

# 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**

**July 9, 2018**

**6:30 P.M.**

**CALL TO ORDER:** Mayor Cole

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Yakawich

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

Cromley,  Yakawich,  Brewster,  Ewalt,  Joy,  Friedel,  Gibbs,  Ronning,  
 Clark,  Brown

**MINUTES:** June 25, 2018 - Pending

**COURTESIES:**

**PROCLAMATIONS:**

### ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 ONLY. Speaker sign-in required.** (Comments are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign the roster located on the cart at the back of Council chambers or at the podium. Comments 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. **Airport Terminal Water Chiller Replacement.** (Opened 6/26/18) Recommend Plumb MT, Inc; \$206,000.
  2. **W.O. 18-06, EBURD 10th Avenue North to 13th Avenue North (sanitary sewer, storm drain, street improvements and the construction of streetlights).** (Opened 6/26/18) Recommend Knife River-Billings; \$4,924,041.10.
  3. **W.O. 18-28, City-County Drain at Jackson Street - Culvert Replacement.** (Opened 7/3/18) Recommendation in July 6, 2018 Friday packet.
- B. Approval** of Billings Community Cable Corporation (Community 7) five-year agreement.
- C. Approval** of amended interlocal agreement adding the City of Havre to the Montana Firefighters Testing Consortium.
- D. Acceptance** of donation to the Billings Fire Department from Fire Suppression Systems for children's fire helmets; \$1,000.
- E. Acceptance** of donation to Billings Fire Department from David Trost and St. John's Lutheran Ministries, Inc. for seven BBQ grills; valued up to \$3,000.
- F. Declaring surplus property** and authorizing the sale of twenty (20) Unication Alpha Legend Plus pagers to the Bozeman Fire Department for the sum of \$1,900.
- G. Resolutions** authorizing the issuance of the EBURD project bonds through a negotiated sale and setting the parameters.
- H. Resolution** declaring an emergency and authorizing payment to stabilize the slope and remove rocks from Mountain View Boulevard.
- I. Second/Final Reading Ordinance for Zone Change 966:** a zone change from the EBURD-Industrial Sanctuary (EBURD-IS) zone to the EBURD-Central Works (EBURD-CW) zone on a 5.64 acre parcel of land, generally located at 1st Avenue North and North 15th Street. Kairos Center LLC, owner; Martin Connell, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria.

J. **Second/Final Reading Ordinance for Zone Change 967:** a zone change from Residential Multi-Family (RMF) to Community Commercial (CC) on a 1.72 acre parcel of land, generally located at the intersection of Lake Elmo Drive and Josephine Drive. Orville Kurtz, owner; David Goodridge, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria.

K. **Bills and Payroll:**

1. June 22, 2018

**REGULAR AGENDA:**

2. **PUBLIC HEARING AND RESOLUTION** approving and adopting the Tax Increment Financing (TIF) Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
  
3. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Billings, Montana City Code (BMCC) Section 2-211, Calling to Order. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

**PUBLIC COMMENT on “NON-AGENDA ITEMS”.** **Speaker Sign-in required.** *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes. Please sign the roster located on the cart at the back of 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 Denise R. Bohlman, City Clerk, at 657-8210.*

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** Award of Airport Terminal Water Chiller Replacement Project

**PRESENTED BY:** Kevin Ploehn, Director of Aviation and Transit

**Department:** Airport

**Presentation:** No

**PROBLEM/ISSUE STATEMENT**

The Airport Terminal's main Water Chiller Unit supplies cool water to the smaller fan coil and HVAC units located throughout the Airport Terminal Building, providing the air conditioning for the entire building. The Terminal's main Water Chiller unit was in service for 26 years and during last year's summer months, it began to require numerous repairs and eventually suffered catastrophic failure.

With replacement parts being expensive and hard to obtain, and the future Terminal Expansion Project eventually impacting the current roof top location of that chiller unit, staff recommends replacing it with new high efficiency multi-stack units providing 210 tons of water chilling capacity and relocating the multi-stack units in an alternate location.

This project was advertised in the *Yellowstone County News* on June 8, 15, and 22, and was posted on the City and Airport's Websites. On June 26, 2018 the following bids were received:

<b><u>CONTRACTOR</u></b>	<b><u>BID</u></b>
Plumb MT, Inc.	\$206,000
Williams Brothers	\$242,200
Estimate	\$250,000

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the contract award for the Airport's Water Chiller Replacement Project with Plumb MT, Inc.; or
- Decline to approve the award and provide staff direction on how to proceed.

**FINANCIAL IMPACT**

The total cost of this project is \$206,000. Funding for this project is available in the Airport's Capital Account.

**RECOMMENDATION**

Staff recommends that the City Council approve the contract award for the Airport Terminal Water Chiller Replacement Project to Plumb MT, Inc., for the amount of \$206,000.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** WO 18-06 EBURD 10th to 13th Infrastructure

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

**Department:** Public Works

**Presentation:** No

**PROBLEM/ISSUE STATEMENT**

The purpose of this project is to reconstruct streets between 1st Avenue North and 4th Avenue North and North 10th Street to North 13th Street in accordance with the East Billings Urban Renewal District Master Plan. The streets included in this project are North 11th Street, North 12th Street, 2nd Avenue North, and 3rd Avenue North. The improvements include sanitary sewer, storm drain and street improvements. Streetlights will be installed from North 10th Street to North 22nd Street and Montana Avenue to 6th Avenue North. The streetlight portion of the project is being funded through SID 1405 which the City Council created on March 26th. WO 18-06 was bid on June 26th, and the City received two bids for the project. Knife River - Billings is the apparent low bidder for the project.

**ALTERNATIVES ANALYZED**

The City Council may:

- Approve the contract award to Knife River - Billings in the amount of \$4,924,041.10; or
- Do not approve the contract. If the contract is not awarded, the construction of the improvements will be delayed or not constructed.

**FINANCIAL IMPACT**

Contractor	Bid
Engineer's Estimate	\$5,236,233.81
Knife River - Billings	\$4,924,041.10
CMG Construction	\$5,800,335.00

The funds are from property owner assessments, EBURD funds, storm drain funds and sewer funds.

Budgeted Amount	\$6,362,000
Previously Encumbered	\$735,535
This Contract	\$4,924,041.10
Remaining Budget	\$702,423.90

**RECOMMENDATION**

Staff recommends that the City Council approve the bid and award the contract to Knife River - Billings, in the amount of \$4,924,041.10.

**APPROVED BY CITY ADMINISTRATOR**



**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** Bid Award: W.O. 18-28; City-County Drain at Jackson Street Culvert Replacement

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

**Department:** Public Works

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

W.O. 18-28; City-County Drain at Jackson Street Culvert Replacement, is an emergency replacement project that will replace the current failing storm drain culverts on the City-County Drain at Jackson Street. The City-County Drain is one of the City's primary stormwater outfalls with a contributing drainage area of approximately 10 square miles. Complete failure of the Jackson Street culverts would result in the collapse of Jackson Street and raise integrity concerns for adjacent gas and oil pipelines, which may also be compromised in the event of a complete culvert failure.

The project was advertised on June 15th, June 22nd and June 29th in the *Yellowstone County News* and on the City's website. Bids were opened on July 3, 2018. In an effort to get the project underway as soon as possible due to the urgency of the situation, bid results will be included in the July 6, 2018 Friday packet.

**ALTERNATIVES ANALYZED**

The Council may:

- Award Work Order 18-28; City-County Drain at Jackson Street Culvert Replacement to the contractor as presented in the Friday packet; or
- Do not award Work Order 18-28. This project is for an emergency replacement of failing and collapsing culverts on one of the City's primary stormwater conveyance channels. If not awarded, the City risks complete failure of the culverts which would result in significant damage to adjacent right-of-way and possibly adjacent private utilities.

**FINANCIAL IMPACT**

The bid results and award recommendation will be presented in the July 6, 2018, Friday packet.

The fiscal year 2019 approved budget includes \$2.4 million in Storm Drain Funds dedicated to master planning and capital improvements. Funding for this project will occur within that budget.

**RECOMMENDATION**

Staff recommends that the City Council award W.O. 18-28; City-County Drain at Jackson Street Culvert Replacement to the contractor recommended by staff in the July 6, 2018 Friday packet.

**APPROVED BY CITY ADMINISTRATOR**



**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** City of Billings Agreement with Community 7

**PRESENTED BY:** Wyeth Friday

**Department:** Planning & Community Services

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The City Council is being asked to execute a new five-year agreement with Billings Community Cable Corporation (Community 7) to provide services to the City and its residents. The City entered into an agreement with Community 7 in 1998 to provide services to City residents on news, events, and activities of the City of Billings. The City continues to have an interest in Community 7 providing services to City staff and City residents through programs, meeting coverage, event notices, special event coverage, and application of new technology that may create a very useful interface with Community 7 programming and City events, meetings and activities. The City has provided financial support to Community 7 under the past agreement by using revenues from its nonexclusive franchise agreement with Charter Communications to provide cable television services to residents of the City. The franchise agreement provides that Charter must make available public, education and governmental channels for use as the City desires. This agreement provides fees to the City from Charter collected from Charter cable subscribers.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve of the Five-Year Agreement between the City of Billings and Community 7 Television as recommended by City staff; or
- Not Approve of the Five-Year Agreement between the City of Billings and Community 7 Television; or
- Make amendments and then approve the Five-Year Agreement between the City of Billings and Community 7 Television. Making amendments may require the Agreement to be taken back to the Community 7 Board of Directors and City staff for further review.

**FINANCIAL IMPACT**

The 1998 Agreement between the City and Community 7 was set for a one-year period and had a clause that renewed it for one year increments. A separate memorandum established by the City Council in 1994 defined a financial contribution to Community 7 of 20% of the revenue from the fees collected from the Charter franchise agreement. This payment allocation ended up at a \$100,000 per year flat rate and the City has been paying this for as long as records could be determined. Today, 20% of the current 2018 Franchise Fee would be \$276,000. The City has continued to pay \$100,000, annually.

The new Agreement proposes an annual flat rate payment to Community 7 from the City for each of the years in the five-year agreement with an annual escalator. The City would pay \$180,000 in FY2019 and gradually increase its payments to \$202,590 in FY2023. This

graduated funding plan reflects the City's interest in gradually utilizing more of the services described in Section 3.j. of the attached Agreement over the five-year life of the Agreement. The funding to Community 7 during the Agreement would come from the City's Franchise Fee revenue paid from Charter.

## **BACKGROUND**

The City and Community 7 began working in February this year to develop a new agreement to replace the 1998 agreement and to move both organizations forward to deliver City information to the Billings community. City staff and Community 7 staff worked to bring a draft agreement to the Community 7 Board of Directors and then the City Council at its June 18 Work Session. The attached agreement is the result of this effort. The Community 7 Board of Directors is supportive of the draft agreement.

In review of the past Community 7 Agreement, other agreements between other community cable channels and other Montana communities, City staff's recommendation is for a five-year agreement with a fixed annual amount to be paid to Community 7, including an annual escalator over the life of the five-year agreement. This approach is easier to track, account for, and makes the payment process very clear between Community 7 and the City. This approach is also, more importantly, in alignment with the past history of service use and a gradual increase in use of Community 7 services by the City in the next five (5) years. Specific reasons for this approach are as follows:

- Community 7 is providing services now the City has, technically, not paid full cost for. Community 7 is proposing new services, some of which the City has already seen used – City Administrator Interviews, coverage of One Big Sky District meetings, Facebook live streaming in some cases and better coverage of one-time City events – that the City expects to continue to use in the next 5 years.
- The City would likely continue to use some of these services immediately under a new agreement. However, some services proposed in the new agreement the City is expected not to begin using in the first year, but would begin to use in the 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> years of the agreement.
- The City has not been as active in exploring new service options with Community 7 and intends to do so over the coming years in a gradual manner, as the City better defines and understands its needs and the service options and potential.
- It is the City's position that starting at the FY19 annual payment to Community 7 as identified in the attached agreement and then increasing it annually best matches the City's gradual increase in service demands from Community 7. It also helps Community 7 budget for delivery of these services.

