

# 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**

**November 25, 2019**

**5:30 P.M.**

**CALL TO ORDER:** Mayor Cole

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Ewalt

**ROLL CALL:** Councilmembers present on roll call were:  Cromley,  Yakawich,  Neese,  Ewalt,  Joy,  Friedel,  Gibbs,  Ronning,  Clark,  Brown

### MINUTES:

- October 28, 2019
- November 12, 2019 - Pending

### COURTESIES:

**PROCLAMATIONS:** Sixteen Days - Eliminate Gender Violence

### COUNCIL REPORTS:

### ADMINISTRATOR REPORTS - CHRIS KUKULSKI

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 ONLY. Speaker sign-in required.** (Comments are limited to three (3) minutes. Please sign the roster at the cart located at the back of the 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:** None
  - B. **Airport's Updated Disadvantaged Business Enterprise (ACDBE) Plan** for Concession Operators.
  - C. **Direct Network Contract** with Rocky Mountain Health Network.
  - D. **Memorandum of Agreement (MOA)** between the City of Billings and Montana Department of Transportation (MDT) for the expansion of fiber network along 27th Street.
  - E. **Professional Services Contract** for W.O. 20-01, Schedule 1: 48-inch and 60-inch Sanitary Sewer Interceptor Rehabilitation Project; Morrison-Mairele, Inc.; in an amount not to exceed \$665,513.
  - F. **Purchase** of 20.497 acres from Harbour Land Holdings, Inc. for the construction of the West End Water Treatment Plant, \$875,000.
  - G. **Quitclaim Deed** for a portion of Barrett Road from Yellowstone County as it relates to Annexation 19-02.
  - H. **Resolution** authorizing State of Montana INTERCAP Loan for the Police Department Evidence Building; up to \$3,410,000.
  - I. **Letter of support** to designate the Billings PCE site be put on the EPA National Priorities List (NPL)-Federal Superfund Program.
  - J. **Bills for the Weeks of:**
    1. October 21, 2019
    2. October 28, 2019

## **REGULAR AGENDA:**

2. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 974:**  
Residential-7000 (R-70) to Residential Professional (RP), on Lot 2B – 3B, Amended Lot 1, VFW Subdivision, a 17,899 square foot parcel of land, generally located at 1004 Lewis Ave. KPCS, LLC, Owner; Patti Stanfill, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
  - *Presented by: Karen Husman*
  
3. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending BMCC Sections 17-106 and 17-107, Noise Ordinance. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
  - *Presented by: Brent Brooks*

**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 at the cart located at the back of the Council chambers or at the podium.)*

## **COUNCIL INITIATIVES:**

## **ADJOURN:**

*Council Chambers are readily accessible to individuals with physical disabilities.*

*For more information or to make requests for special arrangements, please contact the City Clerk’s Office at 657-8210 or e-mail [bohlmand@billingsmt.gov](mailto:bohlmand@billingsmt.gov), 72 hours prior to the meeting date.*

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Approval of the Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Update

**PRESENTED BY:** Shane Ketterling, Assistant Director of Aviation and Transit

**Department:** Airport

**Presentation:** No

**PROBLEM/ISSUE STATEMENT**

As a recipient of Federal Aviation Administration (FAA) grant funding, the Aviation Department is required to have an Airport Concession Disadvantaged Business Enterprise (ACDBE) Program in place. An ACDBE is a for-profit small business concern that is at least 51 percent owned by one or more individuals who are classified by the Federal government as socially and economically disadvantaged. The ACDBE Program's intent is to provide a level playing field for ACDBE companies wanting to do business as a concession operator at the Airport. To become a certified ACDBE, the company must work with the State of Montana. The Aviation Department is required to submit an updated ACDBE Program every three years and it must be approved by the City Council and signed by the Mayor. The main objective of the Program is to establish goals for the various concessions to use or do business with certified ACDBE companies. A copy of the ACDBE Program is available for review in the City Clerk's office.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the ACDBE Program; or
- Not approve the ACDBE Program and jeopardize any future FAA grant funding.

**FINANCIAL IMPACT**

As recipients of Federal funding, the Airport is required to have an ACDBE in place. Failure to submit this Program may jeopardize or delay award of the annual FAA Airport Improvement Program (AIP) grants. The AIP grants are typically \$3,000,000 annually, and up to \$6,000,000 or more on larger projects that qualify for the additional funding.

**RECOMMENDATION**

Staff recommends that the City Council approve and the Mayor sign the Billings Logan International Airport's ACDBE Program.

**APPROVED BY CITY ADMINISTRATOR**

**Attachments**

ACDBE

**CITY OF BILLINGS**

**BILLINGS LOGAN INTERNATIONAL AIRPORT**



**AIRPORT CONCESSION  
DISADVANTAGED BUSINESS ENTERPRISE  
(ACDBE) PROGRAM  
49 CFR Part 23**

**NOVEMBER 2019**

## POLICY STATEMENT

### **Section 23.1, 23.23**

### **Objectives/Policy Statement**

The Billings Logan International Airport (hereinafter referred to as "Airport") has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The Airport is a primary airport and has received Federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code). The Airport has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of the Airport to ensure that ACDBEs as defined in Part 23, have an equal opportunity to receive and participate in concession opportunities. It is also our policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving DOT financial assistance.
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions.
3. To ensure that our ACDBE program is narrowly tailored in accordance with applicable law.
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs at the Airport.
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions at the Airport.
6. To provide appropriate flexibility to the Airport in establishing and providing opportunities for ACDBEs.

Shane Ketterling has been designated as the ACDBE Liaison Officer (ACDBELO). In that capacity, Mr. Ketterling is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by the Airport in its financial assistance agreements with the Department of Transportation.

The Airport has disseminated this policy statement to the City of Billings and all of the components of our organization. We have distributed this statement to ACDBE and non-ACDBE concessionaire communities in our area by posting to the Airport's website.

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William A. Cole, City of Billings Mayor

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Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 23.1 Objectives**

The objectives are found in the policy statement on the first page of this program.

### **Section 23.3 Definitions**

The Airport will use terms in this program that have the meaning defined in Section 23.3 and Part 26 Section 26.5 where applicable.

### **Section 23.5 Applicability**

The Airport is a primary airport and the sponsor of Federal airport funds authorized for airport development after January 1988 that was authorized under Title 49 of the United States Code.

### **Section 23.9 Nondiscrimination Requirements**

The Airport will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any concession agreement, management contract or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23 on the basis of race, color, sex, or national origin.

In administering its ACDBE program, the Airport will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

The Airport acknowledges these representations are also in accordance with obligations contained in its Civil Rights, DBE and ACDBE Airport grant assurances.

The Airport will include the following assurances in all concession agreements and management contracts it executes with any firm:

1. "This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.
2. "The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements."

### **Section 23.11 Compliance and Enforcement**

The Airport will comply with and is subject to the provisions of 49 CFR Part 26 (§§ 26.101, 26.105, 26.107 and 2 CFR Parts 180 and 1200.

The Airport will comply with this part or be subject to formal enforcement action under §26.105 or appropriate program sanctions, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include actions consistent with 49 U.S.C. §§ 47106(d), 47111(d), and 47122.

2 CFR Part 180, Government wide Debarment and Suspension (non-procurement), effective November 15, 2006, adopted and supplemented by DOT at 2 CFR Part 1200, effective June 2, 2008, provides Office of Management and Budget (OMB) guidance for Federal agencies on the government wide debarment and suspension system for non-procurement transactions, programs and activities. 2 CFR Part 1200 adopts the OMB guidance in subparts A through I of 2 CFR Part 180, as supplemented by Part 1200, as the Department of Transportation policies and procedures for non-procurement suspension and debarment.

The Airport's compliance with all requirements of this part is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

The following enforcement actions apply to firms participating in the Airport's ACDBE program:

1. For a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate as an ACDBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department of Transportation (DOT) or the Federal Aviation Administration (FAA) may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.
2. For a firm that, in order to meet ACDBE goals or other ACDBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, DOT or FAA may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.
3. DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the ACDBE program whose conduct is subject to such action under 49 CFR Part 31.
4. DOT may refer to the Department of Justice, for prosecution under 18 U.S.C. §§ 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of an ACDBE in the Airport's ACDBE program or otherwise violates applicable Federal statutes.

Compliance reviews: The FAA may review the Airport's compliance with this part at any time, including but not limited to, reviews of paperwork, on-site reviews, and review of the airport sponsor's monitoring and enforcement mechanism, as appropriate. The FAA Office of Civil Rights may initiate a compliance review based on complaints received.

Any person who knows of a violation of this part by the Airport may file a complaint under 14 CFR Part 16 with the Federal Aviation Administration Office of Chief Counsel.

## **SUBPART B – ACDBE PROGRAMS**

### **Section 23.21 ACDBE Program Updates**

The Airport is a non-hub primary airport required to have an ACDBE program.

As a condition of eligibility for FAA financial assistance, the Airport will submit its ACDBE program and overall goals to FAA according to 23.45(a) of this section.

Until the Airport's new ACDBE program is submitted and approved, we will continue to implement our ACDBE program that was in effect previously, except with respect to any provision that is contrary to 49 CFR Part 23.

This ACDBE program will be implemented at the Billings Logan International Airport.

Although this program document applies to the above Airport, as required by 23.21(c), we have established separate ACDBE goals for each primary airport (Attachments 4 and 5).

When the Airport makes significant changes to its ACDBE program, we will provide the amended program to the FAA for approval prior to implementing the changes.

### **Section 23.23 Administrative Provisions**

**Policy Statement:** The Airport is committed to operating its ACDBE program in a nondiscriminatory manner.

The Airport's Policy Statement is elaborated on the first page of this program.

**ACDBE Liaison Officer (ACDBELO):** We have designated the following individual as our ACDBELO:

Shane Ketterling  
Billings Logan International Airport  
1901 Terminal Circle, Room 216  
Billings, MT 59105  
(406) 657-8339  
ketterlings@billingsmt.gov

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that the Airport complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the Director of Aviation and Transit concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment 1 to this program.

The ACDBELO is responsible for developing, implementing and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO has their consultant airport engineer to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or DOT.

2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
5. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
6. Analyzes Airport's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on ACDBE matters and achievement.
9. Chairs the ACDBE Advisory Committee.
10. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU Minority Resource Center (MRC).
11. Plans and participates in ACDBE training seminars.
12. Acts as liaison to the Unified Certification Program (UCP) in the state of Montana.
13. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
14. Maintains the Airport's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: The Airport through the Montana Unified Certification Program (UCP), maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The Directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE.

The UCP will ensure that the Directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. The UCP will make any changes to the current directory entries necessary to meet the requirements of this paragraph.

The UCP revises the Directory annually. We make the Directory available upon request, or it may be found at the following website:

<https://app.mdt.mt.gov/dbe/dbe/search>

### **Section 23.25 Ensuring Nondiscriminatory Participation of ACDBEs**

The Airport will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities (23.25(a)).

The Airport will seek ACDBE participation in all types of concession activities, rather than concentrating participation in one category or a few categories to the exclusion of others. (23.25(c))

The Airport's overall goal methodology and a description of the race-neutral measures it will use to meet the goals are described in Section 23.25 and Attachment 4 of this plan. The goals are set consistent with the requirements of Subpart D. (23.25(b), (d))

If the Airport projects that race-neutral measures alone, are not sufficient to meet an overall goal, it will use race-conscious measures as described in Section 23.25 (e) (1-2) and Attachment 4 and 5 of this plan. (23.25(e))

The Airport will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with ACDBEs. (23.25(f))

The Airport will not use set-asides or quotas as a means of obtaining ACDBE participation. (23.25(g)).

### **Section 23.27 Reporting**

We will retain sufficient basic information about our ACDBE program implementation, ACDBE certification and the award and performance of agreements and contracts to enable the FAA to determine our compliance with Part 23. This data will be retained for a minimum of three years following the end of the concession agreement or other covered contract.

Beginning March 1, 2006, we will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

### **Section 23.29 Compliance and Enforcement Procedures**

The Airport will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. We have listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (See Attachment 3). (26.37)

## **SUBPART C – CERTIFICATION AND ELIGIBILITY**

### **Section 23.31 Certification**

We will use the procedures and standards of Part 26, except as provided in 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein.

The Airport is the member of a Unified Certification Program (UCP) administered by the State of Montana. The UCP will meet all of the requirements of this section.

The UCP's directory of eligible DBEs specifies whether a firm is certified as a DBE for purposes of Part 26, and ACDBE for purposes of Part 23, or both.

Prior to entering into a new contract, extension, or option with a currently certified ACDBE, we will review their eligibility at that time (i.e., "as soon as possible") rather than waiting until the latest

date allowed under Part 23. Our schedule for this review process will be at least 30 days prior to the expiration date on the contract.

We will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous three fiscal years do not exceed \$56.42 million for non-car rental ACDBEs and \$75.23 million for car rental ACDBEs. The size standard for banks and other financial institutions is \$1 billion in assets, for pay telephone company's is 1,500 employees, and for ACDBE automobile dealers is 350 employees.

### **Section 23.35 Eligibility**

The personal net worth standard used in determining eligibility for purposes of Part 23 is \$1.32 million.

The Airport recognizes that personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth (PNW) does not include the following:

1. The individual's ownership interest in an ACDBE firm or a firm that is applying for ACDBE certification;
2. The individual's equity in his or her primary place of residence; and
3. Other assets that the individual can document are necessary to obtain financing or a franchise agreement for the initiation or expansion of his or her ACDBE firm (or have in fact been encumbered to support existing financing for the individual's ACDBE business) to a maximum of \$3 million.

The effectiveness of this paragraph (3) of this definition is suspended with respect to any application for ACDBE certification made or any financing or franchise agreement obtained after June 20, 2012. (23.3)

An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Any person who has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group otherwise presumed to be disadvantaged. (See 23.3 - Personal Net Worth definition and 23.35)

We will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, we will ensure that the disadvantaged owners of a DBE certified under Part 26 are able to control the firm with respect to its activity in our concessions program. We are not obligated to certify a Part 26 DBE as an ACDBE if the firm does not perform work relevant to our concessions program. (23.37).

We recognize that the provisions of Part 26, sections 26.83(c) (2-6) do not apply to certifications for purposes of Part 23. We will follow the provisions of 23.39 (a) through (i). We will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. We will analyze the ownership of stock of the firm, if it is a corporation. We will analyze the bonding and financial capacity of the firm. We will determine the work history of the firm, including any concession contracts or other contracts it may have received. We will compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive. We will obtain a statement from the firm of the types of concessions

it prefers to operate or the type of other contracts it prefers to perform. We will ensure that the ACDBE firm meets the applicable size standard. (23.39(a)(b)).

We acknowledge that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. We recognize that the eligibility of Alaska Native Corporations (ANC) owned firms for purposes of Part 23 is governed by Part 26 section 26.73(h). (23.39(c)(d)).

We will use the certification standards of Part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i))

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, we may continue to count the concessionaire's participation toward ACDBE goals during the remainder of the current concession agreement. We will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification. (23.39(e))

We will use the Uniform Application Form found in appendix F to Part 26 with additional instruction as stated in 23.39(g).

**Section 26.83 Procedures for Certification Decisions – Not Applicable**

**Section 26.85 Interstate Certification – Not Applicable**

**Section 26.86 Denials of Initial Requests for Certification – Not Applicable**

**Section 26.87 Removal of a DBE's Eligibility – Not Applicable**

**Section 26.89 Certification Appeals – Not Applicable**

**SUBPART D – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

**Section 23.41 Basic Overall Goal Requirement**

The Airport will establish two separate overall ACDBE goals; one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the sponsor will review the goals annually to make sure the goal continues to fit the sponsor's circumstances. We will report any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding three years do not exceed \$200,000, we need not submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three years do not exceed \$200,000, we need not submit an overall goal for concessions other than car rentals. We understand that "revenue" means total revenue generated by concessions, not the fees received by the airport from concessionaires.

The Airport's overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group specific goals.

**Section 23.43 Consultation in Goal Setting**

The Airport consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the sponsors efforts to increase participation of ACDBEs.

When submitting our overall goals, we will identify the stakeholders that we consulted with and provide a summary of the information obtained from the stakeholders.

**Section 23.45 Overall Goals**

The Airport is a non-hub primary airport. As a condition of eligibility for FAA financial assistance, the Airport will submit its overall goals according to the following schedule:

<b>Primary Airport Size</b>	<b>Region</b>	<b>Date Due</b>	<b>Period Covered</b>	<b>Next Goal Due</b>
<b>Large/Medium Hubs</b>	<b>All Regions</b>	<b>October 1, 2017</b>	<b>2018/2019/2020</b>	<b>October 1, 2020 (2021/2022/2023)</b>
<b>Small Hubs</b>	<b>All Regions</b>	<b>October 1, 2018</b>	<b>2019/2020/2021</b>	<b>October 1, 2021 (2022/2023/2024)</b>
<b>Non-Hubs</b>	<b>All Regions</b>	<b>October 1, 2019</b>	<b>2020/2021/2022</b>	<b>October 1, 2022 (2023/2024/2025)</b>

If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the sponsor will submit an appropriate adjustment to our overall goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45i)

The sponsor will establish overall goals in accordance with the 2-Step process as specified in section 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, "base figure." The second step is to examine all relevant evidence reasonably available in the sponsor's jurisdiction to determine if an adjustment to the Step 1 "base figure" is necessary so that the goal reflects as accurately as possible the ACDBE participation the sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training and union apprenticeship)

The sponsor will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by ACDBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under § 26.39 of this part.

A description of the methodology to calculate the overall goal for car rentals, the goal calculations, and the data we relied on can be found in Attachment 5 to this program.

A description of the methodology to calculate the overall goal for concessions other than car rentals, the goal calculations, and the data we relied on can be found in Attachment 4 to this program.

### **Projection of Estimated Race-Neutral & Race-Conscious Participation (23.45(f), 23.25(d-e))**

The breakout of estimated race-neutral and race-conscious participation can be found with the goal methodology in Attachments 4 and 5 to this program. This section of the program will be reviewed annually when the goal calculation is reviewed under 23.41(c).

### **Concession Specific Goals (23.25 (c)(e)(1)(iv))**

The Airport will use concession specific goals to meet any portion of the overall goals it does not project being able to meet using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish concession specific goals only on those concessions that have direct ownership arrangements (except car rentals), sublease, or subcontracting possibilities. We will require businesses subject to ACDBE goals at the airport (except car rental companies) to make good faith efforts to explore all available options to meet goals, to the maximum extent practicable, through direct ownership arrangements with DBEs (23.25 (f)). Car rental firms are not required to change their corporate structure to provide for direct ownership arrangements. In the case of a car rental goal, where it appears that all or most of the goal is likely to be met through the purchases by car rental companies of vehicles or other goods or services from ACDBEs, one permissible alternative is to structure the goal entirely in terms of purchases of goods and services.)

We need not establish a concession specific goal on every such concession, and the size of concession specific goals will be adapted to the circumstances of each such concession (e.g., type and location of concession, availability of ACDBEs.)

If the objective of a concession specific goal is to obtain ACDBE participation through direct ownership with an ACDBE, the Airport will calculate the goal as a percentage of the total estimated annual gross receipts from the concession. (23.25(e)(1)(i))

If the concession specific goal applies to purchases and/or leases of goods and services, the Airport will calculate the goal by dividing the estimated dollar value of such purchases and/or leases from ACDBEs by the total estimated dollar value of all purchases to be made by the concessionaire. (23.25(e)(1)(ii))

## **Good Faith Efforts on Concession Specific Goals (23.25(e)(1)(iii), (iv))**

To be eligible to be awarded a concession that has a concession specific goal, bidders/offerors must make good faith efforts to meet the goal. A bidder/offeror may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. (23.25(e)(1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 26. The procedures applicable to 49 CFR Sections 26.51 and 26.53, regarding contract goals apply to the Airport's concession specific goals. Specifically:

### **Section 26.53 Good Faith Efforts Procedures**

#### **Demonstration of Good Faith Efforts (26.53(a) & (c))**

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

Shane Ketterling, ACDBELO/Assistant Director of Aviation and Transit, is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

#### **Information to be Submitted (26.53(b))**

In our solicitations for concession contracts for which a contract goal has been established, we will require the following:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
  - (i) The names and addresses of ACDBE firms that will participate in the contract;
  - (ii) A description of the work that each ACDBE will perform. To count toward meeting a goal, each ACDBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each ACDBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use an ACDBE sub-concession whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed ACDBE firm that it is participating in the contract in the kind and amount of work provided in the prime concessionaire's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each ACDBE and non-ACDBE sub-concession quote submitted to the bidder when a non-ACDBE sub-concession was selected over an ACDBE for work on the contract; and
- (3) We will require that the bidder/offeror present the information required by paragraph (b)(2) of this section:

Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures.

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

### **Administrative Reconsideration (26.53(d))**

Within seven business days of being informed by Airport that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Kevin Ploehn  
Billings Logan International Airport  
1901 Terminal Circle, Room 216  
Billings, MT 59105  
(406) 657-8484  
ploehnk@billingsmt.gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

### **Good Faith Efforts When an ACDBE Is Replaced On a Concession (26.53(F))**

The Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. We will require the concessionaire to notify the ACDBELO immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the concessionaire to obtain our prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

We will provide such written consent only if we agree, for reasons stated in our concurrence document, that the prime concession has good cause to terminate the ACDBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed ACDBE sub-concession fails or refuses to execute a written contract.
2. The listed ACDBE sub-concession fails or refuses to perform the work of its sub-concession in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the ACDBE sub-concession to perform its work on the sub-concession results from the bad faith or discriminatory action of the prime contractor.

3. The listed ACDBE sub-concession fails or refuses to meet the prime concession's reasonable, nondiscriminatory bond requirements.
4. The listed ACDBE sub-concession becomes bankrupt, insolvent, or exhibits credit unworthiness.
5. The listed ACDBE sub-concession is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law.
6. We have determined that the listed ACDBE subcontractor is not responsible.
7. The listed ACDBE sub-concession voluntarily withdraws from the project and provides to us written notice of its withdrawal.
8. The listed ACDBE is ineligible to receive ACDBE credit for the type of work required.
9. An ACDBE owner dies or becomes disabled with the result that the listed ACDBE concession is unable to complete its work on the contract.
10. Other documented good cause that we have determined compels the termination of the ACDBE sub-concession. Provided, that good cause does not exist if the prime concession seeks to terminate an ACDBE it relied upon to obtain the contract so that the prime concession can self perform the work for which the ACDBE concession was engaged or so that the prime contractor can substitute another ACDBE or non-ACDBE concession after contract award.

Before transmitting to us its request to terminate and/or substitute an ACDBE sub-concession, the prime concession must give notice in writing to the ACDBE sub-concession, with a copy to us, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime concession must give the ACDBE five days to respond to the prime concession's notice and advise us and the concessionaire of the reasons, if any, why it objects to the proposed termination of its sub-concession and why we should not approve the prime concession's action. If required in a particular case as a matter of public necessity (e.g., safety), we may provide a response period shorter than five days.

The Airport will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its work on a concession with another certified ACDBE. These good faith efforts shall be directed at finding another ACDBE to perform at least the same amount of work under the concession contract as the ACDBE that was terminated, to the extent needed to meet the concession contract goal that we established for the procurement. The good faith efforts shall be documented by the concessionaire. If we request documentation from the concessionaire under this provision, the concessionaire shall submit the documentation to us within seven days, which may be extended for an additional seven days if necessary at the request of the concessionaire, and the Airport shall provide a written determination to the concessionaire stating whether or not good faith efforts have been demonstrated.

We will include in each prime concession contract the contract clause required by § 26.13(b) stating that failure by the concessionaire to carry out the requirements of this part is a material breach of the contract and may result in the termination of the concession contract or such other remedies set forth in that section that we deem appropriate if the prime concessionaire fails to comply with the requirements of this section.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

## **Sample Proposal/Bid Specification**

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the Airport to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of \_\_\_\_ percent of (annual gross receipts; value of leases and/or purchases of goods and services) has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 6), to meet the concession specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit the following information:

1. The names and addresses of ACDBE firms and suppliers that will participate in the concession
2. A description of the work that each ACDBE will perform.
3. The dollar amount of the participation of each ACDBE firm participating.
4. Written and signed documentation of commitment to use an ACDBE whose participation it submits to meet a contract goal.
5. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire's commitment.
6. If the contract goal is not met, evidence of good faith efforts.

### **Section 23.53 Counting ACDBE Participation for Car Rental Goals**

We will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.53.

### **Section 23.55 Counting ACDBE Participation for Concessions Other than Car Rentals**

We will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR 23.55.

### **Section 23.57 (B) Goal Shortfall Accountability**

If the awards and commitments on our Uniform Report of ACDBE Participation (found in Appendix A to this Part) at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will:

1. Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year.
2. Establish specific steps and milestones to correct the problems we have identified in our analysis to enable us to fully meet our goal for the new fiscal year.
3. We understand the FAA may impose conditions as part of its approval of our analysis and corrective actions including, but not limited to, modifications to our overall goal methodology, changes in our race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.
4. We understand we may be regarded as being in noncompliance with this part, and

therefore subject to the remedies in § 23.11 of this part and other applicable regulations, for failing to implement our ACDBE program in good faith if any of the following things occur:

- (i) We do not submit our analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of this section;
- (ii) FAA disapproves our analysis or corrective actions; or
- (iii) We do not fully implement:
  - a. The corrective actions to which we have committed, or
  - b. Conditions that FAA has imposed following review of our analysis and corrective actions.
  - c. If information coming to the attention of FAA demonstrates that current trends make it unlikely that we, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow us to meet our overall goal at the end of the fiscal year, FAA may require us to make further good faith efforts, such as modifying our race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

### **Section 23.61 Quotas or Set-asides**

We will not use quotas or set-asides as a means of obtaining ACDBE participation.

## **SUBPART E – OTHER PROVISIONS**

### **Section 23.71 Existing Agreements**

We will assess potential for ACDBE participation when an extension or option to renew an existing agreement is exercised, or when a material amendment is made. We will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

### **Section 23.73 Privately Owned or Leased Terminal Buildings – Not Applicable**

### **Section 23.75 Long Term Exclusive Agreements**

We will not enter into a long term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. We understand that a "long term" agreement is one having a term of longer than five years. We understand that an "exclusive" agreement is one in which an entire category of a particular business opportunity is limited to a single business entity. If special, local circumstances exist that make it important to enter into a long term and exclusive agreement, we will submit detailed information to the FAA Regional Civil Rights Office for review and approval.

### **Section 23.79 Geographic Preferences**

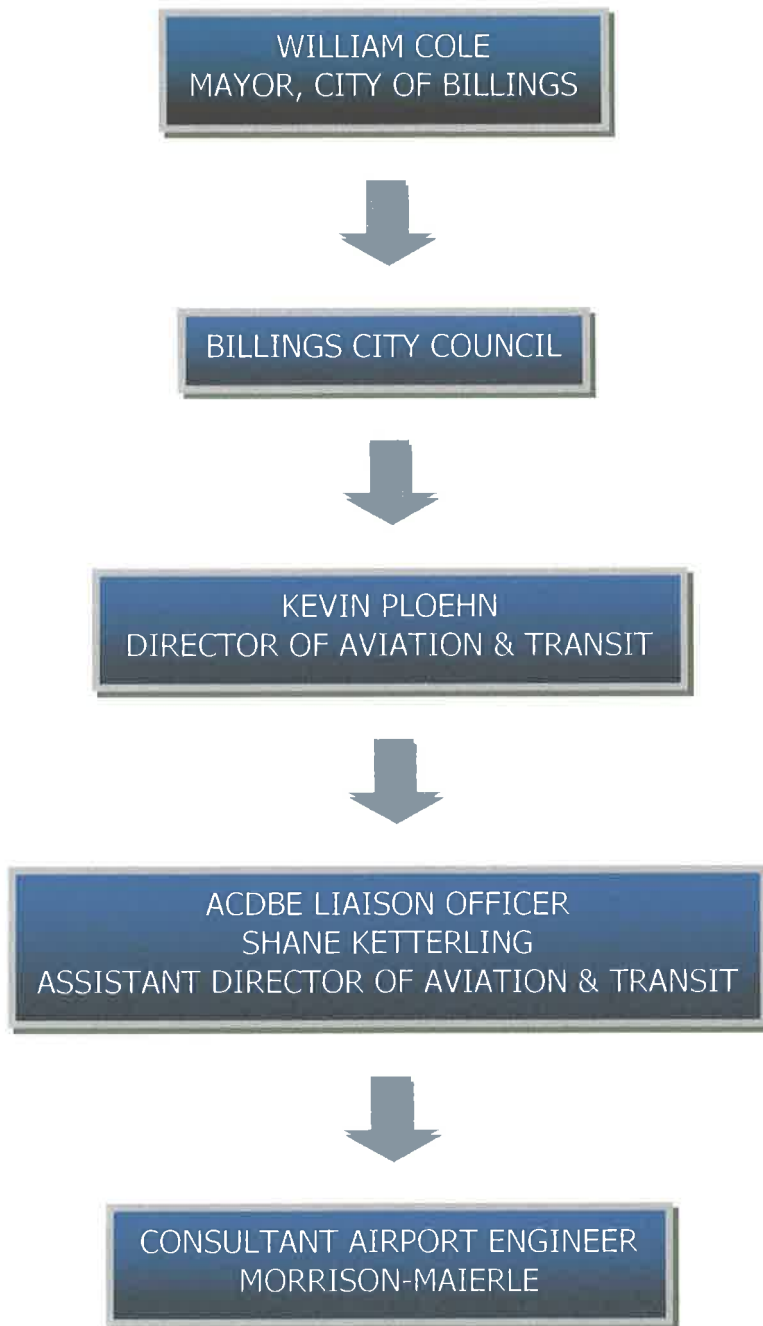
We will not use a "local geographic preference," i.e., any requirement that gives an ACDBE located in one place (e.g., City of Billings) an advantage over ACDBEs from other places in obtaining business as, or with, a concession at your airport.

## ATTACHMENTS

- Attachment 1 Organizational Chart
- Attachment 2 DBE/ACDBE Directory (or website link)
- Attachment 3 Monitoring and Enforcement Mechanisms
- Attachment 4 Overall Goal for Concessions other than Car Rental Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
- Attachment 5 Overall Goals for Car Rentals Calculation, Consultation, Breakout of Estimated Race-Neutral & Race-Conscious Participation
- Attachment 6 Form 1 & 2 for Demonstration of Good Faith Efforts
- Attachment 7 Certification Application Forms
- Attachment 8 Procedures for Removal of ACDBEs Eligibility
- Attachment 9 State's UCP Agreement
- Attachment 10 Regulations: 49 CFR Part 23
- Attachment 11 Goals and Elements for Privately Owned or Leased Terminal Buildings

# ATTACHMENT 1

## ORGANIZATIONAL CHART



## ATTACHMENT 2

### MONTANA DBE DIRECTORY

A copy of the current Montana Department of Transportation DBE/ACDBE Directory can be obtained through the following Website link:

<https://app.mdt.mt.gov/dbe/dbe/search>

## ATTACHMENT 3

### SAMPLE MONITORING AND ENFORCEMENT MECHANISMS

The Airport has several remedies available to enforce the ACDBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract.
2. Breach of contract action, pursuant to the terms of the Airport's ACDBE Program.

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the ACDBE problem, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 23 and 2 CFR Parts 180 and 1200.
2. Enforcement action pursuant to 49 CFR Part 31.
3. Prosecution pursuant to 18 USC 1001.

The Airport will implement various mechanisms to monitor program participants to ensure they comply with Part 23, including, but not limited to the following:

1. We will insert the following provisions into concessions agreements and management contracts:
  - A. "Concessionaires shall comply with the Airport's ACDBE Program."

**ATTACHMENT 4**

**ATTACHMENT 4 IS SUBMITTED SEPARATELY**

**ATTACHMENT 5**

**ATTACHMENT 5 IS SUBMITTED SEPARATELY**

**ATTACHMENT 6**

**FORMS 1 & 2 FOR DEMONSTRATION OF GOOD FAITH EFFORTS**

**FORM 1: AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid/proposal specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_% ACDBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the ACDBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% ACDBE utilization on this contract and submitted documentation demonstrating good faith efforts.

Name of Bidder/Offeror's Firm: \_\_\_\_\_

State Registration No.: \_\_\_\_\_

By: \_\_\_\_\_  
Signature Title

**FORM 2: LETTER OF INTENT**

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of ACDBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by ACDBE firm:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The bidder/offeror is committed to utilizing the above named ACDBE firm for the work described above. The estimated dollar value of this work is \$\_\_\_\_\_.

**Affirmation**

The above named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
Signature Title

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

(Submit this page for each ACDBE subcontractor.)

