | | *LR* | |
| v (veh/h) | *0* | *5* | | *50* | | | *22* | |
| C (m) (veh/h) | *1189* | *1281* | | *481* | | | *401* | |
| v/c | *0.00* | *0.00* | | *0.10* | | | *0.05* | |
| 95% queue length | *0.00* | *0.01* | | *0.35* | | | *0.17* | |
| Control Delay (s/veh) | *8.0* | *7.8* | | *13.4* | | | *14.5* | |
| LOS | *A* | *A* | | *B* | | | *B* | |
| Approach Delay (s/veh) | -- | -- | *13.4* | | | *14.5* | | |
| Approach LOS | -- | -- | *B* | | | *B* | | |

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# TWO-WAY STOP CONTROL SUMMARY

## General Information

| | |
|---|---|
| Analyst | R Marvin |
| Agency/Co. | Marvin Associates |
| Date Performed | 4/2/2014 |
| Analysis Time Period | Peak PM |

## Site Information

| | |
|---|---|
| Intersection | Bench & Kingston |
| Jurisdiction | City of Billings |
| Analysis Year | 2014 Existing Plus |
| | |

Project Description: Chalice Acres Sub Lot 4

East/West Street: Kingston Avenue | North/South Street: Bench Boulevard

Intersection Orientation: North-South | Study Period (hrs): 0.25

## Vehicle Volumes and Adjustments

| Major Street | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 3 | 383 | 21 | 14 | 281 | 12 |
| Peak-Hour Factor, PHF | 0.81 | 0.81 | 0.81 | 0.89 | 0.89 | 0.89 |
| Hourly Flow Rate, HFR (veh/h) | 3 | 472 | 25 | 15 | 315 | 13 |
| Percent Heavy Vehicles | 0 | -- | -- | 0 | -- | -- |
| Median Type | Undivided | | | | | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 1 | 0 | 0 | 1 | 0 |
| Configuration | LTR | | | LTR | | |
| Upstream Signal | | 0 | | | 0 | |

| Minor Street | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 6 | | 1 | 10 | | 14 |
| Peak-Hour Factor, PHF | 0.50 | 1.00 | 0.50 | 0.75 | 1.00 | 0.75 |
| Hourly Flow Rate, HFR (veh/h) | 12 | 0 | 2 | 13 | 0 | 18 |
| Percent Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 |
| Percent Grade (%) | | 0 | | | 0 | |
| Flared Approach | | N | | | N | |
| Storage | | 0 | | | 0 | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 0 | 0 | 0 | 0 | 0 |
| Configuration | | LR | | | LR | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | LTR | LTR | | LR | | | LR | |
| v (veh/h) | 3 | 15 | | 31 | | | 14 | |
| C (m) (veh/h) | 1243 | 1077 | | 403 | | | 296 | |
| v/c | 0.00 | 0.01 | | 0.08 | | | 0.05 | |
| 95% queue length | 0.01 | 0.04 | | 0.25 | | | 0.15 | |
| Control Delay (s/veh) | 7.9 | 8.4 | | 14.7 | | | 17.8 | |
| LOS | A | A | | B | | | C | |
| Approach Delay (s/veh) | -- | -- | 14.7 | | | 17.8 | | |
| Approach LOS | -- | -- | B | | | C | | |

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# TWO-WAY STOP CONTROL SUMMARY

## General Information

| | |
|---|---|
| Analyst | R Marvin |
| Agency/Co. | Marvin Associates |
| Date Performed | 4/3/2014 |
| Analysis Time Period | Peak AM |

## Site Information

| | |
|---|---|
| Intersection | South Access & Bench |
| Jurisdiction | City of Billings |
| Analysis Year | 2014 Existing Plus Site |
| | |

Project Description: Chalice Acres Sub Lot 4

East/West Street: Southern Access | North/South Street: Bench Blvd

Intersection Orientation: North-South | Study Period (hrs): 0.25

## Vehicle Volumes and Adjustments

| Major Street | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 3 | 238 | | | 361 | 0 |
| Peak-Hour Factor, PHF | 0.90 | 0.90 | 1.00 | 1.00 | 0.90 | 0.90 |
| Hourly Flow Rate, HFR (veh/h) | 3 | 264 | 0 | 0 | 401 | 0 |
| Percent Heavy Vehicles | 0 | -- | -- | 0 | -- | -- |
| Median Type | Undivided | | | | | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 1 | 0 | 0 | 1 | 0 |
| Configuration | LT | | | | | TR |
| Upstream Signal | | 0 | | | 0 | |

| Minor Street | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 0 | | 10 | | | |
| Peak-Hour Factor, PHF | 0.50 | 1.00 | 0.50 | 1.00 | 1.00 | 1.00 |
| Hourly Flow Rate, HFR (veh/h) | 0 | 0 | 20 | 0 | 0 | 0 |
| Percent Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 |
| Percent Grade (%) | | 0 | | | 0 | |
| Flared Approach | | N | | | N | |
| Storage | | 0 | | | 0 | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 0 | 0 | 0 | 0 | 0 |
| Configuration | | LR | | | | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | LT | | | | | | LR | |
| v (veh/h) | 3 | | | | | | 20 | |
| C (m) (veh/h) | 1169 | | | | | | 653 | |
| v/c | 0.00 | | | | | | 0.03 | |
| 95% queue length | 0.01 | | | | | | 0.09 | |
| Control Delay (s/veh) | 8.1 | | | | | | 10.7 | |
| LOS | A | | | | | | B | |
| Approach Delay (s/veh) | -- | -- | | | | 10.7 | | |
| Approach LOS | -- | -- | | | | B | | |

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# TWO-WAY STOP CONTROL SUMMARY

| General Information | | Site Information | |
|---|---|---|---|
| Analyst | R Marvin | Intersection | South Access & Bench |
| Agency/Co. | Marvin Associates | Jurisdiction | City of Billings |
| Date Performed | 4/3/2014 | Analysis Year | 2014 Existing Plus Site |
| Analysis Time Period | Peak PM | | |

Project Description: Chalice Acres Sub Lot 4

East/West Street: Southern Access | North/South Street: Bench Blvd

Intersection Orientation: North-South | Study Period (hrs): 0.25

## Vehicle Volumes and Adjustments

| Major Street | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 14 | 407 | | | 292 | 0 |
| Peak-Hour Factor, PHF | 0.92 | 0.92 | 1.00 | 1.00 | 0.90 | 0.90 |
| Hourly Flow Rate, HFR (veh/h) | 15 | 442 | 0 | 0 | 324 | 0 |
| Percent Heavy Vehicles | 0 | -- | -- | 0 | -- | -- |
| Median Type | Undivided | | | | | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 1 | 0 | 0 | 1 | 0 |
| Configuration | LT | | | | | TR |
| Upstream Signal | | 0 | | | 0 | |

| Minor Street | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 0 | | 8 | | | |
| Peak-Hour Factor, PHF | 0.50 | 1.00 | 0.50 | 1.00 | 1.00 | 1.00 |
| Hourly Flow Rate, HFR (veh/h) | 0 | 0 | 16 | 0 | 0 | 0 |
| Percent Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 |
| Percent Grade (%) | | 0 | | | 0 | |
| Flared Approach | | N | | | N | |
| Storage | | 0 | | | 0 | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 0 | 0 | 0 | 0 | 0 |
| Configuration | | LR | | | | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | LT | | | | | | LR | |
| v (veh/h) | 15 | | | | | | 16 | |
| C (m) (veh/h) | 1247 | | | | | | 722 | |
| v/c | 0.01 | | | | | | 0.02 | |
| 95% queue length | 0.04 | | | | | | 0.07 | |
| Control Delay (s/veh) | 7.9 | | | | | | 10.1 | |
| LOS | A | | | | | | B | |
| Approach Delay (s/veh) | -- | -- | | | | 10.1 | | |
| Approach LOS | -- | -- | | | | B | | |

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# APPENDIX "C"

## Future Conditions Capacity at Accesses

# TWO-WAY STOP CONTROL SUMMARY

## General Information

| | |
|---|---|
| Analyst | R Marvin |
| Agency/Co. | Marvin Associates |
| Date Performed | 4/2/2014 |
| Analysis Time Period | Peak PM |

## Site Information

| | |
|---|---|
| Intersection | Bench & Kingston |
| Jurisdiction | City of Billings |
| Analysis Year | Year 2020 Conditions |
| | |

Project Description: Chalice Acres Sub Lot 4

East/West Street: Kingston Avenue | North/South Street: Bench Boulevard

Intersection Orientation: North-South | Study Period (hrs): 0.25

## Vehicle Volumes and Adjustments

| Major Street | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 3 | 435 | 21 | 16 | 320 | 12 |
| Peak-Hour Factor, PHF | 0.83 | 0.83 | 0.83 | 0.91 | 0.91 | 0.91 |
| Hourly Flow Rate, HFR (veh/h) | 3 | 524 | 25 | 17 | 351 | 13 |
| Percent Heavy Vehicles | 0 | -- | -- | 0 | -- | -- |
| Median Type | Undivided | | | | | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 1 | 1 | 0 | 1 | 1 | 0 |
| Configuration | L | | TR | L | | TR |
| Upstream Signal | | 0 | | | 0 | |

| Minor Street | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | 6 | | 1 | 12 | | 16 |
| Peak-Hour Factor, PHF | 0.50 | 1.00 | 0.50 | 0.75 | 1.00 | 0.75 |
| Hourly Flow Rate, HFR (veh/h) | 12 | 0 | 2 | 16 | 0 | 21 |
| Percent Heavy Vehicles | 0 | 0 | 0 | 0 | 0 | 0 |
| Percent Grade (%) | | 0 | | | 0 | |
| Flared Approach | | N | | | N | |
| Storage | | 0 | | | 0 | |
| RT Channelized | | | 0 | | | 0 |
| Lanes | 0 | 0 | 0 | 0 | 0 | 0 |
| Configuration | | LR | | | LR | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | L | L | | LR | | | LR | |
| v (veh/h) | 3 | 17 | | 37 | | | 14 | |
| C (m) (veh/h) | 1206 | 1031 | | 356 | | | 255 | |
| v/c | 0.00 | 0.02 | | 0.10 | | | 0.05 | |
| 95% queue length | 0.01 | 0.05 | | 0.34 | | | 0.17 | |
| Control Delay (s/veh) | 8.0 | 8.6 | | 16.3 | | | 19.9 | |
| LOS | A | A | | C | | | C | |
| Approach Delay (s/veh) | -- | -- | 16.3 | | | 19.9 | | |
| Approach LOS | -- | -- | C | | | C | | |

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# TWO-WAY STOP CONTROL SUMMARY

## General Information

| | |
|---|---|
| Analyst | *R Marvin* |
| Agency/Co. | *Marvin Associates* |
| Date Performed | *4/3/2014* |
| Analysis Time Period | *Peak PM* |

## Site Information

| | |
|---|---|
| Intersection | *South Access & Bench* |
| Jurisdiction | *City of Billings* |
| Analysis Year | *2020 Conditions* |
| | |