## **STAKEHOLDERS**

Community 7 and the City of Billings, on behalf of City residents, are the stakeholders in this process. The Community 7 Board of Directors is in support of the attached agreement as drafted. No public hearing is scheduled for this item. However, the public may comment on this agreement during the public comment process at the start of this meeting.

## **RECOMMENDATION**

Staff recommends that the City Council approve the attached five-year Agreement between the City and the Billings Community Cable Corporation and direct the Mayor to execute the Agreement.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Community 7 Agreement

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AGREEMENT  
BETWEEN THE BILLINGS COMMUNITY CABLE CORPORATION  
AND THE CITY OF BILLINGS, MONTANA

This agreement ("Agreement"), is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the City of Billings, Montana, a municipal corporation, hereinafter referred to as the "CITY", and the Billings Community Cable Corporation, a Montana non-profit corporation, hereinafter referred to as the "BCCC".

WHEREAS, on June 8, 2008, the City entered into a nonexclusive franchise agreement with Charter Communications, hereinafter referred to as "CHARTER", to provide cable television services to residents of the City for a term of ten (10) years from the termination date of the previous agreement. This franchise agreement has been extended through October 9, 2018 and the City and Charter are in renewal negotiations; and

WHEREAS, the franchise agreement provides that CHARTER must make available public, education and governmental channels ("the Channels") for use as the City desires; and

WHEREAS, the Billings Community Cable Corporation was created by the filing of Articles of Incorporation under the laws of the State of Montana, with the stated purpose being to promote and foster a cable video community outreach program, to insure the equitable allocation of community programming resources available and to promote and develop programs for the optimal utilization of cable communications systems in the community; and

WHEREAS the City finds that the BCCC's operation of the channels will facilitate the objectives of the City to provide services to City residents.

NOW, THEREFORE, in consideration of the mutual undertakings and promises contained herein and the benefits to be realized by each party, and in further consideration of the benefit to the residents of the City by this Agreement, the parties agree as follows:

AGREEMENT

1. Grant.

The City hereby grants to BCCC exclusive right to operate the Channels, subject to the terms and conditions of this Agreement.

## 2. Term

The initial term of this Agreement shall commence upon the execution of this Agreement and continue for a period of **five (5) years from City Council approval**. If neither BCCC nor the City give written notice -- ninety (90) days prior to the expiration of the 5-year anniversary date of the execution of this Agreement, this Agreement shall be automatically renewed for one (1) year for review and updates.

## 3. BCCC's Responsibilities

BCCC shall have the following duties and responsibilities under this Agreement:

- (a) BCCC shall exercise its powers as described in the Corporation's Articles of Incorporation, Bylaws and as set forth herein.
- (b) BCCC shall promulgate rules and regulations for the efficient utilization of the Channels. BCCC shall notify City of the adoption of such rules and regulations.
- (c) BCCC shall manage, operate, and control the Channels' use on a non-profit basis, consistent with rules and regulations governing programming under the FCC, and those established by the BCCC.
- (d) BCCC shall use its best efforts to promote and publicize the use of the Channels by educational, cultural, governmental and other community organizations, and by the public. BCCC shall endeavor to schedule programming to maximize audience potential by maintaining a regular program format.
- (e) BCCC agrees to maintain insurance coverage of the types and amount required by law and to keep such insurance coverage in force throughout the life of this Agreement. The comprehensive general liability insurance policy will include the City as an additional insured.
- (f) BCCC shall maintain proper coverage for Workers' Compensation and Unemployment Insurance as may be required by Montana State law.
- (g) BCCC shall make available to the City Administrator or his/her designee a financial statement of the operation of the BCCC within a reasonable time after the close of the fiscal year.
- (h) The BCCC will provide a copy of the adopted Bylaws of BCCC to the City Administrator or his/her designee, and will provide a copy of the Bylaws to the City after any amendments or updates are made during the period of this Contract;
- (i) Upon reasonable request of the City, BCCC shall provide (1) disaster and emergency assistance, (2) reasonable programming access to the Channels, (3)

reasonable programming access to the studio and related facilities, (4) reasonable video and programming assistance to the City departments, (5) reasonable training or seminars to City employees, and (6) assistance in developing and providing a governmental information service. Except for disaster and emergency assistance, BCCC shall not be required to provide more than approximately thirty-five percent (35%) of the station's total professional employee hours available during any one week (or approximately fourteen (14) hours per week) of assistance to the City as described in this paragraph. The time devoted to assisting the City by BCCC shall not accumulate from week to week. In other words, BCCC's obligation to provide professional assistance in one week shall terminate with that week and not accrue into any other period.

- (j) Educational and Government Access: As part of the monies distributed by the City to BCCC, BCCC will provide up to 500 hours per year of production assistance to the City to produce timely and informative municipal bulletin services, programs featuring various departments, Mayor and City Council topics, live cablecast of City Council meetings, Community Forum, City/County Planning Board, Zoning Commission and Board of Adjustment meetings, and City Council committee meetings, and other content and programs as recommended by the Government Channel Cable Advisory Committee (GCCAC). The GCCAC is made up of a BCCC Board Member, BCCC General Manager, and a representative of the City of Billings. BCCC will provide live cablecasting and streaming of all City of Billings Work Sessions and Regular City Council meetings via the Community Seven website and other social media outlets such as Facebook. The City will provide a direct link from its webpage to the Community Seven website for customer access to live, rebroadcast and archived meetings. All regular City Council meetings and Work Sessions will be rebroadcast at least twice during the same week of which the meeting was held. In addition, all meetings will be archived for a period of one (1) year and will also be available for video-on-demand for the same one (1) year time period.

#### 4. City's Responsibilities.

The City shall have the following duties and responsibilities under this Agreement:

- (a) The City shall enforce all provisions set forth in its franchise agreement with CHARTER that pertain to the Channels. Upon notice by BCCC, the City Administrator will request activation of a third PEG (community) channel to be managed by BCCC when BCCC in good faith believes it has met the criteria set forth in the franchise agreement for activation of an additional PEG channel.
- (b) The City shall have no responsibility for program content and BCCC shall indemnify and hold harmless the City from any claims, suits, liability, loss or damage caused by or arising out of any programming by BCCC including any claim or legal action for alleged violation or infringement of copyright or other intellectual property right, invasion of privacy, obscenity or defamation, provided further that the City shall inform BCCC in writing within three (3) business days

of its receipt of notice of such claim or action.

- (c) BCCC shall have sole discretion and authority to make decisions regarding standards for program content, quality and scheduling except as provided herein.
- (d) BCCC is not, nor shall it be construed to be, a department or agent of the City.
- (e) The City shall promptly notify BCCC of any complaints, correspondence or any other oral or written communication received by the City pertaining to the Channels.
- (f) The BCCC shall have the continued and exclusive use of equipment purchased by the City to assist with the operation of the Channels. An updated inventory of this equipment shall be in the possession of the City Administrator or his/her designee at all times. The equipment is to be maintained in good working order by the BCCC, is to be provided by the City at no charge to the BCCC, and shall be surrendered by the BCCC in the event of termination of this agreement.

5. Financial Support by the City.

Commencing with the City of Billing’s fiscal year 2019 budget the City shall pay BCCC the following amounts in quarterly installments each year in July, October, January and April:

Fiscal Year	Total Amount	Quarterly Installment
2019	\$180,000	\$45,000
2020	\$185,400	\$46,350
2021	\$190,962	\$47,740.50
2022	\$196,690	\$49,172.50
2023	\$202,590	\$50,647.50

The annual contributions by the City stated above are for the costs of operations incurred by BCCC during the term of this Agreement and increase by three percent (3%) each fiscal year as shown above during the term of this Agreement

6. Nonassignability.

The rights, duties and obligations of BCCC under this Agreement are not assignable or transferable.

7. Notices.

Any notice herein provided to be given to the City should be addressed and delivered to the Billings City Administrator, P. O. Box 1178, Billings, Montana 59103. Any notice to be given to BCCC shall be addressed and delivered to BCCC, Lincoln Education Center, 415 North 30th Street, Billings, Montana 59101.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THE CITY OF BILLINGS:

By: \_\_\_\_\_

William A. Cole, MAYOR

ATTEST:

By: \_\_\_\_\_

Denise R. Bohlman, CITY CLERK

APPROVED AS TO FORM:

By: \_\_\_\_\_

Brent Brooks, CITY ATTORNEY

BILLINGS COMMUNITY CABLE CORPORATION

By: \_\_\_\_\_

Kevin Dowling, BOARD CHAIR

By: \_\_\_\_\_

Tim Harrington, GENERAL MANAGER

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** Montana Firefighters Testing Consortium Interlocal Agreement  
Amendment

**PRESENTED BY:** William Rash, Fire Chief

**Department:** Fire

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The Billings Fire Department participates in and is a member of a group of Montana municipal and district fire departments that cooperate in a firefighter candidate testing and selection consortium. The participating entities adopted an Interlocal Agreement that allows several departments to cooperate and provide a single service/program that is more cost effective than each department running its own program. Interlocal Agreements and any amendments must be approved by the governing body of each participant. This Second Amendment to the Interlocal Agreement adds the City of Havre to the testing consortium and must be approved by all participants.

**ALTERNATIVES ANALYZED**

City Council may approve or disapprove this 2nd Amended and Restated Interlocal Agreement among the participating local governments. Current members of the consortium are: Big Sky, Central Valley, Missoula Fire Districts, Billings, Bozeman, Great Falls, Helena, Miles City, Missoula and Butte-Silver Bow.

**FINANCIAL IMPACT**

The financial impact to the City of Billings will not change. Consortium Members share equally in the costs related to Montana Firefighter Consortium testing process. Funding sources include initial membership dues for new members, as well as the amount of the annual dues paid by each member and test application fee received from candidates. The Consortium may also from time-to-time apply for and receive other sources of revenue, such as grant funds. The City of Billings pays \$1,200 per year in dues to the Montana Firefighter Testing Consortium.

**RECOMMENDATION**

Staff recommends that the City Council approve the 2nd Amended and Restated Interlocal Agreement for the Montana Firefighters Testing Consortium.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Fire consortium interlocal amendment - Havre

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**INTERLOCAL AGREEMENT  
FOR CREATING  
MONTANA FIREFIGHTERS TESTING CONSORTIUM  
Second Amended and Restated**

This Second Amended and Restated Interlocal Agreement (“Agreement”) is made in the state of Montana by public agencies organized and existing under the laws of the state of Montana and which are signatories to this Agreement (“Members”).

**RECITALS**

**WHEREAS**, Article XI, Section 7 of the Montana Constitution provides that a local government unit may (a) cooperate in the exercise of any function, power, or responsibility with, (b) share the services of any officer or facilities with, (c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more other local government units, school districts, the state, or the United States.

**WHEREAS**, Montana’s Interlocal Cooperation Act provides that its purpose is to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities (Montana Code Annotated § 7-11-102).

**WHEREAS**, Montana’s Interlocal Cooperation Act further provides that one or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service (Montana Code Annotated § 7-11-104).

**WHEREAS**, a public agency is any political subdivision, including municipalities, counties, and fire districts (Montana Code Annotated § 7-11-103).

**WHEREAS**, the Members each provide fire protection services and each is responsible for hiring qualified firefighters.

**WHEREAS**, each Member has its own recruiting and hiring processes, and would otherwise at various times have to conduct expensive and time-consuming testing.