## ATTACHMENT 7

### ACDBE CERTIFICATION APPLICATION FORM

Contact the Montana Department of Transportation for DBE Certification Application forms at the following Website:

<https://www.mdt.mt.gov/business/contracting/civil/dbe-interested.shtml>

## **ATTACHMENT 8**

### **PROCEDURES FOR REMOVAL OF ACDBES ELIGIBILITY**

Any necessary removal of ACDBE's eligibility will be handled by the Montana Department of Transportation as the DBE Certifying Agency.

## **ATTACHMENT 9**

### **STATE'S UCP AGREEMENT**

See attached copy of signature page.

## UNIFIED CERTIFICATION PROGRAM (UCP)

In accordance with 49 CFR §26.81(b), the Montana Department of Transportation will assume the responsibilities as the Unified Certification Program (UCP) Lead Agency. As the UCP Lead Agency, MDT will make all certification decisions on behalf of all DOT recipients (FHWA, FTA, and FAA) in the state of Montana with respect to participation in the USDOT DBE Program.

MDT will ensure that:

- As the UCP Lead Agency, MDT will follow all certification procedures outlined in 49 CFR §26, subparts D and E;
- As the UCP Lead Agency, MDT will cooperate fully with oversight, review, and monitoring activities of USDOT and its operating administrations; and
- As the UCP Lead Agency, MDT will implement DOT directives and guidance concerning certification matters.

Certification decisions by MDT will be binding on all DOT recipients in the state and shall provide "one-stop shopping" to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

MDT will carry out all obligations with respect to certification and nondiscrimination and ensure that recipients that are party to the UCP establish the same nondiscrimination obligations in their respective DBE Programs.

All certifications by MDT shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

As the UCP Lead Agency, MDT is not required to process an application for certification from a firm having its principal place of business outside the state if a firm is not certified by the UCP in the state in which it maintains its principal place of business.

As the UCP Lead Agency, MDT will maintain a unified DBE directory containing, for all firms certified by MDT, the information required by 49 CFR §26.31. The DBE directory is available at the following website: [www.mdt.state.mt.us/civilrights](http://www.mdt.state.mt.us/civilrights).

In order to be a party to the UCP, each recipient must complete, sign, and forward the agreement in Attachment H to the following address:

Montana Department of Transportation DBE Program UCP  
PO Box 201001  
Helena, MT 59620-1001

The undersigned, a duly appointed representative of the following agency:

Billings Logan International Airport  
(Agency name)

agrees to and accepts the Unified Certification Program (UCP), as outlined in the Montana Department of Transportation DBE Program, and required by 49 CFR §26.81. By this agreement

and acceptance, the above named agency will ensure that:

- This agency will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR §26 on the basis of race, color, sex, or national origin.
- This agency will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.
- Each financial assistance agreement this agency signs with a DOT operating administration (or a primary recipient) will include the following assurance:

"The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient will take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts.

The recipient's DBE Program, as required by 49 CFR §26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation, and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as approved for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)"

- Each contract this agency signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) will include the following assurance:

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

- This agency will accept all DBEs certified by MDT as certified for participation in this agency's DBE Program.

  
\_\_\_\_\_  
(Signed)

11-1-2019  
\_\_\_\_\_  
(Dated)

## **ATTACHMENT 10**

### **REGULATIONS: 49 CFR PART 23**

A copy of 49 CFR Part 23 Regulations can be obtained through the following Website link:

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl)

## **ATTACHMENT 11**

### **GOALS AND ELEMENTS FOR PRIVATELY OWNED OR LEASED TERMINAL BUILDINGS**

Not Applicable as the Airport has no Privately Owned or Leased Terminal Buildings.

## ATTACHMENT 4

### SECTION 23.45: OVERALL GOAL CALCULATION FOR CONCESSIONS OTHER THAN CAR RENTALS

**Amount of Goal** (submit if average annual gross receipts exceed \$200,000)

**Name of Recipient:** Billings Logan International Airport

**Goal Period:** FY 2020–2022 – October 1, 2019 through September 30, 2022

**Overall Three-Year Goal:**

2.14%, to be accomplished through 0.00% RC and 2.14% RN

The Airport has determined that its market area is National.

#### **Base of Goal**

To calculate the base of the goal the Airport considered the previous three years of gross concession receipts and the projected potential concession revenue (gross receipts) three years into the future including upcoming new opportunities.

#### **Gross Receipts for Previous Three Years – Non-Car Rental Concessions**

<b>Fiscal Year</b>	<b>Concessions Revenue (Excluding Car Rental)</b>
2016	\$ 5,114,177.25
2017	\$ 5,163,402.59
2018	\$ 5,324,899.37
2019 *	\$ 4,483,399.43
<b>Total</b>	<b>\$15,602,479.21</b>
<b>Average</b>	<b>\$ 5,200,826.40</b>

\*2019 only includes revenues up to July 2019. FY 2016, 2017, and 2018 were used to calculate the total and average revenues.

The Airport estimates that revenues to existing concessions will grow by 2.0% over the next three years due to increased passenger traffic.  $\$5,200,826 \times 102\% = \$5,304,842 =$  base of goal.

The concession opportunities anticipated during this goal period are:

Non-Car Rental Concessions such as Restaurant, Gift Shop, Wi-Fi, Parking, and Advertising with estimated gross receipts of \$5,304,842.

The following are not included in the total gross receipts for concessions: (a) the gross receipts of car rental operations, (b) the dollar amount of a management contract or subcontract with a non-ACDBE, (c) the gross receipts of business activities to which a management contract or subcontract with a non-ACDBE pertains, and (d) any portion of a firm's estimated gross receipts that will not be generated from a concession.

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

### **Methodology used to Calculate Overall Goal**

#### **Goods and Services**

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. We, and the businesses at the airport, shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

#### **Management Contract or Subcontract**

We can meet the percentage goal by including any business operated through a management contract or subcontract with an ACDBE. We, and the businesses at the airport, will add the dollar amount of a management contract or subcontract with an ACDBE to the total participation by ACDBEs in airport concessions (both the numerator AND the denominator) and to the base from which the airport's percentage goal is calculated. However, the dollar amount of a management contract or subcontract with a non-ACDBE and the gross revenue of business activities to which the management contract or subcontract pertains will not be added to this base in either the numerator or denominator. *While we realize that this appears to go against the normal rules and rationale for goal setting, we understand that this method is nevertheless required by statute.*

#### **Step 1: 23.51(c)**

We determined the base figure for the relative availability of ACDBEs other than car rentals. The base figure was calculated as follows:

**Numerator:** Ready, willing, and able non-car rental ACDBEs in the market area

$$\underline{55} \text{ divided by } \underline{2,572} = \underline{2.14\%}$$

**Denominator:** All ready, willing, and able non-car rental concession firms in the market area

NAICS	Type of Concession	Total DBE/ ACDBE's	Total All Firms
236220	Commercial and Institutional Building Construction	5	180
238210	Electrical Contractors and Other Wiring Installation Contractors	4	454
238220	Plumbing, Heating, and Air Conditioning Contractors	3	598
323111	Commercial Printing	1	65
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	0	19
423440	Other Commercial Equipment Merchant Wholesalers	0	14
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	2	17
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	2	5
424120	Stationery and Office Supplies Merchant Wholesalers	0	14
424490	Other Grocery and Related Products Merchant Wholesalers	1	68
424920	Book, Periodical, and Newspaper Merchant Wholesalers	0	11
448150	Clothing Accessories Stores	1	19
451212	News Dealers and Newsstands	1	Data Unknown
453220	Gift, Novelty, and Souvenir Stores	1	145
484110	General Freight Trucking, Local	2	94
541214	Payroll Services	1	18
541513	Computer Facilities Management Services	4	12
541611	Administrative Management and General Management Consulting Services	15	256
541612	Human Resources Consulting Services	5	18
541613	Marketing Consulting Services	9	103
541810	Advertising Agencies	3	37
541820	Public Relations Agencies	7	23
561720	Janitorial Services	4	350
722310	Food Service Contractors	1	52
Total			
Step 1 =		72	2,572

The data source or demonstrable evidence used to derive the **numerator** was:

The Montana Department of Transportation DBE Directory – NAICS Code listing. 17 of the companies were classified under multiple NAICS codes, therefore the numerator becomes 72-17=55.

The data source or demonstrable evidence used to derive the **denominator** was:

The Census Bureau Fact Finder tool using Montana companies that match the NAICS Code listing for DBEs/ACDBEs. 2,572 total companies were classified for the NAICS codes; therefore, the denominator is 2,572.

When we divided the numerator by the denominator we arrived at the Step 1 base figure for our overall goal for non-car rental concessions of: 2.14%

**Step 2:** 23.51(d)

Did not have sufficient data to make adjustment.

## PUBLIC PARTICIPATION

### Consultation: Section 23.43.

Prior to submitting this goal to the FAA, the Airport consulted with the following stakeholders:

MDOT Civil Rights Office  
Montana PTAC  
Billings Chamber of Commerce  
Small Business Administration  
Concessionaire – Air Host  
Parking Concessionaire – SP Plus

Staff has also spoken at a seminar for opportunities in government contracting for small businesses.

A summary of the information these stakeholders provided is as follows:

The common themes from these stakeholders were; they were unaware of the opportunities available, the bonding and insurance requirements were beyond their resources, and they did not think the hassle involved in becoming a DBE was worth the benefit. It was explained to them and the state Civil Rights office maintained a current list of all types of projects that they may be interested in. They were made aware that there were bonding and insurance opportunities offered by the Small Business Administration, and that becoming certified did involve some paper work but the City of Billings would help them along that process. It was further noted that the City of Billings had helped two businesses in becoming certified with the State.

### Breakout of Estimated Race-Neutral & Race-Conscious Participation Section 23.51

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport uses the following race-neutral measures.

We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23;
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

We estimate that, in meeting our overall goal of 2.14%, we will obtain 2.14% from race-neutral participation and 0.00% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious ACDBE participation:

Currently the Airport is adopting a solely race-neutral means of facilitating DBE participation. If the overall DBE goal is not met, the Airport will demonstrate that good faith efforts have been made to meet the goal.

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

## ATTACHMENT 5

### SECTION 23.45: OVERALL GOAL CALCULATION FOR CAR RENTALS

**Amount of Goal** (submit if average annual gross receipts exceed \$200,000)

**Name of Recipient:** Billings Logan International Airport

**Goal Period:** FY 2020–2022 – October 1, 2019 through September 30, 2022

**Overall Three-Year Goal:**

2.34%, to be accomplished through 0.00% RC and 2.34% RN

The Airport has determined that its market area is National.

#### **Base of Car Rental Goal**

To calculate the base of the goal the Airport considered the previous three years of gross concession receipts and the projected potential concession revenue (gross receipts) three years into the future including upcoming new opportunities.

#### **Gross Receipts (Revenue) for Previous Three Years – Car Rental Concessions**

<b>Fiscal Year</b>	<b>Concessions Revenue (Car Rental)</b>
2016	\$16,267,444.12
2017	\$17,274,551.89
2018	\$18,589,027.30
2019 *	\$16,164,641.77
<b>Total</b>	<b>\$52,131,023.31</b>
<b>Average</b>	<b>\$17,377,007.77</b>

\*2019 only includes revenues up to July 2019. FY 2016, 2017, and 2018 were used to calculate the total and average revenues.

The Airport estimates that revenues to existing concessions will grow by 3.0% over the next three years due to increased passenger traffic.  $\$17,377,007 \times 103\% = \$17,898,318 =$  base of goal.

The car rental concession opportunities anticipated during this goal period are:

Goods and Services such as Insurance, Automobiles, Automobile Repairs with estimated gross receipts of \$17,898,318.

If a new concession opportunity arises prior to the end of this goal period and the estimated average of annual gross revenues are anticipated to be \$200,000 or greater, the Airport will submit to the FAA an appropriate adjustment to the overall goal. This will be submitted to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity. (23.45(i)).

**Methodology Used to Calculate Overall Goal**

**Goods and Services**

We can meet the percentage goal by including the purchase from ACDBEs of goods and services used in businesses conducted at the airport. The dollar value from purchases of goods and services from ACDBEs may be added to the numerator, and the dollar value from purchases of goods and services from all firms (ACDBEs and non-ACDBEs) may be added to the denominator.

**Step 1: 23.51(c)**

We determined the Step 1 base figure for the relative availability of ACDBEs car rentals. The base figure was calculated as follows:

Step 1 was determined by dividing the total number of ACDBEs by the total of all concessions in the market area.

Numerator: Ready, willing, and able car rental ACDBEs in the market area

48 divided by 2,048 = 2.34%

Denominator: All ready, willing, and able car rental concession firms in the market area

NAICS	Type of Concession	Total DBE/ACDBE's	Total All Firms
423110	Automobile and Other Motor Vehicle Merchant Wholesalers	0	36
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	1	41
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	0	19
423440	Other Commercial Equipment Merchant Wholesalers	0	14
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	2	17
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	2	5
424120	Stationery and Office Supplies Merchant Wholesalers	0	14
424720	Petroleum and Petroleum Products Merchant Wholesalers (Except Bulk Stations and Terminals)	1	8
484110	General Freight Trucking, Local	2	94
484121	General Freight Trucking, Long-Distance	3	226
524210	Insurance Agencies and Brokerages	1	706

541214	Payroll Services	1	18
541513	Computer Facilities Management Services	4	12
541611	Administrative Management and General Management Consulting Services	15	256
541612	Human Resources Consulting Services	5	18
541613	Marketing Consulting Services	9	103
541810	Advertising Agencies	3	37
541820	Public Relations Agencies	7	23
561720	Janitorial Services	4	350
811122	Automotive Glass Replacement Shops	0	51
Total			
Step 1 =		60	2,048

The data source or demonstrable evidence used to derive the **numerator** was:

The Montana Department of Transportation DBE Directory – NAICS Code listing. Twelve of the companies were classified under multiple NAICS codes, therefore the numerator becomes  $60-12=48$ .

The data source or demonstrable evidence used to derive the **denominator** was:

The Census Bureau Fact Finder tool using Montana companies that match the NAICS Code listing for DBEs/ACDBEs. 2,048 total companies were classified for the NAICS codes, therefore the denominator is 2,048.

When we divided the numerator by the denominator we arrived at the Step 1 base figure for our overall goal for non-car rental concessions of: 2.34%.

**Step 2:** 23.51(d)

Did not have sufficient data to make adjustment.

## PUBLIC PARTICIPATION

### **Consultation:** Section 23.43.

Prior to submitting this goal to the FAA, the Airport consulted with the following stakeholders:

MDOT Civil Rights Office  
Zonta Club  
Montana PTAC  
Billings Chamber of Commerce  
Small Business Administration  
Car Rental Companies

Staff has also spoken at a seminar for opportunities in government contracting for small businesses.

A summary of the information these stakeholders provided is as follows:

The common themes from these stakeholders were: they were unaware of the opportunities available, the bonding and insurance requirements were beyond their resources, and they did not think the hassle involved in becoming a DBE was worth the benefit. It was explained to them the State Civil Rights office maintained a current list of all types of projects that they may be interested in. They were made aware that there were bonding and insurance opportunities offered by the Small Business Administration, and that becoming certified did involve some paper work, but the City of Billings would help them along with that process. It was further noted that the City of Billings had helped two businesses in becoming certified with the State.

### **Breakout of Estimated Race-Neutral & Race-Conscious Participation Section 23.51**

The Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating ACDBE participation. The Airport uses the following race-neutral measures.

We understand that we will be expected to actually take these steps, and this is not merely a paper exercise.

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under 49 CFR Part 23.
2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate.
3. When practical, structuring concession activities so as to encourage and facilitate the participation of ACDBEs.
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing.
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the sponsor's ACDBE program will affect the procurement process.
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation.
7. Establishing a business development program (see 49 CFR Part 26.35); technical assistance program or taking other steps to foster ACDBE participation in concessions.

We estimate that, in meeting our overall goal of 2.34%, we will obtain 2.34% from race-neutral participation and 0.00% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious ACDBE participation:

Currently the Airport is adopting a solely race-neutral means of facilitating DBE participation. If the overall DBE goal is not met, the Airport will demonstrate that good faith efforts have been made to meet the goal.

In order to ensure that our ACDBE program will be narrowly tailored to overcome the effects of discrimination, if we use concession specific goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual ACDBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral ACDBE participation includes, but is not necessarily limited to, the following: ACDBE participation through a prime contract that an ACDBE obtains through customary competitive procurement procedures; ACDBE participation through a subcontract on a prime contract that does not carry ACDBE goal; ACDBE participation on a prime contract exceeding a concession specific goal; and ACDBE participation through a subcontract from a prime contractor that did not consider a firm's ACDBE status in making the award.

We will maintain data separately on ACDBE achievements in those contracts with and without concession specific goals, respectively.

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** 2020 Rocky Mountain Network Direct Healthcare Contract

**PRESENTED BY:** Karla Stanton, Human Resources Director

**Department:** City Hall Administration

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The City of Billings retained Gallagher Benefit Services (GBS) to assist in preparing and evaluating the City's Direct Network Contract for healthcare services resulting from a Request for Proposals (RFP). The current contract with Rocky Mountain Health Network expires on December 31, 2019. Proposals were solicited to deliver a direct contract solution to include the following services:

- Inpatient and outpatient services
- Lab services
- Professional provider services
- Anesthesia
- Injections/drug infusions
- Immunizations and vaccines
- Durable medical equipment
- Employee Assistance Program
- Occupational Health Services

Proposals, including pricing/cost information were sent directly to GBS, and not to the City. Organizations who responded to this RFP were directed to submit proprietary or confidential financial information to GBS directly. Billings Clinic and Rocky Mountain Health Network agreed, by signing, to certify not to request or share any proprietary or confidential, financial information, fee schedules, or reimbursement rates.

As part of the evaluation process, GBS instructed Employee Benefit Management Services (EBMS), the City's Third Party Administer, to reprocess all 2018 claims using each organization's proposed 2020 fee schedule, and to present the results to GBS directly.

On June 4, 2019, The City's Health Insurance Committee met with GBS to discuss the proposals. Both proposals were evaluated by the Committee based on the following criteria:

- Organization's demonstrated breadth of services and quality considerations.
- Network access and member disruption needs.
- Strength of proposed reimbursement arrangements.
- Completeness and responsiveness of the organization's proposal in meeting the City's needs.
- Transition plan.

GBS presented information regarding the proposals to the Health Insurance Committee. The committee engaged in a lengthy discussion and the vote was finalized on June 5, 2019, resulting in Rocky Mountain Health Network being awarded the contract, pending City Council

approval. The contract is effective January 1, 2020 to December 31, 2024. The contract may be extended for up to five additional years by mutual, written agreement.

## **ALTERNATIVES ANALYZED**

City Council may:

- Approve, or;
- Disapprove the Direct Network contract.

## **FINANCIAL IMPACT**

The current 8-year agreement with Rocky Mountain Health Network resulted in savings for both the City and its employees. The health insurance premium history over the past 8 years follows:

- 2012 - No increase
- 2013 - No increase
- 2014 - No increase
- 2015 - No increase
- 2016 - Decrease in premiums
- 2017 - Increase in premiums back to 2015 rates
- 2018 No increase
- 2019 No increase

## **RECOMMENDATION**

Staff recommends approval of the Direct Network contract with Rock Mountain Health Network, which includes the majority of St. Vincent Healthcare affiliates, as recommended by the City's Health Insurance Committee.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

SCL Healthcare  
Rocky Mountain Network

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## Healthcare Facility Agreement

This Healthcare Facility Agreement (hereinafter, the “Agreement”) is entered into between **City of Billings** (hereinafter “PAYOR”) and **Sisters of Charity of Leavenworth Health System, Inc.**, a Kansas not-for-profit Corporation doing business as SCL Health (“SCL”), as the disclosed agent for **St. Vincent Healthcare, a Montana public benefit corporation** (hereinafter referred to individually, and collectively as “FACILITY”). The effective date of this agreement is the January 1, 2020.

In consideration of the mutual promises and covenants set forth herein, PAYOR and FACILITY agree as follows:

### 1. DEFINITIONS

**1.1 Benefit Plan** means a program offered by or administered by PAYOR for the payment of Covered Services provided to an eligible Participant.

**1.2 Clean Claim** means a claim for Covered Services that (a) is timely received by the PAYOR and/or its claims administrator, as applicable; (b) (i) when submitted via paper has all the elements of the UB 04 or CMS 1500 (or successor standard) forms; or (ii) when submitted via an electronic transaction, uses only permitted transaction code sets (e.g. CPT4, ICD9, ICD10, HCPCS) and has all the elements of the standard electronic formats required by applicable Federal authority; (c) is a claim for which the Benefit Plan is the primary payor or the Benefit Plan’s responsibility as a secondary payor has been established; and (d) contains no defect, error or other shortcoming resulting in the need for additional information to adjudicate the claim.

**1.3 Coinsurance** means a cost-sharing obligation that requires the Participants to pay a percentage of the cost of specified Covered Services.

**1.4 Copayment** means the amount that a Participant is responsible to pay under PAYOR’s Benefit Plan at the time of service.

**1.5 Covered Services** means those specified Medically Necessary health care services for which a Participant is eligible to receive benefits under the Benefit Plan.

**1.6 Deductible** means the amount a Participant must pay for Covered Services each calendar or plan year before a PAYOR commences payment as defined under the Benefit Plan.

**1.7 Medical Necessity or Medically Necessary** means a medical service or medical supply, which meets all of the following criteria:

1. It is required for the treatment or diagnosis of a covered medical condition;
2. It is the most appropriate supply or level of service that is essential for the diagnosis or treatment of the Participant’s covered medical condition;
3. It is known to be effective in improving health outcomes for the Participant’s covered medical condition in accordance with sufficient scientific evidence and professionally recognized standards;
4. It is not furnished primarily for the convenience of the Participant or Facility of services; and
5. If this definition of Medically Necessary is not consistent with the definition of Medically Necessary in the Benefit Plan, the definition in the Benefit Plan will control.

Medical necessity alone does not determine coverage.

**1.8 Participant** means any person who is eligible to receive Covered Services under the terms and conditions of PAYOR's Benefit Plan.

## **2. DUTIES OF FACILITY**

### **2.1 Provide or Arrange for Covered Services**

FACILITY agrees to arrange or provide for the provision of Medically Necessary Covered Services on a timely basis, without regard to health status or medical condition, and in accordance with generally accepted medical practice guidelines and standards pursuant to the terms of this Agreement. Except in the case of emergency, FACILITY agrees to use reasonable commercial efforts to verify each Participant's eligibility prior to providing Covered Services. FACILITY shall use reasonable commercial efforts to notify PAYOR of all Participant admissions, the time of admission, or in the event that an admission occurs on a non-business day, no later than the noon of the next business day after admission.

FACILITY agrees to furnish Covered Services to Participant on the same basis as such services are made available to individuals who are not Participants, and without regard to the Participant's enrollment in PAYOR's Benefit Plan. In providing services under this Agreement, FACILITY shall exercise the degree of care, skill and knowledge expected of a prudent health care FACILITY. FACILITY shall remain solely responsible for the quality of services rendered.

### **2.2 Accessibility and Hours of Service**

FACILITY shall arrange for the provision of Covered Services to Participants during normal hours for such services.

### **2.3 Emergency Services**

If within FACILITY's scope of services, FACILITY shall provide Participant access to emergency services without a referral or prior approval from PAYOR. FACILITY shall notify PAYOR or PAYOR's claims administrator of the provision of emergency services to a Member within two (2) business days immediately following the provision of such services.

### **2.4 Facility Updates**

FACILITY shall identify on Schedule B and update periodically, as necessary, the name and Facility identification number of all physicians, mid-level Facility's and other healthcare professionals that will be subject to this Agreement. Upon request, FACILITY shall provide a current W-9 for a Facility tax identification number that is subject to this Agreement.

### **2.5 Licensing Requirements**

FACILITY and its Facility-based professionals shall remain in good standing with all necessary licenses, certifications and/or registrations required by law, permits or other approvals required by State and Federal law to provide or arrange for the provision of Covered Services to Participants. FACILITY shall submit evidence of such licenses, permits or other approvals to PAYOR upon request. FACILITY shall immediately notify PAYOR, in writing, regarding any revocation or restriction placed upon any such license, permit or other approval.

For its Facility-based professionals, FACILITY shall use reasonable commercial efforts to promptly notify PAYOR, in writing, of any action against their license, certification, or registration; any change in business address; any legal, governmental, or Board action; any change in clinical privileges; any change in hospital staff privileges; any changes in practice scope; any sanctions or restrictions; any medical or mental health problems that could affect the

care of patients; or any other problem or situation which may impair the FACILITY's ability to carry out their responsibilities under this Agreement.

## **2.6 Insurance**

FACILITY shall provide and maintain, at its sole cost and expense and for the duration of this Agreement, policies of general comprehensive liability and professional liability insurance, or self-insurance, in an amount acceptable to PAYOR. Such policies shall insure against any claim or claims for damage arising by reason of personal injury or death occasioned directly or indirectly in connection with the acts or omissions of FACILITY, agents or employees pursuant to the terms of this Agreement. FACILITY shall notify PAYOR immediately but no more than two (2) business days from notification of any revocation, reduction in coverage, or termination of any such policy. Upon request, FACILITY shall provide PAYOR with evidence of compliance with this insurance requirement in the form of a certificate of insurance or evidence of self-insurance in an amount and form acceptable to PAYOR.

## **2.7 Medical Management Programs**

FACILITY agrees to comply with and participate in PAYOR's and/or its claims administrator's medical management/utilization management programs and requirements, whichever is applicable, which may include but are not limited to, pre-authorization, notification, concurrent review, retrospective review, re-admission guidelines, case management, disease management programs, pharmacy and specialty pharmacy programs, referral management, quality assurance and improvement programs and medical necessity oversight.

FACILITY further agrees to share Participant information as specifically related to these programs. FACILITY is required to allow access to Participant records, provide for copying and release of records at FACILITY's expense, and to speak to the PAYOR or its claims administrator or designee upon request, as allowed by law, in a timely manner to facilitate the Medical Management program. Non-compliance with the Medical Management program may result in non-payment.

## **2.8 Compliance**

FACILITY agrees to comply with all applicable federal and state laws and regulations. FACILITY further agrees to comply with the following:

**2.8.1** FACILITY agrees that in no event, including, but not limited to, non-payment by PAYOR, insolvency, or breach of this contract shall FACILITY bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against a Participant or person acting on their behalf, other than PAYOR, for services provided pursuant to this agreement. This provision shall not prohibit collection of deductibles, co-payments, coinsurance, and/or non-covered services, which have not otherwise been paid by a primary or secondary carrier in accordance with terms of the Benefit Plan.

**2.8.2** FACILITY agrees, in the event of PAYOR's insolvency, to continue to provide the services promised in this contract to Participant until the Participant's discharge from in-patient facilities.

**2.8.3** FACILITY may not bill the Participant for Covered Services (except for Deductibles, Co-payments, or Coinsurance) where PAYOR denies payment because the FACILITY has failed to comply with the terms or conditions of this Agreement.

**2.8.4** Notwithstanding any other provision of this agreement, nothing in this Agreement shall be construed to modify the rights and benefits contained in the Benefit Plan.

## **2.9 Non-Covered Services/Exclusions**

FACILITY shall provide notice to Participant of their personal financial obligations for non-covered services. FACILITY may bill a Participant for non-covered services if FACILITY has, prior to the provision of non-covered services, obtained a written acknowledgment and acceptance of financial responsibility from the Participant after full disclosure of (i) FACILITY's intent to bill Participant for non-covered services, and (ii) the non-liability of PAYOR for such non-covered services.

## **2.10 Claims Payment**

FACILITY shall look only to PAYOR for payment of claims. FACILITY may not collect or attempt to collect from Participant money owed to FACILITY by PAYOR.

## **2.11 Acceptance of Payment**

FACILITY shall accept payment as described in SCL's confidential response to the City of Billings' RFP Direct Contract request as payment in full for Covered Services rendered, less Coinsurance, Copayments, Deductibles, and non-covered or ineligible charges as described in the Benefit Plan. Except for Co-payments, FACILITY agrees to refrain from billing Participant for any amounts due until such time that the claim is processed by PAYOR or its claims administrator and any applicable Co-insurance and/or Deductible amounts have been properly identified on an EOB. FACILITY further agrees not to balance bill Participant for the difference between the amounts agreed to in the confidential RFP response and FACILITY's billed charges. In the event that a claim payment is under dispute or appeal, FACILITY shall refrain from seeking payment from the Participant until such dispute is resolved.

## **2.12 Records**

FACILITY shall establish and maintain medical, financial, and other records for Participants who receive Covered Services. Such records will be maintained in accordance with generally accepted medical, accounting, and bookkeeping practices, and will be preserved as may be necessary for compliance with applicable State and Federal laws, and accrediting bodies of the FACILITY. FACILITY shall make all records relating to this Agreement available to PAYOR and/or its claims administrator, and governmental authorities having jurisdiction over this Agreement for inspection and copying at reasonable times upon receipt of at seven (7) days prior written notice. If PAYOR requests the information pursuant to an inspection or an audit, then PAYOR will protect the confidentiality of such records in accordance with applicable legal standards. PAYOR will reimburse FACILITY for all reasonable copying costs incurred by FACILITY as a result of said record inspection or audit.

## **3. RESPONSIBILITIES OF PAYOR**

### **3.1 Payment for Covered Services**

PAYOR shall pay FACILITY for Covered Services rendered to Participants in accordance with the Benefit Plan and Section 4 of this Agreement.

### **3.2 Facility Directories and Promotion**

PAYOR agrees to include FACILITY in appropriate Facility directories or website listings.

### **3.3 Eligibility**

PAYOR shall require its claims administrator to confirm a Participant's eligibility for Covered Services upon request by FACILITY. During ordinary business hours, PAYOR shall assure

reasonable access, through standard means of communication, for the confirmation that services are covered and a Participant is eligible under a Benefit Plan.

### **3.4 FACILITY's Right to Inform Patients**

PAYOR shall not in any way preclude or discourage FACILITY from informing Participants of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the Participant's Benefit Plan, nor prohibit, discourage, or penalize FACILITY otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this Agreement shall be construed to authorize FACILITY to bind PAYOR or its claims administrator to pay for any services.

### **3.5 ID Cards**

PAYOR shall provide each Participant with a membership identification card displaying any applicable network logos, the Participant's name and identifier, group name and/or number, telephone number to confirm eligibility and benefit verification, utilization management vendor name and telephone number to confirm necessary pre-authorization for services.

### **3.6 Explanation of Benefits**

PAYOR shall ensure that its claims administrator provides an Explanation of Benefits (EOB) during the claim adjudication process which, at a minimum, identifies: PAYOR, total billed charges, allowed amount in accordance with SCL's confidential response to the City of Billings' RFP Direct Contract request, amount PAYOR responsible to pay, amount Participant responsible to pay, and non-covered codes or services.

## **4. CLAIMS SUBMISSION AND PAYMENT**

### **4.1 Claims Submission**

FACILITY shall use reasonable commercial efforts to submit a claim for services provided preferably within sixty (60) days but in no event later than one (1) year of the date services were incurred by the Participant, provided the Participant is identified as an eligible Participant under the Benefit Plan, and shall cooperate with PAYOR or its claims administrator, as applicable, to provide additional information requested to process the claim as a Clean Claim.

### **4.2 Payment of Claims**

PAYOR shall pay FACILITY for Covered Services provided to a Participant, subject to the following minimum standards:

**4.2.1** PAYOR shall pay or cause its claims administrator to pay the rate set forth in SCL's confidential response to the City of Billings' RFP Direct Contract request for Covered Services provided to Participants within thirty (30) business days of the date PAYOR and/or its claims administrator receives a Clean Claim, unless PAYOR and/or its claims administrator makes a reasonable request for additional information or documents in order to evaluate the claim during this time period. If PAYOR and/or its claims administrator makes a request for additional information to evaluate the claim, PAYOR and/or its claims administrator agrees to provide an explanation of the necessary additional information in a format that meets the requirements of 29 CFR 2560.503-1 and Section 2719 of the Public Health Service Act and its implementing guidance and allow at least 45 days for the recipient to provide the information;

**4.2.2** PAYOR and/or its claims administrator, as applicable, or FACILITY may request contractually supported corrective adjustments to a payment made to FACILITY hereunder

during the twelve (12) months following payment of the claim. Thereafter, the payment shall be deemed final and PAYOR shall have no obligation to pay and FACILITY shall have no obligation to refund.

**4.2.3** Claims may be subject to standard claims editing software to detect bundling and unbundling, as well as incorrect billing. Upon request, PAYOR shall provide FACILITY with an explanation of unbundling and incorrect billing edits.

**4.2.4** PAYOR or its designated third party auditor (“Auditor”) may inspect claims data and billing records relating to the Covered Services provided to PAYOR’s Participants at its expense. Audit materials or documentation provided by FACILITY will be confined to PAYOR or Participant -specific information.

These standards do not apply to claims about which there is substantial evidence of fraud or misrepresentatin by FACILITY or Participant.