Project Description *Chalice Acres Sub Lot 4*

East/West Street: *Southern Access* | North/South Street: *Bench Blvd*

Intersection Orientation: *North-South* | Study Period (hrs): *0.25*

## Vehicle Volumes and Adjustments

| **Major Street** | Northbound | | | Southbound | | |
|---|---|---|---|---|---|---|
| Movement | 1 | 2 | 3 | 4 | 5 | 6 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *14* | *462* | | | *333* | *0* |
| Peak-Hour Factor, PHF | *0.92* | *0.92* | *1.00* | *1.00* | *0.90* | *0.90* |
| Hourly Flow Rate, HFR (veh/h) | *15* | *502* | *0* | *0* | *370* | *0* |
| Percent Heavy Vehicles | *0* | -- | -- | *0* | -- | -- |
| Median Type | *Undivided* | | | | | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *1* | *1* | *0* | *0* | *1* | *0* |
| Configuration | *L* | *T* | | | | *TR* |
| Upstream Signal | | *0* | | | *0* | |

| **Minor Street** | Eastbound | | | Westbound | | |
|---|---|---|---|---|---|---|
| Movement | 7 | 8 | 9 | 10 | 11 | 12 |
| | L | T | R | L | T | R |
| Volume (veh/h) | *0* | | *8* | | | |
| Peak-Hour Factor, PHF | *0.50* | *1.00* | *0.50* | *1.00* | *1.00* | *1.00* |
| Hourly Flow Rate, HFR (veh/h) | *0* | *0* | *16* | *0* | *0* | *0* |
| Percent Heavy Vehicles | *0* | *0* | *0* | *0* | *0* | *0* |
| Percent Grade (%) | | *0* | | | *0* | |
| Flared Approach | | *N* | | | *N* | |
| Storage | | *0* | | | *0* | |
| RT Channelized | | | *0* | | | *0* |
| Lanes | *0* | *0* | *0* | *0* | *0* | *0* |
| Configuration | | *LR* | | | | |

## Delay, Queue Length, and Level of Service

| Approach | Northbound | Southbound | Westbound | | | Eastbound | | |
|---|---|---|---|---|---|---|---|---|
| Movement | 1 | 4 | 7 | 8 | 9 | 10 | 11 | 12 |
| Lane Configuration | *L* | | | | | | *LR* | |
| v (veh/h) | *15* | | | | | | *16* | |
| C (m) (veh/h) | *1200* | | | | | | *680* | |
| v/c | *0.01* | | | | | | *0.02* | |
| 95% queue length | *0.04* | | | | | | *0.07* | |
| Control Delay (s/veh) | *8.0* | | | | | | *10.4* | |
| LOS | *A* | | | | | | *B* | |
| Approach Delay (s/veh) | -- | -- | | | | | *10.4* | |
| Approach LOS | -- | -- | | | | | *B* | |

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**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Special Review 925 - Assisted Living Center - 72 & 77 Lily Valley Circle

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

**Department:** Planning & Community Services

## PROBLEM/ISSUE STATEMENT

This is a special review to allow a retirement center with 15 units in a 16,438 square foot addition to an existing assisted living residence in a Residential 9,600 (R-96) zone on Lots 26 and 27, Block 2, Howard Heights Subdivision and additional land (13,151 square feet) from adjacent owners to the south and east, a 34,429 square foot parcel of land. The property received previous special review approval for an assisted living home in 2005. The owner is BLW Investments, LLC and the agent is AT Architecture, Inc. The Zoning Commission conducted a public hearing on March 3, 2015, and is forwarding a recommendation of conditional approval and adoption of the findings of the three criteria on a 4 to 0 vote.

## ALTERNATIVES ANALYZED

The Planning Division reviewed the application and recommended conditional approval to the Zoning Commission. The Zoning Commission concurred with this recommendation. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Unified Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is within a district where an assisted living facility may be allowed by special review. The proposal appears to meet all of the zoning requirements of the City of Billings. The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have designated all residential zoning districts as areas where assisted living facilities for more than 8 persons may be allowed. The proposal is consistent with goals of the 2008 Growth Policy – specifically the goal of encouraging uses that are compatible with the character of the adjacent land use patterns. This site is adjacent to single family uses within the city limits and will share a common boundary with the Heights Baptist Church and Trinity Church of the Nazarene. There are minimal impacts from the proposed location of the

assisted living facility that need to be mitigated by conditions of approval. The conditions recommended with the exception of condition 3 are standard conditions applicable to all special review approvals

The Zoning Commission recommends approval, subject to the following conditions:

1. The special review approval is for the expansion of an assisted living facility generally located at 72 and 77 Lily Valley Circle.
2. The approval is limited to Lots 26 and 27, Block 2, Howard Heights Subdivision, 10,576 sf and 7,865 sf (34,429 sf total) additional land from Churches.
3. The property currently owned by the Heights Baptist Church and the Trinity Church of the Nazarene included in this site plan must be purchased and lot lines relocated before construction of the new addition can begin.
4. Increases in the number of units or the number of off-street parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
5. The site will be developed in substantial conformance with the submitted site plan dated 01-25-15. Minor modifications to the site plan are acceptable.
6. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
7. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

**NOTE** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit or zoning compliance permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The use and development of the property must be in accordance with the submitted site plan.

**FINANCIAL IMPACT**

There should be an increase in property value from the development of the assisted living center at this location. Additional city services will be provided such as police, fire, and other public safety services.

**BACKGROUND**

This is a special review request to expand an assisted living facility in a Residential 9600 district in the Howard Heights Subdivision. An assisted living facility is not considered a multi-family residential use since additional services are provided to residents that can no longer live independently. There are several assisted living facilities in the Heights area of Billings. Most of them are smaller facilities with as few as 9 residents with others up to 30. There is one large facility at 1439 Main Street. Staff was able to identify 6 facilities with a search on the internet. Compared to the other areas of Billings, the Heights does not have a lot of options for assisted living facilities. As the number of people age 65 and older increases, the demand for assisted living and similar supportive living facilities will increase. The population age 65 and older in Yellowstone County in 1990 was about 14,000, or 12% of the total population. In 2013, this population group increased to 23,000 or about 15% of the total population. Census projections estimate by 2030, persons over age 65 will approach 39,000 or 22% of the total population in Yellowstone County.

This facility is in a residential setting where the residents can be in a less institutional feeling area. They are also located where there is a minimum of traffic. The proximity to social, community, and commercial services will allow the residents to exercise a modicum of independence. The site plan shows the same type and style of landscaping will be installed and there is also a fence along the southern edge of the proposed addition.

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 3, 2015, and received the staff recommendation and testimony from the applicant's agent, AT Architecture about the proposed building and site. The applicant, BLW Investments, also spoke about the project and the need for additional space. The applicant stated that they have a waiting list of people trying to take residence at the facility. As part of the new construction, they are also providing two small apartments for family members from out of town to use when visiting family member staying at the facility. There was also an employee for the facility that spoke in favor of the special review. She spoke about the facility and the programs they provide for the residents to keep them active and interacting with others.

There were two individuals that spoke against the special review. They felt there were other places in the Heights that were more appropriate for this type of facility and they didn't feel that the facility fit in the neighborhood because it is not an individual home. They also felt the assisted living facility will devalue their personal home property. The applicant's agent addressed their concerns about the appearance of the building, stating it will be no taller than any of the surrounding homes and that it will be well maintained and landscaped to have a good appearance and face in the neighborhood.

No other testimony was received. The Zoning Commission is forwarding a recommendation of conditional approval and adoption of the findings of the 3 criteria on a 4 to 0 vote.

## CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The Consistency with Adopted Policies and Plans is discussed the Alternatives Analyzed section above.

## RECOMMENDATION

The Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria for Special Review 925 on a 4 to 0 vote.

## APPROVED BY CITY ADMINISTRATOR

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**Attachments**

Attachments

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**Attachment A**

Zoning Commission Action

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

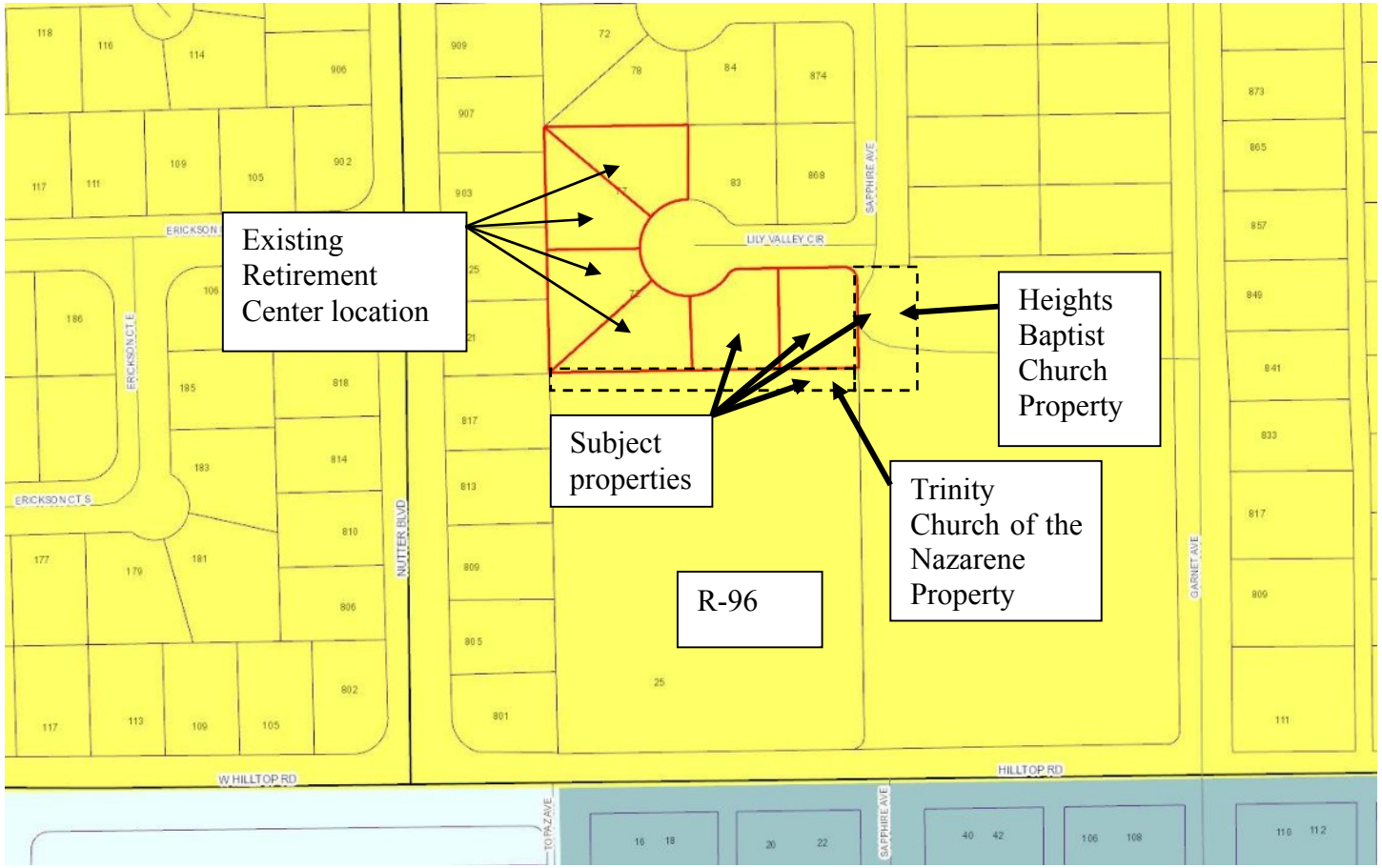
Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Subject Property **Attachment B**
Zoning Map