**WHEREAS**, the duties of firefighters for each Member, as determined by a task analysis, are similar.

**WHEREAS**, the Members would all benefit in terms of efficiency and economy by consolidating their recruiting and testing efforts for firefighter candidates by establishing a pool of qualified firefighter candidates for consideration in hiring.

**NOW THEREFORE**, in consideration of the covenants and mutual benefits described herein, the Members agree as follows:

**I. DEFINITIONS**

- A. **Board of Directors (the Board):** The whole created by all of the sets of two Member Representatives of each Member; see also Section III (B).
- B. **Candidate:** Any person who has timely paid the application fee and submitted a complete application to take the Test.
- C. **Consortium:** The Montana Firefighters Testing Consortium.

- D. **Test:** The combined physical and written test offered annually by the Consortium.
- E. **Member:** Any public agency, as defined by Montana Code Annotated § 7-11-103, including a municipality, fire district, fire service area, local government, or other political subdivision which is both (1) a signatory of this Agreement, or any amended versions thereof, and (2) in compliance with the terms of this Agreement, or any amended versions thereof, and with the membership requirements set forth in the Consortium's bylaws or any subsequent amendments thereof.
- F. **Member Representative:** One of two individuals designated by a Member to represent the Member's interests at meetings of the Consortium.

## II. DURATION

The duration of this Agreement shall be perpetual unless terminated by the Members in accord with Section VII (E) below.

## III. CREATION OF THE AUTHORITY

- A. Pursuant to the Interlocal Cooperation Act, a public entity, separate and distinct from the parties hereto, is hereby created and shall henceforth be known as the *Montana Firefighters Testing Consortium* ("the Consortium").
- B. The Consortium shall be administered by a joint board of two representatives from each Member ("Member Representatives"). This joint board shall be called the Board of Directors ("the Board"), which shall be responsible for effectuating this Agreement.

## IV. PURPOSE

The purpose of this Agreement is to set forth the general and statutorily required terms of operation and financing the Consortium, which shall be responsible for the Members' undertaking of a joint testing program for the identification of qualified candidates for consideration in hiring for the position of entry-level firefighter.

## V. GOALS

The goals of the Consortium are as follows:

- A. To develop, establish, and modify, as the Board deems necessary, operational policies, protocols, and procedures to achieve the purpose of this Agreement;
- B. To implement and coordinate the financial, operational, and procedural aspects of the Test application and testing processes, procedures, and protocols;
- C. To share in the costs of administering this Agreement and achieving its purpose;
- D. To provide for the consistency of administration of the application and testing processes; and
- E. To create a list of qualified candidates after each testing cycle from which each Member may select candidates to interview and possibly hire for the position of entry-level firefighter.

## VI. FINANCING

- A. The Members shall be responsible to share equally in the costs related to this Agreement, including administering and coordinating the Test application and testing processes.
- B. The Board shall be responsible for establishing a budget each fiscal year, which shall run from July 1 through June 30 of the following year.
- C. Sources of funding may include the following:
  1. **Dues:** Each Member, as a condition of membership, must pay its initial membership dues and its annual dues.

- a. The amount each new Member shall be required to pay as its initial membership dues, as well as the amount of the annual dues any Member shall be required to pay, shall be as set from time to time by a simple majority vote of the Board.
- b. The Board may set reduced initial membership dues and reduced annual dues for Members whose financial circumstances, in the Board's sole discretion, warrant such a reduction.
- 2. Fees: Additional funding of the Consortium is also derived from the Test application fees received from Candidates.
- 3. The Consortium may also from time to time apply for and receive other sources of revenue, such as grant funds.

**VII. TERMINATION**

- A. A Member may withdraw from the Consortium and this Agreement by giving the Board 60 days' written notice of the intent to withdraw.
- B. Any Member whose withdrawal would otherwise become effective 30 days or less before the scheduled Test shall not be permitted to withdraw until after the Test is completed, including tear down, and shall be required to participate, assist, and staff the testing in the same manner and effect as if the Member had not submitted notice of the intent to withdraw.
- C. When a Member withdraws, this Agreement shall remain in full force and effect with regard to the remaining Members.
- D. So long as at least two Members remain parties to this Agreement, the Consortium shall continue to operate.
- E. This Agreement may be completely terminated at any time upon the vote of 100% of the Members' governing bodies.
- F. The Consortium shall continue to exist and operate after complete termination, however, for the purpose of retiring any debt, including paying any remaining bills for operational expenses, disposing of all claims, selling all real and personal property in accord with Section VIII (B) herein, and distributing all assets equally, including cash accounts, and performing all other functions necessary to conclude the affairs of the Consortium.
- G. Following complete termination of this Agreement, Members who were Members on the date the vote in favor of terminating the Agreement was made may be required to pay an assessment to the Consortium, as determined by the Board, to enable final disposition of all remaining balances due for operational expenses and other minor costs of doing business.

**VIII. PROPERTY**

- A. The real or personal property owned by the Consortium shall be owned proportionally by the Members, regardless of when they become Members. A Member which withdraws from the Consortium foregoes all interest it has in the Consortium's real or personal property so long as the Consortium continues to operate.
- B. In the case of the complete termination of this Agreement in accord with Section VII (E), any real or personal property owned by the Consortium shall be sold at fair market value and the proceeds, if any remain after disposition of all remaining balances due for operational expenses and the other minor costs of doing business, shall be divided equally, distributed, and deposited to the general funds of each of the Members who were Members on the date of the vote in favor of terminating this Agreement was made.

**IX. PARTIES TO THIS AGREEMENT**

- A. Each Member, as a party to this Agreement, certifies that it intends to and does contract with, for the purposes and to the extent as herein provided, all other parties who are signatories of this Agreement, or may later become signatories of this Agreement.
- B. The addition of any new Member to this Agreement shall constitute an Amendment

subject to the requirements of Section XIII.

- C. Each Member further certifies that a Member's voluntary termination of this Agreement as to its own participation as a Member, as well as a Member's involuntary removal as party to this Agreement for failure to meet the Member's Responsibilities, as set forth in Section XI herein, shall not affect this Agreement nor the remaining Members' intentions to work cooperatively to achieve the goals and objectives set forth herein.

## X. CONSORTIUM RESPONSIBILITIES AND OBLIGATIONS

- A. Prior to each Test, the Board shall select and hire an independent consultant to validate each Member's job descriptions and requirements for the position of entry-level firefighter.
  - 1. Validation consists of comparing job descriptions, job analysis questionnaire results, and the CPAT, or such other similar test as the Board may adopt, for compatibility of activities.
  - 2. All Members must use the same validation procedures.
- B. The Board shall purchase and maintain liability insurance with liability limits of \$1,500,000 per occurrence and \$3,000,000 aggregate per policy year. The insurance shall name each Member as an additional insured and shall cover the Board of Directors, Members and their employees, and volunteers. The Board Chairperson shall provide a copy of the current insurance policy to each Member at the beginning of each policy year.
- C. The Board shall adopt bylaws, which shall be consistent with this Agreement and the law, and shall set forth the operational and procedural policies, protocols, and guidelines necessary to implement the Agreement's terms and achieve the Consortium's purpose and goals, including the creation of an Executive Committee, which shall handle the day-to-day business of the Consortium and which shall have powers as more particularly described in the bylaws. At a minimum, the bylaws shall provide as follows:
  - 1. The Officers of the Consortium shall be a chairperson, a vice-chairperson, a secretary, and a treasurer. The latter two officer positions may be combined and the offices filled by one Member Representative.
  - 2. Officers shall be selected from the Member Representatives, except that the secretary position or the combined secretary-treasurer position may be filled by an independent contractor selected by the Board.
  - 3. A quorum exists when a simple majority of the Member Representatives are present, either in person, by telephonic or other electronic means, such that they can hear, be heard, and meaningfully participate.
  - 4. A vote of a simple majority at a meeting where a quorum is present shall constitute the action of the Board.
  - 5. Minutes shall be taken at all meetings.
  - 6. The treasurer shall provide all necessary administrative and accounting functions for the Board and shall have the custody of and disburse funds. The treasurer may delegate disbursing authority to such persons as may be authorized by the Board to perform the disbursement function.
  - 7. As a deliberative body, the Consortium will follow basic standards of parliamentary procedure in the conduct of all its meetings, and *Robert's Rules of Order* and *Mason's Manual of Legislative Procedure* may be used for general guidance at any meeting.
  - 8. All Board meetings shall be noticed, held, and conducted in compliance with the Open Meeting and Notice statutes of the state of Montana.
  - 9. The adoption of the bylaws and any amendments to the bylaws shall be consistent with this Agreement and the law and shall be accomplished by an affirmative written ballot of a simple majority or more of the Member Representatives.
  - 10. Each Member and Member Representative shall receive a copy of the bylaws or any amendments thereof.
  - 11. The Consortium shall abide by all applicable local, state, and federal laws and regulations.

## **XI. MEMBER RESPONSIBILITIES**

Members have the following responsibilities:

- A. To share equally in the cost of accomplishing the Consortium's purpose and goals, including the costs of coordinating and administering the Test.
- B. To provide, at their own expense, personnel to assist in coordinating and administering the Test, including providing personnel to staff both components of the Test.
- C. To pay their own costs in the validation of their own job descriptions and requirements for the position of entry-level firefighter.
- D. In the case of a new Member, to promptly pay the initial membership fee, as shall be established by the Board.
- E. To promptly pay their annual dues as the Board shall set from time to time.
- F. To regularly attend and meaningfully participate in all meetings and in every testing event.

## **XII. CONSORTIUM RIGHTS**

- A. The Board, in its sole discretion, shall determine the type of testing it will use to identify qualified candidates for consideration for hiring for the position of entry-level firefighter, including the testing processes, procedures, protocols, instruments, and equipment to be used.
- B. The Board, in its sole discretion, shall determine the intervals at which the testing will be offered, the location at which the testing will take place, and the number of candidates it will allow to take part in the testing.
- C. The Board, in its sole discretion, shall determine the number of meetings which are necessary, as well as the date, time, and location of all meetings.
- D. The Board, in its sole discretion, shall determine the amount of annual dues which shall be paid by each Member and the date when due.
- E. The Board shall have the power to contract as needed to carry out the purpose of the Consortium and this Agreement.

## **XIII. AMENDMENTS**

This Agreement may be amended at any time by a vote of a simple majority of the Members acting through their governing bodies. Amendments become effective when the Board receives written confirmation from a simple majority of the Members, through their Member Representatives, that their governing bodies have approved an amendment.

## **XIV. EFFECTIVE DATE**

This Agreement shall be effective and binding upon a Member when its governing body becomes a signatory hereto.

## **XV. FILING**

- A. In accord with Montana Code Annotated § 7-11-107, this Agreement shall be filed with the county clerk and recorder of the county or counties wherein each Member is situated and with the secretary of state. Upon the amendment of this Agreement, the amended version shall then be recorded as provided herein.
- B. The Board shall designate the person or persons who shall be responsible for the filing of this Agreement and any subsequent amended versions hereof.

## **XVI. ASSIGNMENT**

Members may not assign any right, claim, or interest it may have as a consequence of being a party to this Agreement, and no creditor, assignee, or third party beneficiary of any Member shall have a right, claim, or title to any fund or asset of the Consortium.

**XVII. EXECUTION**

This Agreement shall be executed on behalf of the Member by its chief executive officer or chairperson and attested by its clerk or secretary, as appropriate, upon approval of the Agreement by the Member’s governing body. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same document.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date subscribed hereto.