### **4.3 Coordination of Benefits and Third Party Liability**

FACILITY agrees to cooperate with PAYOR's coordination of benefits (COB) and third party liability policies and programs.

## **5. MAINTENANCE OF RECORDS, INSPECTION AND AUDIT**

### **5.1 Maintenance of Records**

FACILITY shall maintain all appropriate medical, administrative and financial records for each Participant who receives services from FACILITY. Such records shall be maintained as is required by law and generally accepted medical practice and professional ethics.

PAYOR shall have the right to request, inspect and audit any and all records of FACILITY related to a Participant as permitted by law, and as may be necessary for PAYOR to perform its obligations under this Agreement. Where documents are requested by PAYOR for audit purposes, including audits subject to Section 4.2.4, PAYOR shall reimburse FACILITY for reasonable costs incurred in providing copies of requested documents, at the maximum amount allowed by Montana law, or if not specified by Montana law, a rate of \$.10 per page.

FACILITY shall have the right to request, inspect and audit any and all records of PAYOR directly related to a Participant as permitted by law, and as may be necessary for FACILITY to perform its obligations under this Agreement. Where documents are requested, FACILITY shall reimburse PAYOR for reasonable costs incurred in providing copies of requested documents, at the maximum amount allowed by Montana law, or if not specified by Montana law, a rate of \$.10 per page.

Neither party shall be reimbursed for copies of documents requested for purposes of payment of claims, resolution of quality of care or service concerns, complaints and/or grievances, or medical management review and coverage determinations.

### **5.2 Record Retention**

Both parties shall retain all records relating to this Agreement for a minimum of seven (7) years.

### **5.3 External Audits**

Both parties agree to cooperate with any external audits mandated by state or federal law, and shall make records available to appropriate state and federal authorities involved in assessing the quality of care or investigating the grievances or complaints of Participants, subject to applicable state and federal laws related to the confidentiality of medical records.

**6. CONFIDENTIAL AND PROPRIETARY INFORMATION**

**6.1 Information Relating to this Agreement**

Both parties agree that all information of this Agreement, including reimbursement rates and fees in SCL’s confidential response to the City of Billings’ RFP Direct Contract request, as well as other information identified by either party as confidential or proprietary, including the reimbursement terms disclosed in SCL’s confidential response to the City of Billings’ RFP Direct Contract request herein, shall not be disclosed without the prior written consent of the other party. Upon termination of this Agreement, any documents identified by either party as proprietary shall be returned to the respective party.

**6.2.1 Participant Health Information**

**6.2.2** The parties agree to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, as amended (HITECH) all applicable requirements and obligations under HIPAA and HITECH governing any uses and disclosures of all Protected Health Information (PHI) or Electronic PHI (E-PHI) that may occur as a result of this Agreement as applicable to each party. Each party warrants it will maintain and protect the confidentiality of all PHI and E-PHI in accordance with its obligations under HIPAA, HITECH, and all applicable federal and state laws and regulations.

**6.2.3** The parties shall implement a documented privacy program that includes administrative, technical and physical safe guards designed to prevent the accidental or otherwise unauthorized use or disclosure of PHI or E-PHI.

**6.2.4** Upon termination of this Agreement, at the request of the party that owns PHI or E-PHI, the other party shall promptly return to the requesting party all such PHI or E-PHI which has been provided to it or dispose of such PHI or E-PHI in a mutually agreed upon manner.

**6.3 Effect of Termination**

The parties understand that the requirements of this Section 6, shall survive the termination of this Agreement.

**7. INDEMNIFICATION**

PAYOR and FACILITY shall indemnify and hold the other party harmless from loss, damage, or defense costs (including, but not limited to reasonable attorney’s fees) arising from actual or alleged negligent acts or omissions of the other party, its officers, employees, subcontractors, or other agents in performing services contemplated under this Agreement which are solely the responsibility of either PAYOR or FACILITY. Neither party shall be liable for any liability of the other party, its agents, officers or employees, whether resulting from judgment, settlement, award fine or otherwise, which arises out of such other party’s actions or omissions under this Agreement.

**8. TERM AND TERMINATION**

**8.1 Term of Agreement**

This Agreement will commence effective as of the date specified on page 1 of this Agreement, and shall continue for a period of five (5) years. Thereafter, this Agreement shall automatically renew with the same terms and conditions as set forth herein for successive one-year, up to an additional five (5) years, terms unless terminated in accordance with the terms of this Agreement.

## **8.2 Termination**

### **8.2.1 Termination Without Cause**

Either party may terminate this Agreement without cause, upon one-hundred eighty (180) days prior written notice to the other party.

### **8.2.2 Termination for Cause**

Either party may terminate this Agreement for cause by giving the other party thirty (30) days prior written notice. Such notice shall specify the reasons for the termination and shall provide the other party thirty (30) days from the date of receipt of the notice of termination to correct the cause to the satisfaction of the complaining party. Should the cause not be cured within this thirty (30) day period, termination shall occur thirty (30) days from the end of that period.

## **8.3 Effect of Termination**

This Agreement shall be of no further force or effect as of the effective date of termination except that:

**8.3.1** PAYOR shall be responsible for payment of Covered Services provided by FACILITY to a Participant as of the effective date of termination.

**8.3.2** FACILITY shall not seek compensation from the Participant for any Covered Services provided under the terms of this Agreement prior to the termination date, except for any applicable Deductible, Copayment or Coinsurance amounts.

**8.3.3** FACILITY shall continue the treatment of Participants who were receiving care in an inpatient FACILITY as of the effective date of termination, for a period which is the lesser of (i) the date the Participant is discharged from the FACILITY, (ii) until PAYOR arranges for the Participant to be transferred from the FACILITY, or (iii) thirty (30) days after termination. The provisions of this Agreement, including negotiated reimbursement rates, will not apply after the Agreement termination date.

## **9. DISPUTE RESOLUTION**

The parties will meet and confer in an attempt to resolve any dispute arising out of or relating to this Agreement. A dispute not resolved within thirty (30) days of this meeting will be submitted to mediation, which will be held in a mutually agreed upon location in Montana, in accordance with the American Arbitration Association (“AAA”) Rules of Procedure for Mediation. A single mediator, selected by AAA and having at least 10 years’ legal experience in ERISA and health care will mediate the dispute. If the dispute is not resolved through mediation, the parties will be free to pursue all legal and equitable remedies otherwise available, provided, however that any action taken or remedy sought must be initiated within one (1) year of the parties’ first meeting to resolve the dispute. In the event any party to this Agreement takes legal action to enforce its rights hereunder, including, but not limited to, the submission of an issue for mediation pursuant to this Section 9 or a request for an injunction or other equitable relief through the courts, each party to such action shall bear their own costs and expenses related to such action, and one-half (1/2) of any common costs and expenses of mediation.

The provisions of this Section 9 shall not affect either party's right to terminate this Agreement as provided for under Section 8.2 of this Agreement.

## **10. GENERAL PROVISIONS**

### **10.1 Independent Contractors**

Each party to this Agreement shall be acting as an independent contractor. None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement.

### **10.2 Amendment**

This Agreement may be amended from time to time by either party only by providing the other party sixty (60) days advance written notice of the amendment, and only upon the mutual written consent of the parties.

### **10.3 Severability/Conformity with Law**

In the event any provision of this Agreement is rendered invalid or unenforceable by any State or Federal regulation, or declared null and void by any court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect to the fullest extent possible consistent with the intent and purpose of this Agreement, unless the severance of any such provision substantially impairs the benefits of the remaining provisions of this Agreement. This Agreement shall be interpreted, and if necessary, amended, to conform to applicable federal and state law in effect on or after the Agreement's effective date.

### **10.4 Entire Agreement**

This Agreement, its Attachments, and any documents incorporated herein by reference, constitute the entire Agreement between the parties. No implied covenants shall be read into this Agreement. This Agreement supersedes all prior agreements between the parties.

### **10.5 Waiver of Breach**

Neither the failure nor delay on the part of either party to exercise any right under this Agreement shall serve as a waiver of that right. If either party should waive a breach of any provision of this Agreement, it shall not be deemed or construed as a waiver of any other breach of the same or different provision.

### **10.6 Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Montana and applicable Federal laws and regulations.

### **10.7 Medical Care**

It is hereby understood that FACILITY is solely responsible for all decisions and liability regarding their medical care and treatment of Participants. It is also agreed that the traditional relationship between FACILITY and patient shall in no way be affected by or interfered with by any of the terms of this Agreement. FACILITY understands that any determinations made by PAYOR or its claims administrator and any determinations made in connection with utilization review are solely for purposes of determining whether services are Covered Services under the terms of a Benefit Plan and the extent to which payments may be made thereunder. Accordingly, such determinations shall in no way affect the responsibility of FACILITY to provide appropriate services to Participants.

### **10.8 Assignment**

Neither party shall assign this agreement without the express written consent of the other.

### **10.9 Notices**

Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and may be sent electronically or by U.S. mail, First Class, postage prepaid, to FACILITY or PAYOR at their respective addresses set forth on the signature page of this Agreement, except for notice given under Section VI, which shall be sent by Certified Mail, return receipt requested. Notice shall be deemed given when received or three (3) business days after notice is deposited in the mail as set forth above, whichever is earlier.

### **10.10 Force Majeure**


Neither party shall be required to comply with the provisions of this Agreement if the failure to comply is occasioned by any act of God, bankruptcy, act of a governmental authority responding to an act of God or other emergency, or the result of a strike, lockout, or other labor dispute.

### **10.11 Ethical and Religious Directives**

The Parties acknowledge that the FACILITY is an institution operated in accordance with the *Ethical and Religious Directives for Catholic Health Care Services*, as approved by the United States Conference of Catholic Bishops. Notwithstanding any provision of this Agreement to the contrary, Provider shall not be required, nor shall any provision hereof be construed to require Provider to provide services or participate in activities that are inconsistent with the health care ethics or precepts of the Catholic Church.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives as of the date written below.

**FACILITY**

  
\_\_\_\_\_  
Signature

Troy Holmes

(Print Name)

VP Payer Strategies and Contracting

Title

November 12, 2019

Date

**PAYOR**

\_\_\_\_\_  
Signature

(Print Name)

Title

Date

**Contact Info:**

\_\_\_\_\_  
Business Office Contact

\_\_\_\_\_  
Business Office Address, Suite #

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Contact's Phone Number/Email

**Contact Info:**

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Office Address, Suite #

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Contact's Phone Number/Email

81-0232124 – St. Vincent Healthcare  
Facility's Tax ID #

1083655997 – St. Vincent Healthcare  
Facility's NPI #

## **SCHEDULE A**

Effective July 1, 2019, for Covered Services provided to Participants at St. Vincent Healthcare, Tax ID #81- 0232124, PAYOR shall pay and FACILITY agrees to accept the rates and terms set forth in SCL's confidential response to the City of Billings' RFP Direct Contract request as payment in full.

## LETTER OF AGREEMENT

This Letter of Agreement (Agreement) is entered into by and between Rocky Mountain Health Network, Inc. ("RMHN") and City of Billings ("Plan Sponsor") for the benefit of its employee benefit plans and employees and dependents, effective January 1, 2020. The terms of the Agreement apply exclusively to the Plan Sponsor's employee benefit plans for employees, retirees and their eligible dependents.

### **Recitals**

**WHEREAS**, Plan Sponsor offers and/or administers a health benefit Plan on behalf of eligible employees and their dependents;

**WHEREAS**, RMHN is a Physician Hospital Organization (PHO) comprised of various healthcare providers ("Providers") engaged in the provision of health care services in communities throughout Montana and, among other goals, is committed to organizing and coordinating a network of Providers to deliver a comprehensive scope of services;

**WHEREAS**, RMHN has experience and expertise in developing and managing agreements with employers, payers and others;

**WHEREAS**, Plan Sponsor contracts for claims administration and other administrative services under an administrative services only agreement with EBMS to provide services on behalf of eligible employees and their dependents through a contracted network of participating providers;

**WHEREAS**, the purpose of the Agreement is to provide Plan Sponsor with a comprehensive network of Providers;

**WHEREAS**, the Plan Sponsor desires to enter into this Agreement with RMHN to obtain access to the network of Providers;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth in the Agreement, the parties agree as follows:

### **Definitions**

**Benefit Plan** means a program offered by or administered by Plan Sponsor for the payment of Covered Services provided to an eligible Participant.

**Clean Claim** means a claim for Covered Services that (a) is timely received by the Plan Sponsor and/or its TPA, as applicable; (b) (i) when submitted via paper has all the elements of the UB 04 or CMS 1500 (or successor standard) forms; or (ii) when submitted via an electronic transaction, uses only permitted transaction code sets (e.g. CPT4, ICD9, ICD10, HCPCS) and has all the elements of the standard electronic formats required by applicable Federal authority; (c) is a claim for which the Benefit Plan is the primary payor or the Benefit Plan's responsibility as a secondary payor has been established; and (d) contains no defect, error or other shortcoming resulting in the need for additional information to adjudicate the claim.

**Coinsurance** means a cost-sharing obligation that requires the Participants to pay a percentage of the cost of specified Covered Services.

**Copayment** means the amount that a Participant is responsible to pay under the Plan Sponsor's Benefit Plan at the time of service.

**Covered Services** means those specified Medically Necessary health care services for which a Participant is eligible to receive benefits under the Benefit Plan.

**Deductible** means the amount a Participant must pay for Covered Services each calendar or plan year before a Plan Sponsor commences payment as defined under the Benefit Plan.

**Medical Necessity or Medically Necessary** means a medical service or medical supply, which meets all of the following criteria:

1. It is required for the treatment or diagnosis of a covered medical condition;
2. It is the most appropriate supply or level of service that is essential for the diagnosis or treatment of the Participant's covered medical condition;
3. It is known to be effective in improving health outcomes for the Participant's covered medical condition in accordance with sufficient scientific evidence and professionally recognized standards;
4. It is not furnished primarily for the convenience of the Participant or Provider of services; and
5. If this definition of Medically Necessary is not consistent with the definition of Medically Necessary in the Benefit Plan, the definition in the Benefit Plan will control.

Medical necessity alone does not determine coverage.

**Participant** means any person who is eligible to receive Covered Services under the terms and conditions of Plan Sponsor's Benefit Plan.

**Participating Provider** means a RMHN Provider who has opted into the Agreement with the Plan Sponsor.

**Third Party Administrator (TPA)** means the organization that processes insurance claims on behalf of the Plan Sponsor.

## **DUTIES OF RMHN**

### **Provide or Arrange for Covered Services**

RMHN agrees to arrange for the provision of Medically Necessary Covered Services on a timely basis, without regard to health status or medical condition, and in accordance with generally accepted medical practice guidelines and standards pursuant to the terms of this Agreement, and in accordance with applicable Plan Sponsor policies and procedures. Except in the case of emergency, RMHN Participating Providers agree to use reasonable commercial efforts to verify each Participant's eligibility prior to providing Covered Services. In the case of an emergency, Provider will notify Plan Sponsor and Plan Sponsor's TPA of the provision of Medically Necessary services to treat the emergency condition in accordance with Plan Sponsor's provision for notification.

RMHN Participating Providers agree to furnish Covered Services to Participant on the same basis as such services are made available to individuals who are not Participants, and without regard to the Participant's enrollment in a Benefit Plan. In providing services under the Agreement, RMHN Participating Providers shall exercise the degree of care, skill and knowledge expected of a prudent health care Provider and in a manner consistent with currently approved methods and practices in

Provider's medical specialty. Providers shall exercise professional medical judgment, free of any direction or control by Plan Sponsor, and shall remain solely responsible for the quality of services rendered.

### **Accessibility and Hours of Service**

Participating Provider shall arrange for the provision of Covered Services to Participants during normal business hours at the usual places of business of Provider. Provider shall ensure that Provider arranges for and maintains call schedules that provide appropriate call coverage to Participants in the event Participants are unable to contact their Participating Providers.

### **Licensing Requirements**

At all times during the term of this Agreement, RMHN and RMHN Participating Provider shall possess and maintain in good standing all necessary professional and facility licenses, certifications, registrations, permits and other approvals required by State and/or Federal law to provide or arrange for the provision of Covered Services to Participants.

### **Provider Network Notifications and Update**

RMHN will provide Plan Sponsor and Plan Sponsor's TPA with an initial roster of Participating Providers that includes information needed for claims processing. RMHN will provide ongoing updates to Plan Sponsor and Plan Sponsor's TPA.

### **Insurance**

RMHN and RMHN Participating Providers shall provide and maintain, at their sole cost and expense and for the duration of this Agreement, policies of general comprehensive liability and professional liability insurance, or self-insurance, in an amount acceptable to Plan Sponsor. Such policies shall insure against any claim or claims for damage arising by reason of personal injury or death occasioned directly or indirectly in connection with the acts or omissions of Provider, agents or employees pursuant to the terms of this Agreement. RMHN shall notify Plan Sponsor immediately but no more than two (2) business days from notification of any revocation, reduction in coverage, or termination of any such policy. Upon request, RMHN shall provide Plan Sponsor with evidence of compliance with this insurance requirement in the form of a certificate of insurance or evidence of self-insurance in an amount and form acceptable to Plan Sponsor.

### **Medical Management Programs**

RMHN agrees to comply with and participate in Plan Sponsor's and/or its TPA's medical management/utilization management programs and requirements, whichever is applicable, which may include but are not limited to, pre-authorization, notification, concurrent review, retrospective review, re-admission guidelines, case management, disease management programs, pharmacy and specialty pharmacy programs, referral management, quality assurance and improvement programs and medical necessity oversight.

RMHN further agrees to share Participant information as specifically related to these programs. RMHN Participating Providers are required to allow access to Participant records, provide for copying and release of records at Provider's expense, and to speak to the Plan Sponsor or its TPA or designee upon request, as allowed by law, in a timely manner to facilitate the Medical Management program. Non-compliance with the Medical Management program may result in non-payment.

### **Subcontract**

If RMHN subcontracts with any other provider to provide Covered Services to Participants hereunder, RMHN understands and agrees that the subcontract and the subcontracting provider must comply with all terms of this Agreement and applicable state law and regulation.

### **Non-Covered Services/Exclusions**

Provider shall provide notice to Participant of their personal financial obligations for non-covered services, which includes services that are not Medically Necessary. Provider may bill a Participant for non-covered services if Provider has, prior to the provision of non-covered services, obtained a written acknowledgment and acceptance of financial responsibility from the Participant after full disclosure of (i) Provider's intent to bill Participant for non-covered services, and (ii) the non-liability of Plan Sponsor for such non-covered services.

### **Claims Payment**

Provider shall look only to Plan Sponsor for payment of claims. Provider may not collect or attempt to collect from Participant money owed to Provider by Plan Sponsor.

### **Acceptance of Payment**

Provider shall accept payment, as described in RMHN's confidential response to the City of Billings RFP Direct Contract request, as payment in full for Covered Services rendered, less Coinsurance, Copayments, Deductibles, and non-covered or ineligible charges as described in the Benefit Plan. Except for Co-payments, Provider agrees to refrain from billing Participant for any amounts due until such time that the claim is processed by Plan Sponsor or its TPA and any applicable Co-insurance and/or Deductible amounts have been properly identified on an EOB. Provider further agrees not to balance bill Participant for the difference between the amounts agreed to in the confidential RFP response and Provider's billed charges. In the event that a claim payment is under dispute or appeal, Provider shall refrain from seeking payment from the Participant until such dispute is resolved.

### **Records**

Providers shall establish and maintain medical, financial, and other records for Participants who receive Covered Services. Such records will be maintained in accordance with generally accepted medical, accounting, and bookkeeping practices, and will be preserved as may be necessary for compliance with applicable State and Federal laws, and accrediting bodies of the Provider. Provider shall make all records relating to this Agreement available to Plan Sponsor and/or its TPA, and governmental authorities having jurisdiction over this Agreement for inspection and copying at reasonable times upon receipt of at seven (7) days prior written notice. If Plan Sponsor requests the information pursuant to an inspection or an audit, then Plan Sponsor will protect the confidentiality of such records in accordance with applicable legal standards. Plan Sponsor will reimburse Provider for all reasonable copying costs incurred by Provider as a result of said record inspection or audit.

## **RESPONSIBILITIES OF PLAN SPONSOR**

### **Payment for Covered Services**

Plan Sponsor shall pay Providers for Covered Services rendered to Participants in accordance with the Benefit Plan and Claims Submission section of this agreement.

### **Directory and Promotion**

Plan Sponsor and/or TPA agree to include RMHN Participating Providers in appropriate directories or website listings.

**Eligibility**

Plan Sponsor shall require its TPA to confirm a Participant's eligibility for Covered Services upon request by Provider. Plan Sponsor shall assure reasonable access, through standard means of communication, including using electronic transaction as required by applicable law, for the confirmation that services are Covered Services and a Participant is eligible under the Benefit Plan.

**Provider's Right to Inform Patients**

Plan Sponsor shall not in any way preclude or discourage Provider's from informing Participants of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the Participant's Benefit Plan, nor prohibit, discourage, or penalize Provider's otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this Agreement shall be construed to authorize Provider to bind Plan Sponsor or its TPA to pay for any services.

**ID Cards**

Plan Sponsor or its TPA shall provide each Participant with a membership identification card displaying any applicable network logos, the Participant's name and identifier, group name and/or number, telephone number to confirm eligibility and benefit verification, utilization management vendor name and telephone number to confirm necessary pre-authorization for services.

**Explanation of Benefits**

Plan Sponsor shall ensure that its TPA provides an Explanation of Benefits (EOB) during the claim adjudication process which, at a minimum, identifies: PAYOR, total billed charges, allowed amount in accordance with rate agreement, amount PAYOR responsible to pay, amount Participant responsible to pay, and non-covered codes or services.

**CLAIMS SUBMISSION AND PAYMENT****Claims Submission**

Provider shall use reasonable commercial efforts to submit a claim for services provided preferably within sixty (60) days but in no event later than one (1) year of the date services were incurred by the Participant, provided the Participant is identified as an eligible Participant under the Benefit Plan, and shall cooperate with Plan Sponsor or its TPA, as applicable, to provide additional information requested to process the claim as a Clean Claim.

**Payment of Claims**

Plan Sponsor shall pay Participating Provider for Covered Services provided to a Participant, subject to the following minimum standards:

- Plan Sponsor shall pay or cause its TPA to pay for Covered Services provided to Participants within thirty (30) business days of the date Plan Sponsor and/or its TPA receives a Clean Claim, unless Plan Sponsor and/or its TPA makes a reasonable request for additional information or documents in order to evaluate the claim during this time period. If Plan Sponsor and/or its TPA makes a request for additional information to evaluate the claim, Plan Sponsor and/or its TPA agree to provide an explanation of the necessary additional information in a format that meets the requirements of 29 CFR 2560.503-1 and Section 2719 of the Public Health Service Act and its implementing guidance and allow at least 45 days for the recipient to provide the information;
- Plan Sponsor and/or its TPA, as applicable, or Provider may request contractually supported corrective adjustments to a payment made to Provider hereunder during the twelve (12)

months following payment of the claim. Thereafter, the payment shall be deemed final and Plan Sponsor shall have no obligation to pay and Provider shall have no obligation to refund.

- Claims may be subject to standard claims editing software to detect bundling and unbundling, as well as incorrect billing. Upon request, Plan Sponsor shall provide Provider with an explanation of unbundling and incorrect billing edits.
- Plan Sponsor or its designated third party auditor (“Auditor”) may inspect claims data and billing records relating to the Covered Services provided to Plan Sponsor’s Participants at its expense. Audit materials or documentation provided by Provider will be confined to Plan Sponsor or Participant-specific information.

These standards do not apply to claims about which there is substantial evidence of fraud or misrepresentation by Provider or Participants.

### **Coordination of Benefits and Third Party Liability**

Provider agrees to cooperate with Plan Sponsor’s coordination of benefits (COB) and third party liability policies and programs.

## **MAINTENANCE OF RECORDS, INSPECTION AND AUDIT**

### **Maintenance of Records**

Provider shall maintain all appropriate medical, administrative and financial records for each Participant who receives services from Provider. Such records shall be maintained as is required by law and generally accepted medical practice and professional ethics.

Plan Sponsor shall have the right to request, inspect and audit any and all records of Provider related to a Participant as permitted by law, and as may be necessary for Plan Sponsor to perform its obligations under this Agreement. Where documents are requested by Plan sponsor for audit purposes, Plan Sponsor shall reimburse Provider for reasonable costs incurred in providing copies of requested documents, at the maximum amount allowed by Montana law, or if not specified by Montana law, a rate of \$.10 per page.

Provider shall have the right to request, inspect and audit any and all records of Plan Sponsor directly related to a Participant as permitted by law, and as may be necessary for Provider to perform its obligations under this Agreement. Where documents are requested, Provider shall reimburse Plan Sponsor for reasonable costs incurred in providing copies of requested documents, at the maximum amount allowed by Montana law, or if not specified by Montana law, a rate of \$.10 per page.

Neither party shall be reimbursed for copies of documents requested for purposes of payment of claims, resolution of quality of care or service concerns, complaints and/or grievances, or medical management review and coverage determinations.

### **Maintenance of Records**

Both parties shall retain all records relating to this Agreement for a minimum of seven (7) years.

### **External Audits**

Both parties agree to cooperate with any external audits mandated by state or federal law, and shall make health records available to appropriate state and federal authorities involved in assessing the quality of care or investigating the grievances or complaints of Participants, subject to applicable state and federal laws related to the confidentiality of medical record.

## **CONFIDENTIAL AND PROPRIETARY INFORMATION**

### **Information Relating to this Agreement**

Both parties agree that all information of this Agreement, as well as other information identified by either party, is confidential or proprietary, and shall not be disclosed without the prior written consent of the other party. Upon termination of this Agreement, any documents identified by either party as proprietary shall be returned to the respective party.

### **Participant Health Information**

The parties agree to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, as amended (HITECH) all applicable requirements and obligations under HIPAA and HITECH governing any uses and disclosures of all Protected Health Information (PHI) or Electronic PHI (E-PHI) that may occur as a result of this Agreement as applicable to each party. Each party warrants it will maintain and protect the confidentiality of all PHI and E-PHI in accordance with its obligations under HIPAA, HITECH, and all applicable federal and state laws and regulations.

Upon termination of this Agreement, at the request of the party that owns PHI or E-PHI, the other party shall promptly return to the requesting party all such PHI or E-PHI which has been provided to it or dispose of such PHI or E-PHI in a mutually agreed upon manner.

### **Effect of Termination**

The parties understand that the requirements of this Section shall survive the termination of this Agreement.

## **INDEMNIFICATION**

Plan Sponsor and Provider shall indemnify and hold the other party harmless from loss, damage, or defense costs (including, but not limited to, reasonable attorney's fees) arising from actual or alleged negligent acts or omissions of the other party, its officers, employees, subcontractors, or other agents in performing services contemplated under the Agreement which are solely the responsibility of either Plan Sponsor or Provider. Neither party shall be liable for any liability of the other party, its agents, officers or employees, whether resulting from judgement, settlement, award fine or otherwise, which arises out of such other party's actions or omissions under the Agreement.

## **TERM & TERMINATION**

### **Term of Agreement**

This Agreement shall become effective January 1, 2020, and shall continue in effect for an initial five (5) year term (through December 31, 2024). At the end of this initial term, this Agreement can be renewed for an additional five (5) year term with mutual agreement of the parties.

### **Termination Without Cause**

Either party may terminate this Agreement without cause, upon one hundred eighty (180) days prior written notice to the other party.

### **Termination for Cause**

Either party may terminate this Agreement for cause by giving the other party thirty (30) days prior written notice. Such notice shall specify the reason(s) for termination and shall provide the other party thirty (30) days from the date of receipt of the notice of termination to correct the cause to the satisfaction of the complaining party. Should the cause not be cured within this thirty (30) day period, termination shall occur thirty (30) days from the end of that period.

#### Effect of Termination

This Agreement shall be of no further force or effect as of the effective date of termination except that:

- Plan Sponsor shall be responsible for payment of Covered Services provided by Provider to a Participant as of the effective date of termination.
- Provider shall not seek compensation from the Participant for any Covered Services provided under the terms of this Agreement prior to the termination date, except for any applicable Deductible, Copayment or Coinsurance amounts.
- Provider shall continue the treatment of Participants who were receiving care in an inpatient facility as of the effective date of termination, for a period which is the lesser of (i) the date the Participant is discharged from the facility, (ii) until Plan Sponsor arranges for the Participant to be transferred from the facility, or (iii) thirty (30) days after termination. The provisions of this Agreement, including negotiated reimbursement rates, will not apply after the Agreement termination date.

#### **DISPUTE RESOLUTION**

The parties will meet and confer in an attempt to resolve any dispute arising out of or relating to this Agreement. A dispute not resolved within thirty (30) days of this meeting will be submitted to mediation, which will be held in a mutually agreed upon location in Montana, in accordance with the American Arbitration Association (“AAA”) Rules of Procedure for Mediation. A single mediator, selected by AAA and having at least 10 years’ legal experience in ERISA and health care will mediate the dispute. If the dispute is not resolved through mediation, the parties will be free to pursue all legal and equitable remedies otherwise available, provided, however that any action taken or remedy sought must be initiated within one (1) year of the parties’ first meeting to resolve the dispute. In the event any party to this Agreement takes legal action to enforce its rights hereunder, including, but not limited to, the submission of an issue for mediation pursuant to this Section or a request for an injunction or other equitable relief through the courts, each party to such action shall bear their own costs and expenses related to such action, and one-half (1/2) of any common costs and expenses of mediation.

The provisions of this Section shall not affect either party’s right to terminate this Agreement as provided for under the Term and Termination Section of this Agreement.

#### **GENERAL PROVISIONS**

##### **Independent Contractors**

Each party to this Agreement shall be acting as an independent contractor. None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Amendment**

This Agreement may be amended from time to time by either party only by providing the other party sixty (60) days advance written notice of the amendment, and only upon the mutual written consent of the parties.

**Severability/Conformity with Law**

In the event any provision of this Agreement is rendered invalid or unenforceable by any State or Federal regulation, or declared null and void by any court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect to the fullest extent possible consistent with the intent and purpose of this Agreement, unless the severance of any such provision substantially impairs the benefits of the remaining provisions of this Agreement. This Agreement shall be interpreted, and if necessary, amended, to conform to applicable federal and state law in effect on or after the Agreement's effective date.

**Entire Agreement**

This Agreement, its Attachments, and any documents incorporated herein by reference, constitute the entire Agreement between the parties. No implied covenants shall be read into this Agreement. This Agreement supersedes all prior agreements between the parties.

**Waiver of Breach**

Neither the failure nor delay on the part of either party to exercise any right under this Agreement shall serve as a waiver of that right. If either party should waive a breach of any provision of this Agreement, it shall not be deemed or construed as a waiver of any other breach of the same or different provision.

**Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Montana and applicable Federal laws and regulations.

**Medical Care**

It is hereby understood that Provider is solely responsible for all decisions and liability regarding their medical care and treatment of Participants. It is also agreed that the traditional relationship between Provider and patient shall in no way be affected by or interfered with by any of the terms of this Agreement. Provider understands that any determinations made by Plan Sponsor or its TPA and any determinations made in connection with utilization review are solely for purposes of determining whether services are Covered Services under the terms of a Benefit Plan and the extent to which payments may be made thereunder. Accordingly, such determinations shall in no way affect the responsibility of Provider to provide appropriate services to Participants.

**Assignment**

Neither party shall assign this agreement without the express written consent of the other.

**Notices**

Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and may be sent electronically or by U.S. mail, First Class, postage prepaid, to RMHN or Plan Sponsor at their respective addresses set forth on the signature page of this Agreement, except for notice given under Confidential and Proprietary Information Section, which shall be sent by Certified Mail, return receipt requested. Notice shall be deemed given when received or three (3) business days after notice is deposited in the mail as set forth above, whichever is earlier.

**Force Majeure**

Neither party shall be required to comply with the provisions of this Agreement if the failure to comply is occasioned by any act of God, bankruptcy, act of a governmental authority responding to an act of God or other emergency, or the result of a strike, lockout, or other labor dispute.