**Attachment C**

Site Photos

Subject Property

**Attachment C, continued**

Site Photos

View east looking at Baptist Church Building

View north east along Lily Valley Circle

# BUTTERFLY HOMES
## BILLINGS, MT

Looking WSW from Lily Circle at Butterfly Homes

Looking ESE from Lily Valley Circle

Looking NW from Hilltop toward Butterfly Homes

Looking SW from Lily Valley Circle

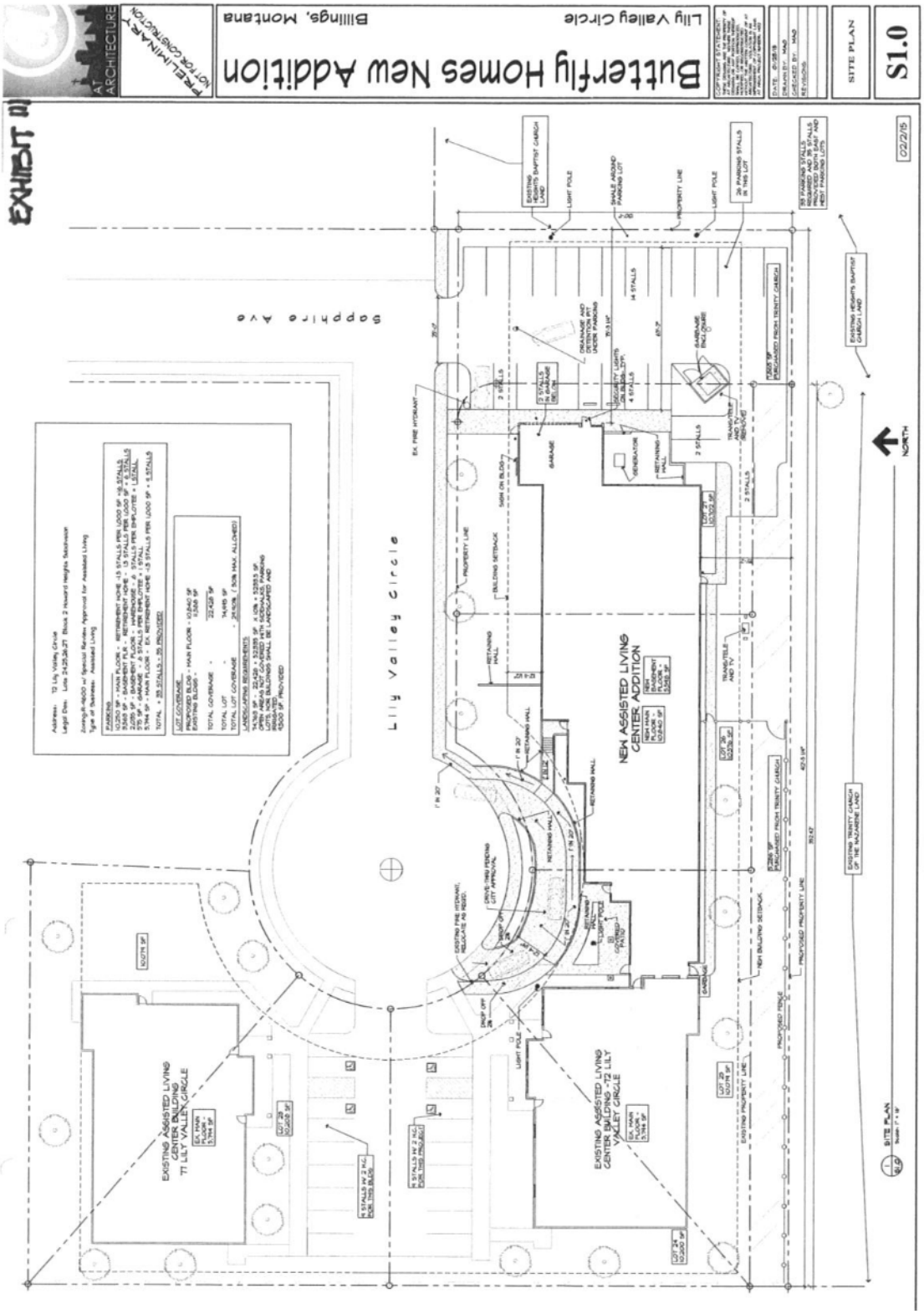
Looking E from Lily Valley Circle

Looking W from Lily Valley Circle

Photos provided by Applicant

**Attachment D**

Site plan



**Attachment D, continued**
Applicant Letter

AT
ARCHITECTURE

February 2, 2015

Planning & Community Services Department
4th Floor
2825 3rd Ave North
Billings, MT 59102

RE: Request for Special Review For
Butterfly Homes
72 & 77 Lily Valley Circle
Billings, MT 59105

Planning Staff:

The Butterfly Homes, which is an Assisted Living Facility presently occupies a site at 72 & 77 Lily Valley Circle. This project would be an addition to the East of the existing south building. See attached Location Map – Exhibit I. The following outlines the data requested by your application instructions.

A. Forward:

This land consists of 74,995 SF and is zoned Residential 9600. The Butterfly Home south building which we are adding to was originally built in 2004 and the north building was built in 2002. The existing south building on the site is approximately 5,794 sf. The proposed addition to the facility will be approximately 10,840 sf on the main floor plus an additional 5,548 sf in the basement space. The existing south building and the addition will be joined with an interior hall system and will operate as one project. The new addition will include living quarters of 1 bedroom and studio units, offices, kitchen, dining, living room, storage rooms & a garage.

1. Questions:

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

1. Economic Development - This new addition will increase the potential for care for more seniors. Butterfly Homes will also employ additional full time people at this facility to care for those who need living assistance. This facility addition will help strengthen the area economy through the creation of a bigger and a better place for those needing assisted living and those who work there. This will

help support the Billings job markets and help bring in needed leaders and workers for this facility.

2. Aesthetics - The area around the existing building and grounds is well landscaped and is kept in good condition. A new and attractive sign will be added which will be a nice addition for the facility identification for visitors. The new building will improve the appearance of the facility and area.
3. Natural Resources – Butterfly Homes keeps their site area free of weeds, etc which helps with fire management.
4. Public Services –This addition will be a great addition since the Heights lacks rooms for assisted living. A much needed facility.
5. Land Use Element – This addition will carry the same land use as the neighboring Butterfly Buildings.

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

Butterfly Homes in its present location was built in 2004. Since then, this facility has been mostly full. The need for additional assisted living is needed in the Heights since most of the potential residents end up having to go to the West end to find a place to live if this type of care is needed. With this addition many will be able to stay closer to family & friends.

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

This project will address many issues of public concern including drainage issues through this property. With development of these lots, the neighboring churches will see great neighbors. Also the neighbors in the area will also experience loving workers as well as the residents who have worked hard all their lives and find a nice home to finish their days.

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

The proposed addition will be an addition to serve addition residents with full assisted living services and amenities. These include bathing, exercising, visiting, meals and security. It will also be the home offices for the staff of the assisted living facilities run by Wolf Creek Enterprises and Butterfly Homes.

The current facility is zoned R-9600. An assisted living facility is allowed under a special review approval. Currently the existing 2 Butterfly Homes are located on adjacent lots which are contiguous. The owner is in the process of aggregating the lots to be as few of lots as possible so these facility will be on one lot if possible.

Sincerely,

Alex Tommerup, AIA

AT Architecture
848 Main Street Suite 7
Billings, Montana 59105
406-245-2724

cc: Planning and Community Services Department w/ enclosures (1)
Mike White, Owner – Butterfly Homes & Wolf Creek Enterprises (1)

**Regular 6.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Zone Change 933 - Public Hearing and 1st reading

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

**Department:** Planning & Community Services

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## PROBLEM/ISSUE STATEMENT

This is a zone change from Residential 9,600 (R-96) to Residential 6,000 (R-60) on Lots 15-19, Block 1, College Subdivision, 1st Filing, a 17,500 square foot parcel of land, for an existing 6-plex multi-family dwelling, generally located at 1229-1239 Poly Drive. The City Council initiated this zone change on January 12, 2015 at the request of the property owner. The Zoning Commission conducted a public hearing on March 3, 2015, and is forwarding a recommendation of approval and adoption of the findings of the 10 criteria on a 4 to 0 vote.

## ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change and adopt the findings of the 10 criteria as recommended by the Zoning Commission ;
- 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

If the zone change is approved the property will become more financially secure and sustain its property value in the future.

## BACKGROUND

The City has processed at least 7 zone changes in the general area of this property most from the R-96 zone to a zoning district that allows for two-family or multi-family dwellings. The Hiland Shadows Subdivision was re-zoned to Planned Development in the 1980s to allow for two-family and four-family dwellings. Further east, the city has approved zone changes on Parkhill Drive and Beverly Hill Boulevard for similar developments. The Pines Condominiums (three, two-family dwellings) at 910 Poly Drive were approved through a special review process in 1990, although the zoning remains R-96. The Sennet Condominiums at 918 – 928 Poly Drive (two, three-family dwellings) was approved through a variance in 1984. These two projects were approved through non-zone change

processes that are no longer used. The special review and variance processes must be for allowed uses within the existing zoning district and cannot be used to allow prohibited uses.

The City Council recently approved Zone Change 926 (R-96 to R-60) for another 6-unit multi-family dwelling in the College Subdivision constructed just prior to the city-wide re-zoning in 1972. Mr. Gustafson, owner of this property, requested a zone change in 1966 from R1 (single family) to R3 (multi-family). That request was denied, however the City Council granted special permission to construct the 6-unit, multi-family dwelling although the zoning was unchanged. This was allowed under the zoning regulations prior to 1972. The current zoning regulations do not allow multi-family by special review in the R-96 zoning district. The city-wide re-zoning resulted in placing Mr. Gustafson's property in a legal nonconforming use status. Section 27-400 of the zoning regulations allows legal nonconforming uses to continue, but does not allow those uses to be re-built or re-constructed if they are damaged by more than 50% of the replacement value at the time of destruction.

The Planning Division could not issue a "re-build" letter for this property except for 1 (one) single family residence. The owner wishes to secure his property investment to re-build a 6-unit multi-family dwelling if necessary in the future. The proposed zoning and lot area would allow this use to continue and to be re-built in the future. Although the zoning surrounding this property is all R-96, many of the lots were developed prior to the 1972 zoning. There are several 2-family dwellings as well as lots of less than 9,600 square feet within the immediate area. During the review of the previous City Council initiated zone change for property on 13th Street West, Planning staff research showed approximately 30% of the lots in the College Subdivision, 1st Filing, were non-conforming for uses such as 2-family or multi-family dwellings. The College Subdivision consists of three filings that developed in 1945 and 1946. Many homes were built with “in-law” living quarters in the basement or developed with a front house and rear house to accommodate relatives. The post-war housing demand saw this type of development throughout the city.

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 3, 2015, and received the staff recommendation and testimony from the property owner. No other testimony was received.

The Zoning Commission is recommending approval and adoption of the findings of the 10 criteria on a 4 to 0 vote.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The Planning Division reviewed the zone change and recommended approval based on the findings of the 10 criteria. The Zoning Commission concurred with this recommendation. The property is within an established neighborhood of mixed housing types and choices. The current building is well maintained and has not caused traffic, parking, noise or other neighborhood challenges in the area. Poly Drive is a high volume minor arterial carrying approximately 10,000 vehicles per day in this area just east of the signal controlled intersection with 13th Street West, also a minor arterial street. Veteran's Park is 1 block to the west along with Rocky Mountain College just west of the park.

The 2008 Growth Policy encourages predictable land use decisions that are compatible within neighborhoods and to preserve the neighborhood integrity. The existing zoning is not compatible with the existing neighborhood since it does not allow an existing established apartment complex to be re-built if necessary. The mixture of housing types in the College Subdivision makes this area stable, affordable, and marketable.

Disinvestment can occur in areas where a homogenous zoning district does not match the existing development. Legal nonconforming uses are difficult to finance, sell or insure. Most often these properties sell to a cash buyer who makes an offer based on their assumption of substantial risk since the property cannot be re-built if destroyed. Investment in the nonconforming use is diminished over time and disrepair and deferred maintenance becomes apparent. This situation also leads to diminishing market value for surrounding properties that may be conforming to the zoning but near the nonconforming use. The proposed zoning of R-60, will allow the use to become a conforming use so it will continue to be part of the neighborhood now and in the future. Any re-development of the property requires compliance with the new zoning and the ability to meet site development requirements and traffic safety standards.