DATE: \_\_\_\_\_

**BIG SKY FIRE DISTRICT**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CENTRAL VALLEY FIRE DISTRICT**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF BILLINGS**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF BOZEMAN**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY-COUNTY OF BUTTE-SILVER BOW**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF GREAT FALLS**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF HAVRE**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF HELENA**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**LOCKWOOD RURAL FIRE DISTRICT**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF MILES CITY**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF MISSOULA**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

DATE: \_\_\_\_\_

**MISSOULA RURAL FIRE DISTRICT**

By: \_\_\_\_\_  
Signature of Chief Executive Officer/Chair

\_\_\_\_\_  
Printed Name of Chief Executive Officer/Chair

Its: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Signature of Clerk/Secretary

\_\_\_\_\_  
Printed Name of Clerk/Secretary

Its: \_\_\_\_\_

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** Donation: Kids Fire Helmets from Fire Suppression Systems

**PRESENTED BY:** William Rash, Fire Chief

**Department:** Fire

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

Brian Hoerner, Fire Suppression Systems, Billings, Montana wants to donate 1,000 children's fire helmets, with a retail value \$1,000, to the City of Billings Fire Department. Accepting this donation will provide the Fire Department with a popular giveaway for National Fire Prevention Week and fire station open house visits, as well as other public education events. City policy requires that any donation exceeding \$500.00 must be accepted by the Council.

**ALTERNATIVES ANALYZED**

City Council may choose to approve or disapprove accepting the donation of fire helmets from Fire Suppression Systems.

**FINANCIAL IMPACT**

Accepting this donation will allow the Fire Prevention Bureau to have another tool to teach fire safety to young children during National Fire Prevention Week and at event throughout the year.

**RECOMMENDATION**

Staff recommends that the City Council accept the donation of 1,000 children's fire helmets with a retail value \$1,000 from Fire Suppression Systems.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** DONATION: BBQ Grills by St. John's Lutheran Ministries, Inc.

**PRESENTED BY:** William Rash, Fire Chief

**Department:** Fire

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

David Trost, St. John's Lutheran Miniserries, Inc. contacted the Fire Chief with an offer to donate barbeque (BBQ) grills to each of the seven (7) Billings Fire Stations. The estimated value of each grill is between \$375-\$425 each. City policy requires that the City Council approve any donation exceeding \$500.

**ALTERNATIVES ANALYZED**

City Council may choose to approve or disapprove accepting the donation of BBQ grills for each of the fire stations.

**FINANCIAL IMPACT**

This donation will have no effect on the Billings Fire Department budget, but the total donation amount could equal almost \$3,000.

**RECOMMENDATION**

Staff recommends that the City Council accept the donation of seven (7) BBQ grills from David Trost and St. John's Lutheran Ministries, Inc.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** SALE OF SURPLUS PROPERTY: Alpha Numeric Pagers

**PRESENTED BY:** William Rash, Fire Chief

**Department:** Fire

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The Billings Fire Department switched to Motorola Monitor pagers plus an e-dispatch notification system and no longer uses alpha numeric pagers. The Bozeman Fire Department still uses alpha numeric pagers and requested that the City of Billings sell to them twenty (20) of the decommissioned pagers. Staff is requesting that the City Council declare these pagers to be surplus property and authorize selling them to the Bozeman Fire Department.

**ALTERNATIVES ANALYZED**

City Council may approve or disapprove selling twenty (20) Unication alpha legend plus pagers at \$95.00/each to Bozeman Fire Department.

**FINANCIAL IMPACT**

The sale proceeds will be deposited in the City's Public Safety Fund.

**RECOMMENDATION**

Staff recommends that the City Council declare as surplus property twenty (20) Unication Alpha Legend Plus alpha numeric pagers and authorize selling them to the Bozeman Fire Department for the sum of \$1,900.

**APPROVED BY CITY ADMINISTRATOR**

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**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** Parameters Resolutions for the Sale of Bonds for EBURD projects

**PRESENTED BY:** Andy Zoeller, Finance Director

**Department:** City Hall Administration

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The City will be doing a lighting and street reconstruction project in the East Billings Urban Renewal District (EBURD) to be financed with a Special Improvement District (SID) Bond and a Tax Increment Bond. Streetlights will be installed on most of the streets from North 10th Street to North 22nd Street and Montana Avenue to 6th Avenue North. In order to install these improvements, a Special Improvement District has been created. The cost of installation will be assessed to all of the properties with frontage along the streets that receive streetlights. This SID is in conjunction with a larger project which will reconstruct the streets and make improvements to the sanitary sewer and storm drains in this area. The annual debt payments for these improvements will be paid from the tax increment funds from the District.

Two parameters resolutions have been submitted for approval to set the limits for the principal amounts, the interest rates and the maturity of the bonds.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve, or;
- Disapprove the parameters resolutions and find another funding source for the projects.

**FINANCIAL IMPACT**

The term of the SID bond will not exceed 15 years and the interest rate shall not exceed 5.50%. The Tax Increment bond's interest rate will not exceed 5.70 % with a maturity of 20 years.

The actual interest rate will be determined at the time of the sale.

**RECOMMENDATION**

Staff recommends that the City Council approve two resolutions authorizing the issuance of the bonds through negotiated sales and setting the bond parameters.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

resolution  
resolution #3

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CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. \_\_\_\_\_, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1405 BONDS; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND AUTHORIZING THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on July 9, 2018, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand officially this 9th day of July, 2018.

(SEAL)

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

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

RESOLUTION RELATING TO UP SPECIAL IMPROVEMENT  
DISTRICT NO. 1405 BONDS; AUTHORIZING THE ISSUANCE  
AND PRIVATE NEGOTIATED SALE THEREOF AND  
AUTHORIZING THE PLEDGE OF THE REVOLVING FUND TO  
THE SECURITY THEREOF

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

Section 1. Recitals; Prior City Actions.

1.01. This Council has duly and validly created and established in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended (the "Act"), a special improvement district, designated as Special Improvement District No. 1405 (the "District"), for the purpose of financing costs of certain public improvements of special benefit to the properties within the District (the "Improvements") and paying costs incidental thereto (the "Incidental Costs"), including costs associated with the sale and the security of special improvement district bonds of the City drawn on the District, the creation and administration of the District and the funding of deposits to the City's Special Improvement District Revolving Fund (the "Revolving Fund"). The Improvements consist of the construction and installation of streetlights within the District.

1.02. The City proposes to issue special improvement district bonds of the City drawn against the District in the maximum estimated principal amount of \$1,250,000 to pay a portion of the costs of the Improvements and Incidental Costs (the "Series 2018 Bonds"). The Series 2018 Bonds are to be payable primarily from special assessments to be levied against property within the District, which property will be specially benefited by the Improvements. Assessments will be levied against the property within the District in an amount not less than the principal amount of the Series 2018 Bonds to be issued.

Section 2. Negotiated Sale and Terms.

2.01. This Council hereby determines that it would be in the best interests of the City to sell the Series 2018 Bonds through a private negotiated sale to D.A. Davidson & Co., Great Falls, Montana (the "Purchaser").

2.02. The Series 2018 Bonds shall be sold to the Purchaser on terms and at a purchase price within the following limitations and conditions: (1) the maximum aggregate principal amount of the Series 2018 Bonds, exclusive of original issue discount or premium, shall not exceed \$1,250,000; (2) the maximum true interest cost on the Series 2018 Bonds shall not exceed 5.50%; (3) the purchase price of the Series 2018 Bonds shall not be less than 98.9% of the principal amount thereof, exclusive of original issue premium or discount; and (4) the final stated maturity of the Series 2018 Bonds shall not be later than 15 years from their date of issue. All costs of issuing the Series 2018 Bonds (including, without limitation, the fees and expenses of bond counsel, the fees of the paying agent and registrar, the preliminary and final Official Statement costs, and the costs of printing the Series 2018 Bonds) shall be paid by the City.

The form of the Series 2018 Bonds and the final terms and conditions thereof shall be prescribed by a subsequent resolution to be adopted by this Council.

2.03. The City Finance Director, in consultation with Springsted Incorporated, the City's Municipal Advisor, is hereby authorized and directed to approve the principal amount, maturity dates, interest rates and redemption provisions of the Series 2018 Bonds and compensation to the Purchaser, subject to the limitations contained in this Section 2. Upon approving such terms, the City Finance Director is hereby authorized and directed to approve, execute and deliver to the Purchaser a bond purchase agreement (the "Bond Purchase Agreement"), containing the agreement of the City to sell, and the agreement of the Purchaser to purchase, the Series 2018 Bonds on the terms so approved, and containing such other provisions as such officers shall deem necessary and appropriate. In the event of the absence or disability of the City Finance Director, the Mayor, the City Administrator or the Assistant City Administrator shall make such approvals and execute and deliver the Bond Purchase Agreement. The execution and delivery by appropriate officers of the City of the Bond Purchase Agreement shall be conclusive as to the approval of such officers of the terms of the Series 2018 Bonds and the agreement of the City to sell the Series 2018 Bonds on such terms in accordance with the provisions thereof.

Section 3. Pledge of Revolving Fund. In Resolution No. 18-10700, the resolution of intention to create the District, adopted on February 26, 2018, this Council found it to be in the public interest, and in the best interest of the District and the City, to secure payment of principal of and interest on the Series 2018 Bonds by the Revolving Fund and authorized the City to enter into the undertakings and agreements authorized in the Act in respect of the Series 2018 Bonds, based on the factors required to be considered under Section 7-12-4225(4) of the Act. Those findings and determinations were ratified and confirmed in Resolution No. 18-10714, the resolution creating the District adopted by this Council on March 26, 2018, and are hereby ratified and confirmed. It is hereby covenanted and recited that the City has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Series 2018 Bonds.

Section 4. Official Statement. The City Finance Director, in consultation with Springsted Incorporated, the Purchaser and Dorsey & Whitney LLP, the City's bond counsel, are authorized to prepare on behalf of the City an Official Statement, to be distributed by the Purchaser to prospective purchasers of the Series 2018 Bonds. The Official Statement shall contain such information as shall be advisable and necessary to describe accurately the City and the security for, and the terms and conditions of, the Series 2018 Bonds. The City Finance Director is authorized on behalf of the Council to deem the Preliminary Official Statement near "final" as of its date, in accordance with Rule 15c2-12(b)(1) under the Securities Exchange Act of 1934.

Section 5. Continuing Disclosure. To permit the Purchaser and other participating underwriters in the primary offering of the Series 2018 Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Series 2018 Bonds, to provide annual reports of specified information and notice of the occurrence of certain events.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 9th day of July, 2018.

\_\_\_\_\_  
Mayor

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

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. \_\_\_\_\_, entitled: "RESOLUTION RELATING TO TAX INCREMENT URBAN RENEWAL REVENUE BONDS (EAST BILLINGS URBAN RENEWAL DISTRICT), SERIES 2018; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on July 9, 2018, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand officially this 9th day of July, 2018.

(SEAL)

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

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

RESOLUTION RELATING TO TAX INCREMENT URBAN  
RENEWAL REVENUE BONDS (EAST BILLINGS URBAN  
RENEWAL DISTRICT), SERIES 2018; AUTHORIZING THE  
ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF

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

Section 1. Recitals; Prior City Actions.

1.01. Under the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “Act”), the City is authorized to create urban renewal areas, prepare and adopt an urban renewal plan therefor and amendments thereto, undertake urban renewal projects therein, provide for the segregation and collection of tax increment with respect to property taxes collected in such areas, issue its bonds to pay the costs of such projects and to refund bonds previously issued under the Act and pledge to the repayment of the bonds the tax increment and other revenues derived from projects undertaken within the urban renewal area.

1.02. Pursuant to the Act and Ordinance No. 06-5395 adopted on October 23, 2006, as amended by Ordinance No. 15-5652 adopted on April 27, 2015 (as so amended, the “Ordinance”), the Council created the East Billings Urban Renewal District (the “District”) and approved the East Billings Urban Renewal District Plan (the “East Billings Plan”) for the District containing a tax increment financing provision.