IN WITNESS WHEREOF, the parties have executed this Agreement through a duly authorized representative as of the dates noted below:

<b>For RMHN:</b>	<b>For Plan Sponsor:</b>
By: <u>Carol A. B</u>	By: _____
Printed Name: <u>CAROL A. BEAM</u>	Printed Name: _____
Title: <u>CEO</u>	Title: _____
Date: <u>11-12-2019</u>	Date: _____
Address: Rocky Mountain Health Network, Inc. 2475 Village Lane, Suite 302 Billings, MT 59102	Address: City of Billings Human Resources Department 210 N 27 <sup>th</sup> Street Billings, MT 59101

## **SCHEDULE SUMMARY**

In accordance with Exhibit 3A of the RFP issued by the City of Billings for Direct Contracting Services effective January 1, 2020, RMHN has agreed to not request or share any proprietary or confidential financial information, fee schedules or reimbursement rates with anyone other than the Plan Sponsor's consultant and the Plan Sponsor's TPA. All the information contained in the following Schedules is deemed proprietary:

SCHEDULE A – NETWORK

SCHEDULE B – OCCUPATIONAL HEALTH SERVICES

SCHEDULE C – EMPLOYEE ASSISTANCE PROGRAM (EAP)

SCHEDULE D - WELLNESS

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Memorandum of Agreement on 27th Street Fiber Conduit

**PRESENTED BY:** David Watterson, IT Director

**Department:** Information Technology

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

At the end of 2018, PW-Engineering, the Airport, and Information Technology began discussions with the Montana Department of Transportation (MDT) and HDR, Inc. about the construction plans for 27<sup>th</sup> Street. The plans called for the installation of two (2) separate conduits that would be installed along the west side of 27<sup>th</sup> Street from just below the roundabout at the Airport south to the intersection of S. 27<sup>th</sup> Street and 1<sup>st</sup> Ave S. One (1) of the conduits would be used for MDT fiber to support their traffic signals and the other conduit would be installed as a spare. Our initial conversations with MDT and HDR, Inc. were centered around the concept of the adding 1 or possibly 2 city owned conduits into the trench already planned for MDT's project. After several discussions, the State generously offered to allow the city to use the planned spare conduit in exchange for the city allocating a minimal amount of dark fiber for future State/MDT use. This solution not only eliminated the need for any construction design changes but literally eliminated the cost for the city to have long-term access to fiber conduit along 27<sup>th</sup> Street.

This solution, represented in the Memorandum of Agreement (MOA), is a huge opportunity for the City of Billings. Through this MOA, the city can install city owned fiber now or anytime in the future to city facilities located anywhere in the near proximity of 27<sup>th</sup> Street. Airport Director, Kevin Ploehn, has been actively engaged in this project and is eager to extend the fiber conduit from the roundabout on the southern front of the Airport into his facilities therefore providing the pathway to link the Airport city offices to the main city network at gigabit speeds. Looking forward, this opens up opportunities to extend conduit and fiber to existing city facilities such as the PW-Belknap Services Center and future city facilities.

**UPDATE:**

On Tuesday, Nov. 12th, City Council delayed approval of Consent Agenda Item 1E until the next Regular business meeting on November 25, 2019. This item is a Memorandum of Understanding between the City of Billings and the Montana Department of Transportation (MDT) drafted by the MDT which allows the City to use conduit installed by MDT on N.27th Street. This delay allowed for requested wording changes and for further review of the agreement's Attachment A - "MDT Nondiscrimination and Disability Accommodation Notice".

The incorrect reference to the City of Bozeman within the agreement has been corrected to reflect City of Billings in the attached MOA with the Montana Dept of Transportation.

Nicole Cosby, Compliance Officer with the Non-Discrimination and Equal Employment Opportunity (EEO) Program within the MDT also provided two Executive Orders to staff which

form the basis of the language in paragraph One of Attachment A to the MOU. These Executive Orders are also attached to this memo and are summarized here:

1. A State of Montana Executive Order EO # 04-2016 which was signed by Governor Bullock in January of 2016. This EO requires all state contracts to contain the nondiscrimination wording contained within Attachment A - MDT Nondiscrimination and Disability Accommodation Notice.
2. A Federal Presidential Executive Order 13672 dated July 21, 2014, which contains similar wording and was the primary basis for the Governor's EO 04-2016.

## **ALTERNATIVES ANALYZED**

City Council may:

- Approve the Memorandum of Agreement (MOA) with the Montana Department of Transportation (MDT) or;
- Disapprove and provide staff with guidance.

## **FINANCIAL IMPACT**

The Memorandum of Agreement (MOA) with MDT is at no initial cost to the City of Billings. In the future, the city will pay for additional fiber counts on any fiber we install within the conduit. This is a minimal expense as it will only impact the cost of the actual fiber itself.

## **RECOMMENDATION**

Staff recommends that Council approve the Memorandum of Agreement (MOA) with the Montana Department of Transportation (MDT) providing for the expansion of our city fiber network along 27th Street.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

MDT MOA 27th Street  
State Exec Order # 04-2016  
Federal Executive Order 13672

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**City/State Memorandum of Agreement  
N 27<sup>TH</sup> City Conduit  
Billings, Montana  
September 2019**

This Memorandum of Agreement (Agreement) is made and entered into by and between the city of Billings (“the City”), a self-governing municipality operating pursuant to its Charter and the laws of the State of Montana, 210 North 27<sup>th</sup> Street, Billings, MT 59101 and the Montana Department of Transportation (“MDT”), a department of the State of Montana, P.O. Box 201001, Helena MT 59620-1001 together referred to as “the Parties.”

The Purpose of this Agreement is to set forth the respective responsibilities and duties of the City and MDT associated with the installation, maintenance, and use of City owned fiber optic cable within a MDT installed conduit on N 27<sup>th</sup> Street (N-53) from the I-90 westbound ramps, Reference Post (RP) 0.000 to the intersection of Airport Road (U-1014) RP 2.99 roadway right-of-way in the City of Billings, hereafter referred to as “the Project”. This Agreement sets forth terms necessary to provide maintenance of the facility. Any rights granted to the City by this Agreement is explicitly subject and subordinate to the rights and title of MDT and the State of Montana.

**WHEREAS**, MDT is responsible for planning, designing, constructing and maintaining Commission-designated State Highways and roadway associated transportation facilities, including associated pull-offs, parking areas, and rest areas for the use and benefit of the traveling public, in a safe and efficient manner in accordance with Title 23 United States Code (U.S.C) and Title 60 Montana Code Annotated (MCA) including N 27<sup>th</sup> St (N-53).

**WHEREAS**, N 27<sup>th</sup> St (N-53) is on the National Highway System within the State of Montana and is eligible to receive Federal Highway Funds; and

**WHEREAS**, in accordance with the State’s agreement with the Federal Highway Administration (FHWA) of the U.S. Department of Transportation, MDT must ensure that certain requirements are met in order for MDT to fulfill its obligations to the FHWA and for the N 27<sup>th</sup> Street Corridor (N-53) to be eligible for federal funds; and

**WHEREAS**, the Project includes installation of conduit by MDT and the future installation of fiber optic cable by the City within the MDT installed conduit on N 27<sup>th</sup> from 1<sup>st</sup> Ave S to Airport Road Billings City limits, per the approved project location (Attachment B); and

**WHEREAS**, The City has agreed to maintain, or cause to be maintained, the conduit, pull boxes, and fiber optics cable the N 27<sup>th</sup> Street (N-53) roadway right-of-way within the Billings City limits subject to this agreement; and

**WHEREAS**, The City and MDT have agreed to an in-kind exchange of service in lieu of payment, as the City has agreed to reserve fiber for future MDT use for MDT fiber optic cable or conduit for the traffic signals or other uses as determined by MDT; and

**WHEREAS,** The City has agreed to limit the use of the remaining fiber optic cable for public use including: city offices, emergency service providers, public schools, University system, and law enforcement; and prohibit commercial use of the fiber optic cable; and

**WHEREAS,** This Agreement must be fully executed before the initiation of construction of the Project within MDT right-of-way; and

**NOW, THEREFORE,** The Parties set forth the fundamental duties and responsibilities necessary for the encroachment of the Project into roadway right-of-way. In consideration of the following mutual promises the parties agree as follows:

**ARTICLE I. OBLIGATIONS OF THE CITY**

1. The City shall coordinate any installation for the Project with MDT.
2. The City agrees that no fixture, building, structure, or other permanent installation shall be constructed or placed within MDT right-of-way without prior written approval from MDT.
3. The City shall submit and receive approval from the MDT Billings District Maintenance Chief (406-657-0217) for a traffic control plan prior to working within MDT right-of-way.
4. Before initiating any construction work within MDT right-of-way, the City shall schedule a preconstruction meeting with the MDT Billings District Maintenance Chief (406-657-0217) to discuss construction related activities and coordination. The MDT Billings Maintenance staff must be notified, and an approval received a minimum of 14 calendar days prior to commencing any construction or maintenance work within MDT right-of-way.
5. The City shall complete the necessary environmental processes for modification to the state highways and roadways and demonstrate that all, if any, environmental issues associated with the proposed Project have been identified and mitigated. The City agrees it will prepare and file any required environmental documents and apply for and obtain any permits required by other governmental agencies at no expense to MDT prior to construction taking place within MDT right-of-way.
6. The City agrees to be responsible for any and all damages to MDT's facilities caused by The City, the City's staff or contractors, or resulting from the City's operations. The City must repair any and all damages, at its sole expense, after notification of damage by MDT and approval of repair work needed, method of repair, and schedule of repair.
7. The City agrees it will fund any additional costs MDT may incur for MDT projects which impact the amenities the City places in the MDT right-of-way.

8. The City is responsible for maintaining the Fiber Optic Cable and Conduit to ensure they do not negatively impact the safety and operation of N 27<sup>th</sup> (N-52).
9. The City agrees the fiber is only to be used for the public benefit including MDT use, and not for commercial use. The City must not receive payment for use of the fiber.
10. The City agrees to reserve a minimum of 12 count fiber, if the fiber cable 72 count or greater the City agrees to reserve 24 count fiber for MDT's use.

## **ARTICLE II. OBLIGATIONS OF MDT**

1. MDT agrees to review all future plans, design, and data submitted by the City for fiber installation to ensure all MDT safety and design standards are met, and if found acceptable, approve such plans and designs.
2. Once the plans and designs are found acceptable, MDT will issue the appropriate encroachment permit following MDT's standard processes.
3. MDT agrees it will review and, if acceptable, approve the City's Traffic Control Plan.
4. MDT agrees it will conduct final inspection of the Project within MDT right-of-way upon completion and request any improvements or corrections necessary to comply with MDT standards.

## **ARTICLE V. GENERAL TERMS AND CONDITIONS**

1. **Term** – The initial term of this Agreement is ten (10) years. The City shall have the right to extend the term of this by additional ten (10) year renewal terms by giving MDT not less than one hundred eighty (180) days written notice prior to the end of the term. Prior to the commencement of any renewal term of this Agreement, MDT shall notify the City of revisions to Agreement. This Agreement may be extended after the renewal term only by mutual consent of both parties.
2. **Termination** – This Agreement may be terminated by MDT if: 1.) The City has violated or breached any term, condition, or article of this Agreement and has failed to correct the same within 30 days of receiving notice in writing addressed to the City, at the address shown above, from MDT of such violation or breach of any term, condition, or Article of this Agreement.
3. **Hold Harmless & Indemnification**  
The City agrees to protect, defend, indemnify, and hold MDT, its elected and appointed officials, agents, and employees, while acting within their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments ( including the cost of defense and reasonable attorney fees) arising in favor of or asserted by the

City's employees or third parties on account of personal or bodily injury, death or damage to property, arising out of the acts or omissions of the City, its agents, or sub-contractors, under this Agreement, except the negligence of MDT.

The State and Department of Transportation agrees to protect, defend, indemnify, and hold the City, its elected and appointed officials, agents, and employees, while acting within their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or asserted by the MDT's employees or third parties on account of personal or bodily injury, death or damage to property, arising out of the acts or omissions of MDT, its agents, or sub-contractors, under this Agreement, except the negligence of the City.

1. Insurance

- a. General Requirements: Each party shall maintain for the duration of this Agreement, at its own cost and expense, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the duties and obligations in this Agreement by each party, its agents, employees, representatives, assigns, or sub-contractors. This insurance shall cover such claims as may be caused by any negligent act or omission.
- b. General Liability Insurance: Each party shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1 million per occurrence and \$2 million aggregate per year to cover such claims as may be caused by or arising out of any negligent acts or omissions in work or services performed under this Agreement, or as established by statutory tort limits as provided by a public entity self-insurance program either individually or on a pool basis as provided by Mont. Code Ann. Title 2, Chapter 9.
- c. General Provisions: All insurance coverage must be with a carrier licensed to do business in the State of Montana or by a public entity self-insured program either individually or on a pool basis. Each party must notify the other immediately of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. Each party reserves the right to request complete copies of the other party's insurance policy or self-insured memorandum of coverage at any time.
- d. Workers' Compensation Insurance: The City must maintain workers' compensation insurance and require its contractors and its contractor's sub-contractors to carry their own workers compensation coverage while performing work within MDT right-of-way in accordance with Mont. Code Ann. §§39-71-401 and 39-71-405. Neither the contractor nor its employees are employees of MDT. This insurance/exemption must be valid for the entire Agreement period.

2. Public Safety:

- a. If any repairs to the Project must be done to prevent a public hazard, the City will immediately protect the area from public access, contact MDT Billings Area Maintenance, and take corrective action to repair the hazard.

- b. If MDT incurs any costs as a result of a public emergency that necessitates action on MDT's part concerning the maintenance or repair of the Project, MDT shall be compensated for such costs by the City, and the City shall pay the same within thirty (30) days of its receipt of such invoices.
6. Section 17-1-106, MCA, requires any state agency, including MDT, which receives non-general funds to identify and recover its indirect costs (IDC). These costs are in addition to direct project costs. MDT's IDC rate is determined annually as a percentage of the project's direct costs to cover the project's share of MDT's IDC as defined by 2 CFR Part 200, Appendix VII. MDT's current IDC rate is 10.41% for fiscal year 2020 (July 1, 2019 to June 30, 2020). If the work occurs or extends into fiscal year 2020 or beyond the IDC rate will be charged at the rate agreed to by MDT and the Federal Highway Administration (FHWA).

7. Invoice will be sent to the appropriate party according to the Agreement:

City of Billings  
Attention: IT Director  
PO Box 1178  
Billings MT 59101

8. Payments shall be made to:

Montana Department of Transportation  
Attention: Collections  
2701 Prospect Avenue  
PO Box 201001  
Helena, MT 59620-1001

9. Choice of Law – This Agreement shall be governed by the laws of Montana
10. Venue – The parties agree that any litigation concerning this Agreement must be brought in the First Judicial District Court, in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees, except as otherwise noted in this Agreement on Indemnification. In case of conflict between the terms and conditions of this Agreement and the laws of the State of Montana, the laws of the State of Montana shall control.
11. Binding Effect – The benefits and obligations set forth in this Agreement shall be binding upon, and inure to the benefit of, their respective successors, administrators and assigns of the Parties.
12. Relationship of Parties – Nothing contained in this Agreement shall be deemed or construed (either by the Parties hereto or by any third party) to create the relationship

of principal and agent or create any partnership joint venture or other association between the Parties.

13. Non-Discrimination – The City will require that during the performance of any work arising out of this Agreement the City, for itself, assignees, and successors shall comply with all applicable non-discrimination regulation set forth in Attachment “A” attached hereto and made part of this Agreement.

MDT requires that any construction or maintenance resulting from this Agreement must include appropriate pedestrian facilities that meet or exceed current MDT standards for accessibility as set forth by the United States Department of Justice 2010 ADA Standards for Accessible Design, United States Access Board Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way (2011 PROWAG), and MDT’s Detailed Drawings, 608 series.

14. Audit – The Legislative Auditor and the Legislative Fiscal Analyst may, without prior notice and during normal business hours, audit, at their own cost and expense, all records, reports, and other documents the City maintain in connection with this Agreement.
15. Access and Retention of Records – The City agrees to provide the State, Legislative Auditor, or their authorized agents access to any records necessary to determine compliance with this MOA (Mont. Code Ann. §18-1-118). The City agrees to create and retain records supporting this Agreement for a period of three years after the completion date of this Agreement or the conclusion of any claim, litigation or exception relating to the Agreement taken by the State of Montana or a third party.
16. Highway Modifications – If MDT modifies or improves N 27<sup>th</sup> (N-53) highway or roadway facilities, the City will modify, upon reasonable notice at no expense to MDT, the Project accordingly.
17. Revocation – This Agreement is revocable by MDT in the event that the Project facilities within the right-of-way cease to be used by the City for a period of one year or abandoned otherwise. Upon revocation or abandonment, the system facilities must be removed in compliance with this Agreement.
18. Utilities – The right of any private or public utility now lawfully occupying the right-of-way to operate and maintain utility facilities supersedes any right granted by this Agreement to the City. Copies of existing utility permits may be obtained from the MDT Billings District Utility Agent.
19. Amendment and Modification – The Parties may modify or amend this Agreement only by a written Addendum signed by the Parties. The Addendum will control any conflict between the Agreement and Addendum shall control, unless prohibited by law.

20. Counterpart Execution- This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

*(Signature Pages to Follow)*

IN WITNESS WHEREOF, the Department's authorized representative has hereunto signed on behalf of the State of Montana, and the Mayor of the City of Billings, on behalf of the City, has signed and affixed hereto the seal of the City.

**STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION**

By \_\_\_\_\_, 2018  
Montana Department of Transportation

Carol Hall-Morris  
Approved for Legal Content

Patti Schurman 10-16-19  
Approved for Civil Rights

**CITY OF BILLINGS**

By \_\_\_\_\_, 2019  
William A Cole, Mayor  
City of Billings, Montana

ATTEST:

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

(SEAL)

**ATTACHMENT A**

**MDT Nondiscrimination and Disability Accommodation Notice**

**MDT NONDISCRIMINATION  
AND  
DISABILITY ACCOMMODATION NOTICE**

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter “protected classes”) by its employees or anyone with whom MDT does business:

Federal protected classes

Race, color, national origin,  
sex, sexual orientation, gender identity,  
age, disability, & Limited English Proficiency

State protected classes

Race, color, national origin, parental/marital  
status, pregnancy, childbirth, or medical  
conditions related to pregnancy or childbirth,  
religion/ creed, social origin or condition,  
genetic information, sex, sexual orientation,  
gender identification or expression, national  
origin, ancestry, age, disability mental or  
physical, political or religious affiliations or  
ideas, military service or veteran status

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

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

**(2) Non-discrimination:**

- a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
- b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
  - i. Statement that PARTY does not discriminate on the grounds of any protected classes.
  - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
  - iii. Contact information for PARTY’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.

- iv. Information on how to request information in alternative accessible formats.
- c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

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

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

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

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

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

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

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

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

**(7) Pertinent Non-Discrimination Authorities:**

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

*Federal*

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).
- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

*State*

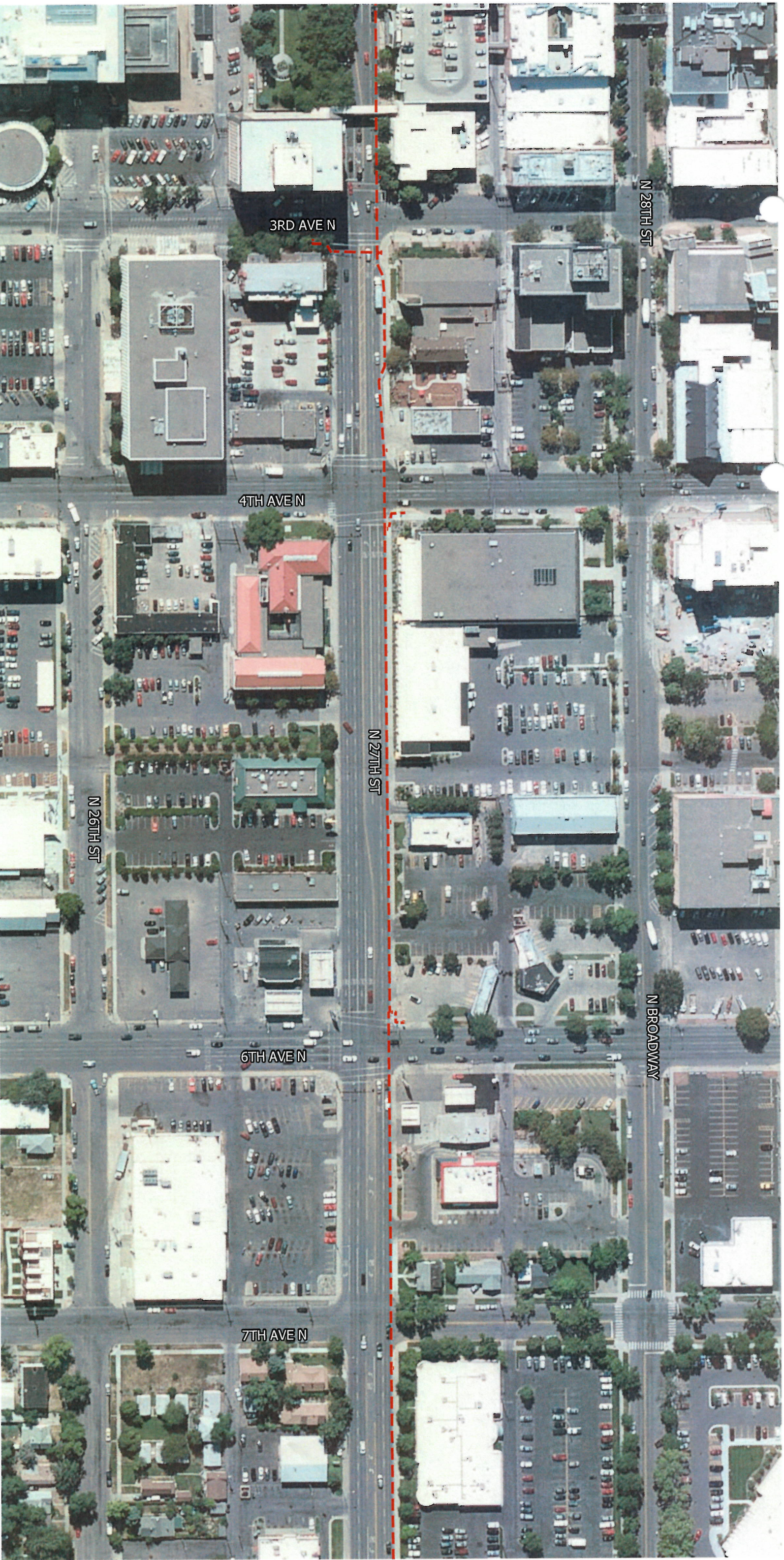
- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

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

**ATTACHMENT B**

**Project Location**





DATA SOURCE: Montana Cadastral, MDT, ESRI  
 Montana State Library, USDA

LEGEND

- MILE MARKER
- MDT FIBER

0 200 Feet

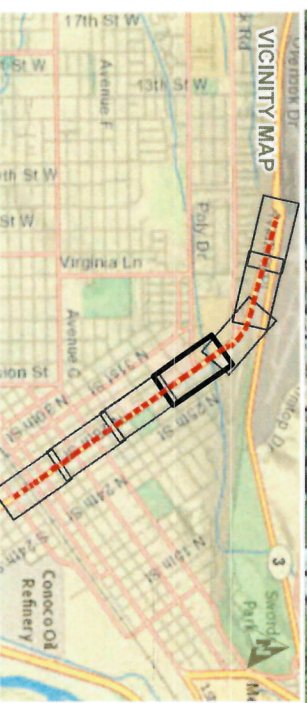


DATA SOURCE: Montana Cadastreal, MDT, ESRI  
 Montana State Library, USDA

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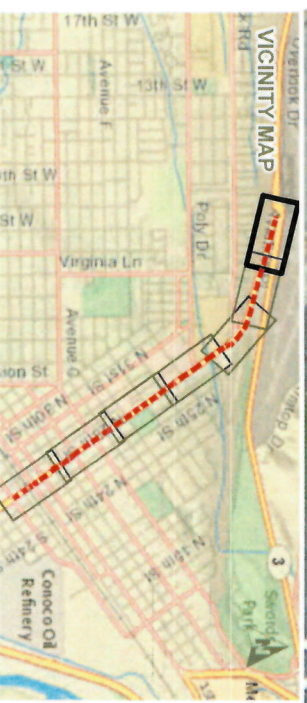


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**DATA SOURCE:** Montana Cadastral, MDT, ESRI  
 Montana State Library, USDA

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**STATE OF MONTANA  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER NO. 04-2016**

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**EXECUTIVE ORDER PROHIBITING DISCRIMINATION IN STATE EMPLOYMENT  
AND CONTRACTS**

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**WHEREAS**, Montana is a place that welcomes all people and recognizes the value of diversity;

**WHEREAS**, Montana’s Constitution affirms Montanans’ basic human rights, declaring that “the dignity of the human being is inviolable”;

**WHEREAS**, in *Obberfell et al. v. Hodges*, the United States Supreme Court recognized that “[t]he fundamental liberties protected by the Fourteenth Amendment’s Due Process Clause extend to certain personal choices central to individual dignity and autonomy, including intimate choices defining personal identity and beliefs” and laws burdening this liberty interest also “abridge central concepts of equality”;

**WHEREAS**, four in ten lesbian, gay, and bisexual people report experiencing some form of employment discrimination based on their sexual orientation, and 90 percent of transgender people report harassment, mistreatment or discrimination on the job;

**WHEREAS**, four of Montana’s largest communities have taken steps to expand workplace, housing, and public accommodation protections for LGBT residents and visitors;

**WHEREAS**, 91 percent of Fortune 500 companies prohibit discrimination based on sexual orientation, and 61 percent prohibit discrimination based on gender identity;

**WHEREAS**, a 2013 Equal Employment Opportunity Commission study found that pregnancy-related discrimination complaints have increased significantly since an earlier study conducted in 1997;

**WHEREAS**, our military service members, veterans, and their families have made and continue to make tremendous sacrifices for our country, and their diverse backgrounds, experience, discipline, specialized training, and leadership skills make them well-suited for public service;

**WHEREAS**, nearly 100,000 veterans and their families call Montana their home;

**WHEREAS**, federal and state laws prohibit employment discrimination against our nation's service members and veterans;

**WHEREAS**, Montana is likely to face a worker shortage over the next decade, and this shortage will be exacerbated by discrimination that drives away talented and trained workers who want to live in a place where they are free from discrimination and harassment;

**WHEREAS**, workplace protections are linked to greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes of employees;

**WHEREAS**, denial of equal opportunity, discrimination, and harassment based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status is prohibited by state, federal, and local law, rule, policy, or executive order; and

**WHEREAS**, January 18, 2016, is the day our country honors civil rights leader Martin Luther King Jr. On this day, I am guided by words he wrote while jailed in Birmingham during our country's fight for racial equality "[i]njustice anywhere is a threat to justice everywhere." Letter from Birmingham Jail, Alabama, 16 April 1963, in *Atlantic Monthly*, August 1963.

**NOW, THEREFORE, I, STEVE BULLOCK**, Governor of the State of Montana, by virtue of the authority vested in me under the Constitution and the laws of the State of Montana, do hereby order and direct the Department of Administration, which is charged with the administration of state personnel and procurement policies, and all agencies, managers, supervisors, and employees under the jurisdiction of the Governor, to take the following actions:

1. Develop and implement policies necessary to ensure that all persons employed or served by state government are afforded equal opportunity, without discrimination, based upon any of the above classes.
2. Take steps necessary to prevent and stop discrimination, sexual harassment, or harassment based on membership of any of the above classes.
3. Include provisions in state contracts or subcontracts for construction of public buildings or for other public work or for goods or services, in accordance with federal, state, local law, rule, policy, or executive order that all hiring must be on the basis of merit and qualifications and that there may not be discrimination based on any of the above classes by the persons performing the contract or subcontract.
4. The Department of Administration is directed to prepare a nondiscrimination policy applicable to all agencies under the jurisdiction of the Governor, which includes specific language prohibiting discrimination, sexual harassment, and harassment based on membership in any of the above classes and an internal complaint procedure that remains continuously in effect. The policy shall make it clear that discrimination based on any of the above-named classes and sexual harassment or harassment based on membership in any of the above classes is a form of misconduct and anyone who is found to have violated the policy of non-discrimination and non-harassment will be subject to discipline, up to and including termination of employment. The policy statement must be distributed to all department directors and heads of agencies that are subject to policies promulgated by the Department of Administration for further distribution to state employees.
5. The Department of Administration shall continue to assist state agencies in implementing and maintaining an Equal Employment Opportunity Program in state government. The program shall include non-discrimination and harassment awareness programs that

emphasize harassment prevention and cultural diversity awareness with emphasis on Montana Indian Tribes.

6. Each agency head and its managers are responsible for compliance with and implementation of this Executive Order.
7. This Executive Order supersedes and rescinds Executive Order No. 41-2008, issued by Governor Brian Schweitzer on November 14, 2008.

This Order is effective immediately and shall remain in effect until amended or rescinded by future Executive Order of the Governor.



GIVEN under my hand and the GREAT SEAL of  
the State of Montana this 18<sup>th</sup> day of  
JANUARY, 2016.

  
STEVE BULLOCK, Governor

ATTEST:

  
LINDA MCCULLOCH, Secretary of State



U.S. Equal Employment Opportunity Commission

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## Executive Order 13672

### EXECUTIVE ORDER

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#### FURTHER AMENDMENTS TO EXECUTIVE ORDER 11478, EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT, AND EXECUTIVE ORDER 11246, EQUAL EMPLOYMENT OPPORTUNITY

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 121, and in order to provide for a uniform policy for the Federal Government to prohibit discrimination and take further steps to promote economy and efficiency in Federal Government procurement by prohibiting discrimination based on sexual orientation and gender identity, it is hereby ordered as follows:

Section 1. Amending Executive Order 11478. The first sentence of section 1 of Executive Order 11478 of August 8, 1969, as amended, is revised by substituting "sexual orientation, gender identity" for "sexual orientation".

Sec. 2. Amending Executive Order 11246. Executive Order 11246 of September 24, 1965, as amended, is hereby further amended as follows:

(a) The first sentence of numbered paragraph (1) of section 202 is revised by substituting "sex, sexual orientation, gender identity, or national origin" for "sex, or national origin".

(b) The second sentence of numbered paragraph (1) of section 202 is revised by substituting "sex, sexual orientation, gender identity, or national origin" for "sex or national origin".

(c) Numbered paragraph (2) of section 202 is revised by substituting "sex, sexual orientation, gender identity, or national origin" for "sex or national origin".

(d) Paragraph (d) of section 203 is revised by substituting "sex, sexual orientation, gender identity, or national origin" for "sex or national origin".

Sec. 3. Regulations. Within 90 days of the date of this order, the Secretary of Labor shall prepare regulations to implement the requirements of section 2 of this order.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 5. Effective Date. This order shall become effective immediately, and section 2 of this order shall apply to contracts entered into on or after the effective date of the rules promulgated by the Department of Labor under section 3 of this order.

BARACK OBAMA

THE WHITE HOUSE,  
July 21, 2014.

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** W.O. 20-01, Schedule 1: 48-inch and 60-inch Sanitary Sewer Interceptor Rehabilitation Project

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

**Department:** Public Works

**Presentation:** No

**PROBLEM/ISSUE STATEMENT**

The City Council will consider awarding a Professional Engineering Services Contract to Morrison-Maierle, Inc. (MMI) in the amount of \$665,513.00 for design and construction administration services on Schedule 1 of the 2020 Sanitary Sewer Replacement Project. The City replaces and upgrades its sanitary sewer utilities as part of an annual maintenance program. This project will replace approximately 9,000 feet of the existing 48-inch and 60-inch sanitary sewer interceptors that convey all the wastewater flows into the Water Reclamation Facility (WRF) for the entire city except the Heights. The existing interceptors are made from reinforced concrete pipe (RCP). The existing 60-inch interceptor has concrete spalling on the inside of the pipe that has exposed the rebar in some locations. Additionally, portions of the 48-inch have either a flat grade or reverse grade that negatively impacts the pipe capacity.

Morrison-Maierle, Inc. was selected based on City staff review of project proposals submitted by prequalified firms. Other firms considered for the work were DOWL, Sanderson Stewart, and Bartlett & West.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve awarding the Professional Engineering Services Contract to Morrison-Maierle, Inc., or;
- Do not approve awarding the engineering contract to Morrison-Maierle, Inc. If the project is not awarded, the City's sanitary sewer collection systems in these areas will continue to be unreliable and may experience ongoing maintenance problems and expenses.

**FINANCIAL IMPACT**

Funding for this project has been approved by City Council in the FY 20 budget. Schedule 1 projects will use sanitary sewer funds.

**RECOMMENDATION**

Staff recommends that the City Council award a Professional Engineering Services Contract for the design and construction administration of W.O. 20-01 Schedule 1: 48-inch and 60-inch Sanitary Sewer Interceptor Rehabilitation Project to Morrison-Maierle, Inc., in the amount not to exceed \$665,513.00.