Prior to any decision on the request, the City Council shall consider the following findings of the 10 criteria:
1. *Is the new zoning designed in accordance with the Growth Policy?*
The proposed zone change is consistent with the following goals of the Growth Policy:

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

The proposed zoning would permit the existing multi-family apartment to continue in conformity with the zoning. The development has fit in well with the existing neighborhood for more than 40 years and continued investment in the property will preserve the neighborhood integrity. The proposed zoning, R-60, is consistent with the neighborhood character and land use patterns on Poly Drive.

- *More housing and business choices with each neighborhood. (Land Use*

*Element Goal, page 6)*
The existing zoning is restricted to single-family only residential uses. The proposed zoning will allow the retention of the multi-family apartments on Poly Drive. This will allow the housing choice in this neighborhood to remain diverse.

2. Is *the new zoning designed to secure from fire and other dangers?*
The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. *Whether the new zoning will promote public health, public safety and general welfare?*
Public health, safety and general welfare will be promoted by the proposed zoning. The nonconforming zoning discourages investment in the property.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*
Transportation: The proposed zoning should have no impact on transportation.

Water and Sewer: The City provides water and sewer services to the property.

Schools and Parks: There should not be any impact to schools from the proposed zone change.

Fire and Police: The subject property is currently served by the city Public Safety Services.

5. *Will the new zoning provide adequate light and air?*
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*
Traffic generation from the apartments will not change since the maximum number of units on the lot has existed since 1967.

7. *Will the new zoning will promote compatible urban growth?*
The new zoning does promote compatibility with urban growth. The new zoning will allow investment in the property increasing property value over time.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*
The proposed zoning does consider the character of district and the suitability of the property for multi-family uses. The location of the property on a minor arterial street near a signal controlled intersection makes it suitable for this use.

9. *Will the new zoning conserve the value of buildings?*
The existing multi-family apartment value will be conserved by the new zoning.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning will permit an existing housing type in the neighborhood to continue and is the most appropriate use of the property.

**RECOMMENDATION**

The Zoning Commission recommends approval and adoption of the findings of the 10 criteria for Zone Change 933 on a 4 to 0 vote.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Zoning Map
Site Photos
Applicant ltr and documentation
Ordinance

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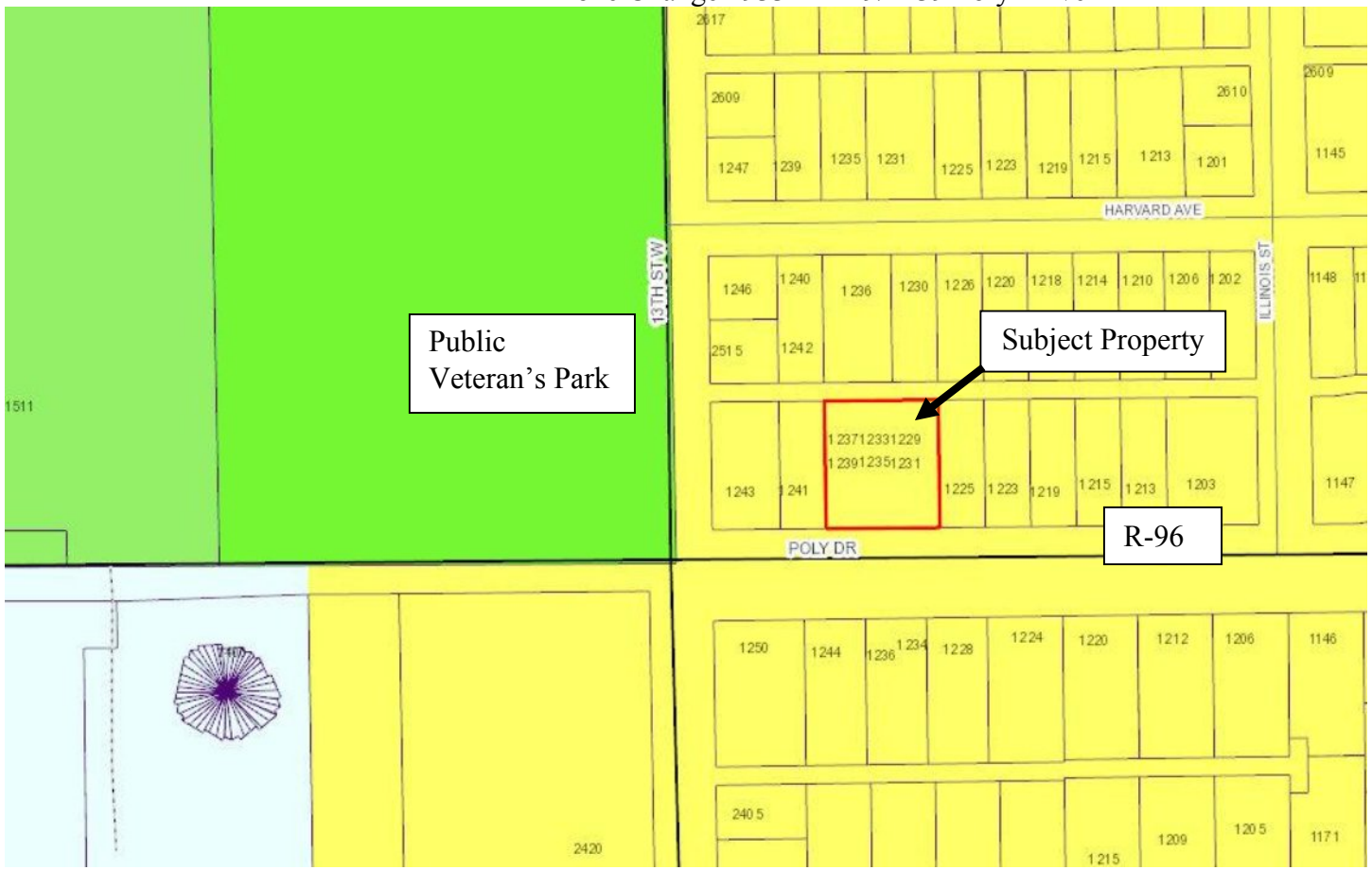
**Attachment A: Surrounding Zoning**

Zone Change #933 – 1229/1239 Poly Drive



**Attachment C**

Site Photographs, Zone Change #933 – 1229/1239 Poly Drive

Subject Property – view from Poly Drive

View from Poly Drive

**Attachment C, continued**

Site Photographs, , Zone Change #933 – 1229/1239 Poly Drive

View west along Poly Drive

View south across Poly Drive

**Attachment C, continued**

Site Photographs, , Zone Change #933 – 1229/1239 Poly Drive

View south and east across Poly Drive

Aerial View

**Attachment C, continued**

Site Photographs, Zone Change #933 – 1229/1239 Poly Drive

Aerial view

**Attachment D**
Applicant letter and documentation

December 29, 2014

Mr. Al Swanson
City Councilman, Ward 4
Billings, MT 59101

Reference: Zone change of existing property to conform to city regulations
Owner: F. Wayne Gustafson
Prop0erty: Existing six-plex located at 1229 – 1239 Poly Drive
College Subdivision 1st Filing Block 1, Lots 15-19

Dear Al,

Thank you for meeting with me recently regarding my concern that the above referenced property is not in conformance with current city zoning.

This issue occurred with a change in 1972 when the city adopted a city-wide re-zoning ordinance. This referenced property was originally properly re-zoned by the city council in 1966 to R-3-R, a designation which allowed multi-family dwellings. (attached copy of City Council meeting, November 23, 1966; William Reinhart was my partner on the construction of my apartment.)

In accordance with the approved zone change, I constructed a six-unit garden type apartment on this property. I have owned and managed this apartment complex for forty-seven years, with the knowledge that it was in compliance with city zoning ordinance.

However, I recently learned that the 1972 ordinance changed all the existing zoning districts within the city. This neighborhood was changed to R-9600, resulting in a non-conforming use for my previously approved property.

It is my understanding that a similar zoning problem was reviewed by the city planning office last summer, in the same subdivision with a carefully documented report to the city council dated Oct. 14, 2014. In keeping with this historical review of the zoning process, I respectfully request that the previous approved designation of my property R-3R be granted to the present residential 6000, (R-60) zoning district.

I will appreciate any guidance you can provide to resolve this request. Recently, I have met with City-County planning staff who provided procedural suggestions which included beginning this effort through the City Council.

Very truly yours,

F. Wayne Gustafson

F. Wayne Gustafson
2520 Wildwood Way
Billings, Montana Fourth Ward
256-6220

cc: Tina Volek, City Manager
Nicole Cromwell, Zoning Coordinator
enc: minutes of City Council Nov. 23, 1966

REGULAR MEETING OF THE CITY COUNCIL MONDAY, NOVEMBER 28, 1966

The Council met in regular session in the Council Chambers of the City Hall, Monday, November 28, 1966 at 7:30 P. M. Mayor Fraser presided. The invocation was given by Alderman Glennen. Aldermen present on roll call, Hultgren, Stockton, Glennen, Wendte, Wharton, Leone, Riedl, Madson. Alderman Glenn and Smith were excused. The minutes were approved as transmitted by the City Clerk.

BIDS This being the time and place to open bids for a Van for the Fire Department, the following bids were submitted:

| | |
|---|---|
| Frontier Chevrolet | 2,291.00 |
| Fitchner Chevrolet | 2,249.55 |
| Interstate Truck | 2,350.00 |

The bids were referred by the Mayor to the Council as a Whole, Fire Chief.

REPORTS OF ZONING COMMISSION This meeting having been designated as the time and place to hear reports of the Zoning Commission, the following recommendations were presented: (1) That the petition to change the zone classification of the north 100 feet of Lot 3, Block 5, Sunnyside Subdivision, from "CL" to "CG" zone, be denied, but recommend that this property owner be granted a special use permit to continue the use of the property for motel purposes. This property is located at 1025 North 27th Street. (2) The petition to change the zone classification of Lots 15, 16, 17, 18 and 19, Block 1, College Subdivision from "R1R" to "R-3" zone be denied. The Zoning Commission recommends to the City Council that the owner be granted permission to construct a six unit garden apartment as provided in Article 22, of the Zoning Ordinance. This property is located at 1229 Poly Drive. (3) The petition to change the zone classification of Lots 3 thru 9, Block 1, Sanderson Subdivision from "R1" to CL" zone be held over for further consideration. This property is located on the north side of the 1100 block of Central Avenue. There being no comments made for or against the proposed change in Sunnyside Subdivision, it was moved by alderman Wharton, seconded by alderman Leone that the recommendation of the Zoning Commission be approved. Passed on roll call.

Mr. William Reinhart appeared before the Council and presented an architects version of the structure to be constructed on the premises at 1229 Poly Drive. There being no other comments offered, it was moved by alderman Wharton, seconded by alderman Riedl that the recommendation of the Zoning Commission be approved. Motion carried.

PROPOSED ORDINANCE was presented changing the name of the Water Board to the Public Utilities Board, and changing the responsibility of operating the Sanitation Dept. to the Public Utilities Board. This was referred by the Mayor to the Public Works Committee.

COMMITTEE REPORT, RECOMMENDATION OF FIRE CHIEF for permission to send four members of the Fire Department to the Minneapolis Fire Department for instructional purposes from December 5 through 10, 1966. Funds have been provided in the 1966-67 budget. Moved by alderman Glennen, seconded by alderman Wendte that the request be granted. Motion carried.

MAYOR'S APPOINTMENT TO SANITATION DEPARTMENT This is to inform your honorable body that I this day appointed Mr. Roy Bennett to head the Sanitation Department, taking the place of Mr. Edwin Edwards who has resigned to go into business for himself. Mr. Bennett has been with the city for several years, and has proven to be a consciencious and reliable employee for the city of Billings, and is now deserving of additional responsibilities with the city. For your information, Mr. Bennett has taken the MMPI, and met other requirements. I am asking Mr. Bennett to immediately take steps to provide greater service in garbage collection in downtown Billings such as evening, or night collection. The necessity of this will be pointed up graphically during this Christmas shopping season. Your confirmation of this appointment is respectfully requested. This was referred by the Mayor to the Public Works Committee.