1.03. The City proposes to undertake the reconstruction of North 11th Street and North 12th Street (from 1st Avenue North to 4th Avenue North) and 2nd Avenue North and 3rd Avenue North (from North 10th Street to North 13th Street), including design, construction and installation of storm sewer system improvements; curb, gutter and sidewalk improvements; street reconstruction, including installation of back-in diagonal parking and bike lanes; landscaping; and related improvements (collectively, the “Infrastructure Improvements”). Pursuant to the Act and the Ordinance, the Council approved the Infrastructure Improvements as an urban renewal project and declared its intention to use tax increment revenue from the District to finance the Infrastructure Improvements, all as set forth in the Plan.

Section 2. Authorizations. Pursuant to the authorizations and findings recited in the Plan and in Section 1 hereof, it is hereby determined that it is in the best interests of the City to offer for sale its Tax Increment Urban Renewal Revenue Bonds (East Billings Urban Renewal District), Series 2018 (the “Series 2018 Bonds”), in the maximum aggregate principal amount of \$3,900,000, for the purpose of financing the Infrastructure Improvements, funding a deposit to a debt service reserve account for the Series 2018 Bonds, and paying costs of issuance of the Series 2018 Bonds, as determined by the officers of the City identified pursuant to, and subject to the limitations set forth in, Section 4 hereof.

### Section 3. Adequacy of Tax Increment.

In 2015, the City issued its Tax Increment Urban Renewal Revenue Refunding Bonds (East Billings Urban Renewal District), Series 2015 (the "Series 2015 Bonds") in the original principal amount of \$3,165,000. There are no other bonds or other obligations of the City payable from tax increment received in the District except the Series 2015 Bonds and the following reimbursement obligations which are payable on a subordinate basis to the Series 2018 Bonds and the Series 2015 Bonds:

(i) Pursuant to the Development Agreement between the City and First Interstate Bank of Billings, N.A. ("FIB"), the City has agreed to reimburse FIB for the costs of certain public improvements in connection with the construction of an operations center in the District (the "FIB Project"). The maximum aggregate amount of the reimbursement obligation is \$1,193,154.09, to be reimbursed in annual installments commencing with tax year 2009 in an amount equal to the *lesser* of (i) 45% of the tax increment received by the City from the FIB Project and (ii) 45% of the tax increment received by the City from the District. Based on tax increment of \$211,497 received by the City from the FIB Project in 2014, the City estimates that the tax increment from the FIB Project will be at least \$211,497 per year. The annual reimbursement to FIB is estimated to be \$95,174 ( $\$211,497 \times 45\%$ ). The outstanding principal amount of the reimbursement obligation is \$438,566.09.

(ii) Pursuant to the Development Agreement between the City and GSA Billings, L.C. ("GSA"), the City has agreed to reimburse GSA for the costs of certain public improvements in connection with the construction of an office facility in the District (the "GSA Project"). The maximum aggregate amount of the reimbursement obligation is \$613,741.60, to be reimbursed in annual installments commencing with tax year 2013 in an amount equal to the *lesser* of (i) 45% of the tax increment received by the City from the GSA Project and (ii) \$76,717. Based on tax increment of \$160,363 received by the City from the GSA Project in 2014, the City estimates that the tax increment from the GSA Project will be at least \$160,363 per year. As stated above, the annual reimbursement to GSA under the Development Agreement is estimated to be \$76,717 (the maximum amount payable as set forth above). The outstanding principal amount of the reimbursement obligation is \$176,208.90.

The City estimates that tax increment from the District will be at least \$820,007 per year (based on tax increment from the District of \$820,007 received by the City in fiscal year 2017). The maximum annual payment of principal and interest on the Series 2015 Bonds and the Series 2018 Bonds, assuming with respect to the Series 2018 Bonds a maximum principal amount of \$3,900,000 and a maximum true interest cost of 5.70% per annum and a term of 20 years, is \$545,096. Taking into account the maximum annual payment of principal and interest on the Series 2015 Bonds and the Series 2018 Bonds, there will be adequate tax increment from the District to pay the maximum aggregate annual principal and interest payable on the Series 2015 Bonds and the Series 2018 Bonds. In addition, based on such assumptions, there will be adequate remaining tax increment from the District after payment of the Series 2015 Bonds and

the Series 2018 Bonds to pay the annual reimbursement to FIB of \$95,174 and the annual reimbursement to GSA of \$76,717.

Section 4. Negotiated Sale and Terms.

4.01. This Council hereby determines that it would be in the best interests of the City to sell the Series 2018 Bonds through a private negotiated sale to D.A. Davidson & Co., Great Falls, Montana (the "Purchaser").

4.02. The Series 2018 Bonds shall be sold to the Purchaser on terms and at a purchase price within the following limitations and conditions: (1) the maximum aggregate principal amount of the Series 2018 Bonds, exclusive of original issue discount or premium, shall not exceed \$3,900,000; (2) the maximum true interest cost on the Series 2018 Bonds shall not exceed 5.70%; (3) the purchase price of the Series 2018 Bonds shall not be less than 99.1% of the principal amount thereof, exclusive of original issue premium or discount; and (4) the final stated maturity of the Series 2018 Bonds shall not be later than 20 years from their date of issue. All costs of issuing the Series 2018 Bonds (including, without limitation, the fees and expenses of bond counsel, the fees of the paying agent and registrar, the preliminary and final Official Statement costs, and the costs of printing the Series 2018 Bonds) shall be paid by the City.

The form of the Bonds and the final terms and conditions thereof shall be prescribed by a subsequent resolution to be adopted by this Council.

4.03. The City Finance Director, in consultation with Springsted Incorporated, the City's Municipal Advisor, is hereby authorized and directed to approve the principal amount, maturity dates, interest rates and redemption provisions of the Series 2018 Bonds and compensation to the Purchaser, subject to the limitations contained in this Section 4. Upon approving such terms, the City Finance Director is hereby authorized and directed to approve, execute and deliver to the Purchaser a bond purchase agreement (the "Bond Purchase Agreement"), containing the agreement of the City to sell, and the agreement of the Purchaser to purchase, the Series 2018 Bonds on the terms so approved, and containing such other provisions as such officers shall deem necessary and appropriate. In the event of the absence or disability of the City Finance Director, the Mayor, the City Administrator or the Assistant City Administrator shall make such approvals and execute and deliver the Bond Purchase Agreement. The execution and delivery by appropriate officers of the City of the Bond Purchase Agreement shall be conclusive as to the approval of such officers of the terms of the Series 2018 Bonds and the agreement of the City to sell the Series 2018 Bonds on such terms in accordance with the provisions thereof.

Section 5. Official Statement. The City Finance Director, in consultation with Springsted Incorporated, the Purchaser and Dorsey & Whitney LLP, the City's bond counsel, are authorized to prepare on behalf of the City an Official Statement, to be distributed by the Purchaser to prospective purchasers of the Series 2018 Bonds. The Official Statement shall contain such information as shall be advisable and necessary to describe accurately the City and the security for, and the terms and conditions of, the Series 2018 Bonds. The City Finance Director is authorized on behalf of the Council to deem the Preliminary Official Statement near

“final” as of its date, in accordance with Rule 15c2-12(b)(1) under the Securities Exchange Act of 1934.

Section 6. Continuing Disclosure. To permit the Purchaser and other participating underwriters in the primary offering of the Series 2018 Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Series 2018 Bonds, to provide annual reports of specified information and notice of the occurrence of certain events.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 9th day of July, 2018.

\_\_\_\_\_  
Mayor

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

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** W.O. 18-34 Mountain View Rockfall Emergency Resolution

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

**Department:** Public Works

**Presentation:** Yes

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**PROBLEM/ISSUE STATEMENT**

On June 26, 2018, several rocks fell from the rims onto Mountain View Boulevard and the properties to the south of the road. City staff needs to hire a geotechnical firm to assess the stability of the remaining rocks and to prepare a plan for removing or stabilizing any areas and moving the necessary rocks to re-establish the road. Until the rocks are moved, the residents on Mountain View Blvd will only have one way into their homes and the two homes on the west end have very poor access to their properties.

Due to the access issues and concerns about slope stability, it is the City Staff's recommendation that this work take place as soon as possible. Section 7-5-4302 of the MCA requires advertising for competitive bids and accepting the lowest responsive bid. Competitive bidding is impractical because the time to advertise and analyze bids and award a contract would require several weeks before the work could begin. Section 7-5-4303 of the MCA allows cities to declare an emergency and waive the requirement for advertising and competitive bidding when  $\frac{3}{4}$  of the Council members present at the meeting declare an emergency.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the emergency resolution for Mountain View Boulevard, or;
- Disapprove the emergency resolution for Mountain View Boulevard. If the resolution is not approved, the time to reopen Mountain View Boulevard and reconstruct accesses to the properties will be longer.

**FINANCIAL IMPACT**

The financial impacts are unknown at this time. Gas tax funds will be used for the work.

**RECOMMENDATION**

Staff recommends that Council adopt a resolution declaring an emergency and waiving the competitive bidding requirement to stabilize the slope and remove rocks from Mountain View Boulevard.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Rockfall Resolution

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**RESOLUTION 18-\_\_\_\_\_**

**A RESOLUTION DECLARING AN EMERGENCY  
AND WAIVING THE REQUIREMENT FOR COMPETITIVE BIDS  
AS CONTAINED IN 7-5-4302 AND 7-5-4303 MCA**

WHEREAS, Mountain View Boulevard is closed due to rock falls from the rims above the road, and

WHEREAS, 7-5-4302 MCA requires cities to advertise for competitive bids and to award the bid to the lowest responsive bidder, and

WHEREAS, competitive bidding requires an advertising and award process that would delay the repair, and

WHEREAS, 7-5-4303 MCA allows cities to waive the competitive bidding requirements if  $\frac{3}{4}$  of the members present at the meeting of the City Council declare an emergency.

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

1. EMERGENCY DELCARED. The rockfall and resulting damage to Mountain View Boulevard and adjacent properties are declared an emergency due to the unanticipated event, the damage incurred and the requirement to remove the rocks and rebuild the road.
2. COMPETITIVE BIDDING WAIVED. Due to the declared emergency, the City Council waives the competitive bidding requirements for rock stabilization or removal and repairing the road as permitted by 7-5-4303 MCA.

APPROVED by at least  $\frac{3}{4}$  of the members present at the meeting of the City Council of the City of Billings, Montana, on the 9th day of July, 2018.

CITY OF BILLINGS

By: \_\_\_\_\_  
William A. Cole, Mayor

ATTEST:

By: \_\_\_\_\_  
Denise R. Bohlman, City Clerk

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018  
**TITLE:** Zone Change 966 - 2nd reading  
**PRESENTED BY:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

This is a zone change request from the EBURD-Industrial Sanctuary (EBURD-IS) zone to the EBURD-Central Works (EBURD-CW) zone to allow the Kairos Center property to continue its re-development plan. The current zone does not allow residential dwellings by right, only employee or caretaker units in the former Pierce Packing Plant, now known as the Kairos Center. In addition, the EBURD-IS zone does not allow retail uses. The re-development plan for this building now includes residential apartments and some retail uses. The legal description of this 5.64 acre parcel of land is Lots 1 through 24 of Block 122; Lots 1 through 24 of Block 123, less a portion of Lot 19 of Block 123 deeded to the State of Montana, Billings Original Town, together with abandoned streets and alleys. The owner is Kairos Center LLC, and the agent is Martin Connell. The owner held a pre-application meeting on April 30, 2018, with the surrounding owners at the subject property. The Zoning Commission held its public hearing June 5, 2018, and forwarded a recommendation of approval. The City Council held a public hearing and approved the zone change on 1st reading on June 25, 2018. A second reading is required to approve the zone change ordinance. The new zoning will into effect 30 days from 2nd reading.