**APPROVED BY CITY ADMINISTRATOR**

## Attachments

contract

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**Contract for Professional Architectural and Engineering Services**  
**City of Billings W.O. 20-01 Schedule 1: 48-inch and 60-inch Sanitary**  
**Sewer Interceptor Rehabilitation Project**

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In consideration of the mutual promises herein, City of Billings and Morrison-Maierle agree as follows. This Contract consists of:

- Part I, consisting of 15 Sections of Special Provisions;
- Part II, consisting of 11 Sections of General Provisions;
- Appendix A consisting of 9 pages (Basic Services of Contractor);
- Appendix B consisting of 2 pages (Methods and Times of Payment);
- Appendix C consisting of 1 pages (Additional Services of Contractor);
- Appendix D consisting of 3 pages (Schedule of Professional Fees);
- Appendix E consisting of 1 pages (Project Schedule);
- Appendix F consisting of 22 pages (Certificate(s) of Insurance); and

**PART I**  
**SPECIAL PROVISIONS**

Section 1. Definitions.

In this Contract:

- A. "Administrator" means the City Engineer of the Engineering Division of the Public Works Department or his designee.
- B. "Billings" means the City of Billings.
- C. "Contractor/Engineer" means Morrison-Maierle.
- D. In Appendix A, Contractor is referring to the construction contractor.

Section 2. Scope of Services.

- A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this Section by reference.
- B. Billings shall pay the Contractor in accordance with the Schedule of Professional Fees attached as Appendix D and incorporated herein by reference for services actually performed under this Contract.

- C. Billings shall not allow any claim for services other than those described in this Section. However, the Contractor may provide, at its own expense, any other services that are consistent with this Contract.
- D. The Engineer shall provide as-built drawings as approved by the City of Billings, to the Administrator within 30 days after the project completion date. Final payment will be withheld until the as-built drawings are received by the City of Billings. Requirements for submitting as constructed documents of completed Private Contracts, Work Orders, Special Improvement Districts and Site plans involving any City of Billings infrastructure: a point file; 1 (\*.asc, \*.txt, comma delimited; point number, northing, easting, elevation and description) / 2 (\*.csv, with headings for; point number, northing, easting, elevation and description), with northings and eastings to the nearest tenth of a foot, elevations to the nearest hundredth of a foot, representing new, updated or relocated City of Billings infrastructure features such as, but not limited to Sanitary Sewer Manholes, Storm Drain Manholes, Water Valves, Water Bends, Signals, Street Light, etc., in the coordinates of Montana State Plane, Zone 2500 using NAD83(2011), Horizontal and NAVD88 Vertical, Horizontal units and Vertical units will be International feet, one half size paper copy to scale, one full size paper copy to scale, two CD's or DVD's with PDF files being half size to scale and full size to scale and AutoCAD DWG files as-constructed / as-built, Version 2016, or equivalent.

Section 3. Time for Performance.

- A. This Contract becomes effective when signed on behalf of Billings.
- B. The Contractor shall commence performance of the Work described in Section 2 on receipt of written Notice to Proceed and complete that performance in accordance with the schedule set forth in Appendix E.
- C. This Contract shall terminate at midnight on March 1, 2022.

Section 4. Compensation; Method of Payment.

- A. Each month, or at the conclusion of each phase of the Work for which payment is due, as negotiated on a per-task basis, the Contractor shall present a bill to the Administrator describing the Work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within ten (10) days of the payment denial, notify the Contractor of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why. Billings will pay Contractor within 30 days of receiving an acceptable invoice.
- B. The Contractor is not entitled to any compensation under this Contract, other than is expressly provided for in this Section.
- C. As a condition of payment, the Contractor shall have paid all City taxes currently due and owing by the Contractor.

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 of this Part may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of Billings, provided that Billings notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party where the other party fails in any material way to perform its obligations under this Contract. Termination under this Subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within 30 days after receiving the notice.

#### Section 6. Duties Upon Termination

- A. If Billings terminates the Contractor's services for convenience, or Contractor terminates services for cause, Billings shall pay the Contractor for its actual costs reasonably incurred in performing before termination and Billings shall pay for services rendered prior to termination. Payment under this Subsection shall never exceed the total compensation allowable under Section 4 of this Part. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Billings.
- B. If the Contractor's services are terminated for cause, Billings shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination, less any damages suffered by Billings because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed ninety percent (90%) of the total compensation allowable under Section 4 of this Part. Any finished or unfinished documents or materials prepared by the Contractor under this Contract shall become the property of Billings at its option.
- C. If the Contractor receives payments exceeding the amount to which it is entitled under Subsections A or B of this Section, he shall remit the excess to the Administrator within 30 days of receiving notice to do so.
- D. The Contractor shall not be entitled to any compensation under this Section until the Contractor has delivered to the Administrator all documents, records, Work product, materials and equipment owned by Billings and requested by the Administrator.
- E. If the Contractor's services are terminated for whatever reason the Contractor shall not claim any compensation under this Contract, other than that allowed under this Section.
- F. If a final audit has not been performed before the Contractor's services are terminated, Billings may recover any payments for costs disallowed as a result of the final audit.
- G. Except as provided in this Section, termination of the Contractor's services under Section 5 of this Part does not affect any other right or obligation of a party under this Contract.

#### Section 7. Insurance.

- A. The Contractor shall maintain in good standing the insurance described in Subsection B of this Section. Before rendering any services under this Contract,

the Contractor shall furnish the Administrator with proof of insurance in accordance with Subsection B of this Section.

B. The Contractor shall provide the following insurance:

1. Workers' compensation and employer's liability coverage as required by Montana law.
2. Commercial general liability, including contractual and personal injury coverage's -- \$1,500,000 per occurrence.
3. Commercial automobile liability -- \$1,500,000 per accident.
4. Professional liability in the amount of \$1,500,000 per claim.

C. Each policy of insurance required by this Section shall provide for no less than 30 days' advance notice to Billings prior to cancellation.

D. Billings SHALL be listed as an additional insured on all policies except Professional Liability and Worker's Compensation Policies. In addition, all policies except Professional Liability and Worker's Compensation shall contain a waiver of subrogation against Billings.

#### Section 8. Assignments.

Unless otherwise allowed by this Contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this Contract or any delegation of duties under this Contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this Contract shall give Billings the right immediately to terminate this Contract without any liability for Work performed.

#### Section 9. Ownership; Publication, Reproduction and Use of Material.

- A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this Contract shall be the property of Billings, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents, or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright. Contractor shall retain rights to pre-existing proprietary property including but not limited to interactive models. The Contractor shall have the right to include photographic or artistic representations of the design and construction of the Project among the Contractor's promotional and professional materials. The Contractor's materials shall not include Billings' confidential or proprietary information regardless of whether Billings has previously advised the Contractor in writing of the specific information considered by Billings to be confidential and proprietary.
- B. Equipment purchased by the Contractor with Contract funds: See Appendix A, Section 3. Scope of Work.
- C. Should Billings elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Billings will indemnify and hold harmless the Contractor from any and all claims, demands and causes of action of any kind or character arising as a result of reusing the documents developed under this contract. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation,

and the original Contractor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.

#### Section 10. Notices.

Any notice required pertaining to the subject matter of this Contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Billings: City Engineer (Debi Meling, PE)  
City of Billings  
Public Works Department  
2224 Montana Avenue  
Billings, Montana 59101 FAX: (406) 237-6291 / PHONE : (406) 657-3097

Engineer: Morrison Maierle, Inc.  
Carl Anderson, PE  
315 North 25<sup>th</sup> Street, Suite 102  
Billings, Montana 59101 FAX: (406) 237-1201 / PHONE: (406) 656-6000

Notices are effective upon the earlier of receipt, proof of good transmission, or 5 days after proof of proper posting.

#### Section 11. Contract Budget.

In connection with its performance under this Contract, the Contractor shall not make expenditures other than as provided in line items in the Contract budget.

#### Section 12. Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this Contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this Contract, including without limitation:
  - 1. Any interruption, suspension or interference resulting solely from the act of Billings or neglect of Billings not otherwise governed by the terms of this Contract.
  - 2. Strikes or Work stoppages.
  - 3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
  - 4. Order of court, administrative agencies or governmental officers other than Billings.

### Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

- A. Provides accurate, current, and complete disclosure of all financial transactions relating to the Contract;
- B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this Contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
- C. Effectively controls and accounts for all municipal funds and Contract property;
- D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
- E. Allocates administrative costs to direct service delivery units;
- F. Minimizes the time between receipt of funds from Billings and their disbursement by the Contractor;
- G. Provides accounting records supported by source documentation; and
- H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

### Section 14. Funding Requirements.

In the event that any funding source for this Contract should impose additional requirements upon Billings for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Billings.

### Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this Contract, provided:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefor.
- B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
- C. Every subcontract in an amount exceeding \$1,000 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

**PART II  
GENERAL CONTRACT PROVISIONS**

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent Contractor of Billings. Billings may administer the Contract and monitor the Contractor's compliance with its obligations hereunder. Billings shall not supervise or direct the Contractor other than as provided in this Section.

Section 2. Nondiscrimination.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, or marital status or who is a "qualified individual with a disability" (as that phrase is defined in the Americans With Disabilities Act of 1990). The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, or mental or physical impairment/disability. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Contractor shall state, in all solicitations or advertisements for employees to Work on Contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex or marital status, or mental or physical impairment/disability.
- C. The Contractor shall comply with any and all reporting requirements that may apply to it which the City of Billings may establish by regulation.
- D. The Contractor shall include the provisions of Subsections A through C of this Section in every subcontract or purchase order under this Contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this Contract.
- E. The Contractor shall comply with all applicable federal, state, and city laws concerning the prohibition of discrimination.
- F. The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

Section 3. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Contract. All actions taken by the

Contractor under this Contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this Contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this Contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

- A. This Contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this Contract was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this Contract, the only authorized representatives of the parties are:

Contractor: President or Vice President  
(title of position)

Billings: City Council or Authorized Designee

- C. Any attempt to amend, modify, or change this Contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this Contract shall be brought in the District Court for the Thirteenth Judicial District of the State of Montana, Billings. The law of the State of Montana shall govern the rights and obligations of the parties under this Contract.

Section 7. Severability.

Any provision of this Contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the Contract.

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

The Contractor shall indemnify, save, and hold Billings harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any agent, employee or subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this Contract.

The Contractor shall not indemnify, save and hold Billings harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Billings occurring during the course of or as a result of the performance of the Contract.

Billings shall indemnify, save, and hold the Contractor harmless from any and all claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of Billings or any agent, employee or subcontractor as a result of Billings' or any subcontractor's performance pursuant to this Contract.

Billings shall not indemnify, save and hold the Contractor harmless from claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of the Contractor occurring during the course of or as a result of the performance of the Contract.

Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Billings and the Contractor, Billings shall indemnify, save, and hold the Contractor harmless from only that portion of claims, causes of action, lawsuits, damages, judgments, liabilities, and litigation costs and expenses including attorneys' fees and costs, which result from Billings' or any subcontractor's wrongful or negligent acts occurring as a result from Billings' performance pursuant to this Contract.

#### Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Billings may deem necessary, make available to Billings, for examination, all of its records with respect to all matters covered by this Contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this Contract, to Billings, in such form and at such times as Billings may reasonably require. The Contractor shall permit Billings to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Contract. Billings may, at its option, permit the Contractor to submit its records to Billings in lieu of the retention requirements of this Section.

#### Section 11. Availability of Funds.

Payments under this Contract may require funds from future appropriations. If sufficient funds are not appropriated for payments required under this Contract, this Contract

shall terminate without penalty to Billings; and Billings shall not be obligated to make payments under this Contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this Contract on the date and at the place shown below.

City of Billings

Contractor

\_\_\_\_\_  
City Council or Designee

Morrison-Maierle, Inc.

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

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

Title: Vice President

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

ATTEST:

IRS Tax ID # 81-0217149

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

APPROVED AS TO FORM:

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

By \_\_\_\_\_

BRENT BROOKS, City Attorney

STATE OF MONTANA            )  
  :ss.  
COUNTY OF YELLOWSTONE )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that they executed the foregoing instrument on behalf of said corporation having first been authorized to do so.

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

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

**Note: Final contract documents will require the Contractor's signature to be notarized if Federal funds are used.**

## Appendix A

### Basic Services of Engineer

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#### Section 1. Engineer's Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete the Engineer's portion of the project as defined in the scope of work and to prepare and deliver to Billings all plans, specifications, bid documents, and other material as designated herein.
- B. Ascertain such information as may have a bearing on the work from local units of government, utility companies, and private organizations and shall be authorized to procure information from other authorities besides Billings, but shall keep Billings advised as to the extent of these contacts and the results thereof.
- C. Prepare and present such information as may be pertinent and necessary in order for Billings to pass critical judgment on the features of the work. The Engineer shall make changes, amendments or revisions in the detail of the work as may be required by Billings. When alternates are being considered, Billings shall have the right of selection.
- D. Engineer's work shall be in accordance with the standards of sound engineering and present City, State, and National standards and policies currently in use.
- E. Conform to the requirements of the Montana Code Annotated Title 18 "Public Contracts" and more particularly Sections 18-2-121 and 18-2-122, and all other codes of the State of Montana applicable to providing professional services including codes and standards nationally recognized.
- F. The Engineer shall certify with the submission of final plans that the plans are in conformance with applicable sections of Title 69, Chapter 4, Part 5, of the Montana Code Annotated as pertaining to existing utilities.
- G. To perform professional services in connection with the project and will serve as Billings' representative in those phases of the project to which this agreement applies.
- H. Where Federal funds are involved, the necessary provisions to meet all requirements will be complied with and documents secured and placed in the bidding documents.
- I. Submit an estimated progress schedule as to time and costs at the beginning of the work, and monthly progress reports thereafter until complete. The reports will include any problems, potential problems, and delays as foreseen by the Engineer. Reports will be submitted in a timely manner to permit prompt resolution of problems.

- J. Name a Task Director who shall be the liaison between Billings and the Engineer. For this project the Task Director designated for the Engineer is Kurtis DeShaw, P.E. working under the Principal-in-Charge, Carl Anderson, P.E..

Section 2. Billings Rights and Duties.

- A. To furnish all labor, materials, equipment, supplies, and incidentals necessary to conduct and complete Billings' portion of the project as designated in the scope of work.
- B. Name a Task Director who shall be the liaison between the Engineer and Billings. For this project, the Task Director designated is Travis Harris, P.E.

Section 3. Scope of Work.

The project consists of engineering services for the design, bidding, and construction phase services for the City of Billings W.O. 20-01 Schedule 1: 48-inch and 60-inch Sanitary Sewer Interceptor Rehabilitation Project.

The purpose of the project is to design and perform construction administration for the following:

**Phase A: 60-inch Trenchless Sanitary Sewer Rehabilitation Project** – This phase consists of approximately 4,700 linear feet (LF) of 60-inch trenchless sewer main rehabilitation in an area generally bounded between Highway 87 near MetraPark up to the Yegen Drain Siphons.

**Phase B: 48-inch and 60-inch Open Cut Sanitary Sewer Rehabilitation Project** – This phase consists of Approximately 2,300 LF of 48-inch and 2,000 LF of 60-inch open cut sanitary sewer interceptor rehabilitation in an area located on MetraPark property bound to the south by the Yellowstone River, to the east by the Water Reclamation Facility (WRF), and to the west by Highway 87.

The scope of work is summarized below.

TASK 000 - PROJECT MANAGEMENT

**Phase A and B** – Project management for the design and construction phases will include all project coordination between the City and the consultant team members. This management task includes communication of ideas, questions, and issues to ensure the design encompasses the input from the project personnel for both the City and Morrison-Maierle. Project management also includes the effort necessary to control the quality, schedule, and budget of the project.

TASK 030 – SURVEY

**Phase A** – *Design phase survey service* for the trenchless phase of the project will primarily use existing manhole data and dips collected during the Interceptor Study. A

field survey will be conducted to identify manhole locations at manholes that were paved over or unlocatable in previous survey efforts. Since this phase consists of trenchless rehabilitation, utility locations will not be called in and surveyed for this phase of the project. If manholes are rehabilitated by open cut methods and not trenchless methods, additional topographical survey and utility locations will be added by a future amendment. Survey services will also consist of performing research to verify existing right-of-way locations utilizing platted information, ownership records and found property pins.

The horizontal and vertical datums for this project shall be approved by the City.

No *construction survey phase services* are included in Phase A. If manholes are rehabilitated by open cut methods and not trenchless methods, additional construction survey phase services will be added by a future amendment.

**Phase B** – *Design phase survey services* for the open cut phase of the project will consist of a design survey of the MetraPark property. Field surveys within the project limits and extending to appropriate match lines. Data collection shall include establishment of permanent horizontal and vertical control, topographic features and existing property pins. Engineer will provide appropriate temporary traffic control measures for all data collection completed in traffic areas. Field survey data will be utilized by the Engineer to develop preliminary project base mapping. Research will be performed to verify existing right-of-way locations utilizing platted information, ownership records and found property pins.

The horizontal and vertical datums for this project shall be approved by the City.

*Construction phase survey services* shall include providing personnel, equipment, and supplies for construction layout and control. Construction layout shall include, but not be limited to, layout, measurements, lines, locations, and grades necessary for construction. Staking shall occur at 25' intervals due to minimal grade on the interceptors.

Additional construction phase services shall be included to help the contractor control grade. The additional grade control consists of surveying inverts of each stick of pipe to verify positive grade in the interceptors. Additional grade control survey data for the contractor shall not transfer any liability of impacts related to improper installation of the interceptors (e.g. not installed to grades as shown on the plans).

Survey shall reference and preserve all existing survey monuments and benchmarks. All monuments required within the project shall be punched and elevations shown on as-built drawings.

### TASK 039 – GEOTECHNICAL EVALUATION

**Phase A** – No geotechnical evaluations or quality assurance tests are included in Phase A of this project. If manholes are rehabilitated by open cut methods and not

trenchless methods, additional geotechnical evaluations and quality assurance testing services will be added by a future amendment.

**Phase B** – Geotechnical engineering for this phase will be provided by a sub-consultant and shall include field sampling, laboratory testing and review of subsurface soils to determine appropriate pavement section design alternatives, sub-grade treatment, groundwater conditions, and foundations for utility installations. Recommendations for specific construction materials established in this review will be included in the project plans and specifications. Design geotechnical work will include 8 soil borings to a depth of 15 feet deep.

Quality assurance density tests, proctors, and concrete testing are included in the construction materials testing scope up to \$10,000. Since actual geotechnical testing fees may vary based on the contractors means and methods, the Engineer shall notify the City immediately if the budget is exceeded.

#### TASK 040A – TRENCHLESS DESIGN

The following work will be performed under this task:

- Prepare preliminary plans at 30% complete and preliminary plans, specifications, and estimate of probable cost at 60% complete for review by the City. An electronic file (PDF) of each review set will be provided to the City for review. In addition, one (1) 11"x17" copy of 30% plans, and one (1) 22"x34" copy and one (1) 11"x17" copy of 60% plans and specifications will be provided to the City. One copy of the 60% plans will be provided to each utility in the area. The 60% plans provided to the utilities will be annotated with potential conflicts noted as part of the design. Engineer will follow up with the utilities to ensure they received the plans sent to them. Engineer will hold a meeting for utilities to attend to discuss potential conflicts, if any occur.
- Coordinate with permitting agencies and public/private utilities, including MDEQ.
- Assist City with application(s) for all required permits (DEQ, MDT Permit etc.). City will pay respective permitting fees directly.
- Hold separate review meetings to review 30%, 60%, and 90% submittals with City staff before development of next stage plan documents.
- Perform field review(s) with City and other agencies, as required.
- Develop 90% plans, specifications, quantity summaries, and estimate of probable cost for final review by City staff. Engineer will meet with City staff to review 90% comments. One (1) 22"x34" copy and two (2) 11"x17" copies will be provided to the City, as well as an electronic file (PDF).
- Seal and sign all final plans, specifications, submitted calculations, and reports with the seal of the Montana licensed Professional Engineer in responsible charge of the work.
- Submit plans and specifications to Montana Department of Environmental Quality for review and approval. Coordinate with MDEQ on any follow-up comments/requirements.

The following list describes the criteria used to develop the scope of services and fee estimate.

- Plans shall consist of basic data required to facilitate construction of the project. This data shall include manhole locations, manhole invert elevations, surface created from manhole rim shots, service locations, and right-of-way and easement locations.
- An analysis of trenchless versus open cut manhole rehabilitation will occur for this section of the interceptor.
- An analysis of bypass pumping alternatives will be provided to provide the contractor with ideas for bypass pumping to reduce costs during construction, up to two alternative ideas included in the specifications. This analysis shall include time to model alternatives for bypass pumping flows from the 60-inch interceptor to the 36-inch interceptor on Phillips 66 property during low flow conditions.
- The project includes recommendations for construction and permanent easements. The Owner is responsible for procuring and drafting easement documents. Easements, after obtained by the City, will be shown on the plans.

Bidding services will be provided as follows:

- Furnish contract plans and specifications in sufficient number for bidding and contracting the project. It is anticipated that twenty-five (25) 11"x17" copies will be required.
- Provide bid advertisement text to City for publication. Submission of the advertisement to publications and the cost for advertising will be responsibility of the City.
- Maintain a plan holders' list.
- Answer prospective bidders' questions in regard to the project.
- Schedule and hold a pre-bid conference with interested contractors and suppliers. Publish minutes and any necessary addenda. Conduct pre-bid field review with Contractors, if necessary.
- Prepare and distribute addendums as necessary.
- Attend bid opening, analyze bid proposals, publish a bid tabulation, and make recommendations on awarding a construction contract.
- Prepare four (4) copies of construction contract documents.
- Plan sales will be credited to this task of the project.

#### TASK 040B – OPEN CUT DESIGN

The following work will be performed under this task:

- Prepare preliminary plans and specifications. Deliverables will include preliminary plans at 30% complete, and preliminary plans, specifications, and estimate of probable cost at 60% complete for review by the City. An electronic file (PDF) of each review set will be provided to the City for review. In addition, one (1) 11"x17" copy of 30% plans, and one (1) 22"x34" copy and one (1) 11"x17" copy of 60% plans and specifications will be provided to the City. One copy of the 60% plans

will be provided to each utility in the area. The 60% plans provided to the utilities will be annotated with potential conflicts noted as part of the design. Engineer will follow up with the utilities to ensure they received the plans sent to them. Engineer will hold a meeting for utilities to attend to discuss potential conflicts, if any occur.

- Coordinate with permitting agencies and public/private utilities, including MDEQ.
- Assist City with application(s) for all required permits (DEQ, flood plain, MDT Permit, etc.). City will pay respective permitting fees directly.
- Hold separate review meetings to review 30%, 60%, and 90% submittals with City staff before development of next stage plan documents.
- Perform field review(s) with City and other agencies, as required.
- Develop 90% plans, specifications, quantity summaries, and estimate of probable cost for final review by City staff. Engineer will meet with City staff to review 90% comments. One (1) 22"x34" copy and two (2) 11"x17" copies will be provided to the City, as well as an electronic file (PDF).
- Seal and sign all final plans, specifications, submitted calculations, and reports with the seal of the Montana licensed Professional Engineer in responsible charge of the work.
- Submit plans and specifications to Montana Department of Environmental Quality for review and approval. Coordinate with MDEQ on any follow-up comments/requirements.

The following list describes the criteria used to develop the scope of services and fee estimate.

- The project includes recommendations for construction and permanent easements. The Owner is responsible for procuring and drafting easement documents. Easements will be shown on the plans.
- This phase includes up to \$10,000 in pot holing services.

Bidding services will be provided as follows:

- Furnish contract plans and specifications in sufficient number for bidding and contracting the project. It is anticipated that twenty-five (25) 11"x17" copies will be required.
- Provide bid advertisement text to City for publication. Submission of the advertisement to publications and the cost for advertising will be responsibility of the City.
- Maintain a plan holders' list.
- Answer prospective bidders' questions in regard to the project.
- Schedule and hold a pre-bid conference with interested contractors and suppliers. Publish minutes and any necessary addenda. Conduct pre-bid field review with Contractors, if necessary.
- Prepare and distribute addendums as necessary.
- Attend bid opening, analyze bid proposals, publish a bid tabulation, and make recommendations on awarding a construction contract.
- Prepare four (4) copies of construction contract documents.
- Plan sales will be credited to this task of the project.

## TASK 050A – TRENCHLESS CONSTRUCTION ADMINISTRATION

Construction administration will include the following tasks:

- Coordinate appropriate quality assurance testing of materials intended for incorporation into the project and require documentation of testing results.
- Provide review of construction to check the Contractor's work for compliance with the drawings, specifications, and other applicable documents, codes or standards. Review of work shall be made on a full-time basis while any major item of work is in progress. Major items of work shall include, but not be limited to, water main installation; subgrade preparation; gravel base course preparation; concrete pouring and finishing; and all piping, electrical, and structural construction for the pump station. The Engineer shall provide a minimum of 48 hours notice for Billings personnel when specific inspections or testing require their presence on the project. Each daily review shall be documented in permanent reproducible form and kept in consecutive order with the project file. Copies of the daily review reports shall be furnished to Billings as requested during construction. Engineer will notify Billings immediately of contract problems or deviation from approved plans.
- Coordinate and administer bi-weekly (or as needed) progress meetings.
- This project is planned for one (1) half time resident project representative at four (4) hours per working day for 43 working days of the 60 calendar day project. Additional time for the RPR includes 8 hours of preparation, pre-con meeting, and contract review and 20 hours for punch list items for a total of 200 hours.
- Interpret geotechnical test results and recommendations and coordinate with field observations.
- The Engineer shall record the location and depth, where available, of all underground utilities.
- Engineer shall ascertain that the Contractor has all needed permits to accomplish his work during construction.
- Check shop drawings, samples, equipment, concrete mix design, aggregate, and other data submitted by the Contractor for compliance with drawings and specifications.
- Evaluate and respond to Requests for Information (RFI) from Contractor.
- Prepare change orders.
- Prepare monthly pay estimates and final pay estimates for construction and prepare contract administration forms on a monthly basis. These will be submitted in Billings' approved format.
- Engineer shall provide City with geotechnical testing reports after construction.
- Issue notice to the Contractor to suspend work in whole or part when, in the opinion of the Engineer, and when directed by the Owner, work is not being, or cannot be performed in accordance with the contract documents and specifications.
- Contact Billings for any proposed plan or specification changes when required due to initial design and engineering deficiencies in order to complete the project in its original concept. Plan and specification changes shall be prepared by the design engineer and implemented via change order.
- Prepare and recommend field orders and change orders when necessary due to conditions encountered during construction. Any work resulting in contract overage will be processed by approved change orders using Billings' standard format.

## TASK 050B – OPEN CUT CONSTRUCTION ADMINISTRATION

Construction administration will include the following tasks:

- Coordinate appropriate quality assurance testing of materials intended for incorporation into the project and require documentation of testing results.
- Provide review of construction to check the Contractor's work for compliance with the drawings, specifications, and other applicable documents, codes or standards. Review of work shall be made on a full-time basis while any major item of work is in progress. Major items of work shall include, but not be limited to, sewer main installation; subgrade preparation; gravel base course preparation; concrete pouring and finishing; and all piping, electrical, and structural construction for the pump station. The Engineer shall provide a minimum of 48 hours notice for Billings personnel when specific inspections or testing require their presence on the project. Each daily review shall be documented in permanent reproducible form and kept in consecutive order with the project file. Copies of the daily review reports shall be furnished to Billings as requested during construction. Engineer will notify Billings immediately of contract problems or deviation from approved plans.
- Coordinate and administer bi-weekly (or as needed) progress meetings.
- This project is planned for one (1) full time resident project representative at ten (10) hours per working day for 54 working days of the 75 calendar day project. Additional time for the RPR includes 8 hours of preparation, pre-con meeting, and contract review and 20 hours for punch list items for a total of 568 hours.
- Interpret geotechnical test results and recommendations and coordinate with field observations.
- The Engineer shall record the location and depth, where available, of all underground utilities.
- Engineer shall ascertain that the Contractor has all needed permits to accomplish his work during construction.
- Check shop drawings, samples, equipment, concrete mix design, aggregate, and other data submitted by the Contractor for compliance with drawings and specifications.
- Evaluate and respond to Requests for Information (RFI) from Contractor.
- Prepare change orders.
- Prepare monthly pay estimates and final pay estimates for construction and prepare contract administration forms on a monthly basis. These will be submitted in Billings' approved format.
- Engineer shall provide City with geotechnical testing reports after construction.
- Issue notice to the Contractor to suspend work in whole or part when, in the opinion of the Engineer, and when directed by the Owner, work is not being, or cannot be performed in accordance with the contract documents and specifications.
- Contact Billings for any proposed plan or specification changes when required due to initial design and engineering deficiencies in order to complete the project in its original concept. Plan and specification changes shall be prepared by the design engineer and implemented via change order.
- Prepare and recommend field orders and change orders when necessary due to conditions encountered during construction. Any work resulting in contract overage will be processed by approved change orders using Billings' standard format.

## TASK 060 – CLOSEOUT

Closeout services will be provided as follows:

- Following receipt of red-lined drawings from the general contractor and any review comments from Billings, make necessary changes and furnish Billings with record drawings as indicated in Section 2D of Part I of this contract. Record drawings shall include, but not be limited to:
  - Locations of sewer services based on alignment stationing.
  - Invert elevations marked for each manhole, structure, and each connection thereto, as well as at the end of each stubbed sanitary sewer line, and stubbed sanitary service line.
  - All above elevations shall be referenced to a permanent benchmark elevation that is clearly shown on the plans.
  - Record drawings are due within 60 days of Contractor's final payment and before final payment to the Engineer.
- Schedule and make final inspection with Billings and certify to Billings all construction items were constructed according to plans and specifications and are acceptable to the Engineer.
- Issue Certificate of Substantial Completion.
- Schedule and make an inspection with Billings prior to the expiration of construction warranty period and provide a certification of final acceptance. If any problems are found, send a list of deficiencies to Billings and Contractor and continue until acceptable.
- Approximately eleven (11) months after construction is completed, a one-year walkthrough will be attended by a representative of the design team with the City. A follow-up letter of findings and recommendations will be provided to the City.
- Based on design information, shop drawings, and as-built information provided by the contractor, prepare an O&M Manual for the pump station. This task includes compiling, organizing, reviewing, and transmitting the information. No custom written operational instructions are anticipated. Two draft copies for review and three (3) copies of the O&M Manual will be provided to the City.

## TASK 88 – QUALITY ASSURANCE

Internal quality assurance will be provided for all reports, plans and specifications furnished to the City or other agencies.

## Appendix B

### Methods and Times of Payment

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#### Section 1. Payments for Basic Services.

Billings shall authorize payment to the Engineer for services performed under Appendix A of this Agreement. Partial payment shall be due the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer.

Partial payment shall be made to the Engineer upon receipt of the Engineer's pay estimate, said estimate being proportioned to the work completed by the Engineer. Billings shall deduct five percent (5%) from each monthly pay estimate to be held until the completion of the final scope of work. The final payment shall be made only after acceptance of final documents by Billings, and determination that the scope of work has been satisfactorily completed.

A. For services rendered as described in Appendix A, the Engineer shall be paid based upon actual time accrued, but not to exceed the total contract amount.

1. Task 000 – Project Management	\$16,950.00
2. Task 030 – Survey	\$62,850.00
3. Task 039 – Geotechnical	\$30,500.00
4. Task 040A – Trenchless Design	\$113,150.00
5. Task 040B – Open Cut Design	\$189,900.00
6. Task 050A – Trenchless Construction Administration	\$61,600.00
7. Task 050B – Open Cut Construction Administration	\$138,100.00
8. Task 060 – Project Closeout	\$33,000.00
9. Task 088 – Quality Assurance	<u>\$19,600.00</u>
<b>TOTAL</b>	<b>\$665,650.00</b>

B. Final payment shall be the above stated basic fee less all previous payments.

#### Section 2. Payments for Extra Services when Authorized by Billings.

Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study shall be paid for on an hourly basis at the applicable fees in Appendix D.

Section 3. Corrections.

Costs of Billings work that is required for corrections to the Engineer's work which requires redoing by Billings shall be deducted from any payments due the Engineer, if the Engineer fails to make the required corrections.

Section 4. Fee Increases

For contracts and services that are expected to require more than one (1) year to complete, the above stated basic services payments may be reviewed and adjusted annually by mutual agreement of the parties, based upon documented evidence that the Engineer's costs and hourly rates as shown in Appendix D have increased for all comparable clients.

## **Appendix C**

### **Additional Services of Engineer**

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Extra Services of the Engineer will be paid only with written prior authorization by Billings.

- A. Requests made or conditions identified by interested groups at the agency or public meetings, which are beyond the scope and intent of this study.

## **Appendix D**

### **Schedule of Professional Fees**

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This section is not used.

## Appendix E

### Project Schedule

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Based on a notice to proceed by Billings date no later than November 12, 2019, the completion date for the Engineer's work through final design shall be:

#### Phase A – Trenchless Portion

1. Preliminary Engineering Services (30% Design): January 2020
2. Preliminary Engineering Services (70% Design): February 2020
3. Preliminary Engineering Services (90% Design): March 2020
4. Final Engineering Services (100% Design): April 2020
5. Construction Services to be based on Contractor Schedule.