REQUEST OF DEAN BETZER, PATROLMAN to be granted military leave from 1 January, 1967 to 18 January 1967 inclusive for the purpose of attending active duty for training with the Armed Forces Police Detachment, pier 91, Seattle, Washington. Moved by alderman Glennen, seconded by alderman Wendte the request be granted. Motion carried.

REQUEST OF BOARD OF WATER COMMISSIONERS for authorization to install a 6" water main on Joan Lane, was presented. Moved by alderman Madson, seconded by alderman Wendte the request be granted. Motion carried.

CLAIMS FOR 1966 CITY TAXES amounting to $22,186.57 were presented. Moved by alderman Hultgren, seconded by alderman Wendte the claims be allowed and the taxes paid. Passed on roll call.

DEPARTMENTAL CHARGES for the month of November totaling $13,528.40 were presented for approval. Moved by alderman Hultgren, seconded by alderman Wendte the claims be allowed and paid. Passed on roll call.

RENEWAL OF LEASE between Humble Oil Company and the City for an antenna site at Billings Logan Field. Moved by alderman Stockton, seconded by alderman Wendte the lease be approved. Passed on roll call.

RESOLUTION NO. 10370 Creating S.I.D. 885 for construction of sanitary sewer to serve a portion of Heights View Subdivision was presented. Moved by alderman Wendte, seconded by alderman Wharton adoption of the Resolution. Passed on roll call.

SURETY BONDS having been approved as to form by the Assistant City Attorney were presented for Bradford Roofing, Roofers Bond, $2,000, written by the General Insurance Company of America.

Herman Neibauer, $ 2,000, Excavation bond, written by the Western Surety Company.

Montana Power Company, $ 2,000, excavation bond, written by the Glens Falls Insurance Co.

Mo ved by alderman Hultgren, seconded by alderman Wendte the bonds be accepted and placed on file. Motion carried.

EASEMENT FOR ROADWAY IN NICHOLSON SUBDIVISION. This item not appearing on the agenda it was moved by alderman Wendte, seconded by alderman Madson the item receive unanimous consent for consideration. Motion carried. Moved by alderman Wendte, seconded by alderman Madson that the Easement be granted subject to a provision in the easement for utilities. Motion carried.

RESOLUTION NO. 10371 Accepting the Plat of Nicholson Subdivision. This item not appearing on the agenda it was moved by alderman Wendte, seconded by alderman Madson the item receive unanimous consent for consideration. Motion carried. Moved by alderman Wendte, seconded by alderman Glennen adoption of the Resolution accepting the Plat of Nicholson Subdivision, situated in the SW 1/4, SE 1/4, Section 30, T 1N, R 26 E, MPM, Yellowstone County, Montana. Passed on roll call.

COMMITTEE REPORT, BIDS FOR FIRE DEPARTMENT VAN We find the bid for Fire Department Van of Fichtner Chevrolet in the total amount of $2,281.55 is the lowest and best bid and recommend they be awarded the bid, and the Director of Finance authorized to issue purchase order when requisition is received. Moved by alderman Glennen, seconded by alderman Wendte approval of the Committee report. Motion carried.

There being no further business to come before the Council, the meeting adjourned.

APPROVED:

Mayor

ATTEST:

City Clerk

**ORDINANCE NO. 15-_____**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lots 15-19, Block 1, College Subdivision, 1st Filing, a 17,500 square foot parcel of land, generally located at 1229/1239 Poly Drive

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 Lots 15-19, Block 1, College Subdivision, 1st Filing, a 17,500 square foot parcel of land, generally located at 1229/1239 Poly Drive is presently zoned **Residential 9,600 (R-96)** 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 **Residential 9,600 (R-96) to Residential 6,000 (R-60)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 6,000 (R-60)** 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 March 23, 2015

PASSED, ADOPTED AND APPROVED on second reading April 13, 2015.

CITY OF BILLINGS:

BY:_____
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin, City Clerk

Zone Change #933 – 1229/1239 Poly Drive

**Regular 7.**

**Regular City Council Meeting**

**Meeting Date:** 03/23/2015

**TITLE:** Zone Change 934 - Public Hearing and 1st reading

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

**Department:** Planning & Community Services

## PROBLEM/ISSUE STATEMENT

This is a City Council initiated amendment to the Unified Zoning Regulations Section 27-601(a) and 27-606 to allow the off-street parking and storage of Class A or Class D tow trucks in all residential zones. The City Council initiated this zone change on February 9, 2015 at the request of the Yellowstone Valley Tow Truck Association. There is a companion ordinance amendment to 24-406 that regulates on-street parking of similar vehicles. This is not part of the Zoning Regulations. The Zoning Commission conducted a public hearing on March 3, 2015, and is forwarding a recommendation of denial and adoption of the findings of the 10 criteria on a 4 to 0 vote.

## ALTERNATIVES ANALYZED

City Council may:

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

## FINANCIAL IMPACT

The financial impact from the proposed text amendment is not known with certainty. Tow trucks parking on residential driveways may lower marketability and livability of neighborhoods. Increases in street maintenance may be necessary for residential streets where tow trucks are regularly parked.

## BACKGROUND

Section 27-601(a) of the Zoning Regulations has been amended several times by the City and County since 1997, the year the City and County zoning regulations were unified. This section of the code regulates how items including motor vehicles may be stored on property within residential zones and on property used for residential purposes. Residential zones are primarily intended for all types and choices of housing without the intrusion of intensive commercial, retail, and

industrial uses. Section 27-606 of the Zoning Regulations allows and limits home occupations or home-based businesses within residential zones in the City and County. The code allows all types of office-based businesses and certain types of services within residential zones. Home-based businesses must comply with the limitations in the code including no employees except occupants of the residence, no signage, and no traffic to or from the residence between 6 pm and 7:30 am. The regulations are intended to preserve the nature of residential neighborhoods as places of quiet enjoyment for families.

In October 2014, the Yellowstone Valley Tow Truck Association presented the City Council proposed city code amendments to allow certain types of tow trucks to be parked on-street and off-street within all residential neighborhoods. The City Council held a work session on the proposed code amendment on October 20, 2014, to discuss the draft amendment. The City Council asked legal staff to re-draft the proposed ordinance and the revised ordinance was initiated by the City Council on February 9, 2015. The initiative includes amendments to the Zoning Regulations and the Traffic Regulations of the city code. The Zoning Regulations only pertain to private property and the Traffic Regulations only pertain to public property - the City's public street. Private streets and right-of ways will not be affected by the changes to the Traffic Regulations. The Zoning Regulation amendments do not override or nullify private covenants and restrictions for subdivisions that are more restrictive for off-street parking and storage.

The intent of the regulations for off-street parking and storage of vehicles and other personal property in residential districts {Section 27-601(a)} is to maintain these areas for residential enjoyment with allowances for storage of recreational vehicles on driveways or in back yards. The collection and open storage of salvaged items, trash, debris, discarded household items and appliances, as well as inoperable, wrecked, or junk vehicles has long been an issue in many residential areas of Billings and Yellowstone County. In the past 5 years, the City Code Enforcement Division has responded to more than 3,600 complaints of open storage and inoperable vehicles in Billings' neighborhoods. In the same time period, Code Enforcement has received more than 950 complaints about RVs parking on driveways or yards in residential areas. From 2010 to the end of 2014, the division received less than 75 complaints about commercial vehicles parked on driveways in residential zones but nearly 3,800 complaints about trailers or commercial vehicles parked on residential streets. Several complaints during the summer of 2014 pertained to tow trucks parked in residential zones.

The Yellowstone Valley Tow Truck Association (the Association) is concerned that towing businesses may not be able to respond to calls for service - particularly during overnight periods - if owners and employees cannot continue to park their wreckers at home on the driveway or on the street. The State of Montana maintains a "rotation call list" for all eligible towing and wrecking companies in Yellowstone County. Companies can be called to respond to traffic accidents or

other emergencies to remove or recover vehicles. If a company cannot respond within a certain time period (30 minutes or less) law enforcement at the scene will call the next company in line to respond. Companies do not know in advance when they might receive a call to respond and calls may come at any hour on any day of the week. Not all towing and wrecking companies are on the rotation call list. These companies may also have calls for service from private parties at any time on any day of the week.

The State of Montana categorizes tow trucks by "class" that roughly corresponds to weight and towing capacity. See Attachment Tow Truck Classifications. The Association has requested that Class A, a lower weight rated boom truck, and the Class D, a higher weight rated car carrier or roll back, be allowed in residential zones and residential use areas. The Association has submitted additional comment after the City Council initiated the amendment to further restrict the Class D tow truck to a "Class 5 truck or less". This proposed restriction would not allow all Class D car carrier type towing vehicles ,just the single vehicle flat-bed type. In addition, the Association and Hanser's Towing and Recovery are asking to amend the proposal to include Class B tow trucks. Class B tow trucks are boom type tow trucks with a higher weight rating and towing capacity. Hanser's Towing and Recovery also commented that towing and recovery businesses should not be allowed as a home occupation in residential areas but was in favor of the proposal to allow employees and business owners to park a tow truck at home for on-call purposes.

**STAKEHOLDERS**

The Zoning Commission conducted a public hearing on March 3, 2015, and received the staff recommendation. Testimony in favor was received from Joanne Blyton, Don Blyton, Jenny Carlson and Steve Carlson. Testimony in opposition was received from Marion Dozier, Tom Zurbuchen, Richard Clark and Carol Moore. The Zoning Commission also received written testimony in opposition from the South Side Task Force and Keith Kolstad. After the public hearing, staff received an email in favor of the zone change from Jennifer Hamlet. All the written testimony and comments are included as an attachment to this report.

Joanne Blyton testified in favor of the zone change to allow tow trucks of certain size and class to be parked on residential driveways. She stated the size and class would be considered light to medium duty trucks, some no larger than a Ford F350 or similar sized pickup truck with a diesel engine. She stated she understands the Code Enforcement is a complaint based system so not every tow business that sends an employee home with a truck or owner that takes a truck home would receive a complaint from Code Enforcement. She stated, tow truck owners want to be in compliance even if there are no complaints about their trucks in driveways. She stated to be on the rotation list requires hard work by the business owners to receive a letter of appointment from the state. She stated not

all tow businesses are on the rotation because of the rigorous standards that must be met for equipment. She stated the concern with idling noise and fumes would be no less for a personal diesel pickup truck parked on a neighbor's driveway and yet these trucks are not prohibited from residential zones. She stated the zoning change would allow Code Enforcement to respond appropriately to complaints since the wreckers are clearly marked in the front windshield with a Class sticker - A,B,C, or D - and have the vehicle weight rating on the cab. She stated the staff concern with emergency response to a home where a wrecker is parked would be no more difficult than where a diesel pickup is parked in the driveway. Mrs. Blyton stated that Class D wreckers (car carriers) are about 6 inches wider and are longer than a normal pickup. She stated tow companies would only take advantage of the allowance to park wreckers at home when they know they are coming up to the top of the rotation list. She stated in no way is the Tow Association asking to make wrecker services a home-based business. She stated the 4 complaints to Code Enforcement in 2014 were probably not from neighbors but from other individuals with some interest.