Zone Change applications are reviewed using statutory criteria referenced in the Alternatives Analyzed section of this memo. Zone Changes require approval through an ordinance. Zone Changes allow the change from one type of zoning district to another types of zoning – e.g. residential single family to residential multi-family or residential to commercial. A Zone Change cannot have conditions of approval and if approved, permits the owner to use the land for any purpose allowed within the zoning district.

**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.

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

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- **Home Base:** A mix of housing types that meet the needs of a diverse population is important; Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe;

The proposed zoning would allow the developer to include residential uses as part of this mixed use building. The City recently completed a Housing Needs Assessment for the EBURD and Downtown areas. The study found there will be an increasing demand for a wide variety of housing choices in the EBURD and Downtown. The current zoning does not allow residential uses. Financing improvements or sale of the property is unnecessarily complicated by the current zoning. The property will provide a unique housing option in this area of the EBURD.

- **Strong Neighborhoods:** Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels; Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction; Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed zoning will allow the owner to develop apartments within the current building and complete the re-development of the property. The residential uses will fit with the existing and potential uses in the area.

- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy; Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses; Retaining and supporting existing businesses helps sustain a healthy economy.

The proposed zoning will allow the owner to offer retail spaces within the existing building. This will assist in filling the remaining vacant areas within the building and help retain and grow new local small businesses.

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

The new zoning is a form-based code that requires site development standards and regulates uses to a lesser degree. The implementation of the form-based code along with Building and Fire codes during re-development will provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed zoning. The property has the potential to allow apartment dwelling units. Daytime and evening occupancy of the building will provide more security in the area. A full re-development of the building and grounds will benefit the general welfare.

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

**Transportation:** The proposed zoning will not have any effect on the existing transportation system.

**Water and Sewer:** The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.

**Schools and Parks:** Schools and parks should not be significantly affected by the proposed zoning, even with the addition of a residential component.

**Fire and Police:** The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

The proposed zoning provides for sufficient building separations to allow for adequate light and air.

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

The new zoning will have no effect on transportation systems.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to continue and complete its redevelopment and allow compatible uses to be included in this revitalization plan.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning is identical to the zoning north and west of the subject property and is an appropriate zone with the adjacent businesses and arterial streets.

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

The building on the property has been remodeled and re-purposed over the past 18 years. Approval of the zone change will conserve the value of the property and will allow the redevelopment plan be responsive to the market in this area of Billings. The value of existing buildings and the parcel will be improved and conserved by the proposed zoning. Since purchasing the property in 2000, the property tax revenue generated to the city has increased from about \$12,000/year to over \$65,000/year. This increase in value is much greater than surrounding properties. Finalizing the re-development will stabilize this investment.

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

The proposed zoning will encourage the full redevelopment of the property by allowing 2 additional uses. This is the most appropriate use of the land at this location.

## **FINANCIAL IMPACT**

Approval of the zone change will help complete the redevelopment of the property. This will add value to the City's tax base and increase the tax increment available in this district to fund future public improvements. Since purchasing the property in 2000, the property tax revenue generated to the city has increased from about \$12,000/year to over \$65,000/year. If the zone change is not approved, the redevelopment will take longer to complete and may extend the time its takes the city to realize the increase tax benefits.

## **RECOMMENDATION**

Staff recommends the City Council approve Zone Change 966 including adoption of the findings of the 10 criteria.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

**ORDINANCE NO. 18-\_\_\_\_\_**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lots 1 through 24 of Block 122; Lots 1 through 24 of Block 123, less a portion of Lot 19 of Block 123 deeded to the State of Montana, Billings Original Town, together with abandoned streets and alleys, a 5.64 acre parcel of land generally located between N 13<sup>th</sup> St and N 15<sup>th</sup> St on the south side of 1<sup>st</sup> Avenue North

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 Lots 1 through 24 of Block 122; Lots 1 through 24 of Block 123, less a portion of Lot 19 of Block 123 deeded to the State of Montana, Billings Original Town, together with abandoned streets and alleys, a 5.64 acre parcel of land generally located between N 13<sup>th</sup> St and N 15<sup>th</sup> St on the south side of 1<sup>st</sup> Avenue, a 5.64-acre parcel of land, is presently zoned **EBURD-Industrial Sanctuary (EBURD-IS)** 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 **EBURD-Industrial Sanctuary (EBURD-IS)** to **EBURD-Central Works (EBURD-CW)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **EBURD-Central Works (EBURD-CW)** 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 June 25, 2018

PASSED, ADOPTED AND APPROVED on second reading July 9, 2018.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
William A. Cole, Mayor

ATTEST:  
BY: Denise Bohlman, City Clerk  
Zone Change 966 – Kairos Center – 21 N 15<sup>th</sup> St

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018  
**TITLE:** Zone Change 967 - 2nd reading  
**PRESENTED BY:** Nicole Cromwell  
**Department:** Planning & Community Services  
**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

This is a zone change request for a property at the intersection of Lake Elmo Drive and Josephine Drive in Billings Heights. The existing zoning is Residential Multi-family (RMF) and the proposed zoning is Community Commercial (CC). The equipment repair business and the storage yard for boats & RVs, were made non-conforming uses when the county adopted the RMF zoning for the property in 1973. The zoning was not changed when the city annexed the property in 1984. The owner now is trying to sell the parcel and would like to remove the cloud of legal non-conformity. The legal description of this 1.72-acre parcel is Lot 15 of Josephine Subdivision, less 3,167 square feet for Lake Elmo Dr. The property is owned by Orville Kurtz and the agent is David Goodridge. A pre-application meeting was held at the subject property on April 27, 2018. The Zoning Commission held its public hearing on June 5, 2018 and forwarded a recommendation of approval. The City Council held a public hearing approved the zone change on 1st reading on June 25, 2018. A second reading is required to approve a zone change ordinance. The zoning will go into effect 30 days after 2nd reading.

Zone Change applications are reviewed using statutory criteria referenced in the Alternatives Analyzed section of this memo. Zone Changes require approval through an ordinance. Zone Changes allow the change from one type of zoning district to another types of zoning – e.g.. residential single family to residential multi-family or residential to commercial. A Zone Change cannot have conditions of approval and if approved, permits the owner to use the land for any purpose allowed within the zoning district.

**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.

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

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- **Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed zoning will allow the owner to sell the property without the burden of a non-conforming use. The new owner can continue the commercial use of the property in conformance with the zoning regulations. The new owner, City Cab, needs a property where there is space to store the cab fleet, do minor repairs and maintenance on the vehicles and where the business owner can reside. This property provides these essential qualities. Cab and taxi service is in high demand in Billings, where the aging population will need to rely on alternative modes of transportation in the decades to come.

- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy; Retaining and supporting existing businesses helps sustain a healthy economy.

The proposed zoning will allow the new owner to re-locate within the city limits in order to sustain and grow his business. Transportation services provides a strong economic foundation for the Billings community. Supporting and retaining existing transportation companies is a goal of the 2016 Growth Policy.

- Prohibit high intensity commercial development in residential areas by implementing the preferred future land use map for the Heights Neighborhood Plan to guide development through zoning requests.

The 2006 Billings Heights Neighborhood Plan adopted a preferred land use map. The area between Lake Elmo Drive and Main Street was designated as a commercial mixed use area. The proposed zoning aligns with the preferred land use map.

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

The new zoning, as do all standard zoning districts, requires separation between buildings and setbacks from property lines. This should provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed zoning. The property has been a legally non-conforming use of land since 1973 – 45 years. A property with this type of legal limitation on its entitlement can bring down adjacent property values. Property owners tend not to invest, re-finance or upgrade these properties due to the inherent financial difficulties. Providing this property with a conforming zoning district will support the general welfare by taking this property out of financial jeopardy.

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

**Transportation:** The proposed zoning will not have any effect on the existing transportation system.

**Water and Sewer:** The City provides sewer and the Billings Heights Water District provides water to the property. There will be no additional impacts to the system from the proposed zoning.

**Schools and Parks:** Schools and parks should not be affected by the proposed zoning.

**Fire and Police:** The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

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

The proposed zoning provides for sufficient building separations to allow for adequate light and air.

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

The new zoning will have no effect on transportation systems.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to be sold without the legal and financial burdens of a legal non-conforming land use. The property, and the businesses located here, are part of the fabric of this area of Billings Heights. The area between Main Street and Lake Elmo Drive is recognized as an area for mixed uses including residential, offices, service businesses as well as retail businesses.

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

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning is identical to the zoning north of the subject property and is an appropriate zone with the adjacent businesses and collector streets.

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

The value of existing buildings and the parcel will be improved and conserved by the proposed zoning. The existing zoning would not allow the reconstruction or re-use of some of these building except for an identical use.

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

The proposed zoning will encourage the maintenance and sale of the property by allowing new and similar uses. This is the most appropriate use of the land at this location.

## **FINANCIAL IMPACT**

If the zone change is approved, it could improve the property and market values of the subject property. Investing, selling or completing improvements to a property that is not correctly zoned can be difficult and can artificially depress the property value. If the zone change is not approved, the owner would need to sell to an owner who is willing to conform to the existing multi-family residential zoning or continue to use the property for RV & boat storage and a single family residence.

## **RECOMMENDATION**

Staff recommends the City Council approve Zone Change 967 including adoption of the findings of the 10 criteria.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

Ordinance

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**ORDINANCE NO. 18-\_\_\_\_\_**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR  
Lot 15 of Josephine Subdivision, a 1.724 acre parcel of land generally located  
430 Josephine 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. Lot 15 of Josephine Subdivision, a 1.724 acre parcel of land generally located 430 Josephine Drive, is presently zoned **Residential Multi-family (RMF)** 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 Multi-family (RMF)** to **Community Commercial (CC)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Community Commercial (CC)** 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 June 25, 2018

PASSED, ADOPTED AND APPROVED on second reading July 9, 2018.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
William A. Cole, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk  
Zone Change 967- 430 Josephine Dr

Consent 1. K. 1.

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018  
**TITLE:** Payment of Claims June 22, 2018  
**PRESENTED BY:** Andy Zoeller, Finance Director  
**Department:** City Hall Administration  
**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$1,115,917.96 have been audited and are presented for City Council payment approval. A complete listing of the claims dated June 11, 2018, is available in the Finance Department.

**ALTERNATIVES ANALYZED**

No other alternatives were analyzed.