#### Phase B – Open Cut Portion

1. Preliminary Engineering Services (30% Design): February 2020
2. Preliminary Engineering Services (70% Design): April 2020
3. Preliminary Engineering Services (90% Design): June 2020
4. Final Engineering Services (100% Design): September 2020
5. Construction Services to be based on Contractor Schedule.

Delays affecting the completion of the work within the time specified of more than ninety (90) days, not attributable to or caused by the Parties hereto, may be considered as cause for the renegotiation or termination of this Contract.

If the Engineer is behind on this Contract due to no fault of Billings, then the Engineer hereby acknowledges the right of Billings to withhold future Contracts to the Engineer in addition to any other remedy until this Contract is brought back on schedule or otherwise resolved.

## **Appendix F**

### **Certificate(s) of Insurance**

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(Attach Certificate(s) of Insurance)

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Land Purchase for West End Water Treatment Plant and Reservoir

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

**Department:** Public Works

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The City Council is being asked to approve the purchase of 20.497 acres along 48th Street West that is needed for the construction of the West End Water Treatment Plant and Reservoir project. The property is registered in Yellowstone County under Harbour Land Holdings, LLC, which is owned by McDonald Land Holdings LLC out of Nevada. The Buy/Sell Agreement names McDonald Land Holdings, LLC as the seller of the property. The purchase price was agreed to by the property owner and Public Works for \$875,000 as outlined in the attached Buy/Sell Agreement. The price was arrived at through negotiations based on two appraisals, as called for in the City's property acquisition policy Resolution 93-16740. The land purchase is key in the development of the West End Water Treatment Plant and Reservoir. The land purchase will allow the City of Billings to construct the West End Water Treatment Plant and Reservoir, which will provide months of water storage and critical redundancy in the system.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve, the purchase of 20.497 acres from McDonald Land Holdings LLC (Harbour Land Holdings LLC) for the construction of the West End Water Treatment Plant or;
- Disapprove the purchase of the 20.497 acres for construction of the West End Water Treatment Plant.

**FINANCIAL IMPACT**

There is adequate cash in the water fund for the purchase of the land.

**RECOMMENDATION**

Staff recommends that City Council approve the Buy/Sell Agreement to purchase 20.497 acres for \$875,000.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Buy/Sell  
48th Street West Property

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## **PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made this \_\_\_\_ day of November, 2019 (the "Effective Date"), by and between MCDONALD LAND HOLDINGS LLC, a Nevada series limited liability company (the "Seller") and the CITY OF BILLINGS, an incorporated municipality in the State of Montana (the "Purchaser").

### **ARTICLE I -- PROPERTY TO BE CONVEYED**

Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, upon the terms and conditions hereinafter set forth, the following property (collectively, the "Property"):

- A. The "Real Property" being that certain parcel of land located in Yellowstone County, Montana, described in **Exhibit A** attached hereto and incorporated herein by this reference, together with any and all improvements and fixtures located on the Real Property; all and singular rights, benefits, privileges, easements, tenements, hereditaments, and appurtenances thereon or in any way appertaining to such Real Property; all right, title, and interest of the Seller in and to all stripes and gores and any land lying in the bed of any street, road or alley, open or proposed, adjoining such Real Property, and all mineral, water, irrigation, and other property rights of Seller, if any, running with or appertaining to such Real Property;
- B. Seller's interest in any leases with respect to the Real Property (the "Leases"), including but not limited to those listed on the attached **Exhibit B**, including any and all amendments and supplements thereto, and any and all guaranties and security received by Seller or its agents in connection there with; and
- C. The "Intangible Property," being all right, title and interest of Seller, if any, in and to all (i) intangible personal property now or hereafter used exclusively in connection with the operation, ownership, maintenance, management, or occupancy of the Real Property (to the extent assignable); (ii) plans and specifications for the improvements on the Real Property; (iii) development rights, utility capabilities, and real estate related approvals, and certificates of occupancy; (iv) warranties, guarantees, indemnities, applications, permits, approvals, and licenses (to the extent applicable in any way to the above-referenced Real Property or the Buildings and to the extent assignable); and (v) insurance proceeds and condemnation awards or claims thereto to the extent required to be assigned to Purchaser hereunder.

### **ARTICLE II -- PURCHASE PRICE**

The purchase price (the "Purchase Price") for the Property shall be EIGHT HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$875,000.00). Subject to all prorations and adjustments provided herein, the Purchase Price shall be paid as follows:

A. Within three (3) days after the execution of this Agreement, Purchaser shall deliver Ten Thousand and No/100 Dollars (\$10,000.00) to First American Title Company, 1001 S. 24<sup>th</sup> Street W #200, Billings, MT (in this capacity herein called "Escrow Agent"), to be deposited by Escrow Agent in an interest-bearing money market account with a bank of Escrow Agent's choosing having an office in Billings, Montana. This \$10,000, together with all interest earned thereon, is herein referred to as the "Deposit." The Deposit shall be applied towards the Purchase Price due at Closing or shall be otherwise paid by Escrow Agent as herein provided. Any interest earned on the Deposit shall be paid to or credited to the person receiving such Deposit.

B. An amount equal to the Purchase Price, less the amount of the Deposit paid by Escrow Agent to Seller at Closing, shall be paid by Purchaser to Seller at Closing by wire-transfer to Seller of immediately available funds.

### **ARTICLE III -- DELIVERIES BY SELLER**

If Seller has not already delivered the same to Purchaser, Seller covenants to deliver the following (collectively herein referred to as the "Delivery Items") to Purchaser no later than three (3) business days after the Effective Date, which delivery may be accomplished by providing access to an online data room:

A. A copy of the most recent survey of the Property in Seller's possession or control, if any, and a copy of the most recent owner's and mortgagee's title insurance policies in respect to the Property in Seller's possession or control, if any.

B. Any surveys, environmental surveys, property condition reports, soil or subsurface condition reports, geotechnical reports and environmental studies relating to the Property (including the Environmental Site Assessment referenced in Section IVH of this Agreement), if in Seller's possession or control.

C. Copies of all Leases, including amendments and guaranties thereto, if any, with respect to the Property or any portion thereof.

D. All books, notices, documents, and agreements pertaining to the condition of the Property that are in Seller's possession, excepting internal correspondence or privileged communications.

E. In the event this transaction fails to close for any reason, Purchaser shall return to Seller all items which are delivered to Purchaser and copies of any and all reports (whether in final or draft form) obtained by Purchaser related to the Property without warranty or representation of any kind.

### **ARTICLE IV - SELLER'S REPRESENTATIONS AND WARRANTIES**

Seller hereby makes to Purchaser the following representations and warranties:

A. Seller is a series limited liability company duly organized and validly existing and in good standing under the laws of the State of its formation; is validly existing, in good standing, and authorized to do business in the State of its principal place of business, and has the authority to own and convey the Property. This Agreement and all documents executed by Seller which are to be delivered to Purchaser are, or at the time of Closing will be, duly authorized, executed, and delivered by Seller and constitute, or will constitute, as appropriate, the valid and binding obligations of Seller, enforceable in accordance with their terms. Seller has obtained any and all consents required to enter into this Agreement and has obtained or will obtain prior to Closing any and all consents required to consummate or cause to be consummated the transactions contemplated hereby.

B. To the best of Seller's knowledge, the conveyance of the Property to Purchaser pursuant to this Agreement will not be a violation by Seller of any applicable statute, ordinance, governmental restriction, or regulation, or any private restriction or agreement.

C. To the best of Seller's knowledge, no special assessments have been levied or are threatened or pending against all or any part of the Property, and Seller has no knowledge of any intended assessments.

D. There are no oral or written tenant occupancy leases or rental agreements in force with respect to the Property other than the Leases.

E. There is no litigation pending or threatened which does or will materially or adversely affect the Property.

F. There are no actions or proceedings pending or, to the best of Seller's knowledge, threatened against Seller before any court or administrative agency which do or will materially or adversely affect the Property.

G. To the Seller's knowledge, the use and operation of the Property now is, and at the time of Closing will be, in material compliance with applicable building codes, safety, fire, environmental, zoning, and land use laws, and other applicable local, state, and federal laws, ordinances, regulations, and requirements. Seller knows of no facts, nor has Seller failed to disclose to Purchaser any fact which would prevent Purchaser from using and operating the Property after the Closing in the manner in which the Property has been used, leased, and operated prior to the date of this Agreement. Seller has all material licenses, permits, and certificates necessary for the use and operation of the Property in the manner in which it is being used or operated by the Seller as of the Effective Date, including, without limitation, all certificates of occupancy necessary for the lawful occupancy of the Buildings. Seller has received no written notice that the Property or the use thereof violates any governmental law or regulation or any covenants or restrictions encumbering the Property. Seller has not received any written notices of violations or alleged violations of any laws, rules, regulations, or codes, including building codes, with respect to the Property which have not been corrected to the satisfaction of the issuer of the notice.

H. To Seller's knowledge there are no service contracts that will be binding on Purchaser after the Closing except as disclosed in writing to Purchaser at least ten (10) days prior to the Out Date (as defined below).

I. Seller warrants that Seller is not a foreign person, foreign corporation, foreign partnership, foreign trust or foreign estate as such terms are defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.

J. To the best of Seller's knowledge, no areas on the Property exist where Hazardous Substances or Waste have been generated, disposed of, released or found in violation of applicable laws and Seller has no knowledge of the existence of any areas for the storage or disposal of any Hazardous Substance or Waste on the Property in violation of applicable laws. Except as set forth in the Environmental Report, Seller has received no written notice that any municipality or any governmental or quasi-governmental authority has determined that there are any violations of zoning, health, environmental or other statutes, ordinances or regulations affecting the Property, and Seller has no knowledge of any such violations. In the event Seller receives notice of any such Hazardous Substances or Waste on the Property or any such violations affecting the Property prior to the Closing, Seller shall promptly notify Purchaser thereof. "Hazardous Substances or Waste" means petroleum (including gasoline, crude oil or any crude oil fraction), waste, trash, garbage, industrial bi-product, and chemical or hazardous substance of any nature, including, without limitation, radioactive materials, PCB's, asbestos, pesticides, herbicides, pesticide or herbicide containers, untreated sewage, industrial processed sludge and any other substance identified as a hazardous substance or waste, toxic substance or waste, pollutant or contaminant in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (commonly known as "CERCLA") as amended, the Superfund Amendment and Reauthorization Act (commonly known as "SARA"), the Resource Conservation and Recovery Act (commonly known as "RCRA"), or any other federal, state, county or city legislation or ordinances applicable to the Property.

K. Neither Seller, nor any person controlling or controlled by Seller, is a country, territory, individual or entity named on a Government List, and the monies used in connection with this Contract and amounts committed with respect thereto, were not and are not derived from any activities that contravene any applicable anti-money laundering or anti-bribery laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)). For purposes of this paragraph "Government List" means any of (a) the two lists maintained by the United States Department of Commerce (Denied Persons and Entities), (b) the list maintained by the United States Department of Treasury (Specially Designated Nationals and Blocked Persons), and (c) the two lists maintained by the United States Department of State (Terrorist Organizations and Debarred Parties). Seller is not a person or an entity described by Section 1 of the Executive Order (No. 13224) Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, 66 Fed. Reg. 49079 (September 24, 2001) and does not engage in any dealings or transactions and is not otherwise associated with any such persons or entities.

In the event that prior to Closing Seller obtains knowledge that any of the foregoing covenants, representations or warranties is no longer true, Seller shall so notify Purchaser and Purchaser shall have ten (10) days from receipt of such notice to elect to terminate this Agreement and receive a refund of the Deposit.

Seller will not cause any action be taken which would cause any of the foregoing representations and warranties to be untrue as of the Closing Date. Seller agrees to immediately notify Purchaser in writing ("Representation Notice") of any event or condition which occurs prior to Closing of which Seller has received notice, which causes a change in the facts related to or the truth of any of the above representations. If Seller sends Purchaser a Representation Notice and provided that the event giving rise to the Representation Notice was not caused by Seller or Purchaser, Purchaser may terminate this Agreement and receive a return of the Deposit, as its sole recourse and remedy. Purchaser shall send its notice of termination to Seller within five (5) Business Days after receipt of the Representation Notice; failing which, the affected representation(s) shall be deemed modified to account for the matter so that such representation is true and correct in all respects notwithstanding the existence of the matters disclosed in such Representation Notice and Purchaser shall be deemed to have agreed to Close without recourse against Seller, or reduction in Purchase Price, with respect to the matters set forth in such Representation Notice.

Notwithstanding anything to the contrary in this Agreement, Purchaser's rights to enforce the representations and warranties and covenants of Seller in this Article IV shall survive the Closing for a period of three (3) months only.

#### **ARTICLE V -- ITEMS TO BE DELIVERED BY SELLER AT CLOSING**

At Closing Seller agrees to deliver the following items to Purchaser.

A. A duly executed warranty deed in recordable form reasonably acceptable to Purchaser (the "Deed"), of the type customarily used for commercial real estate transactions in the State of Montana, conveying to Purchaser fee simple title to the Property, subject only to (i) the lien for ad valorem taxes not yet due and payable; and (ii) local, state and federal laws, ordinances or governmental regulations, including but not limited to, building, zoning and land use laws, ordinances and regulations, now or hereafter in effect relating to the Property; and (iii) those exceptions to title not objected to or waived pursuant to Article VII hereof (collectively, the "*Permitted Exceptions*").

B. Evidence reasonably acceptable to Purchaser and acceptable to American Title, or such other national title company selected by Seller (in its capacity as title insurer, the "Title Company") as to the due organization and existence of Seller.

C. Evidence reasonably acceptable to Purchaser and acceptable to the Title Company that those acting for Seller have full authority to execute documents on behalf of Seller and consummate this transaction in accordance with the terms of this Agreement as modified through the Closing.

D. A Certificate that Seller is not a foreign person or entity as defined in the Internal Revenue Code of 1986, as amended, and Income Tax Regulations and an Affidavit that no withholding is due as respects O.C.G.A. § 48-7-128.

E. Such affidavits, lien waivers and other evidence as may reasonably be required by the Title Company, including, without limitation, a title affidavit in the form customarily utilized in Montana commercial real estate transactions, so as to enable the Title Company to furnish Purchaser with a title insurance policy without exception for mechanics' and materialmen's liens and broker's liens.

F. Acknowledgment signed or authenticated by the tenant under any Lease releasing or terminating the Lease, in form reasonably satisfactory to Purchaser.

G. A Closing Statement evidencing the prorations between Seller and Purchaser and disbursements made in connection with this transaction.

H. Any other items or documents required to be delivered pursuant to this Agreement or deemed reasonably necessary or appropriate by Purchaser's and Seller's counsel in connection with this transaction.

#### **ARTICLE VI -- ITEMS TO BE DELIVERED BY PURCHASER AT CLOSING**

At Closing, Purchaser agrees to deliver the following items to Seller:

A. The Purchase Price in the manner specified in Article II hereof.

B. A Closing Statement evidencing the prorations between Seller and Purchaser and disbursements made in connection with this transaction.

C. Evidence reasonably acceptable to the Title Company that those acting for Purchaser have full authority to execute documents on behalf of Purchaser and consummate this transaction in accordance with the terms of this Agreement as modified through the Closing.

F. Any other items and documents required to be delivered pursuant to this Agreement or deemed reasonably necessary or appropriate by Purchaser's and Seller's counsel in connection with this transaction.

#### **ARTICLE VII -- TITLE AND SURVEY**

A. Purchaser may, at Purchaser's sole cost and expense, (i) cause an accurate survey (the "Survey") to be made of the Property by a licensed Montana surveyor, which shall be certified to Seller, Purchaser and the Title Company, and which shall contain a legal description accurate to 1/100<sup>th</sup> of an acre, and (ii) deliver a copy of the Survey to Seller. Purchaser shall advise Seller, concurrently with its notice of title objections delivered pursuant to Section VII B hereof, of any objections to matters of survey. If Purchaser so requests, at the Closing Seller shall execute a

quitclaim deed in favor of Purchaser using the legal description of the Property based on the Survey.

B. On or before fifteen (15) days after the Effective Date, Purchaser, at Purchaser's sole cost and expense, shall obtain an owner's title insurance commitment (the "Commitment") from the Title Company, together with legible copies of the deed(s) vesting title in Seller and all matters referred to therein as exceptions to title. On or before the date that is thirty (30) days after the Effective Date, Purchaser shall deliver to Seller a copy of the Commitment and a statement of any objections to Seller's title to the Property and any objections as to matters disclosed by the Survey. Seller shall have a reasonable time after Seller's receipt of such statement (not to exceed five (5) days) within which to cure or commit to cure any such objections, and Seller shall provide Purchaser with written notice prior to the end of such five (5) day period of which objections, if any, Seller commits to cure. In the event that Seller fails or refuses to cure or commit to cure such objections within such five (5) days, then Purchaser shall elect by written notice to Seller within five (5) days after such five (5) day period to either (i) terminate this Agreement and receive a full refund of the Deposit, and thereafter this Agreement shall be of no further force or effect, and neither Purchaser nor Seller shall have any further rights, duties, liabilities or obligations to the other by reason hereof except for those matters that specifically survive termination of the Agreement; or (ii) waive such objections and consummate the transaction contemplated herein without reduction of the Purchase Price. If Purchaser does not provide Seller written notice of Purchaser's election within the five (5) day period as above provided, then Purchaser shall be deemed to have elected to waive such objections as provided in the aforesaid item (ii).

C. Purchaser shall have the right to have its title examination and Survey updated until the Closing Date (hereinafter defined), and if any such update discloses any new title exceptions or survey matters as to which Purchaser has an objection and which were not of record as of the date of the Commitment, as to title matters, or which were not capable of being shown on the Survey, as to survey matters (any such new matter being referred to as a "new objection"), Purchaser shall deliver to Seller a statement of any such new objection and Seller shall have until the Closing Date to cure all such new objection. In the event that Seller fails to cure such new objection on or before the Closing Date (i) Purchaser may terminate this Agreement by written notice to Seller given on or before the Closing Date, whereupon Purchaser shall receive a full refund of the Deposit, and thereafter this Agreement shall be null and void and of no further force or effect, and neither Purchaser nor Seller shall have any further rights, duties, liabilities or obligations to the other by reason hereof except for those matters that specifically survive termination of the Agreement; (ii) Purchaser may cure such new objections voluntarily created by Seller and deduct the reasonable cost thereof from the Purchase Price otherwise payable by Purchaser at Closing; or (iii) Purchaser may waive such objections and consummate the transaction contemplated herein without reduction of the Purchase Price.

#### **ARTICLE VIII -- TIME AND PLACE OF CLOSING, CLOSING COSTS AND POSSESSION**

A. The consummation of the transaction contemplated herein shall take place at and through an escrow Closing conducted by the Escrow Agent on the date that is twenty-one (21) days after the Effective Date, or such earlier date as Seller and Purchaser may agree. The

consummation of the transaction contemplated herein and the day such occurs are referred to in this Agreement as the "Closing" and the "Closing Date".

B. Seller shall pay the Montana transfer tax and the costs incident to this transaction specified in this Agreement to be paid by Seller and Seller's attorneys' fees. Purchaser shall pay the costs associated with the title examination, title commitment and owner's title insurance policy, all of the costs associated with Purchaser's due diligence inspection, the Survey, the recording fees in connection with the recording of the Deed, the costs incident to this transaction specified in this Agreement to be paid by Purchaser and Purchaser's attorneys' fees.

C. Possession of the Property shall be given by Seller to Purchaser at Closing, subject to the Permitted Exceptions.

#### **ARTICLE IX -- PRORATIONS**

Seller shall be entitled to receive any income in respect of the Property and shall be obligated to pay all expenses in respect of the Property for all time periods prior to the day of the Closing Date. Purchaser shall be entitled to receive all such income and shall be obligated to pay all such expenses for all time periods commencing on the day of the Closing Date. In the event that any income or any expense item relating to the period prior to the Closing Date is received or appears after the Closing, such item(s) shall be adjusted between the Seller and the Purchaser within ten (10) days after such is discovered. Without limitation to the foregoing, the following items shall be apportioned at Closing:

A. Collected rents;

B. Fees for transferable licenses and permits, if any;

C. All real property taxes, including the current installment for any assessment (special, bond, or otherwise). In the event that the current year's taxes are not available as of the Closing Date, the proration shall be based upon such taxes for the preceding year, but such taxes shall be re prorated between Purchaser and Seller as soon as the current year's taxes are available, immediately upon demand being made therefor by either Purchaser or Seller.

This Article IX shall survive the Closing of the transaction contemplated herein for a period of time ending on the date that is twelve (12) months after the Closing Date.

#### **ARTICLE X -- CONDITIONS PRECEDENT**

A. Prior to the Effective Date, the Purchaser has satisfied itself as to the condition of the Property and the suitability of the Property to the Purchaser's use, without reliance on any representation or warranty by the Seller as to the condition or suitability of the Property. Accordingly, there shall be no due diligence contingency on the Purchaser's obligation to Close.

Additionally, Purchaser has obtained all governmental or other approvals necessary to consummate the transactions contemplated by this Agreement prior to the Effective Date.

B. Purchaser's obligation to purchase the Property is expressly conditioned upon each of the following:

- i. Timely performance of each obligation, covenant, and delivery required by Seller, including delivery of each of the Seller's documents required by this Agreement.
- ii. All of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct at the Closing;
- iii. Seller shall not be in default under any agreement to be assigned to, or obligations to be assumed by, Purchaser under this Agreement.
- iv. The physical condition of the Property shall be substantially the same on the Closing Date as on the Effective Date, reasonable wear and tear excepted, unless the alteration of said physical condition is the result of a casualty loss or proceeding in eminent domain.
- v. Any Lease that the Purchaser shall not have agreed to assume having been terminated;
- vi. Upon the sole condition of payment of the premium, at Closing, the Title Company shall have irrevocably committed to issue to Purchaser an ALTA Owner's Policy of title insurance, dated as of the date and time of the recording of the Deed for the Property vesting title in Purchaser, in the amount of the Purchase Price, insuring Purchaser as owner of good, marketable, and indefensible fee simple title to such Property, subject only to the Permitted Exceptions for the Property.
- vii. Seller shall have cured all exceptions to title that it agreed to cure, or was deemed to have agreed to cure pursuant to the terms of this Agreement.
- viii. No proceeding has been commenced against Seller under the federal Bankruptcy Code or any state law for relief of debtors.
- ix. No moratorium, statute, or regulation of any governmental agency or order or ruling of any court has been enacted, adopted, or issued which would adversely affected Purchaser's use or development of the Property.

C. So long as a party is not in default beyond applicable notice and cure periods hereunder, if any condition to such party's obligation to proceed with the Closing has not been satisfied as of the Closing Date or other applicable date, and such condition is not cured within five (5) days after receipt of notice of default from the non-defaulting party, such non-defaulting

party may, in its sole discretion, (i) pursue its contractual rights and remedies under this Agreement; (ii) terminate this Agreement, in which case the Deposit shall be returned to Purchaser if Seller is the defaulting party or paid to Seller if Purchaser is the defaulting party; or (iii) elect to close, notwithstanding the non-satisfaction of such condition, in which event such party shall be deemed to have waived any such condition.

## **ARTICLE XI – CONDEMNATION AND CASUALTY**

A. If prior to the Closing any material part of the Property is taken by condemnation or eminent domain or there is a bona fide threat thereof which impacts the use of the building on the Property or parking for the Property, then Purchaser may, at its option, terminate this Agreement, in which event the Deposit shall be returned to Purchaser and thereupon this Agreement shall be null and void and of no further force or effect, and neither Purchaser nor Seller shall have any further rights, duties, liabilities and obligations to the other by reason thereof, except for those matters that specifically survive the termination of this Agreement. If this Agreement is not terminated, at the Closing the proceeds of the award or payment shall be assigned by Seller to Purchaser and any moneys theretofore received by Seller in connection with such taking shall be paid over to Purchaser.

B. If, prior to the Closing Date, there is \$500,000.00 or more of damage to the Property by fire or other casualty whether or not insured against by Seller under its property damage insurance policy, Seller shall promptly give Purchaser notice of such fact, and Purchaser may elect to terminate this Agreement within ten (10) days after receiving written notice from Seller of the occurrence of such casualty. If Purchaser so elects to terminate this Agreement, it shall give Seller and Escrow Agent written notice thereof and so much of the Deposit as is then held by Escrow Agent shall be returned by Escrow Agent to Purchaser, and this Agreement shall terminate and be of no further force or effect, and neither Purchaser nor Seller shall have any further rights, duties, liabilities or obligations to the other hereunder except for the Inspection Indemnity and the Broker's Indemnity which shall expressly survive the expiration or termination of this Agreement. Failure of Purchaser to so notify Seller and Escrow Agent within said ten (10) days that Purchaser has elected to terminate this Agreement shall be deemed to mean that Purchaser has elected not to terminate this Agreement. If Purchaser has elected not to terminate this Agreement in the event of \$500,000.00 or more of damage to the Property, Purchaser shall proceed to the Closing and shall pay the full Purchase Price less the amount of any deductible under Seller's insurance policy in excess of \$10,000.00, and shall receive all insurance proceeds payable as a result of such damage or destruction, except for the amount of rental loss insurance applicable to the period prior to the Closing Date, which shall be paid to and retained by Seller. If prior to the Closing Date there is less than \$500,000.00 of damage or destruction to the Property by fire or other casualty which is covered by insurance, this Agreement shall not terminate, and Purchaser shall proceed to Closing, and shall pay the full Purchase Price less the amount of any deductible under Seller's insurance policy in excess of \$10,000.00, and receive all insurance proceeds payable as a result of such damage or destruction, except for the amount of rental loss insurance applicable to the period prior to the Closing Date which shall be retained by Seller. Until the Closing, Seller agrees to maintain in respect of the Land and Improvements hazard insurance and rental loss insurance and until Closing all risk of loss shall be on the Seller, subject to the provisions above.

## **ARTICLE XII – REMEDIES**

A. Seller's only remedy for Purchaser's default in consummating this transaction contemplated in this Agreement shall be to obtain the Deposit from Escrow Agent, the amount of which shall be and constitute Seller's liquidated damages, it being otherwise difficult or impossible to estimate Seller's actual damages. Seller hereby waives any right to specific performance, injunctive relief or other relief to cause Purchaser to perform its obligations under this Agreement, and Seller hereby waives any right to damages in excess of said liquidated damages occasioned by Purchaser's default under this Agreement. Seller and Purchaser acknowledge that it is impossible to estimate the actual damages Seller would suffer because of Purchaser's default, but that the liquidated damages provided herein represent a reasonable pre-estimate of such actual damages and Seller and Purchaser therefore intend to provide for liquidated damages as herein provided, and that the agreed upon liquidated damages are not punitive or penalties and are just, fair and reasonable, all in accordance with applicable Montana law. This Section XII A shall have no application respecting the Purchaser's indemnification obligations contained herein.

B. In the event that the transaction contemplated herein is not closed and consummated because of Seller's failure or breach to perform its obligations hereunder or because of a breach by Seller of any of the representations and warranties made herein by Seller, Purchaser shall have the right only (i) to terminate this Agreement by giving notice thereof to Seller and Escrow Agent, and upon receipt of such notice Escrow Agent shall return the Deposit to Purchaser and thereafter this Agreement shall terminate and be null and void and of no further force or effect, and neither Seller nor Purchaser shall have any further rights, remedies, duties, liabilities or obligations to the other hereunder except for those provisions which by their terms shall survive the termination, or (ii) to sue Seller for specific performance of its obligations under this Agreement; which remedies specified in (i) and (ii) shall be in lieu of any other rights or remedies for Purchaser, including without limitation any right or claim for damages.

## **ARTICLE XIII -- NOTICES**

All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be either hand-delivered or sent by FedEx or other similar overnight delivery service, charges prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when hand-delivered or the day after delivery to FedEx or similar overnight courier service and shall be effective if executed by and sent by and to the parties' counsel.

To Seller:

McDonald Land Holdings LLC  
PO Box 19  
Molt, MT 59057

With a copy to:

Kent P. Woods, Esq.  
Law Office of Kent P. Woods LLC  
1746 W. Horizon Ridge Parkway  
Henderson, NV 89012

To Purchaser:

City of Billings  
210 North 27<sup>th</sup> Street  
Billings, MT 59101  
Attn: David Mumford

To Escrow Agent

American Title & Escrow  
1001 S 24<sup>th</sup> St W  
Billings, MT 59102

#### **ARTICLE XIV – BROKERS**

Seller and Purchaser each hereby warrants to the other that the warranting party has not dealt with any investment advisor, real estate agent, or broker in connection with the transaction contemplated in this Agreement

#### **ARTICLE XV – OPERATION OF THE PROPERTY**

Seller covenants that between the date of this Agreement and the Closing:

- A. Seller shall not enter into any new leases (each a “New Lease” and collectively, the “New Leases”).
- B. On or prior to the Closing, Seller shall terminate all Service Contracts with respect to the Property.
- C. Seller shall maintain its existing property insurance coverage with respect to the Property.
- D. Seller shall continue to operate the Property in the manner in which it has been operating the Property.

## ARTICLE XVI -- MISCELLANEOUS

A. This Agreement constitutes the entire Agreement between the parties and cannot be changed or modified other than by a written agreement executed by both parties.

B. The provisions of this Agreement shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns.

C. The Agreement may not be assigned by Purchaser without the prior written consent of Seller which may be given or withheld by Seller in its sole discretion; provided, however, that Purchaser may assign the Agreement to an affiliate directly related to Purchaser upon written notice to Seller and without Seller's written consent. Any such assignee shall assume in writing the obligations and liabilities of Purchaser hereunder. No assignment by Purchaser shall relieve Purchaser of any of Purchaser's obligations under the Agreement.

D. Purchaser reserves the right to waive, in whole or in part, any provision hereof which is for the benefit of Purchaser. Seller reserves the right to waive, in whole or in part, any provision hereof which is for the benefit of Seller.

E. Irrespective of the place of execution or performance, this Agreement shall be governed by and construed in accordance with the laws of the State of Montana. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted. If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Agreement and no implication or inference shall be drawn from the fact that said words or phrases were so stricken out or otherwise eliminated. All terms and words used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require. Time is of the essence of this Agreement and each term and provision hereof. In the event that the last day for performance of any matter under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance automatically shall be extended to the next business day. In the event of any litigation between Seller and Purchaser concerning the subject matter of this Agreement, each party shall be responsible for all its costs and expenses, including without limitation actual attorney's fees incurred incident to such litigation.

F. This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

G. The captions of this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or intent of this Agreement or any term hereof.

## ARTICLE XVII -- 1031 EXCHANGE

A. Notwithstanding any provisions to the contrary set forth herein, Seller hereby notifies Purchaser that Seller may desire to effectuate a tax deferred exchange or exchanges under Section 1031 of the Internal Revenue Code with Purchaser with respect to the Property. Purchaser agrees to cooperate in good faith with Seller in effectuating such exchange or exchanges, provided that Purchaser shall not be required to incur any additional obligation, cost, expense, or liability or delay in connection with such exchange or exchanges and that Purchaser shall not be required to acquire legal title to any exchange property designated by Seller. Purchaser agrees that such exchange or exchanges may be either simultaneous or deferred. If deferred, Seller shall have the right to assign Seller's rights and obligations under this Agreement to a qualified intermediary, as a part of, and in furtherance of any such exchange.

B Notwithstanding any provisions to the contrary set forth herein, Purchaser hereby notifies Seller that Purchaser may desire to effectuate a tax deferred exchange or exchanges under Section 1031 of the Internal Revenue Code with Seller with respect to the Property. Seller agrees to cooperate in good faith with Purchaser in effectuating such exchange or exchanges, provided that Seller shall not be required to incur any additional obligation, cost, expense, or liability or delay in connection with such exchange or exchanges and that Seller shall not be required to acquire legal title to any exchange property designated by Purchaser. Seller agrees that such exchange or exchanges may be either simultaneous or deferred. If deferred, Purchaser shall have the right to assign Purchaser's rights and obligations under this Agreement to a qualified intermediary, as a part of, and in furtherance of any such exchange.

*[Signatures Commence on Next Page]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, sealed and delivered as of the Effective Date.

**SELLER:**

MCDONALD LAND HOLDINGS LLC,  
a Nevada series limited liability company

By:   
Kent P. Woods, Manager

**PURCHASER:**

CITY OF BILLINGS

By: \_\_\_\_\_  
Name:  
Title:

Escrow Agent joins in the execution of this Agreement under seal solely for the purpose of agreeing to hold and disburse the Deposit in accordance with the terms and provisions of this Agreement.