In response to a question from the Commission, Mrs. Blyton stated some tow businesses have tried to secure temporary permission to park on commercial parking lots overnight. She stated the response was either negative, or the rent required from the lot owner was too high. She stated several City Council members have attended the Tow Association monthly meetings so they are familiar with the issues and concerns of the industry. In response to a question from the Commission, Mrs. Blyton stated the noise and fumes from a Class A tow truck would be no greater than a diesel pickup truck. She stated there are 43 separate wrecker service businesses in the Billings area representing about 15 owners. Many owners have multiple business names. In response to a question from the Commission, Mrs. Blyton stated she was not aware of any towing businesses with overnight facilities for employees. In response to a question from the Commission she stated she knew of three local tow businesses that send wreckers home on a regular basis. Staff noted there are two tow companies that are currently operated as home occupations.

Tom Zurbuchen stated he has no issue with allowing business vehicles in residential zones up to 12,000 lbs GVW but even the small Class A wrecker can be up to 18,000 lbs GVW. Mr. Zurbuchen stated he is opposed to the zone change. He stated he knows how diesel engines sound when they start up and idle and the bigger the engine the bigger the noise. He urged the Commission to recommend denial and to let everyone sleep well at night without the threat of big diesel engines idling outside their windows.

Marion Dozier testified in opposition to the zone change. She stated she worked 7 years as a residential code enforcement officer and knows all about the complaints of commercial vehicles in residential areas. She stated she has worked over 38 years as an employee of the City, as a City Council member and as a

member of the South Side Task Force to help keep neighborhoods safe and quiet. She stated this would just be the beginning of intrusion of commercial trucks and vehicles in neighborhoods. She stated there are many other business owners who would love to keep their vehicles at home such as tree trimmers, landscapers, contractors, and others with heavy equipment. She urged the Commission to not open the door to parking tow trucks in neighborhoods.

RIchard Clark, Chair of the West End Task Force, testified in opposition to the zone change. He stated it was his understanding that calls for wrecker service on the rotation list is on time (30 minutes or less) 90% of the time. He stated the task force discussed the proposal and there is no support from the West End for this zone change.

Carol Moore, member of the North Park Task Force, testified in opposition to the zone change. She stated the task force has not met to discuss the proposal yet but will meet before the City Council hearing. She stated she is personally not in favor of the proposal. She stated the noise from idling diesel tow trucks would be too disturbing in the neighborhood.

Don Blyton testified in favor of the zone change. He stated he supports this change for safety reasons. He stated the faster a wrecker gets to a scene will benefit the traffic flow, stop secondary accidents, and could help save lives.

Jenny Carlson, owner of Maverick Towing, testified in favor the zone change. She stated she is aware of a car accident where the tow truck could not respond in a timely fashion where a victim was killed by an untrained first responder trying to lift a car off the victim. Timely and quick response is necessary for public safety, to clear accident scenes and prevent further accidents. She stated their company tow truck, a Class A, is always parked in their driveway next to her bedroom window. She stated her husband can start the truck in the middle of the night and it never wakes her up. Mrs. Carlson stated her neighbor has a big Ford F350 that he starts every morning early and his truck noise always wakes her up. She stated the noise issue is a non-issue.

Steve Carlson, owner of Maverick Towing, testified in favor of the zone change. He stated they are not asking for heavy duty big trucks in neighborhoods but trucks similar in size to his neighbor's Ford F350. He stated he gets along with all his neighbors but he would still like the code to change so he does not have to worry about Code Enforcement. He stated he tried to rent a parking space from commercial property owners but they were afraid of the liability or wanted too much in rent.

Joanne Blyton stated she had a copy of an industry magazine, Tow Times, with an article about a recent situation where a tow truck saved a person pinned under a wrecked vehicle.

In response to a question from the Commission, Richard Clark stated the 90% response in 30 minutes or less was something he read in the Billings Gazette last fall.

Mike Boyett made a motion to recommend denial and adoption of the findings of the 10 criteria and the motion was seconded by Dennis Ulvestad. Dennis Wagner stated he was concerned about noise and fumes imposing on neighbors. Mr. Wagner also stated he agreed that allowing tow trucks would lead to other special interests requesting a change to allow their business equipment in residential areas. Mike Boyett noted the presence and agreement of four task forces against the proposed zone change.

The Zoning Commission is recommending denial and adoption of the findings of the 10 criteria on a 4 to 0 vote.

**CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The Planning Division considered the proposed amendment and recommended denial to the Zoning Commission based on the findings of the 10 criteria. The Zoning Commission concurred with this recommendation. This proposed zone change is not designed in accordance with the 2008 Growth Policy goals of predictable land use decisions that are compatible with existing neighborhoods and protects neighborhood integrity. Parking of tow trucks on driveways in residential zones to answer overnight calls for wrecker services would not protect the adjacent residents from noise or fumes since most tow trucks will need to be started and warmed up prior to leaving for a call. Most residential driveways are not designed or constructed to handle the weight class of the Class A, Class B, or Class D tow trucks on a regular basis. Most residential streets are also not designed to handle this weight class of vehicles on a regular bases. Tow trucks parked in residential driveways or on residential streets on a regular basis will increase street maintenance costs for the city and driveway maintenance costs for the property owner.

The proposed amendment does not maintain the high quality of life in existing neighborhoods, serve to reduce conflict between neighbors, or create more attractive neighborhoods The proposed amendment may also be difficult to enforce since tow trucks are restricted by classification and weight rating. If tow trucks are parked on residential driveways, the Code Enforcement Officers may not be able to see the Class rating sticker or weight rating on the vehicle from the public right of way. Code Enforcement Officers do not have an automatic right of entry on to private property.

The proposed zoning is not designed to secure property from fire and other dangers or promote the public health, safety and general welfare. A tow truck

parked on a residential driveway may hamper response to an emergency in the residence. Public health may be negatively effected by idling tow trucks (fumes and noise). In addition, parking a tow truck on a regular basis on a residential driveway may negatively effect the quality of the housing market in a neighborhood. The proposed amendment does not promote compatible urban development by potentially placing tow trucks in all residential neighborhoods on a regular basis. The proposed zoning will not encourage the most appropriate use of land throughout the City and County.

The City Council's 2014 Strategic Plan includes goals and objectives for the community. This zoning amendment is in direct conflict with these goals and objectives including the following:
Strategy 2: Comprehensive, Orderly Growth, Goal 1: Comprehensive, cost-effective and orderly growth, Objective 3: "T*he City shall develop, preserve and revitalize residential neighborhoods that are safe, attractive and provide diverse, affordable housing.*"
Strategy 4: Sustainable Economic Development, Objective 4: "T*he City shall provide a safe, healthy and attractive place to live and work, offer quality housing choices, accessible amenities and an environment that provides a desirable quality of life*."
Allowing tow trucks to park in all residential neighborhoods in the City does not achieve these Goals and Objectives.

Prior to any decision of the zoning amendment the City Council shall consider the following findings of the 10 criteria:
1. *Is the new zoning designed in accordance with the Growth Policy?*
The proposed zone change is not consistent with the following goals of the Growth Policy:

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

The proposed zoning would permit commercial tow trucks weighing as much as 19,500 pounds to be parked on any residential driveway throughout the city. This is not a predictable land use decision based on the intent of residential zones; to provide an area for the quiet enjoyment of residential living.

- *New development that is sensitive to and compatible with existing neighborhoods (Land Use Element Goal, page 6)*

The proposed text amendment does not meet the objectives of maintaining a high quality of life for existing residents and reducing conflicts between neighbors. Starting, running and warming up tow trucks on a residential neighborhood during overnight hours would tend to increase conflicts between neighbors and reduce the quality of life in those neighborhoods.

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

The new zoning would allow commercial tow trucks to park on residential driveways. Parking this type of equipment on a residential driveway may impede access to the dwelling unit depending on the layout of the site.

3. *Whether the new zoning will promote public health, public safety and general welfare?*
Public health, safety and general welfare will not be promoted in residential neighborhoods by allowing commercial tow trucks to park on driveways. Regular use of a residential street by higher weight vehicles will increase street maintenance costs. Regularly parking a commercial tow truck in a residential neighborhood will tend to depress the marketability of residential homes. Starting, running, and warming up commercial tow trucks adjacent to residential sleeping rooms and living areas would not promote the public health.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*
Transportation: The proposed zoning should have no impact on provision of transportation. However, the transportation system in existing and new residential neighborhoods may be negatively affected by regular use of heavy tow truck traffic. Residential streets are not designed for regular use by commercial trucks.

Water and Sewer: The proposed zoning should have no impact on provision of water and sewer service.

Schools and Parks: The proposed zoning should have no impact on schools or parks.

Fire and Police: The proposed zoning should have no impact on the provision of adequate public safety services. The Association has pointed to a decrease in response times for towing vehicles to accident or emergency scenes as the motivation for the change in the zoning code. The call rotation service requires the business to be able to respond in 30 minutes or less. If the business cannot respond in that time frame, the next company on the list is called. This standard and procedure will not change. Accident and emergency clearance services will not be enhanced or diminished. The ability of tow truck businesses to provide timely response will not be enhanced or diminished by this change to the zoning regulations. Commercial tow truck businesses are required to have an office and a storage yard for vehicles that are towed. These locations are in commercial zones. Tow trucks are stored here as well. Most residential zones are within 1-mile of a commercial zoning district.

5. *Will the new zoning provide adequate light and air?*
The proposed zoning may have a negative effect on air quality for at least brief periods of time in residential neighborhoods.

6. *Will the new zoning effect motorized and non-motorized transportation?*
The transportation system in existing and new residential neighborhoods may be negatively affected by regular use of heavy tow truck traffic. Residential streets are not designed for regular use by commercial trucks.

7. *Will the new zoning will promote compatible urban growth?*
The new zoning does not promote compatibility with urban growth. The parking of tow trucks in residential neighborhoods would diminish the quality of life in these residence zones.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*
The new zoning does not consider the character of residential neighborhoods that are designed and intended for the quiet enjoyment of residential property.

9. *Will the new zoning conserve the value of buildings?*
The new zoning will not conserve the value of existing homes in residential neighborhoods. Parking one or more commercial tow trucks in a residential neighborhood would diminish the marketability of the adjacent homes.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*
The proposed zoning does not encourage the most appropriate use of residential land throughout the City.

**RECOMMENDATION**

The Zoning Commission recommends denial and adoption of the findings of the 10 criteria for Zone Change 934 on a 4 to 0 vote.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Tow Truck Classifications
Typical Photos of Tow trucks
Letters of Comment
Ordinance

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**Attachment B – Zone Change 934**
Tow Truck Classifications

Montana Code Annotated (MCA)

**61-8-905. Classification standards.** (1) Commercial tow trucks are divided into the following five classes based on the manufacturer's rating:

(a) Class A tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 4 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle weight.

(b) Class B tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 8 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle weight.

(c) Class C tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 16 tons and must be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

(d) Class D tow truck equipment includes manufactured rollbacks and car carriers with manufacturer's gross vehicle ratings of 10,000 pounds and over. The rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the minimum gross weight of the rollback or car carrier. Class D also includes any piece of towing equipment without a boom.

(e) Class E includes two or more tow trucks working together with a combined manufacturer's rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders, and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

(2) An operator of noncommercially manufactured or modified tow truck equipment in use on October 1, 1995, that wishes to participate in the law enforcement rotation system must have its equipment classified by the department within a time period set by the department. Once the equipment is classified, further modifications may not be made.

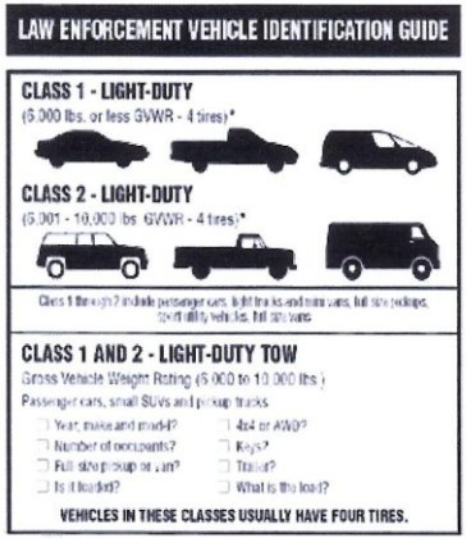
(3) An operator of new noncommercially manufactured or modified tow truck equipment must have its equipment independently certified before participating in the law enforcement rotation system. Once the equipment is classified, further modifications to the equipment must be recertified.