**FINANCIAL IMPACT**

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

**RECOMMENDATION**

Staff recommends that Council approve the Payment of Claims.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

COUNCIL MEMO 06112018

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Check Date	Check #	Name	Fund Name	Amount	Item Desc
06/11/2018	813998	Ace Electric Inc	Facilities Mngmt	\$ 4,635.07	Inv. 43708 AVI Project in Courtroom
06/11/2018	813998	Ace Electric Inc	Gas Tax	\$ 458.82	WO 18-04 2018 ADA Ramp Replacement; 43872
06/11/2018	814013	Billings Depot Inc	P.W. Admin	\$ 2,824.33	OFFICE LEASE FEES APRIL 2018
06/11/2018	814013	Billings Depot Inc	Engineering	\$ 11,297.34	OFFICE LEASE FEES APRIL 2018
06/11/2018	814013	Billings Depot Inc	P.W. Admin	\$ 2,824.33	OFFICE LEASE FEES MAY 2018
06/11/2018	814013	Billings Depot Inc	Engineering	\$ 11,297.34	OFFICE LEASE FEES MAY 2018
06/11/2018	814018	Business Tax Section	Airport	\$ 227.89	AIP 53 Concourse B Upgrades
06/11/2018	814018	Business Tax Section	Rose Park Pool Construction	\$ 1,450.48	Business tax on the Rose Pool building-Swank
06/11/2018	814018	Business Tax Section	SID Construction	\$ 1,818.30	SID 1401 Molt Road Turn Lane Improvements
06/11/2018	814018	Business Tax Section	Gas Tax	\$ 124.52	SID 1403 Gleneagles Blvd & Lake Hills Drive
06/11/2018	814018	Business Tax Section	Storm Sewer	\$ 19.60	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814018	Business Tax Section	Gas Tax	\$ 590.81	WO 18-04 2018 ADA Replacement
06/11/2018	814018	Business Tax Section	Storm Sewer	\$ 189.19	54th St W & Rimrock Rd Signal- Extend Cove Creek
06/11/2018	814018	Business Tax Section	Airport	\$ 25.32	AIP 53 Concourse B Upgrades
06/11/2018	814018	Business Tax Section	Gas Tax	\$ 127.69	SID 1401 Molt Road Turn Lane Improvements
06/11/2018	814018	Business Tax Section	SID Construction	\$ 566.36	SID 1403 Gleneagles Blvd & Lake Hills Drive
06/11/2018	814018	Business Tax Section	Wastewater	\$ 2.01	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814018	Business Tax Section	Airport	\$ 125.08	AIP 53 Concourse B Upgrades
06/11/2018	814018	Business Tax Section	Gas Tax	\$ 14.48	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814018	Business Tax Section	Tax Increment South	\$ 171.29	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814022	Cellebrite USA Corp	Public Safety	\$ 6,281.38	UFED Touch Ultimate Software renewal
06/11/2018	814025	Chicago Title of Montana LLC	CDBG	\$ 15,000.00	FTHB Alex Peltier 357 Jefferson
06/11/2018	814028	CMG Construction LLC	Storm Sewer	\$ 1,940.40	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814028	CMG Construction LLC	Gas Tax	\$ 12,327.32	SID 1403 Gleneagles Blvd & Lake Hills Drive
06/11/2018	814028	CMG Construction LLC	SID Construction	\$180,011.70	SID 1401 Molt Road Turn Lane Improvements
06/11/2018	814028	CMG Construction LLC	Tax Increment South	\$ 16,958.03	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814028	CMG Construction LLC	Gas Tax	\$ 1,433.85	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814028	CMG Construction LLC	Wastewater	\$ 198.89	WO 15-07 Orchard Lane Reconstruction
06/11/2018	814028	CMG Construction LLC	SID Construction	\$ 56,070.30	SID 1403 Gleneagles Blvd & Lake Hills Drive
06/11/2018	814028	CMG Construction LLC	Gas Tax	\$ 12,640.91	SID 1401 Molt Road Turn Lane Improvements
06/11/2018	814030	Community Seven		\$ 15,319.75	Peg Fees - 3rd Quarter FY2018
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 57.93	STREET LIGHTS PO NUM 306145
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 9.58	STREET LIGHTS PO NUM 306146
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 535.41	STREET LIGHTS PO NUM 306148

Check Date	Check #	Name	Fund Name	Amount	Item Desc
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 1,229.03	STREET LIGHTS PO NUM 306147
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 1,194.65	STREET LIGHTS PO NUM 306149
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 120.01	STREET LIGHTS PO NUM 306150
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 240.02	STREET LIGHTS PO NUM 306151
06/11/2018	814035	Crescent Electric Supply	Street/Traffic Oper	\$ 4.92	MISC SERVICES
06/11/2018	814043	DOWL	Rose Park Pool Construction	\$ 415.97	Increase PO to include inspection fees
06/11/2018	814043	DOWL	Gas Tax	\$ 331.25	WO 17-04 2017 ADA Ramp Replacement
06/11/2018	814043	DOWL	Storm Sewer	\$ 11,151.75	WO 17-26 62nd and Rimrock Stormwater
06/11/2018	814043	DOWL	Water	\$ 18,342.50	2018 Water & Sewer Sch 1 N 27th Watermain
06/11/2018	814043	DOWL	Rose Park Pool Construction	\$ 877.88	Inspection for Rose Park building
06/11/2018	814056	General Contractors Const	Airport	\$ 22,561.01	AIP 53 Concourse B Upgrades
06/11/2018	814056	General Contractors Const	Airport	\$ 2,506.78	AIP 53 Concourse B Upgrades
06/11/2018	814056	General Contractors Const	Airport	\$ 12,382.92	AIP 53 Concourse B Upgrades
06/11/2018	814064	HDR, Inc.	Solid Waste	\$112,285.44	WO 17-12 Landfill Drop-off Facility
06/11/2018	814068	Iaff	Sidewalk Debt Svc	\$ 4,725.28	Payroll Summary
06/11/2018	814071	Intermountain Traffic, LLC	Street/Traffic Oper	\$ 8,780.00	Cambium short distance radio/antenna
06/11/2018	814071	Intermountain Traffic, LLC	Street/Traffic Oper	\$ 910.00	12" yellow LED, arrow lens
06/11/2018	814071	Intermountain Traffic, LLC	Street/Traffic Oper	\$ 75.00	freight
06/11/2018	814073	J & J Concrete Inc.	Gas Tax	\$ 58,490.59	WO 18-04 2018 ADA Ramp Replacement
06/11/2018	814082	Journal Technologies Inc		\$ 9,000.00	Justice Web Annual License and Maintenance
06/11/2018	814083	Kadrmass Lee & Jackson	Storm Sewer	\$ 4,642.50	WO 17-07 Hilltop Rd & Aronson Ave Storm Drain
06/11/2018	814087	Kittelson & Associates Inc	City County Planning	\$ 36,847.95	2018 Billings Urban Area LRTP & PPP
06/11/2018	814087	Kittelson & Associates Inc	City County Planning	\$ 15,520.29	Billings MPO Travel Demand Model
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 131.20	3/8" chips
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 312.99	3/8" chips
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 63.26	1 1/2" crushed base
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 200.08	1 1/2" crushed base
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 1,901.52	asphalt
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 1,959.93	asphalt
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 2,878.59	asphalt
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 3,303.72	asphalt
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 3,384.66	asphalt
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 3,400.62	asphalt
06/11/2018	814088	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$ 904.68	sand/salt mixture

Check Date	Check #	Name	Fund Name	Amount	Item Desc
06/11/2018	814092	Mango Languages	Library	\$ 7,148.61	Invoice 003181 Mango Subscription renewal
06/11/2018	814094	Markel Consulting LLC	Public Safety	\$ 1,400.00	Invoice 180605-1 - Speaker fees not covered by grant
06/11/2018	814094	Markel Consulting LLC	Police Programs	\$ 2,679.99	Invoice 180605-1 - Remaining fees
06/11/2018	814098	Montana CSED	Sidewalk Debt Svc	\$ 3,973.39	Payroll Summary
06/11/2018	814101	MT Dept Of Environmental Quality	Solid Waste	\$ 36,064.80	License for the Landfill
06/11/2018	814103	Montana Peterbilt LLC	Property Ins	\$ 3,330.22	Inv. 01R30095 MET Bus 1823
06/11/2018	814106	Montana State Fireman's Assoc	Sidewalk Debt Svc	\$ 3,925.72	Payroll Summary
06/11/2018	814107	Moulton Bellingham PC		\$ 397.50	Ron S. Hill v. COB and City Clerk
06/11/2018	814107	Moulton Bellingham PC		\$ 7,110.50	Terry Houser WWFF
06/11/2018	814107	Moulton Bellingham PC		\$ 162.50	Stone et al v. COB et al Health Ins. Litigation
06/11/2018	814107	Moulton Bellingham PC		\$ 5,860.00	Palmer Enterprises, Inc. et al v. COB Zoning
06/11/2018	814107	Moulton Bellingham PC		\$ 420.00	Ernie Watters et al v. COB
06/11/2018	814107	Moulton Bellingham PC		\$ 92.00	Abromeit et al v. COB
06/11/2018	814107	Moulton Bellingham PC		\$ 1,905.00	Abromeit et al v. COB
06/11/2018	814109	MPPA Montana Police Protective	Sidewalk Debt Svc	\$ 3,156.65	Payroll Summary
06/11/2018	814119	PayneWest Insurance Inc	Storm Sewer	\$ 2,664.00	WO 17-07 Hilltop Rd & Aronson Ave Storm Drain
06/11/2018	814119	PayneWest Insurance Inc	Wastewater	\$ 3,190.00	WO 18-01 2018 Water & Sewer Replacement
06/11/2018	814120	Performance Engineering &	SID Construction	\$ 2,912.50	SID 1403 Gleneagles Boulevard; 2017-072-006/6
06/11/2018	814121	Peterson Office Furniture	Police Programs	\$ 5,293.90	ICAC Office Furniture. WSCA Contract # MA 147
06/11/2018	814122	Petty Cash CCSIU	Police Programs	\$ 3,225.66	Reimbursement of Petty Cash
06/11/2018	814128	Radarsign LLC	Airport	\$ 4,127.00	Invoice #6898. Traffic Control Sign
06/11/2018	814136	Springline Construction INC	Storm Sewer	\$ 18,729.56	54th St W & Rimrock Rd Signal- Extend Cove Creek
06/11/2018	814140	Stewart Title Company	CDBG	\$ 10,000.00	FTHB Joshua Tamblyn 608 Broadwater Avenue
06/11/2018	814142	Swank Enterprises	Rose Park Pool Construction	\$143,596.76	Rose Pool operations building construction
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 4,620.00	Recapped tires for garbage trucks
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 3,935.50	Recapped tires for the garbage trucks
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 1,200.00	Wheels for Garbage trucks
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 207.90	Tires for Landfill Equipment
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 207.90	Tires for Landfill Equipment
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 117.22	Tires for the trailer
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 782.12	Tires for unit 0038
06/11/2018	814144	Tire-Rama	Facilities Mngmt	\$ 40.02	1050303411
06/11/2018	814144	Tire-Rama	Solid Waste	\$ 289.00	Alignment for unit 0161
06/11/2018	814144	Tire-Rama	Street/Traffic Oper	\$ 76.81	1050303646

Check Date	Check #	Name	Fund Name	Amount	Item Desc
06/11/2018	814144	Tire-Rama	Public Safety	\$ 1,102.40	1050304029
06/11/2018	814146	Town & Country Supply	Fleet	\$ 9,725.45	308578 PO NUM 306128
06/11/2018	814146	Town & Country Supply	Fleet	\$ 16,300.13	308388 PO NUM 306128
06/11/2018	814146	Town & Country Supply	Transit	\$ 4,908.71	308584 PO NUM 306127
06/11/2018	814146	Town & Country Supply	Airport	\$ 22,224.84	Invoice #308397. QTA Car Rental Fuel
06/11/2018	814146	Town & Country Supply	Water	\$ 17,111.54	WATER PARTS AND SUPPLIES PO NUM 306069
06/11/2018	814147	Tractor & Equipment Co.	Solid Waste	\$ 2,603.65	Parts for Landfill Equipment
06/11/2018	814147	Tractor & Equipment Co.	Solid Waste	\$ 3,170.46	Parts for Landfill Equipment
06/11/2018	814163	Yellowstone Acoustics Inc.	Facilities Mngmt	\$ 3,680.00	Ceilings Court Room/Council Chambers
06/11/2018	814164	Yellowstone County Finance Dpt	Public Safety	\$ 20,100.00	May 2018 Jail Borders

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** City Council Tax Increment Finance Policy - Public Hearing and Resolution

**PRESENTED BY:** Wyeth Friday

**Department:** Planning & Community Services

**Presentation:** Yes

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**PROBLEM/ISSUE STATEMENT**

The City Council passed a Council Initiative in October 2016 to have staff provide information to Council regarding Tax Increment Financing (TIF) and to give recommendations to the Council on developing policies and criteria for use of TIF funds. Staff made presentations on the initiative at Council Work Sessions in February, June and November of 2017. At the Work Session in November 2017, Council directed staff to draft a TIF Policy the Council could adopt through a resolution. Staff presented a draft policy at the Council's April 9, 2018 Regular Business Meeting and Council decided to delay action on the Policy at that meeting and form an ad hoc City Council initiated Committee (The TIF Policy Working Group) to rework the Policy and bring it back for Council action at its July 9 meeting. The Working Group met three times from late April through late May and is presenting the attached TIF Policy for Council consideration. The Council is scheduled to conduct a public hearing and consider adopting the Policy Resolution at this meeting.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the TIF Policy Resolution as presented; or,
- Approve the TIF Policy Resolution with modifications; or,
- Not Approve the TIF Policy Resolution

**FINANCIAL IMPACT**

There is no direct financial impact to the City by adopting the TIF Policy. However, implementation of the Policy over time may help the City make more consistent and informed decisions in regard to TIF programs in the City's three Urban Renewal Districts.