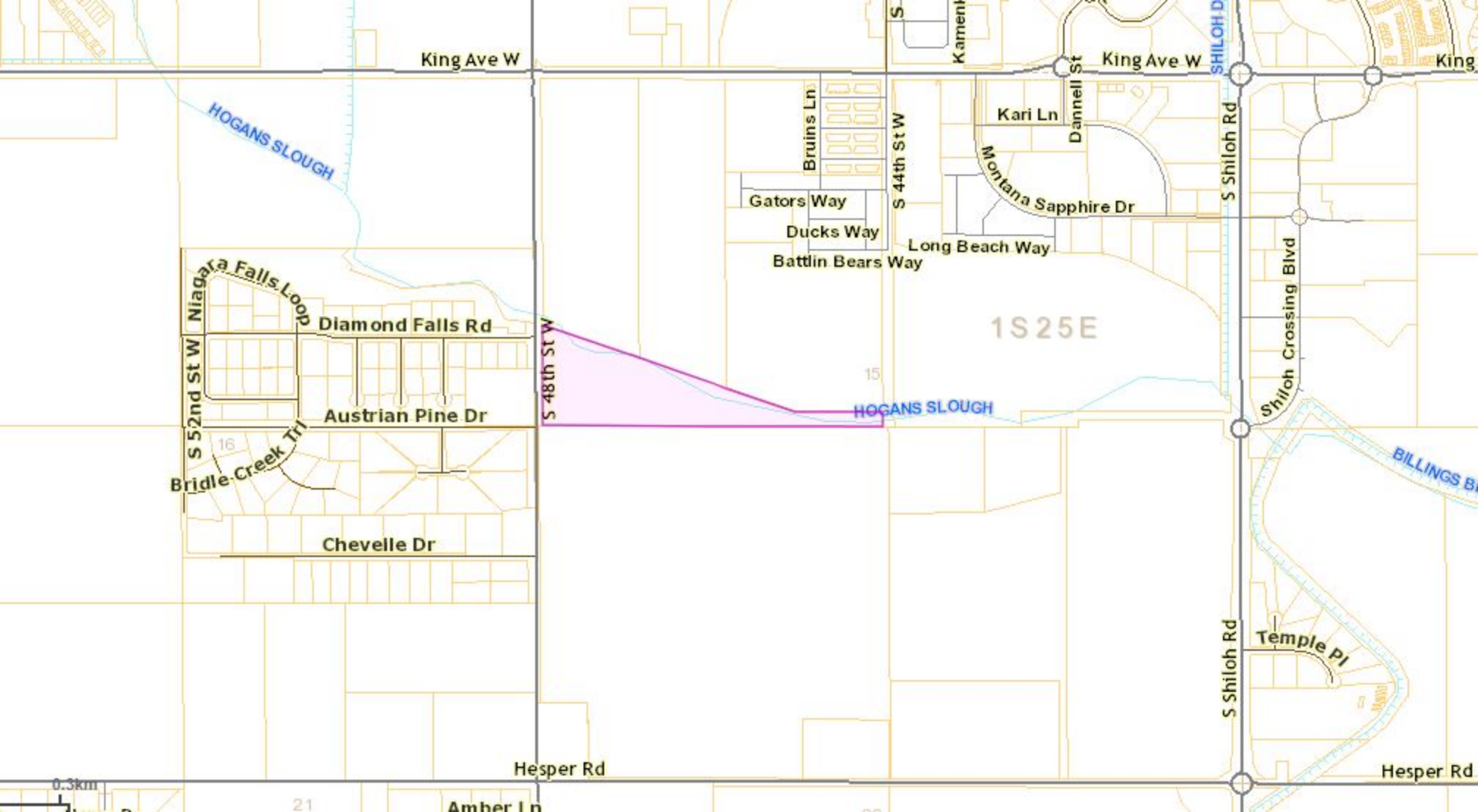
AMERICAN TITLE & ESCROW

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**(Legal Description)**

Lot 5, Block 1, Western Sky Sub., situated in the NW4 of Sec. 15, T1S, R25E, P.M.M., Yellowstone County, Montana. Said parcel contains a total of 20.4977 acres, more or less

**EXHIBIT B**  
**(Leases)**



King Ave W

King Ave W

King

HOGANS SLOUGH

SHILOH D

S Shiloh Rd

Bruins Ln

S 44th St W

Kari Ln

Dannel St

Montana Sapphire Dr

Gators Way

Ducks Way

Long Beach Way

Battin Bears Way

1S25E

15

HOGANS SLOUGH

Shiloh Crossing Blvd

BILLINGS B

Niagara Falls Loop

Diamond Falls Rd

Austrian Pine Dr

Bridle Creek Trl

Chevelle Dr

Temple Pl

S Shiloh Rd

Hesper Rd

Hesper Rd

Amber Ln

0.3km

21

33

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** AN 19-02 Acceptance of Quitclaim Deed for a Portion of Barrett Road from Yellowstone County

**PRESENTED BY:** Monica Plecker

**Department:** Planning & Community Services

**Presentation:** No

**PROBLEM/ISSUE STATEMENT**

Barrett Road, LLC, submitted a petition to annex land they own using the provisions of Section 7-2-4600, MCA. The subject property is Tract 1-A of Amended Tract 1 of Corrected Certificate of Survey No. 840, 2nd Amended, totaling approximately 12.053 gross acres. The property is zoned Planned Development with an underlying zoning of Residential Multi-Family Restricted (RMF-R) and is currently vacant. The parcel is located east of the Kiwanis Trail and southeast of the intersection of Barrett Road and West Echo Drive. The owners requested annexation in order to begin developing the property in the City in conformance with the existing zoning. On October 28, 2019, the City Council voted to annex the above referenced property.

Any time an annexation occurs adjoining rights-of-way must also be included with the annexation. For Annexation 19-02, a portion of Barrett Road is affected. The portion of Barrett Road that must be annexed into the City is Tract 4 of Certificate of Survey No. 840 and a portion of Tract 21 of Certificate of Survey No. 1175.

On November 5, 2019, the Yellowstone County Board of County Commissioners passed a Resolution of Intent to transfer its interest in this portion of Barrett Road. Due to deadline requirements, this staff memo was generated prior to BOCC approval. A draft deed has been attached and prior to the City Council's November 25th meeting the official action from the BOCC will be forwarded. The BOCC will act on the item November 19th and City Council will consider acceptance on November 25th.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve and execute the quitclaim deed, or;
- Disapprove. Failing to accept and execute the quitclaim deed will result in inconsistencies with annexation requirements for newly annexed lands that require all adjacent rights-of-ways to be annexed as part of the petition.

**FINANCIAL IMPACT**

This item has no impact on the Planning Division budget.

**RECOMMENDATION**

Staff recommends the City Council accept the Quitclaim deed transferring this portion of Barrett Road to the City of Billings.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

Draft Quitclaim Deed  
Exhibit

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

### Quitclaim Deed

For valuable consideration, Yellowstone County, a political subdivision of the State of Montana, whose address is Post Office Box 35000, Billings, Montana 59103, through its Board of County Commissioners, conveys and quit claims to the City of Billings, a municipal corporation, whose address is Post Office Box 1178, Billings, Montana 59103, all its interest in the property described below that is located in Yellowstone County, Montana:

A tract of land known as Barrett Road as depicted on Certificate of Survey 1 175 being a portion of Tract 21 (the portion as Barrett Road only) Recorded January 29, 1971, under Document No. 875730, also deeded to Yellowstone County by Deed in Book 934 Page 590, Recorded April 23, 1971, under Document No. 880777;  
Certificate of Survey 840 Corrected being Tract 4 Recorded July 14, 1972, under Document No. 911664, also deeded to Yellowstone County by Deed in Book 973 Page 102, Recorded August 2, 1972, under Document No. 912950.

The Board of County Commissioners authorized the conveyance of the property pursuant to Section 7-8-101(1) of the Montana Code Annotated (2019) at its November 19, 2019 meeting.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

\_\_\_\_\_  
John Ostlund,  
Yellowstone County Commissioner

\_\_\_\_\_  
Donald Jones  
Yellowstone County Commissioner

Attest:

\_\_\_\_\_  
Denis Pitman  
Yellowstone County Commissioner

\_\_\_\_\_  
Jeff Martin  
Yellowstone County Clerk and Recorder





**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Resolution Authorizing State of Montana INTERCAP Loan

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

**Department:** City Hall Administration

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

The State of Montana Board of Investments provides INTERCAP loans for eligible government units with no up front costs. The City has been approved for a loan by the Loan Committee for the evidence building expansion for up to \$3,410,000. Once the resolution has been approved by Council, the City can submit invoices to be reimbursed.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve the resolution, or;
- Disapprove the resolution and find another funding source.

**FINANCIAL IMPACT**

The current interest rate is 3.37% and is adjusted every February. The term of the loan is 15 years or the useful life of the project, whichever is less. Payments are due twice a year and will be paid from the Public Safety Fund.

**RECOMMENDATION**

Staff recommends approving the resolution for authorizing the INTERCAP loan for the expansion of the police evidence building.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

resolution

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(GENERAL FUND LOAN)

RESOLUTION AUTHORIZING PARTICIPATION IN THE INTERCAP PROGRAM

CERTIFICATE OF MINUTES RELATING TO  
RESOLUTION NO. \_\_\_\_\_

Issuer: City of Billings

Kind, date, time and place of meeting: A \_\_\_\_\_ meeting held on \_\_\_\_\_ at \_\_\_\_ o'clock \_\_\_\_ .m. in \_\_\_\_\_, Montana.

Members present: \_\_\_\_\_

Members absent: \_\_\_\_\_

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

RESOLUTION AUTHORIZING PARTICIPATION IN THE BOARD OF INVESTMENTS OF THE STATE OF MONTANA ANNUAL ADJUSTABLE RATE TENDER OPTION MUNICIPAL FINANCE CONSOLIDATION ACT BONDS (INTERCAP REVOLVING PROGRAM), APPROVING THE FORM AND TERMS OF THE LOAN AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO

I, the undersigned, being the fully qualified and acting recording officer of the public body issuing the obligations referred to in the title of this certificate, certify that the documents attached hereto, as described above, have been carefully compared with the original records of the public body in my legal custody, from which they have been transcribed; that the documents are a correct and complete transcript of the minutes of a meeting of the governing body at the meeting, insofar as they relate to the obligations; and that the meeting was duly held by the governing body at the time and place and was attended throughout by the members indicated above, pursuant to call and notice of such meeting given as required by law.

WITNESS my hand officially as such recording officer this \_\_\_\_ day of \_\_\_\_\_, 2019.

By \_\_\_\_\_  
Its \_\_\_\_\_

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

RESOLUTION AUTHORIZING PARTICIPATION IN THE BOARD OF INVESTMENTS OF THE STATE OF MONTANA ANNUAL ADJUSTABLE RATE TENDER OPTION MUNICIPAL FINANCE CONSOLIDATION ACT BONDS (INTERCAP REVOLVING PROGRAM), APPROVING THE FORM AND TERMS OF THE LOAN AGREEMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO

BE IT RESOLVED BY THE \_\_\_\_\_ (the Governing Body) OF THE CITY OF BILLINGS (the Borrower) AS FOLLOWS:

## ARTICLE I

### DETERMINATIONS AND DEFINITIONS

Section 1.01. Definitions. The following terms will have the meanings indicated below for all purposes of this Resolution unless the context clearly requires otherwise. Capitalized terms used in this Resolution and not defined herein shall have the meanings set forth in the Loan Agreement.

Adjusted Interest Rate means the rate of interest on the Bonds determined in accordance with the provisions of Section 3.03 of the Indenture.

Authorized Representative shall mean the officers of the Borrower designated and duly empowered by the Governing Body and set forth in the application.

Board shall mean the Board of Investments of the State of Montana, a public body corporate organized and existing under the laws of the State and its successors and assigns.

Board Act shall mean Section 2-15-1808, Title 17, Chapter 5, Part 16, MCA, as amended.

Bonds shall mean the Bonds issued by the Board pursuant to the Indenture to finance the Program.

Borrower shall mean the Borrower above named.

Indenture shall mean that certain Indenture of Trust dated March 1, 1991 by and between the Board and the Trustee pursuant to which the Bonds are to be issued and all supplemental indentures thereto.

Loan means the loan of money by the Board to the Borrower under the terms of the Loan Agreement pursuant to the Act and the Borrower Act and evidenced by the Note.

Loan Agreement means the Loan Agreement between the Borrower and the Board, including any amendment thereof or supplement thereto entered into in accordance with the provisions thereof and hereof.

Loan Agreement Resolution means this Resolution or such other form of resolution that the Board may approve and all amendments and supplements thereto.

Loan Date means the date of closing a Loan.

Loan Rate means the rate of interest on the Loan which is initially 3.37% per annum through February 15, 2020 and thereafter a rate equal to the Adjusted Interest Rate on the Bonds and up to 1.50% per annum as necessary to pay Program Expenses.

Note means the promissory note to be executed by the Borrower pursuant to the Loan Agreement, in accordance with the provisions hereof and thereof, in substantially the form set forth in the Promissory Note, or in such form that may be approved by the Board.

Program shall mean the INTERCAP Program of the Board pursuant to which the Board will issue and sell Bonds and use the proceeds to make loans to participating Eligible Government Units.

Project shall mean those items of equipment, personal or real property improvements to be acquired, installed, financed or refinanced under the Program as set forth in the Description of the Project/Summary of Draws.

Trustee shall mean U.S. Bank National Association (formerly known as First Trust Company of Montana National Association) and its successors.

Section 1.02. Authority. The Borrower is authorized to undertake the Project and is further authorized by the Borrower Act to enter into the Loan Agreement for the purpose of obtaining a loan to finance or refinance the acquisition and installation costs of the Project.

Section 1.03. Execution of Agreement and Delivery of Note. Pursuant to the Indenture and the Board Act, the Board has issued and sold the Bonds and deposited a part of proceeds thereof in the Loan Fund held by the Trustee. The Board has, pursuant to the Term Sheet, agreed to make a Loan to the Borrower in the principal amount of \$3,410,000.00 and upon the further terms and conditions set forth herein, and as set forth in the Term Sheet and the Loan Agreement.

## ARTICLE II

### THE LOAN AGREEMENT

Section 2.01. Terms. (a) The Loan Agreement shall be dated as of the Loan Date, in the principal amount of \$3,410,000.00 and shall constitute a valid and legally binding obligation of the Borrower. The obligation to repay the Loan shall be evidenced by a Promissory Note. The Loan shall bear interest at the initial rate of 3.37% per annum through February 15, 2020 and thereafter at the Adjusted Interest Rate, plus up to 1.50% per annum as necessary to pay the cost of administering the Program (the Program Expenses). All payments may be made by check or wire transfer to the Trustee at its principal corporate trust office.

(b) The Loan Repayment Dates shall be February 15 and August 15 of each year.

(c) The principal amount of the Loan may be prepaid in whole or in part provided that the Borrower has given written notice of its intention to prepay the Loan in whole or in part to the Board no later than 30 days prior to the designated prepayment date.

(d) The Prepayment Amount shall be equal to the principal amount of the Loan outstanding, plus accrued interest thereon to the date of prepayment.

(e) Within fifteen days following an Adjustment Date, the Trustee shall calculate the respective amounts of principal and interest payable by each Borrower on and with respect to its Loan Agreement and Note for the subsequent August 15 and February 15 payments, and prepare and mail by first class mail a statement therefor to the Borrower.

Section 2.02. Use and Disbursement of the Proceeds. The proceeds of the Loan will be expended solely for the purposes set forth in the Description of the Project/Summary of Draws. The proceeds from the sale of the Note to the Board shall remain in the Borrower's Account pending disbursement at the request of the Borrower to pay the budgeted expenditures in anticipation of which the Note was issued. Requests for disbursement of the Loan shall be made to the Board. Prior to the closing of the Loan and the first disbursement, the Borrower shall have delivered to the Trustee a certified copy of this Resolution, the executed Loan Agreement and Note in a form satisfactory to the Borrower's Counsel and the Board's Bond Counsel and such other certificates, documents and opinions as set forth in the Loan Agreement or as the Board or Trustee may require. The Borrower will pay the loan proceeds to a third party within five business days after the date they are advanced (except for proceeds to reimburse the Borrower for previously paid expenditures, which are deemed allocated on the date advanced).

Section 2.03. Payment and Security for the Note. In consideration of the making of the Loan to the Borrower by the Board, the provisions of this Resolution shall be a part of the Agreement of the Borrower with the Board. The provisions, covenants and Agreements herein set forth to be performed by or on behalf of the Borrower shall be for the benefit of the Board. The Loan Agreement and Note shall constitute a valid and legally binding obligation of the Borrower and the principal of and interest on the Loan shall be payable from the general fund of the Borrower, and any other money and funds of the Borrower otherwise legally available therefor. The Borrower shall enforce its rights to receive and collect all such taxes and revenues to insure the prompt payment of the Borrower obligations hereunder.

Section 2.04. Representation Regarding the Property Tax Limitation Act. The Borrower recognizes and acknowledges that the amount of taxes it may levy is limited by the state pursuant to Section 15-10-402, et. seq. (the Property Tax Limitation Act). The Borrower is familiar with the Property Tax Limitation Act and acknowledges that the obligation to repay the Loan under the Agreement and Note are not exceptions to the provisions of the Property Tax Limitation Act. The Borrower represents and covenants that the payment of principal of and interest on the Loan can and will be made from revenues available to the Borrower in the years as they become due, notwithstanding the provisions of the Property Tax Limitation Act.

Section 2.05. Levy and Appropriate Funds to Repay Loan. The Borrower agrees that in order to meet its obligation to repay the Loan and all other payments hereunder that it will budget, levy taxes for and appropriate in each fiscal year during the term of the Loan an amount sufficient to pay the principal of and interest hereon within the limitations of the Property Tax Limitation Act, as may be amended, and will reduce other expenditures if necessary to make the payments hereunder when due.

### ARTICLE III

#### CERTIFICATIONS, EXECUTION AND DELIVERY

Section 3.01. Authentication of Transcript. The Authorized Representatives are authorized and directed to prepare and furnish to the Board and to attorneys approving the validity of the Bonds, certified copies of this Resolution and all other resolutions and actions of the Borrower and of said officers relating to the Loan Agreement, the Note, and certificates as to all other proceedings and records of the Borrower which are reasonably required to evidence the validity and marketability of the Note. All such certified copies and certificates shall be deemed the representations and recitals of the Borrower as to the correctness of the statements contained therein.

Section 3.02. Legal Opinion. The attorney to the Borrower is hereby authorized and directed to deliver to the Board at the time of Closing of the Loan his or her opinion regarding the Loan, the Loan Agreement, the Note and this Resolution in substantially the form of the opinion set forth in the Attorney's Opinion.

Section 3.03. Execution. The Loan Agreement, Note, and any other document required to close the Loan shall be executed in the name of the Borrower and shall be executed on behalf of the Borrower by the signatures of the Authorized Representatives of the Borrower.

PASSED AND APPROVED by the \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.

By \_\_\_\_\_  
Its \_\_\_\_\_

Attest:

By \_\_\_\_\_  
Its \_\_\_\_\_

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Billings tetrachloroethylene (PCE)

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

**Department:** Public Works

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

Public Works gave an informational presentation at the November 4th City Council Work Session to provide background and to obtain support for the designation of an existing PCE site to be placed on the EPA National Priorities List (NPL)-Federal Superfund Program. The placement of the PCE site on the Federal NPL will provide funding for remediation. Under the current status of the PCE site, funding is not available. Attached is the support letter that will be sent to the Governor of Montana.

**ALTERNATIVES ANALYZED**

City Council may:

- Approve, sending a support letter to the Governor of Montana to designate the Billings PCE site be put on the EPA National Priorities List (NPL)-Federal Superfund Program or;
- Disapprove sending a support letter to the Governor of Montana to designate the Billings PCE site be put on the EPA National Priorities List (NPL)-Federal Superfund Program.

**FINANCIAL IMPACT**

There is no financial impact to the City.

**RECOMMENDATION**

Staff recommends City Council approve the support letter to the Governor of Montana to designate the Billings PCE site be put on the EPA National Priorities List (NPL)-Federal Superfund Program.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

PCE Map  
PCE Letter

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November 26, 2019

The Honorable Steve Bullock Governor  
State of Montana  
P.O. Box 200801  
Helena, MT 59620-0801

Shaun McGrath, Director  
Montana Department of Environmental Quality  
P.O. Box 200901 Helena, MT 59620-0901

**RE: Billings PCE Groundwater State Superfund Site**

Dear Governor Bullock and Director McGrath:

On behalf of the City of Billings, we are requesting your support for adding the site referenced above to the Environmental Protection Agency's National Priorities List (NPL). It is our understanding the State has limited resources and funding to mitigate potential risks and to clean up the site. The City is also under the impression this site will have a favorable ranking on the NPL due in part to the number of potentially impacted residential and business properties from PCE vapor intrusion. In addition, initial steps toward remediation of the site may begin as early as 2020.

In 1992, the area, located in east and southeast Billings, was designated a State Superfund Site resulting from earlier investigations confirming groundwater chlorinated solvent contamination. In 2008, the Environmental Protection Agency (EPA) conducted an aggressive contaminant removal and treatment near Big Sky Linen property.

Following the EPA remediation work, the Montana Department of Environmental Quality (DEQ) performed additional remedial investigation to determine the nature and extent of contamination. The investigation revealed the contaminants moved from the groundwater through the soil and is now entering overlying structures by vapor intrusion. The contaminants of concern include the chlorinated solvent tetrachloroethylene (PCE) and trichloroethylene (TCS) and other compounds.

An EPA Superfund designation is the appropriate mechanism to address this large and complex site, like the Billings PCE Groundwater State Superfund Site. Sites on a National Priorities List (NPL) warrant additional assessment, evaluation of site risks associated with the contamination, clean up and the availability of federal funding. The City of Billings believes that adding this site to the NPL will ensure that investigations and clean up moves forward in an appropriate and timely manner.

Also of critical importance, is the coordination of EPA and DEQ for additional investigations and proposed remediation with the City and affected home and business owners. The City requests that an informational package listing potential site mitigation options be drafted as soon as possible to alleviate any home and business owner concerns and confusion when the area becomes a listed Federal Superfund site.

The clean-up must be completed with effective oversight and public involvement. A Federal, State, Local, and private partnership is needed to effectively address the remediation this site.

Thank you again for your assistance in this important project. Please support the listing of this site on the National Priorities List so the remedial investigation and cleanup process can begin as soon as possible.

Sincerely,

Chris Kukulski, City Administrator

Attachment: Map

**Consent 1. J. 1.**

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Payment of Claims for the week of October 21, 2019

**PRESENTED BY:** Andy Zoeller

**Department:** City Hall Administration

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$994,905.48 have been audited and are presented for City Council payment approval. A complete listing of the claims for the week are 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 Council approve the Payment of Claims.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

councilmemo\_10212019

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Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827640	A & I Distributors	Airport	\$ (487.82)	Credit for wrong product. Original invoice #3346253
10/21/2019	827640	A & I Distributors	Airport	\$ 689.23	Oil for Operations
10/21/2019	827640	A & I Distributors	Water	\$ 1,022.13	WATER PARTS AND SUPPLIES
10/21/2019	827640	A & I Distributors	Solid Waste	\$ 95.88	Antifreeze
10/21/2019	827640	A & I Distributors	Transit	\$ 92.95	3364755
10/21/2019	827640	A & I Distributors	Transit	\$ 1,106.67	3360985 PO NUM 308529
10/21/2019	827640	A & I Distributors	Street/Traffic	\$ 80.17	3361003
10/21/2019	827640	A & I Distributors	Wastewater	\$ 159.34	NONSTOCKING ITEMS-P.U.D.
10/21/2019	827640	A & I Distributors	Public Safety	\$ 79.64	3361003
10/21/2019	827640	A & I Distributors	Fleet	\$ 1,155.93	3354315 PO NUM 308529
10/21/2019	827640	A & I Distributors	Water	\$ 119.51	NONSTOCKING ITEMS-P.U.D.
10/21/2019	827640	A & I Distributors	Fleet	\$ 531.54	3353296 PO NUM 308529
10/21/2019	827640	A & I Distributors	Solid Waste	\$ 80.17	3361003
10/21/2019	827640	A & I Distributors	Fleet	\$ 3,020.65	3361003 PO NUM 308529
10/21/2019	827640	A & I Distributors	Fleet	\$ 574.21	3361003 PO NUM 308529
10/21/2019	827640	A & I Distributors	Solid Waste	\$ 1,482.62	DEF and oil for the Landfill
10/21/2019	827640	A & I Distributors	Solid Waste	\$ 991.65	DEF and Antifreeze for the garbage trucks
10/21/2019	827642	Agissar Corporation	P.W. Admin	\$ 4,325.00	ANNUAL MAINTENANCE AGREEMENT 11/19/19-11/18/20
10/21/2019	827651	Archie Cochrane	Transit	\$ 109.53	5301289
10/21/2019	827651	Archie Cochrane	Transit	\$ 740.52	5300556
10/21/2019	827651	Archie Cochrane	Transit	\$ 3,336.07	5301324
10/21/2019	827651	Archie Cochrane	Transit	\$ 210.04	5301289
10/21/2019	827651	Archie Cochrane	Transit	\$ (150.00)	5301600
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 62.53	5297562
10/21/2019	827651	Archie Cochrane	Street/Traffic	\$ 16.47	5297942
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 268.45	5297769
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 740.93	5298429
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 59.95	5298532
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 234.26	5297228
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 276.92	5297530
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 426.75	5297528
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 18.39	5297103
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 388.27	5298585
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 249.12	5297994
10/21/2019	827651	Archie Cochrane	Public Safety	\$ 25.31	5297173
10/21/2019	827652	Arm Scor Cartridge	Public Safety	\$ 1,623.00	Arm Scor Invoice 10726, 9mm-124 gr and 45 ACO-230gr
10/21/2019	827652	Arm Scor Cartridge	Public Safety	\$ 4,258.00	Arm Scor invoice 10725, 9mm-124 gr and 40 S&W- 180gr
10/21/2019	827656	AT & T Corp	Public Safety	\$ 2,603.21	Police Department Cell Phone
10/21/2019	827656	AT & T Corp	Public Safety	\$ 284.13	Animal Control Cell Phones
10/21/2019	827656	AT & T Corp	Building Inspection	\$ 361.26	PW-Building Tablets (Planning)
10/21/2019	827656	AT & T Corp	Building Inspection	\$ 473.80	PW-Building Cell Phones

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827656	AT & T Corp	Police Programs	\$ 40.14	CCSIU Toughbook
10/21/2019	827656	AT & T Corp	Public Safety	\$ 957.76	MDT Fire
10/21/2019	827656	AT & T Corp	Public Safety	\$ 3,652.74	Police MDT Toughbooks
10/21/2019	827656	AT & T Corp	Public Safety	\$ 240.84	Animal Control -MDT
10/21/2019	827656	AT & T Corp	Public Safety	\$ 87.49	ICAC -Campbell and Spare
10/21/2019	827656	AT & T Corp	Police Programs	\$ 47.35	Domestic Violence -Katie Nash
10/21/2019	827656	AT & T Corp	Public Safety	\$ 83.35	Comm Center 911
10/21/2019	827656	AT & T Corp	Public Safety	\$ 236.78	Police -Resource Officers
10/21/2019	827656	AT & T Corp	Parking	\$ 97.63	Parking Division Meter Maintenance
10/21/2019	827656	AT & T Corp	Airport	\$ 532.43	Airport
10/21/2019	827656	AT & T Corp	Public Safety	\$ 1,145.85	Fire Department Cell Phones
10/21/2019	827656	AT & T Corp	Info Resources	\$ 47.35	IT Department -On call Phone
10/21/2019	827656	AT & T Corp	Transit	\$ 453.60	MET Transit Tablets
10/21/2019	827656	AT & T Corp	General	\$ 47.35	Legal Dept -Domestic Violence
10/21/2019	827660	Bazant	Parking	\$ 5,989.50	
10/21/2019	827662	Big Sky Fire Equipt	Public Safety	\$ 3,424.00	389973
10/21/2019	827664	Billings Community Cable	General	\$ 46,350.00	Quarterly Installments
10/21/2019	827669	Boingo LLC	Airport	\$ 3,000.00	Invoice #1502397. Quarter 4 of 2019 Management Fees
10/21/2019	827675	Business Tax Section	Arterial Streets	\$ 973.28	WO 19-03 City Overlay; Pmt 2
10/21/2019	827675	Business Tax Section	Wastewater	\$ 123.09	WO 17-14 Grand Ave Water & Sewer Extensions
10/21/2019	827675	Business Tax Section	Water	\$ 135.94	WO 17-14 Grand Ave Water & Sewer Extensions
10/21/2019	827675	Business Tax Section	Sidewalk Const	\$ 383.02	WO 19-02 Missing Sidewalk Project; Pmt 3
10/21/2019	827675	Business Tax Section	Gas Tax	\$ 1,165.60	WO 19-02 Missing Sidewalk Project; Pmt 3
10/21/2019	827675	Business Tax Section	Storm Sewer	\$ 789.97	WO 19-49 Silverwood Culvert Replacement; Pmt 1F
10/21/2019	827677	Century Link	General	\$ 49.32	Monthly charges for 406-248-9851
10/21/2019	827677	Century Link	Public Safety	\$ 119.32	406-245-7469 Fire
10/21/2019	827677	Century Link	Radio	\$ 311.26	406-248-3635 Fire Airport Radio Tower WCK
10/21/2019	827677	Century Link	Radio	\$ 311.26	406-248-3636 Fire Airport Radio Tower Jellison
10/21/2019	827677	Century Link	EOC 911	\$ 311.26	406-245-7102 9-1-1 Center Fox Reservoir #2
10/21/2019	827677	Century Link	Airport	\$ 45.66	406-245-5834 Airport Alarm
10/21/2019	827677	Century Link	Wastewater	\$ 41.67	406-259-2328 PUD Sahara Sand Lift Station
10/21/2019	827677	Century Link	City/Co Planning	\$ 41.74	406-656-9578 Planning Traffic Central Broadwater
10/21/2019	827677	Century Link	Airport	\$ 62.14	406-256-6014 Airport P9 Building
10/21/2019	827677	Century Link	Solid Waste	\$ 53.60	406-256-7001 Solid Waste Scale House
10/21/2019	827677	Century Link	Water	\$ 39.44	406-245-3659 PUD Alarm Water Tower
10/21/2019	827677	Century Link	Airport	\$ 57.86	406-256-7070 Airport
10/21/2019	827677	Century Link	EOC 911	\$ 45.65	406-245-3108 911
10/21/2019	827677	Century Link	Engineering	\$ 113.15	406-259-7758 Measured Lines Depot
10/21/2019	827677	Century Link	P.W. Admin	\$ 75.44	406-259-7758 Measured Lines Depot
10/21/2019	827677	Century Link	Telephone System	\$ 228.20	406-248-3049 Main System T1 City/County Tie
10/21/2019	827677	Century Link	EOC 911	\$ 311.26	406-245-7101 9-1-1 Center Landfill #2

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827677	Century Link	Street/Traffic	\$ 53.52	406-259-3298 PW Traffic 3728 McDougall
10/21/2019	827677	Century Link	Public Safety	\$ 118.32	406-373-3742 Fire RR Crossing Alarm
10/21/2019	827677	Century Link	City/Co Planning	\$ 41.74	406-656-9604 Planning Traffic Central 9th
10/21/2019	827677	Century Link	EOC 911	\$ 438.41	406-245-8527 New 9-1-1 Center
10/21/2019	827677	Century Link	Fleet	\$ 58.86	406-256-5047 Motor Pool
10/21/2019	827677	Century Link	EOC 911	\$ 45.97	406-245-2296 911
10/21/2019	827677	Century Link	Public Safety	\$ 45.66	406-245-7481 Police
10/21/2019	827677	Century Link	Public Safety	\$ 52.12	406-651-0282 Fire 5 911 Line
10/21/2019	827677	Century Link	EOC 911	\$ 45.65	406-245-3107 911
10/21/2019	827680	Civicplus	Public Safety	\$ 4,911.11	Premium Department Header Package -Annual
10/21/2019	827680	Civicplus	Public Safety	\$ 150.00	Premium Department Header Package -Annual
10/21/2019	827683	Cop Construction	Wastewater	\$ 12,186.01	WO 17-14 Grand Ave Water & Sewer Extensions; RetRel 1F
10/21/2019	827683	Cop Construction	Water	\$ 13,458.24	WO 17-14 Grand Ave Water & Sewer Extensions; RetRel 1F
10/21/2019	827686	CTA Inc	Facilities Mngmt	\$ 8,034.24	Amendment #3 to Contract for Facilities Master Plan
10/21/2019	827687	Cummins Rocky Mt	Transit	\$ 36.89	38-16213
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 76.62	15404
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 93.61	15375
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 117.12	15315
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ (250.00)	15376
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ (437.50)	15420
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 228.14	15548
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 19.33	15214
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 548.95	15313
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 387.80	15485
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ (6.25)	15616
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 8.45	15254
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 101.39	15256
10/21/2019	827687	Cummins Rocky Mt	Solid Waste	\$ 2,943.00	15354
10/21/2019	827703	Empire Garage Owners	Parking	\$ 8,604.61	10152019_City of Billings October Assessment
10/21/2019	827705	FirstMark Const	Sidewalk Const	\$ 37,919.26	WO 19-02 Missing Sidewalk Project; Pmt 3
10/21/2019	827705	FirstMark Const	Gas Tax	\$ 115,394.02	WO 19-02 Missing Sidewalk Project; Pmt 3
10/21/2019	827715	Hach Company	Water	\$ 29,924.05	11635670; 9 TURBID METERS FOR FILTER BUILDING
10/21/2019	827715	Hach Company	Water	\$ 27,105.48	11619796; 9 TURBID METERS FOR FILTER BUILDING
10/21/2019	827720	HDR, Inc.	Water	\$ 8,022.99	Leavens Reservoir Expansion & Zone 1 Improvements
10/21/2019	827720	HDR, Inc.	Water	\$ 1,030.36	Review plans-gravel sites for purchase
10/21/2019	827738	Knife River	Water	\$ 400.00	646780; CONCRETE FOR THRUST BLOCK
10/21/2019	827738	Knife River	Arterial Streets	\$ 96,354.92	WO 19-03 City Overlay; Pmt 2
10/21/2019	827742	Land Design	Street/Traffic	\$ 4,692.00	WO 19-44 Shiloh Roundabouts Landscaping; Pmt 5
10/21/2019	827744	Magnet Forensics	Police Programs	\$ 3,142.75	Software upgrade.
10/21/2019	827747	Mark Rite Lines	Street/Traffic	\$ 5,972.00	add 5 actuators to unit 1307
10/21/2019	827748	Mead & Hunt Inc	Airport	\$ 6,584.87	State of the Airport Breakfast