**History:** En. Sec. 5, Ch. 283, L. 1995; amd. Sec. 3, Ch. 88, L. 2003.

## Vehicle Identification Guide

Accurate communications between on-scene responders, dispatch, and towing and recovery operators describing an incident and the vehicles involved helps with the quick and efficient clearing of the incident scene.

Use the guide below to describe to dispatch the type of vehicle that is disabled and the nature of the problem to enable the wrecker company to determine what type of tow/recovery vehicle that should respond.[4]



**LAW ENFORCEMENT VEHICLE IDENTIFICATION GUIDE**

**CLASS 1 - LIGHT-DUTY**

(5,000 lbs. or less GVWR - 4 tires)*

**CLASS 2 - LIGHT-DUTY**

(5,001 - 10,000 lbs. GVWR - 4 tires)*

Class 1 through 2 include passenger cars, light trucks and minivans, full size pickups, sport utility vehicles, full size vans

**CLASS 1 AND 2 - LIGHT-DUTY TOW**

Gross Vehicle Weight Rating (5,000 to 10,000 lbs.)

Passenger cars, small SUVs and pickup trucks

- ☐ Year, make and model?
- ☐ 4x4 or AWD?
- ☐ Number of occupants?
- ☐ Keys?
- ☐ Full size pickup or van?
- ☐ Trailer?
- ☐ Is it loaded?
- ☐ What is the load?

**VEHICLES IN THESE CLASSES USUALLY HAVE FOUR TIRES.**

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**CLASS 3 - MEDIUM-DUTY**

(10,001 - 14,000 lbs. GVWR - 6 tires or more)*

**CLASS 4 - MEDIUM-DUTY**

(14,001 - 16,000 lbs. GVWR - 6 tires or more)*

**CLASS 5 - MEDIUM-DUTY**

(16,001 - 19,500 lbs. GVWR - 6 tires or more)*

**CLASS 6 - MEDIUM-DUTY**

(19,501 - 26,000 lbs. GVWR - 6 tires or more)*

Class 3 through 6 include a range of mid-sized to larger vehicl
utility vehicles, motor homes, package parcel trucks, ambul
landscape vehicles, small flatbed and stake-type trucks, rel
small and medium-duty buses (school and local

**CLASS 3, 4, 5 & 6 - LIGHT- OR MEDI**

Gross Vehicle Weight Rating (10,001 up to 26,0

- ☐ Year, make and model?
- ☐ Body type – pickup truck, box truck, flatbed, ste
- ☐ What is the load and is it damaged?
- ☐ Pickup, van, shuttle bus or motor home?
- ☐ Number of occupants? ☐ Keys?
- ☐ Vehicle description is critical to determine the pr

**VEHICLES IN THESE CLASSES USUALLY H**

**Attachment C – Zone Change 934**

Typical Photos of Class type Tow Trucks

Class D Type – Car Carrier – Class 5 weight rating or less

Class A Type – Boom Truck Class 5 weight rating or less

**Attachment C – Zone Change 934, continued**

Typical Photos of Class type Tow Trucks

Class C

Class C

**Attachment C – Zone Change 934, continued**

Typical Photos of Class type Tow Trucks

Class D

Class D

Range of Classes A, B, and C

Zone Change 934
Comments

## Comment from Hanser's Towing and Recovery – February 10, 2015

**From:** Ralph Hanser [mailto:ralph@hansers.com]
**Sent:** Tuesday, February 10, 2015 2:17 PM
**To:** Volek, Christina
**Cc:** Scott Hanser; Spencer Hanser; Shawn Hanser; Joanne; MRTSTOWING
**Subject:** Code Change for Section 24-406

Dear Tina:

We would like to express our view point on the ordinance change. In order to stay within the scope of the Montana Tow Truck Act in dealing with quick clearance, traffic incident management, and officer safety, we think by allowing A and B wreckers to be parked overnight by drivers that are on call would be a positive. We feel that Class D needs to be eliminated because car carriers are not allowed to respond to accidents by Montana Law. They can only respond as a secondary unit to an accident.

We do feel that the ordinance should be strong in stating that only one wrecker with a driver on call to respond at night would be allowed. Not multiple wreckers at someone's home. We are very much against anything that could be misinterpreted to allow any home based business.

If you wish to discuss this with myself or any of my sons, it would be our honor to meet with you. Please feel free to forward this e-mail as you see fit.

Ralph E. Hanser
President
Hanser's Towing and Recovery Network
Hanser's Environmental and Remediation
Billings, MT 59101
406-248-7795 ext. 2030
406-208-9210 cell

## Comment from Montana Tow Truck Association – February 11, 2015

Re: Code Change for Section 24-406 (Parking, Stopping and Standing on Public Streets)

Dear Tina,

The Montana Tow Truck Association would like to commend you and the commission for the work on the writing of this ordinance to allow the parking of commercial tow trucks in residential zoned locations in your community. This will facilitate faster response times for all types of emergencies, not just law enforcement or rotation calls that necessitate the need for commercial towers to respond in a timely manner.

The MTTA participated in the initial work session of the commission earlier in January and has monitored correspondence of the various concerned parties involved in the effort to solidify a workable solution to this issue.

First and foremost the MTTA does not encourage or promote commercial tow truck operations being located and operated in areas not zoned for that use. We do however encourage allowances in the law that will facilitate quicker response times for off duty drivers in the interest of public safety as relates to many types of emergencies that require a timely response.

The adoption of the use of the window sticker issued by the Montana Highway Patrol is very effective and seamless means for your code enforcement officers to recognize the size and type of tow truck being parked in the residential area. The parking of only one truck by a driver in front of his residence is a valuable tool to discourage a non-conforming business in a residential zone.

I would like to address some of the concerns and offer some solutions brought to my attention by the interested parties involved.
In an Email addressed to councilmen Denis Pitman dated Feb. 8th 2015. A citizen identifying himself as Roy brought up that the class D tow truck could be larger than what the council had envisioned, being more than just a flat bed or carrier type tow truck. That is true. This could be remedied by restricting the size of the class D truck to **"Class 5 truck or less"**. This designation is listed on TRAA VEHICLE IDENTIFICATION GUIDE. And is a size designation adopted by the National Transportation and Safety Administration and the DOT. Or you can just look it up on Wikipedia. The carrier or flatbed tow truck is becoming to be the most commonly used piece of equipment in the towing industry because of increased number of all-wheel drive cars and light duty pickups that necessitate the use of a carrier.
The Montana Professional Tow Truck Act. 61-8-901 through 61-8-920. Specifically 61-8-920 (2) (h) requires a company to have a Class A, B or C truck in there fleet to be on rotation. Arm 23.6.101 (3) allows for a Class D tow truck to respond to an emergency or rotation call.
"Class 'D' towing" means, for purposes for the state law enforcement rotation system, that a class "A" or "B" tow truck has been called from the rotation system, **but the operator finds that the call involves only retrieving an inoperable vehicle from a roadway or its immediate vicinity, so that the use of a rollback or car carrier would be more appropriate.**
Referencing the concerns of a local tower whose fleet includes a number of class B tow trucks. The Ford F-450's and F550's and the Dodge 4500's and 5500's. And this tower is not alone in that concern. The solution would be to include the Class B trucks in the ordinance and apply the same class 5 or less restriction to the B trucks as the Class D trucks.
There for in conclusion the ordinance could possibly be amended to read like…

DRAFT
*"No person shall stand or park any truck, truck-tractor, trailer, semitrailer or bus on any street in a residential district for any purpose or period of time other than for the expeditious loading or unloading of such vehicles, except that the provisions of this section shall not apply to the driver of a truck, truck-tractor, trailer or semitrailer while such vehicle is being used in connection with the construction or repair of buildings, service calls or the moving of household goods and shall not be applicable to the driver of a bus while such vehicle is parked in a designated bus stop. This section shall also not apply to commercial tow trucks classified as either* ***Class A, B and D (class 5 trucks or less)*** *by the State of Montana if the tow truck is parked along the frontage of the tow truck driver's property in the parking lane directly in front of the driver's house. The parking of the tow truck must comply with all other state and local parking restrictions, including but not limited to, distance from curb, direction of traffic, distance from driveways, and width of street."*

Thank you for taking the time to review the input from the Montana Tow Truck Association.
The results of this endeavor will be looked at copied and administered in other communities around the state. This has the potential to be a model ordinance around the state.

Sincerely,

Terry Morrison, President
Montana Tow Truck Association

**From:** keith kolstad
**To:** .Mayor & Council
**Subject:** Tow Truck issue
**Date:** Wednesday, October 22, 2014 7:56:14 PM

I read that the city council is considering allowing tow trucks to be parked in residential neighborhoods. Although one council person was quoted in the paper as “this is a no brainer”, I would respectfully ask that you take time to consider all the impacts of your proposed variance.

As the Code Enforcement Officer for the City of Laurel I have found that parking any diesel vehicle, whether a tow truck or semi in a residential neighborhood has the potential to create problems, especially in the winter. These trucks have been observed to be run at all times of the night, emitting diesel fumes into the air and neighborhood much less to say noise disturbance. The dispatch of these tow vehicles at any hour have a tendency to increase the traffic and noise volume, in whatever season. This presents a fine line between having a business based in a zone where it is permitted and one that may indeed be a home based business in a residential zone, which is entirely a different entity.

I would ask that all the council consider the ramifications of this proposal, and I would dare to say it is not “a no brainer”.

Thank you for your time and efforts to be fair to both businesses and those residents affected by this decision.

Keith Kolstad

Sent from Windows Mail

February 16, 2015

Dave Green and Billings Zoning Commission:

The Yellowstone Valley Tow Truck Association held an emergency meeting to discuss the ordinance change regarding tow truck parking on residential streets.

The Association members want to thank you, the City Attorney, City Council, City Administrator, and the folks at Code Enforcement for their time spent on understanding this issue of public safety and welfare.

The Association is also in receipt of the communication from Ralph Hanser regarding the addition of the "B" classification and information shared by the Montana Tow Truck Association President Terry Morrison.

We, as the local Association accept the changes as written. We do not support nor promote "home" based towing businesses or heavy wreckers being parked in in residential areas. We also agree that the changes offered by the Montana Tow Truck Association President, Terry Morrison are workable (adding class "A", "B", and "D" (class 5 trucks or less).

We are grateful for the efforts of all involved. Thanking you in advance for your consideration.

Joanne G. Blyton
President Yellowstone Valley Tow Truck Association

## Cromwell, Nicole

**From:** Jennifer Hamlet <jenniferhamlet@hotmail.com>
**Sent:** Wednesday, March 04, 2015 1:37 PM
**To:** Cromwell, Nicole
**Subject:** Two trucks

I am not sure if you the one to e_mail,but I will give it a try. Last evening, I found out that the zoning committee held a meeting with the toe truck owners and drivers,and to the public. I was not there,because the public was supposed to be next week. 6 people were there who were against the proposal that was sounding like the city and the towing companies. From what,I heard that's no longer the case. I want to share my view points. I am for the trucks being parked at a residence. People need to remember that the towing companies are part of the team,at the sight of an accident,or to tow a vehicle away from an area that is blocking something. The cops have their job to do,so does the fire department,and the medical response team. The wrecker companies does the clean_up.If there is a really bad accident,where someone is pinned under something,they are the ones that have the proper equipment to that. Their ETA is very important. It could mean the difference between life and death. I would chose life any time. The trucks do not make the residential areas look ugly. I see worse in these areas. The trucks are not that noisy-I have heard them.Pick_up trucks are noisier. I could go on, but I think I have made my point. Please do not vote this down. They are an important part of the team. Thank_you. Jennifer Hamlet.