**BACKGROUND**

The City Council manages all decisions regarding the use of Tax Increment Financing (TIF) funds in the three Urban Renewal Districts (URDs) in Billings. The Council has considered many funding applications and programs over the years that these URDs have been in place. There have been infrastructure projects to improve streets, water and sewer lines, sidewalks, lighting and storm water control. There have been building improvement projects to facilitate redevelopment of buildings and property. There have been programs to make building façade improvements, provide revolving loans, and partner to provide a medical clinic in an elementary school. The City Council wants to be consistent and in line with the state laws directing formation, expansion, management and use of TIF funding in its URDs.

During the April 9 meeting when the Council first considered the draft Policy, concerns and questions were brought up from representatives of the three urban renewal districts in Billings, East Billings Urban Renewal District (EBURD), Downtown District (Downtown Billings Partnership, DBP), and the South Billings Boulevard Urban Renewal District (SBBURD), as well as members of the public. The City Council also had questions and suggested edits that required significant discussion and review. The Council decided to refer the Policy to the TIF Policy Working Group to rework the Policy and bring it back for Council action. The Working Group met three times from late April through late May. The groups core participants that added all or most of the meetings were Council Member Brewster as Committee Chair, Council Member Ronning, Mayor Cole, support staff or board representatives from the EBURD, DBP and SBBURD. Members of the public also attended and provided public comment, and Billings Gazette Reporter Mike Ferguson also covered several of the meetings.

The main modifications to the Policy provided by the Committee since the version presented to the City Council in April include:

- Further summarized and modified the references to State Statute in the Whereas portion of the Resolution to focus on the general powers of the municipality. The Committee was concerned that only including some portions of the State Statute could cause confusion while including all of the applicable State Statute would defeat the purpose of the Policy. The general powers reference provided a concise reference to the City's powers.
- Provided specific reference to urban renewal plans in Section 1 of the Policy and clarified that individual urban renewal plans that are reviewed and adopted by the City Council may limit what TIF funds may be spent on given a certain districts goals and needs.
- Clarified in Section 2.a. that the \$5 private investment to \$1 of public investment should be a "preferred" threshold and the City Council reserves the right to approve any applications that do not meet this minimum.
- Clarified in Section 2.b. that grants may be made to for profit and nonprofit businesses of all types by striking the reference to "human service agencies."
- Clarified in Section 2.c. that bonding may be available at the discretion of the City Council in any District
- Struck the reference in Section 2 to the option for the use of revolving loan funds in Districts. The Committee did not think it was necessary to call out this specific program as it was only used in the Downtown District and had not been further applied to the other Districts.
- Struck the entire original Section 3 on Recapture of TIF funds. The Committee discussed that some City Council Members were concerned that a property owner would make money by turning around a property and selling it right after receiving TIF funds to make improvements. The Committee also discussed that TIF funds for a project are reimbursable at the time the project is complete. When a project is complete, the public benefit occurs since the property has been revitalized and redeveloped, so the public benefits regardless of the property ownership, or if the property is sold.
- The Committee added conflict of interest language to Section 3 URD Management. The Committee agreed conflict of interest language should be referenced in the Policy for District support staff. The Committee also agreed that language should be included in the Policy that states that language should be added to the MOUs with the advisory boards that if there is an appearance of a conflict, the issue would be reviewed by City Legal staff before moving forward.
- The Committee added language in Section 3 URD Management that requires advisory boards to carry insurance coverage.

- The Committee agreed to amend Section 3 a. to provide guidance to the make up of the advisory boards for the Districts. The Committee agreed that unless it is specifically authorized by the MOU, a majority of the board members must own or lease property in the District in which they serve on the board.

## **STAKEHOLDERS**

A legal notice of this public hearing was advertised on June 22 and June 29 in the *Yellowstone County News*. The draft resolution and policy have been shared through the TIF Working Group meeting process with the support staff and advisory boards of the three Urban Renewal Districts (EBURD, SBBURD, and DBP - Downtown). Any other members of the public may comment on this resolution and policy at the public hearing.

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

The City Council wants to be consistent and in line with the state laws directing formation, expansion, management and use of TIF funding in its URDs. Each of the three URDs in Billings has an urban renewal plan that identifies goals for the districts and has met the requirements of state law. Since the City has no other policy or plan aside from these urban renewal plans to direct administration of TIF programs in urban renewal districts, the adoption of a policy like the one attached will help further the Council's goal of managing urban renewal districts and projects to serve the community.

## **RECOMMENDATION**

The City Council Ad Hoc TIF Policy Committee recommends the City Council conduct the public hearing and adopt the TIF Resolution and Policy.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

TIF Policy Resolution

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## **RESOLUTION NO. 18 -**

### A RESOLUTION OF THE CITY OF BILLINGS FORMING A POLICY FOR THE ADMINISTRATION OF URBAN RENEWAL AREAS OR DISTRICTS (URD) IN THE CITY.

WHEREAS, MCA, Title 7, Chapter 15, Part 42, Section 51 declares: General powers of municipalities in connection with urban renewal. Every municipality shall have all the power necessary or convenient:

- (1) To carry out and effectuate the purposes and provisions of this part and part 43;
- (2) To undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part and part 43, and to disseminate blight clearance and urban renewal information;
- (3) To organize, coordinate, and direct, within the municipality, the administration of the provisions of this part and part 43 as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively;
- (4) To exercise all or any part or combination of powers granted in this part or part 43; and

WHEREAS, the City of Billings reviews and adopts Urban Renewal Plans for each of its Urban Renewal Districts, and those Plans specify goals for each Urban Renewal District; and

WHEREAS, the City of Billings may establish local policies that guide the establishment, operations, funding and governance of urban renewal districts; and

WHEREAS, development of TIF Policies would be in the best interest of the City.

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

That the City Council now makes and adopts the following TIF Policy:

#### **CITY OF BILLINGS TAX INCREMENT FINANCE POLICY**

1. PERMITTED USES OF TIF FUNDS. TIF funds may be used for costs outlined in MCA, Title 7, Chapter 15, Part 42, Section 88. Urban Renewal Plans adopted by the City may

limit what TIF funds may be spent on in any one of the Urban Renewal District. Eligible costs may include, but are not limited to:

- a. Land acquisition and assemblage, demolition and removal of structures, relocation of occupants, analysis to determine needs of an urban renewal area, administrative cost for redevelopment activities.
  - b. Public infrastructure, including, but not limited to: streets, storm drains, parking, public buildings, water and sewer lines, sidewalks, utility connections.
  - c. Private infrastructure with public benefit, including, but not limited to, building façades, windows, doors, fire suppression or alarm systems, storm drainage, environmental remediation, parking, and ADA access.
  
2. FINANCIAL ASSISTANCE THROUGH TIF. All financial assistance must be approved by the City Council prior to any activity receiving funding. Financial assistance should be requested prior to beginning construction. All activity (design and construction) must be completed prior to issuance of TIF funds from the City Finance Department. Financial thresholds and assistance tools are as follows:

  - a. A minimum return of  $\geq$  \$5 of private investment for every \$1 of public investment is the preferred threshold to be met for each TIF application. The City Council reserves the right to approve any application that does not meet this minimum. The City Council also may make exceptions for projects of less than \$100,000, and for publicly owned projects, properties or facilities.
  - b. Grants may be made for uses listed in Part 1 above to any government owned land or buildings, for profit and non-profit businesses .
  - c. Bonding may be available at the discretion of the City Council.
  - d. All TIF grants will be formalized by a development agreement that must be signed by the grantee before the City will reimburse eligible expenses.
  
3. URD MANAGEMENT. Each URD in the City of Billings will be managed as follows:

  - a. Each URD should maintain a non-profit advisory board to make recommendations to the City Council regarding TIF expenditures. Unless specifically authorized by a Memorandum of Understanding (MOU) referenced in 3(b) below, board members must own or lease property within the district, or must represent such owner or lessee, and may include representation from residential or commercial property owners or lessees. Advisory Boards must carry insurance for their members and provide proof of insurance to the City.
  - b. A MOU must be executed between the advisory board and the City Council that defines the board's roles, responsibilities, authority, and processes, including for hiring and maintaining board support staff. The MOU must contain language addressing conflict of interest situations for board members whose property may directly benefit from a TIF expenditure and for board support staff. The MOU also must include language that if there is the appearance of a conflict of interest the issue will be reviewed by City legal staff before moving forward.
  - c. Training for all URD advisory boards will be conducted biannually in coordination with City staff and URD support staff. The training must include, but is not limited to:

- review of URD and TIF laws, Administrative Rules, ethics, conflicts of interest, meeting management, and maintenance of minutes and records.
- d. URD financial reporting will be consistent across all URDs and be set by coordination between the City Finance Director and the Planning and Community Services Director, and URD support staff.
  - e. TIF application review and City Council staff report preparation will be conducted by the Planning and Community Services Department Director, in coordination with the Assistant City Administrator, Finance Director, and URD support staff.

PASSED by the City Council and APPROVED this 9<sup>th</sup> day of July, 2018.

THE CITY OF BILLINGS:

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

William A. Cole, MAYOR

ATTEST:

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

Denise R. Bohlman, CITY CLERK

**Regular City Council Meeting**

**Meeting Date:** 07/09/2018

**TITLE:** Regular Meeting Start Time Change From 6:30 p.m. to 5:30 p.m.

**PRESENTED BY:** Brent Brooks, City Attorney

**Department:** Legal

**Presentation:** Yes

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**PROBLEM/ISSUE STATEMENT**

During the May 29, 2018 Regular Council meeting, a Council Initiative by Council Member Clark was approved by the Mayor and Council directing staff to present an ordinance amendment changing the start time for Regular City Council meetings from 6:30 p.m. to 5:30 p.m. Staff has prepared a minor amendment to City Code Section 2-211 which inserts this change.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the change in regular meeting start time on First Reading, or;
- Disapprove the change.

**FINANCIAL IMPACT**

There is no financial impact to the change in the Regular business meeting start time.

**RECOMMENDATION**

Staff recommends that the City Council conduct a public hearing and approve the amendment to BMCC Section 2-211 on First Reading which changes the Regular meeting start time from 6:30 p.m. to 5:30 p.m.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Regualr Meeting Start Time Change

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ORDINANCE NO. 18 \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BILLINGS,  
PROVIDING THAT THE BILLINGS, MONTANA CITY  
CODE BE AMENDED BY REVISING SECTION 2-211 TO  
PROVIDE THAT THE REGULAR COUNCIL BUSINESS  
MEETING START TIME SHALL BE 5:30 P.M.**

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

**Section 1.** That Section 2-211 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 2-211. Calling to order; quorum.

“The city council shall hold a regular meeting for the transaction of city business on the second and fourth Mondays in each month. If the regular meeting falls on a day recognized as a holiday by the city, the meeting will not be held on that date but will be held on the following day. Any regular meeting may be canceled or rescheduled by majority vote of the council at any time prior to the date scheduled for such meeting. Regular meetings shall convene and be called to order by the mayor at 5:30 p.m., unless otherwise ordered.”

**Section 2. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 3. REPEALER.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 4. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF BILLINGS

By \_\_\_\_\_  
Mayor

ATTEST:

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