**Cromwell, Nicole**

**From:** keith kolstad <kkkolstad@hotmail.com>
**Sent:** Friday, February 27, 2015 8:38 AM
**To:** Cromwell, Nicole
**Subject:** Tow Truck ordinance

**Follow Up Flag:** Follow up
**Flag Status:** Flagged

Nicole:

I will be unable to attend the zoning meeting on March 3 concerning the recommendation about the change for tow truck operators on private streets or property as I will be attending the classes offered by the LEPC that week. I have, as a private citizen and not as representative of the City of Laurel, commented on that proposal in view of my experiences.

My previous comments were about the possibility of tow trucks, especially diesel ones, being left running during cold nights and the accompanying noise, fumes and disturbance. Since my initial comments I have also seen concerns arise over whether a tow truck might return to the residential neighborhood where it is being based with a car or truck in tow to await morning or better road conditions before placing the towed vehicles in an impound lot. Such parking has the high probability of leaving oil, glass, anti-freeze or other items on the street or driveway and even thief from the wrecked vehicle. Antifreeze of course could be toxic to pets being walked or loose in the area. Another factor that has come to my attention for which local government is not directly involved is what were the covenants that were created when the subdivision was platted. Although they are not part of the city's responsibility the approval of such an ordinance change may lead to neighborhood conflicts and even lawsuits to enforce such covenants against the tow company basing a commercial interest in the neighborhood. Will the city need to establish a permit system to track this usage in a neighborhood? I've noticed that tow truck drivers seem to be on a rotating basis, thus the tow truck may be moved to several neighborhoods over the course of a week. Once again, I personally feel that as a citizen of Billings I would prefer that tow trucks be based at the business location and not at residential locations.

Thank you for the opportunity to comment further on this suggested ordinance change.

Keith Kolstad

SOUTH SIDE NEIGHBORHOOD TASK FORCE
901 South 30th Street
Billings, Montana 59101
(406) 652-3337

RECEIVED
MAR - 3 2015
PLANNING & COMMUNITY
SERVICES DEPARTMENT

March 2, 2015

The Zoning Commission
City of Billings
Planning Department
2825 Third Avenue North
Billings, MT 59101

Members of the City Council
and City Administrator Tina Volek
City of Billings
210 North 27th Street
Billings, MT 59101

Re: Proposed Changes Allowing Tow Trucks
to Park in Residential Neighborhoods

Dear Ladies and Gentlemen:

At its February 19, 2015, meeting, the South Side Neighborhood Task Force voted unanimously to oppose the zoning changes you are considering that would allow tow trucks to be parked in residential neighborhoods for the convenience of tow truck operators and their drivers. Our group would urge you to reject this change in zoning policy.

As our community grows, residential neighborhoods are becoming more dense, and citizens are not able to have as much peace and quiet as they had in the past. But there is no logical reason to impose the noise and pollution of diesel-powered tow trucks starting up at any hour of the day of night on these residents when there is no public need for the proposed change in zoning ordinances. And the size of a tow truck and car carrier is most often longer than the recreational vehicles which the City has chosen to bar from parking in the streets of our community. Rules should be the same for everyone, absent some urgent need for an exception.

To preserve the integrity of our residential neighborhoods, the South Side Neighborhood Task Force would urge you to deny this change in zoning policy.

Sincerely,

Michele Zahn
Chair of the South Side Neighborhood Task Force

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 27-601(a) AND 27-606 OF SAID CODE; ALLOWING OPEN STORAGE AND OFF-STREET PARKING OF ONE COMMERCIAL TOW TRUCK CLASSIFIED AS EITHER CLASS A OR CLASS D BY THE STATE OF MONTANA AS AN ACCESSORY USE IN A RESIDENTIAL DISTRICT; AND, ALLOWING ONE SUCH COMMERCIAL TOW TRUCK TO BE PARKED OR STORED ON THE PREMISES OF A HOME OCCUPATION.**

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

***Section 1***. That subsection (a) of Section 27-601 of the Billings, Montana City Code be amended so that such subsection shall read as follows:

**Sec. 27-601. - Parking and storage restrictions.**

(a) *Residential.* The following standards for off-street parking and storage shall apply in all residential zoning districts and on property that is developed for residential use.

(1) Open storage and off-street parking of licensed and operable motor vehicles is an allowed accessory use as defined in section 27-201.

(2) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a prohibited use.

(3) Within the city limits open storage and off-street parking of licensed and operable motor vehicles in any front or side yard shall be on a surface prepared with asphalt or concrete. Open storage and off-street parking of licensed and operable motor vehicles in any rear yard may be on any type of surface. (See also sections 6-1203, 24-401 and 27-1201.)

(4) Open storage and off-street parking of one (1) licensed and operable motor vehicle used for commercial or business purposes, including a commercial tow truck classified as either Class A or Class D by the State of Montana, is an allowed accessory use. All such motor vehicles, except the commercial tow trucks noted above, shall ~~provided it does~~ not exceed twelve thousand (12,000) pounds in G.V.W. (gross vehicle weight). Outside the city limits on property zoned agriculture open space or agriculture suburban this motor vehicle weight limitation shall not apply.

. . . *(the rest of this subsection is unchanged)*

***Section 2***. That Section 27-606 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 27-606. - Home occupations.**

A *home occupation* is defined as an occupation carried on by an occupant of a dwelling, which is located in a residential zoning district, as an accessory and incidental activity to the main residential use of the building.

The *planning department* recognizes that the restrictions set forth in this section do not anticipate all possible types of home occupations. Therefore, to guide the planning department in the enforcement of this section, the department has adopted the following policies:

(1)The home occupation should not generate traffic before 7:30 a.m. or after 6:00 p.m.

(2)The occupation should not generate, on average, more than four (4) vehicle trips to the residence during any hour.

The home occupation shall comply with all of the following restrictions:

(a)The occupation to be performed must be a use which is allowed outright in the Residential Professional (RP) zoning district. In addition, the following uses, listed by Standard Industrial Classification (S.I.C.), may also be allowed:

| S.I.C. Number | Description |
|---|---|
| 7231 | Beauty shops |
| 7241 | Barber shops |
| 7251 | Shoe repair shops |
| 7291 | Tax return preparation services |
| 7631 | Watch, clock and jewelry repair |
| 76— | Office only for miscellaneous repair services |
| 7911 | Dance studios, schools and halls |

Uses not listed above may be allowed with written approval from the zoning coordinator, if they meet the spirit and intent of this section and will conform to all of the restrictions of this section.

(b)No person shall be employed other than the residents of the dwelling.

(c)The occupation shall be conducted entirely within the dwelling or an accessory building.

(d)The floor area devoted to the occupation shall not exceed five hundred (500) square feet or twenty-five (25) percent of the total ground area occupied by the buildings, whichever is less.

(e)The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.

(f)There shall be no sign advertising or calling attention to the home occupation on the premises.

(g)There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.

(h)There shall be no group instruction, assembly or activity for greater than five (5) persons.

(i)One (1) business vehicle that is associated with the home occupation and which does not exceed ~~eight thousand (8,000)~~ twelve thousand (12,000) pounds gross vehicle weight (G.V.W.), may be parked or stored on the premises. This weight limitation shall not apply to commercial tow trucks classified as either Class A or Class D by the State of Montana. In addition, there shall be no outside storage of materials or equipment related to the home occupation, except the one (1) allowed business vehicle.

***Section 3. 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 these ordinances are declared to be severable.

***Section 4. Repealer.*** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

***Section 5. Effective Date.*** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this ___ day of _____, 2015.

ADOPTED and APPROVED on second reading this ___ day of _____, 2015.

CITY OF BILLINGS

By_____
Thomas W. Hanel, Mayor

ATTEST:

By_____
Cari Martin, City Clerk

**Regular 8.**

**Regular City Council Meeting**
**Meeting Date:** 03/23/2015
**TITLE:** Public Hearing and First Reading-Amendments to BMCC Section 24-406-Allowing Limited On-Street Tow Truck Parking
**PRESENTED BY:** Brent Brooks, City Attorney
**Department:** Legal

## PROBLEM/ISSUE STATEMENT

On February 9, 2015, Council Member Pitman made an initiative to direct staff to proceed with the needed ordinance amendments to allow off-street and on-street tow truck parking in residential zones within the city limits. **T**he initiative was approved 9-1.The **off-street** portion of the ordinance amendments require a Unified Zoning Code amendment that was first submitted to the City Zoning Commission for a Public hearing and Zoning Commission recommendation. That hearing was conducted on March 3, 2015, and the Zoning Commission voted to recommend disapproval of the off-street parking zone change.That zone change is before the City Council tonight as Regular Agenda item 7 for Public Hearing and First Reading.

Also needed for consistency are companion amendments to Section 24-406 of the Billings Montana City Code (BMCC), which regulates **on-street** parking of tow trucks. The proposed amendments to Section 24-406 permit **on-street** parking by Class A and Class D commercial tow trucks. These amendments limit the location where the tow trucks are allowed to park by requiring that such Class A and Class D tow trucks be parked directly in front of the driver's house or property only. All other state and local parking regulations and restrictions still apply.

## ALTERNATIVES ANALYZED

City Council may:

- Approve the proposed amendments to BMCC Section 24-406 which allow but restrict Class A and D tow trucks parking in residential areas;
- Disapprove the proposed ordinance amendments; or
- Delay action on the proposed amendments

## FINANCIAL IMPACT

The financial impact of this ordinance is unpredictable. As stated in the staff memo on the related Regular Agenda Item #7, tow trucks parking in residential areas may impact purchasing or selling homes in those areas. There may also be some unpredictable impact to street maintenance where these vehicles are parked but it is difficult to determine the cost, if any.

**RECOMMENDATION**

Staff recommends that City Council approve this ordinance amendment if Council also approves the Zoning Code amendment in item #7

Staff recommends that City Council disapprove this ordinance amendment if the Council also disapproves the Zoning Code amendment in Item #7.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Ordinance

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**ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 24-406 OF SAID CODE; ALLOWING A COMMERCIAL TOW TRUCK CLASSIFIED AS EITHER CLASS A OR CLASS D BY THE STATE OF MONTANA TO BE PARKED ON CITY STREETS SUBJECT TO PARKING REQUIREMENTS**

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

***Section 1***. That Section 24-406 of the Billings, Montana City Code be amended so that such section shall read as follows:

**Sec. 24-406. - Parking trucks, trailers, buses and similar vehicles in residence~~e~~tial districts.**

No person shall stand or park any truck, truck-tractor, trailer, semitrailer or bus on any street in a residence~~e~~tial district for any purpose or period of time other than for the expeditious loading or unloading of such vehicles, except that the provisions of this section shall not apply to the driver of a truck, truck-tractor, trailer or semitrailer while such vehicle is being used in connection with the construction or repair of buildings, service calls or the moving of household goods and shall not be applicable to the driver of a bus while such vehicle is parked in a designated bus stop. This section shall also not apply to commercial tow trucks classified as either Class A or Class D by the State of Montana if the tow truck is parked along the frontage of the tow truck driver's property in the parking lane directly in front of the driver's house. The parking of the tow truck must comply with all other state and local parking restrictions, including but not limited to, distance from curb, direction of traffic, distance from driveways, and width of street.

***Section 2. Severability*.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

***Section 3. Repealer*.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

***Section 4. Effective Date*.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this ___ day of _____, 2015.

DRAFT

ADOPTED and APPROVED on second reading this ___ day of _____, 2015.

CITY OF BILLINGS

By_____
Thomas W. Hanel, Mayor

ATTEST:

By_____
Cari Martin, City Clerk

DRAFT