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10/21/2019	827752	Morrison Maierle	Airport	\$ 2,816.11	Repave Long-Term Parking Lot - CA
10/21/2019	827752	Morrison Maierle	Airport	\$ 2,347.43	Amendment 19. Airport Engineering
10/21/2019	827752	Morrison Maierle	Water	\$ 5,185.19	WO1815 Voelker Pump Station Improvements; 195311 Pmt 8
10/21/2019	827753	MT Waterworks	Water	\$ 133.20	30405; 16" FLANGE GASKET
10/21/2019	827753	MT Waterworks	Water	\$ 712.00	8" GRIP RING ACCESSORY PACK
10/21/2019	827753	MT Waterworks	Water	\$ 857.52	NONSTOCKING ITEMS-P.U.D.
10/21/2019	827753	MT Waterworks	Water	\$ 924.08	1" CURB VALVE - COMPRESSION - MINNEAPOLIS
10/21/2019	827753	MT Waterworks	Water	\$ 391.20	3/4" COMPRESSION COUPLING SLIP - 74758Q34
10/21/2019	827753	MT Waterworks	Water	\$ 331.80	30392; 20'-6" PVC PIPE, 20'-8" PVC PIPE
10/21/2019	827753	MT Waterworks	Water	\$ 216.90	8 X 2 TAPPING SADDLE - FOR C900 P/N: 380582
10/21/2019	827753	MT Waterworks	Water	\$ 117.89	8" X 1-1/2" TAPPING SADDLE FOR PVC
10/21/2019	827753	MT Waterworks	Water	\$ 447.16	6" HYMAX COUPLING - 6.42-7.68 2000078260 (2000078260)
10/21/2019	827753	MT Waterworks	Water	\$ 96.00	1" COUPLING CTS X FLARE 74755Q1 P/N: 74755Q1
10/21/2019	827753	MT Waterworks	Water	\$ 1,640.73	12" PUSH-ON VALVE
10/21/2019	827753	MT Waterworks	Water	\$ 108.30	30358; PV LOCK RESTRAINTS
10/21/2019	827753	MT Waterworks	Water	\$ 234.46	30360; 12" SEWER REPAIR COUPLINGS
10/21/2019	827753	MT Waterworks	Water	\$ 886.32	MTBLL59394; CURB BOX COUPLING
10/21/2019	827756	Napa Auto Parts	Transit	\$ 166.96	3977-00-150318 PO NUM 309111
10/21/2019	827756	Napa Auto Parts	Transit	\$ 180.56	3977-00-147726
10/21/2019	827756	Napa Auto Parts	Transit	\$ 1,044.76	3977-00-146814
10/21/2019	827756	Napa Auto Parts	Transit	\$ 127.75	3977-00-146970
10/21/2019	827756	Napa Auto Parts	Transit	\$ 30.82	3977-00-147095
10/21/2019	827756	Napa Auto Parts	Transit	\$ 188.76	3977-00-150333
10/21/2019	827756	Napa Auto Parts	Transit	\$ (166.96)	3977-00-150342
10/21/2019	827756	Napa Auto Parts	Transit	\$ 72.48	3977-00-150333 PO NUM 309111
10/21/2019	827756	Napa Auto Parts	Transit	\$ 83.88	3977-00-146813
10/21/2019	827756	Napa Auto Parts	Transit	\$ 94.21	3977-00-148744
10/21/2019	827756	Napa Auto Parts	Transit	\$ 151.26	3977-00-146960
10/21/2019	827756	Napa Auto Parts	Transit	\$ 151.91	3977-00-148416 PO NUM 309111
10/21/2019	827756	Napa Auto Parts	Transit	\$ (55.00)	3977-00-146558
10/21/2019	827756	Napa Auto Parts	Transit	\$ 307.20	3977-00-146813
10/21/2019	827756	Napa Auto Parts	Transit	\$ 206.88	3977-00-148416
10/21/2019	827756	Napa Auto Parts	Transit	\$ 138.52	3977-00-146813 PO NUM 309111
10/21/2019	827756	Napa Auto Parts	Transit	\$ 407.17	3977-00-148744 PO NUM 309111
10/21/2019	827756	Napa Auto Parts	Transit	\$ 208.08	4124-00-082551
10/21/2019	827758	NorMont Equipment	Street/Traffic	\$ 202.65	flail knives for mowers
10/21/2019	827758	NorMont Equipment	Street/Traffic	\$ 3,229.00	cutter wire for brooms for sweepers
10/21/2019	827759	NorthWestern Energy	Street/Traffic	\$ 11,931.32	NWE Signal Bills
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 223.20	SILMD 115 Acct# 0712564-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 334.81	SILMD 123 Acct# 0712572-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 468.21	SILMD 145 Acct# 0712590-9

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10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 652.28	SILMD 186 Acct# 0712624-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 234.10	SILMD 187 Acct# 0712625-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 606.79	SILMD 202 Acct# 0712639-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 328.72	SILMD 225 Acct# 0712659-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 169.19	SILMD 264 Acct# 0721427-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 489.58	SILMD 276 Acct# 0961926-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 59.58	SILMD 279 Acct# 1124127-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 403.60	SILMD 204 Acct# 0712641-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 370.82	SILMD 217 Acct# 0712653-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 267.90	SILMD 220 Acct# 0712654-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 117.81	SILMD 223 Acct# 0712657-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 13.20	SILMD 238 Acct# 0712672-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 111.60	SILMD 244 Acct# 0712677-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 558.01	SILMD 252 Acct# 0719162-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 5,543.97	SILMD 301 Acct# 1687005-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 263.51	SILMD 302 Acct# 1607534-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,226.18	SILMD 316 Acct# 3291842-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 99.75	SILMD 317 Acct# 3253826-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 56.91	SILMD 320 Acct# 0712569-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 194.81	SILMD 113 Acct# 0712562-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 948.60	SILMD 114 Acct# 0712563-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 201.04	SILMD 118 Acct# 0712567-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 4,522.12	SILMD 13 Acct# 0721276-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 438.03	SILMD 147 Acct# 0712592-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 502.21	SILMD 155 Acct# 0712599-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 510.30	SILMD 172 Acct# 0712611-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 286.08	SILMD 194 Acct# 0712632-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 92.91	SILMD 200 Acct# 0712637-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 49.11	SILMD 211 Acct# 0712648-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 502.21	SILMD 261 Acct# 0720705-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 247.05	SILMD 286 Acct# 1296582-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 128.63	SILMD 290 Acct# 1433921-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 234.10	SILMD 293 Acct# 1481534-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 111.60	SILMD 295 Acct# 1481536-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 414.13	SILMD 300 Acct# 1662840-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 274.49	SILMD 308 Acct# 2072459-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 4,408.19	SILMD 109 Acct# 0712561-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 976.50	SILMD 124 Acct# 0712573-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 753.30	SILMD 138 Acct# 0712586-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,342.70	SILMD 99 Acct# 0712558-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,757.69	SILMD 107 Acct# 0712560-2

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10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 119.07	SILMD 130 Acct# 0712579-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 221.13	SILMD 133 Acct# 0712581-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 510.31	SILMD 134 Acct# 0712582-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,217.32	SILMD 154 Acct# 0712598-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 327.75	SILMD 175 Acct# 0712614-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 33.01	SILMD 176 Acct# 0712615-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 374.57	SILMD 184 Acct# 0712622-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 749.11	SILMD 193 Acct# 0712631-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 228.86	SILMD 195 Acct# 0712633-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 491.60	SILMD 201 Acct# 0712638-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 864.53	SILMD 233 Acct# 0712667-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 93.64	SILMD 239 Acct# 0712673-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 352.93	SILMD 9 Acct# 0712545-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 585.89	SILMD 116 Acct# 0712565-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 334.81	SILMD 129 Acct# 0712578-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 809.10	SILMD 158 Acct# 0712601-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 88.36	SILMD 210 Acct# 0712647-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 582.55	SILMD 241 Acct# 0712675-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,825.60	SILMD 253 Acct# 0719644-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 182.72	SILMD 255 Acct# 0720813-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 206.64	SILMD 273 Acct# 0926386-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 187.28	SILMD 298 Acct# 1481540-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 832.25	SILMD 305 Acct# 1695873-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 263.13	SILMD 311 Acct# 3014475-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 809.10	SILMD 228 Acct# 0712662-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 539.30	SILMD 235 Acct# 0712669-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 397.98	SILMD 237 Acct# 0712671-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 83.70	SILMD 242 Acct# 0712676-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,447.22	SILMD 259 Acct# 0720810-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 366.59	SILMD 265 Acct# 0721556-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 451.07	SILMD 270 Acct# 0906944-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,035.19	SILMD 100 Acct# 0712559-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 3,179.37	SILMD 117 Acct# 0712566-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 121.53	SILMD 119 Acct# 0712568-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 390.61	SILMD 125 Acct# 0712574-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 702.30	SILMD 127 Acct# 0712576-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,217.32	SILMD 190 Acct# 0712628-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 117.06	SILMD 198 Acct# 0712636-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 26.40	SILMD 205 Acct# 0712642-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 222.26	SILMD 208 Acct# 0712645-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,408.31	SILMD 224 Acct# 0712658-4

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10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 3,117.66	SILMD 262 Acct# 0720937-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 862.81	SILMD 277 Acct# 1058710-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 641.68	SILMD 151 Acct# 0712595-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 234.10	SILMD 167 Acct# 0712609-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 561.84	SILMD 171 Acct# 0712610-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 73.63	SILMD 197 Acct# 0712635-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 538.41	SILMD 209 Acct# 0712646-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 77.55	SILMD 222 Acct# 0712656-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 637.72	SILMD 227 Acct# 0712661-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 328.85	SILMD 285 Acct# 1206985-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 404.37	SILMD 315 Acct# 3305804-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 195.30	SILMD 126 Acct# 0712575-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,053.44	SILMD 161 Acct# 0712604-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 374.57	SILMD 164 Acct# 0712607-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,170.49	SILMD 173 Acct# 0712612-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,701.89	SILMD 181 Acct# 0712619-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,170.51	SILMD 183 Acct# 0712621-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 29.46	SILMD 213 Acct# 0712650-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 3,906.98	SILMD 251 Acct# 0718801-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 917.62	SILMD 257 Acct# 0720360-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,645.54	SILMD 258 Acct# 0720606-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 989.49	SILMD 263 Acct# 0720716-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 465.02	SILMD 283 Acct# 1172743-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 212.17	SILMD 310 Acct# 2060519-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 80.60	SILMD 322 Acct# 3402033-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 491.60	SILMD 128 Acct# 0712577-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 27.88	SILMD 144 Acct# 0712589-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 362.70	SILMD 146 Acct# 0712591-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 892.79	SILMD 165 Acct# 0712608-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 983.21	SILMD 174 Acct# 0712613-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 585.26	SILMD 182 Acct# 0712620-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 140.47	SILMD 185 Acct# 0712623-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 411.97	SILMD 240 Acct# 0712674-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 205.99	SILMD 250 Acct# 0719001-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,707.32	SILMD 307 Acct# 2049005-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 382.17	SILMD 321 Acct# 3338917-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 308.59	SILMD 324 Acct# 1246537-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 418.50	SILMD 229 Acct# 0712663-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,538.89	SILMD 232 Acct# 0712666-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 73.49	SILMD 245 Acct# 0712678-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 996.81	SILMD 247 Acct# 0712680-8

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10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 229.43	SILMD 289 Acct# 1685375-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 223.51	SILMD 325 Acct# 3587598-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 417.85	SILMD 191 Acct# 0712629-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 73.63	SILMD 196 Acct# 0712634-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 315.19	SILMD 226 Acct# 0712660-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 482.06	SILMD 234 Acct# 0712668-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 334.81	SILMD 246 Acct# 0712679-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 155.09	SILMD 254 Acct# 0719763-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 960.40	SILMD 271 Acct# 0995095-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 613.80	SILMD 292 Acct# 1481532-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 266.60	SILMD 312 Acct# 3146127-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 825.56	SILMD 318 Acct# 3372018-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 668.78	SILMD 323 Acct# 3597170-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 11,684.68	SILMD 97 Acct# 0712557-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,187.64	SILMD 14 Acct# 0721277-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,144.04	SILMD 17 Acct# 0712553-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 94.44	SILMD 18 Acct# 0712554-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 491.91	SILMD 95 Acct# 0712556-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 864.89	SILMD 131 Acct# 0712580-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 474.32	SILMD 136 Acct# 0712584-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 378.31	SILMD 8 Acct# 0712544-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,511.01	SILMD 121 Acct# 0712570-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 19.63	SILMD 203 Acct# 0712640-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 374.57	SILMD 207 Acct# 0712644-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 376.94	SILMD 214 Acct# 0712651-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,710.97	SILMD 248 Acct# 0712681-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 46.08	SILMD 266 Acct# 0721684-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 217.43	SILMD 278 Acct# 1087619-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 364.88	SILMD 137 Acct# 0712585-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 251.11	SILMD 139 Acct# 0712587-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 351.15	SILMD 180 Acct# 0712618-8
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 280.93	SILMD 188 Acct# 0712626-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 304.33	SILMD 192 Acct# 0712630-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 585.89	SILMD 231 Acct# 0712665-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 171.65	SILMD 236 Acct# 0712670-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 585.89	SILMD 143 Acct# 0712588-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,497.63	SILMD 149 Acct# 0712593-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 538.41	SILMD 153 Acct# 0712597-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 912.98	SILMD 157 Acct# 0712600-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 960.49	SILMD 159 Acct# 0712602-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 234.10	SILMD 189 Acct# 0712627-9

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 515.02	SILMD 135 Acct# 0712583-4
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 46.20	SILMD 162 Acct# 0712605-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 708.60	SILMD 163 Acct# 0712606-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 515.02	SILMD 179 Acct# 0712617-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,125.51	SILMD 10 Acct# 0712546-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 187.28	SILMD 122 Acct# 0712571-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 749.11	SILMD 150 Acct# 0712594-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 4,329.60	SILMD 152 Acct# 0712596-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 725.40	SILMD 160 Acct# 0712603-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 257.51	SILMD 178 Acct# 0712616-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 328.63	SILMD 309 Acct# 2001311-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 327.75	SILMD 206 Acct# 0712643-6
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 49.11	SILMD 212 Acct# 0712649-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 140.47	SILMD 216 Acct# 0712652-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 976.51	SILMD 230 Acct# 0712664-2
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,762.09	SILMD 249 Acct# 0718734-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 2,866.49	SILMD 272 Acct# 0905005-5
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,240.73	SILMD 296 Acct# 1481537-7
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 6.61	SILMD 221 Acct# 0712655-0
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 724.39	SILMD 280 Acct# 1045653-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 1,880.79	SILMD 288 Acct# 1303978-9
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 468.21	SILMD 294 Acct# 1481535-1
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 210.70	SILMD 297 Acct# 1481539-3
10/21/2019	827759	NorthWestern Energy	Light Maintenance	\$ 195.06	SILMD 306 Acct# 1740353-6
10/21/2019	827760	NorthWestern Energy	CDBG	\$ 5.40	930 Steffanich Dr. / REHAB PROGRAM
10/21/2019	827760	NorthWestern Energy	Wastewater	\$ 71,670.27	0100591-7
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 7.06	0722272-2
10/21/2019	827760	NorthWestern Energy	General	\$ 6.22	0722281-3
10/21/2019	827760	NorthWestern Energy	General	\$ 8.51	0722852-1
10/21/2019	827760	NorthWestern Energy	General	\$ 13.52	0723053-5
10/21/2019	827760	NorthWestern Energy	General	\$ 104.27	0723884-3
10/21/2019	827760	NorthWestern Energy	General	\$ 13.92	0722274-8
10/21/2019	827760	NorthWestern Energy	General	\$ 116.96	0722275-5
10/21/2019	827760	NorthWestern Energy	General	\$ 6.22	0722283-9
10/21/2019	827760	NorthWestern Energy	General	\$ 7.31	0723039-4
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 8.04	0723385-1
10/21/2019	827760	NorthWestern Energy	General	\$ 4.12	0723391-9
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 8.43	0723836-3
10/21/2019	827760	NorthWestern Energy	Water	\$ 716.20	1116452-2
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723395-0
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723396-8

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 7.75	1513804-3
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 7.50	2047007-6
10/21/2019	827760	NorthWestern Energy	Airport	\$ 77.83	1647695-4. De Icer. October 2019
10/21/2019	827760	NorthWestern Energy	General	\$ 28.41	0722273-0
10/21/2019	827760	NorthWestern Energy	General	\$ 35.22	0722278-9
10/21/2019	827760	NorthWestern Energy	General	\$ 17.90	0722279-7
10/21/2019	827760	NorthWestern Energy	Water	\$ 6.10	0723059-2
10/21/2019	827760	NorthWestern Energy	General	\$ 18.49	0723064-2
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 7.50	1514388-6
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 7.75	2047010-0
10/21/2019	827760	NorthWestern Energy	General	\$ 424.57	0720821-8
10/21/2019	827760	NorthWestern Energy	Water	\$ 11,235.52	0722264-9
10/21/2019	827760	NorthWestern Energy	General	\$ 17.90	0722808-3
10/21/2019	827760	NorthWestern Energy	General	\$ 91.15	0723005-5
10/21/2019	827760	NorthWestern Energy	General	\$ 6.10	0723046-9
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 2.75	0723391-9
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 8.04	0723392-7
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.99	0723393-5
10/21/2019	827760	NorthWestern Energy	General	\$ 18.49	0723065-9
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 150.62	0723879-3
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 7.24	2047019-1
10/21/2019	827760	NorthWestern Energy	General	\$ 6.22	0722280-5
10/21/2019	827760	NorthWestern Energy	General	\$ 249.88	0722995-8
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 8.04	0723388-5
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.10	0723840-5
10/21/2019	827760	NorthWestern Energy	General	\$ 0.11	0839280-5
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 0.34	1740357-7
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 0.58	1748896-6
10/21/2019	827760	NorthWestern Energy	General	\$ 26.02	0720818-4
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723384-4
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723397-6
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.73	0723883-5
10/21/2019	827760	NorthWestern Energy	Water	\$ 12.96	1867265-9
10/21/2019	827760	NorthWestern Energy	General	\$ 6.10	1588262-4
10/21/2019	827760	NorthWestern Energy	General	\$ 23.09	1836666-6
10/21/2019	827760	NorthWestern Energy	General	\$ 48.86	0712387-0
10/21/2019	827760	NorthWestern Energy	General	\$ 846.44	0722287-0
10/21/2019	827760	NorthWestern Energy	General	\$ 61.16	0722901-6
10/21/2019	827760	NorthWestern Energy	General	\$ 6.60	0722976-8
10/21/2019	827760	NorthWestern Energy	General	\$ 6.22	0723025-3
10/21/2019	827760	NorthWestern Energy	Water	\$ 9,333.73	0723040-2

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827760	NorthWestern Energy	Public Safety	\$ 578.03	0871546-8
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 1.50	2041362-1
10/21/2019	827760	NorthWestern Energy	General	\$ 10.59	0722272-2
10/21/2019	827760	NorthWestern Energy	General	\$ 6.22	0722284-7
10/21/2019	827760	NorthWestern Energy	General	\$ 646.90	0723045-1
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 8.04	0723386-9
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723398-4
10/21/2019	827760	NorthWestern Energy	General	\$ 12.69	0999807-1
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 148.56	1513796-1
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 7.24	2047013-4
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 0.91	3590004-2
10/21/2019	827760	NorthWestern Energy	General	\$ 6.22	0722253-2
10/21/2019	827760	NorthWestern Energy	General	\$ 17.04	0722259-9
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.87	0723885-0
10/21/2019	827760	NorthWestern Energy	Water	\$ 896.71	0100485-2
10/21/2019	827760	NorthWestern Energy	General	\$ 22.84	0723049-3
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723835-5
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 21.20	1513802-7
10/21/2019	827760	NorthWestern Energy	General	\$ 208.79	0712536-2
10/21/2019	827760	NorthWestern Energy	General	\$ 8.43	0722258-1
10/21/2019	827760	NorthWestern Energy	General	\$ 8.43	0722862-0
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 6.22	0723394-3
10/21/2019	827760	NorthWestern Energy	General	\$ 18.49	0723887-6
10/21/2019	827760	NorthWestern Energy	Parks Maintenance	\$ 99.91	1513800-1
10/21/2019	827760	NorthWestern Energy	Street/Traffic	\$ 7.75	2047017-5
10/21/2019	827760	NorthWestern Energy	Facilities Mngmt	\$ 473.48	0975808-7
10/21/2019	827760	NorthWestern Energy	Public Safety	\$ 1,656.02	3448739-7
10/21/2019	827760	NorthWestern Energy	P.W. Admin	\$ 110.23	EA Electricity #3243625-5
10/21/2019	827760	NorthWestern Energy	General	\$ 363.78	0925496-2
10/21/2019	827760	NorthWestern Energy	Wastewater	\$ 297.14	1756893-2 OCT 2019; MONTHLY SERVICE FEE
10/21/2019	827760	NorthWestern Energy	General	\$ 77.62	electrical bill for pioneer tennis courts
10/21/2019	827769	RDO Equipment Co.	Solid Waste	\$ (748.98)	P51481CR
10/21/2019	827769	RDO Equipment Co.	Solid Waste	\$ 1,606.60	PARTS FOR UNIT 0259
10/21/2019	827769	RDO Equipment Co.	Solid Waste	\$ 518.10	PARTS AND LABOR FOR 244
10/21/2019	827769	RDO Equipment Co.	Solid Waste	\$ 1,637.32	PARTS FOR UNIT 0259
10/21/2019	827769	RDO Equipment Co.	Solid Waste	\$ 76.05	PARTS FOR UNIT 259
10/21/2019	827769	RDO Equipment Co.	Water	\$ 192.12	P54119; TUNE UP PIPE SAW
10/21/2019	827783	Stewart Title Company	CDBG	\$ 10,000.00	FTHB Timothy Nava-Mascarena 4218 Jansma Avenue
10/21/2019	827788	Terracon Consultants	Gas Tax	\$ 5,698.00	WO 20-17 Laredo Rock Fall; TC66211
10/21/2019	827790	Titan Machinery	Street/Traffic	\$ 2,940.00	brooms for sweepers
10/21/2019	827792	Town & Country Supply	Transit	\$ 12,780.55	402299 PO NUM 309095

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/21/2019	827792	Town & Country Supply	Fleet	\$ 8,180.75	403058 PO NUM 309102
10/21/2019	827792	Town & Country Supply	Water	\$ 657.46	NONSTOCKING ITEMS-P.U.D.
10/21/2019	827792	Town & Country Supply	Water	\$ 358.48	NONSTOCKING ITEMS-P.U.D.
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 3,046.50	PARTS AND LABOR FOR 0243
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 130.51	PARTS AND LABOR FOR 0243
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 89.76	PARTS FOR UNIT 0243
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 2,680.03	Parts for Landfill Equipment BLCS0716958
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 2,829.91	Parts for Landfill equipment BLCS0716694
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 1,666.61	Parts for Landfill equipment BLCS0715561
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 1,996.92	Parts for Landfill equipment BLCS0716194
10/21/2019	827793	Tractor & Equipment	Solid Waste	\$ 150.76	Parts for Landfill equipment BLCS0716695
10/21/2019	827803	Western Municipal Const	Storm Sewer	\$ 78,207.53	WO 19-49 Silverwood Culvert Replacement; Pmt 1F
10/21/2019	827805	Wilbur Ellis Co	General	\$ 2,640.00	Fertilizer invoices; 13047301
10/21/2019	827805	Wilbur Ellis Co	General	\$ 1,650.00	Fertilizer invoices; 13057274
10/21/2019	827805	Wilbur Ellis Co	General	\$ 1,320.00	Fertilizer invoices; 13039517
10/21/2019	827805	Wilbur Ellis Co	General	\$ 2,640.00	Fertilizer invoices; 13036851
10/21/2019	827805	Wilbur Ellis Co	General	\$ 2,640.00	Fertilizer invoices; 13044710
10/21/2019	827805	Wilbur Ellis Co	General	\$ 1,320.00	Fertilizer invoices; 1303463
10/21/2019	827806	Yellowstone County	Public Safety	\$ 12,500.00	YCSO September 2019 Jail boarders
10/21/2019	827806	Yellowstone County	Public Safety	\$ 41.78	YCSO 1st quarter medical billing

Consent 1. J. 2.

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019

**TITLE:** Payment of Claims for the week of October 28, 2019

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

**Department:** City Hall Administration

**Presentation:** No

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**PROBLEM/ISSUE STATEMENT**

Claims in the amount of \$4,675,074.93 have been audited and are presented for City Council payment approval. A complete listing of the claims for the week are 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 Council approve the Payment of Claims.

**APPROVED BY CITY ADMINISTRATOR**

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**Attachments**

councilmemo 10282019

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Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/28/2019	827811	ABB Inc.	Wastewater	\$ 46,000.00	Service & Test GE 15 KV Medium Voltage Switchgear Bus
10/28/2019	827812	AD Creative Group	Wastewater	\$ 4,100.00	AWARENESS VIDEO PLANNING AND PRODUCTION; 44561-1
10/28/2019	827813	Advantage Companies	Library	\$ 8,616.00	Annual Microfilm Subscription for the Billings Gazette
10/28/2019	827817	Alta Planning & Design	City County Planning	\$ 20,319.60	Wayfinding Signage Plan 00-2019-163-3
10/28/2019	827821	Architectural Specialties	Airport	\$ 57,724.92	Powerlift Hangar Door -Billings Clinic Medevac East Hangar.
10/28/2019	827828	Bcs Scrip	City Health Ins Fund	\$ 9,500.00	3rd Quarter Prev. Confirmation
10/28/2019	827828	Bcs Scrip	City Health Ins Fund	\$ 7,000.00	Healthy IS gift cards
10/28/2019	827836	Billings Police Petty Cash	Police Programs	\$ 2,500.77	Reimbursement of PE/PI. Receipts on file at the BPD.
10/28/2019	827837	Bobcat Of Big Sky, Inc.	Airport	\$ 51,320.00	Bobcat 5600 (Tool-cat) with 68" Snow Broom
10/28/2019	827839	Border States Electric	Water	\$ 131.86	918549969; STAPLES CL2 PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 6.85	918474918; CONDUIT CUP FOR MOUNTAIN VIEW
10/28/2019	827839	Border States Electric	Water	\$ 42.12	918504761; H5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 149.74	918505303; H5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 167.35	918610888; H.S. C/2 LINES
10/28/2019	827839	Border States Electric	Water	\$ 55.44	918494482; UPS ALARMING AT WALDO & CHRISTENSON
10/28/2019	827839	Border States Electric	Water	\$ 138.30	918610315; H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 7.27	918494482; UPS ALARMING AT WALDO & CHRISTENSON
10/28/2019	827839	Border States Electric	Water	\$ 942.39	918581097; LIGHTS & BUTTONS FOR H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 52.09	918541400; STAPLES CL2 PROJECT
10/28/2019	827839	Border States Electric	Wastewater	\$ 7.26	918494482; UPS ALARMING AT WALDO & CHRISTENSON
10/28/2019	827839	Border States Electric	Wastewater	\$ 60.58	918542560; LED'S FOR CL2 STORAGE ROOM
10/28/2019	827839	Border States Electric	Wastewater	\$ 1,858.96	Network security appliance WRF Bioreactor control
10/28/2019	827839	Border States Electric	Water	\$ 53.64	PPE FOR E-3
10/28/2019	827839	Border States Electric	Water	\$ 17.16	H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Wastewater	\$ 53.64	PPE FOR E-3
10/28/2019	827839	Border States Electric	Water	\$ 158.67	REPLACEMENT THERMOSTAT REPEATER SITE
10/28/2019	827839	Border States Electric	Water	\$ 38.23	532914; H5 VFD PROJECT
10/28/2019	827839	Border States Electric	Wastewater	\$ 158.67	918494832; REPLACEMENT THERMOSTAT REPEATER SITE
10/28/2019	827839	Border States Electric	Water	\$ 51.58	EXTENSION CORDS 25' - 12/3 CAPACITY
10/28/2019	827839	Border States Electric	Water	\$ 1,908.81	Network security appliance for WTP-Fox Pump Station
10/28/2019	827839	Border States Electric	Wastewater	\$ 480.22	918560913; LADDER TRAY FOR WRF SWITCHGEAR VAULT
10/28/2019	827839	Border States Electric	Wastewater	\$ 251.61	918486059; UNIT HEATER FOR PSP @ WRF
10/28/2019	827839	Border States Electric	Wastewater	\$ 48.45	918542550; BALLAST FOR ADMIN BUILDING
10/28/2019	827839	Border States Electric	Water	\$ 85.45	918589789; H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 120.80	918485655; CHRISTENSON & WALTER UPS ALARMS
10/28/2019	827839	Border States Electric	Wastewater	\$ 91.12	918494487; UNIT HEATER IN SLUDGE PUMP
10/28/2019	827839	Border States Electric	Water	\$ 59.48	918494766; MOUNTAIN VIEW RADIO SITE
10/28/2019	827839	Border States Electric	Water	\$ 94.92	918570579; H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 14.17	918610389; CLORTEX PROJECT AT STAPLES
10/28/2019	827839	Border States Electric	Water	\$ 965.49	918507436; REPLACEMENT FUSES STAPLES 4-2
10/28/2019	827839	Border States Electric	Water	\$ 1,460.82	918507437; REPLACEMENT FUSES STAPLES 4-2

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/28/2019	827839	Border States Electric	Water	\$ 91.35	918486614; FOR MOUNTAIN VIEW SIGNAL
10/28/2019	827839	Border States Electric	Wastewater	\$ 155.85	918572667; FOR NEW CONTROL ROOM
10/28/2019	827839	Border States Electric	Water	\$ 20.14	918621024; CLAMPS FOR H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 29.50	918455615; HEAT SHRINK FOR CABLE CONNECTOR ON H5
10/28/2019	827839	Border States Electric	Water	\$ 15.68	918495222; STAPLES CL2 PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 140.33	918348673; H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Wastewater	\$ 589.91	918580573; FOR SSP #2 & #4 COOLING FANS
10/28/2019	827839	Border States Electric	Water	\$ 57.30	918570292; H-5 VFD PROJECT
10/28/2019	827839	Border States Electric	Water	\$ 28.30	918571700; STAPLES CL2 UPGRADE
10/28/2019	827839	Border States Electric	Water	\$ 12.98	918611328; STAPLES CLORTEX PROJECT
10/28/2019	827839	Border States Electric	Wastewater	\$ 1,908.81	918542828; Network appliance for WRF in Disinfection system
10/28/2019	827840	Bradford Roof Management	Airport	\$ 4,052.15	Misc. Repairs to 6 Areas Throughout Terminal and Parking Hut.
10/28/2019	827840	Bradford Roof Management	Water	\$ 722.77	2019480; ROOF REPAIR
10/28/2019	827840	Bradford Roof Management	Wastewater	\$ 240.92	2019480; ROOF REPAIR
10/28/2019	827844	Burns & McDonnell Eng	Solid Waste	\$ 5,000.00	Solid Waste Rate & Fee Study; 114422-5
10/28/2019	827845	Business Tax Section	Airport	\$ 10,048.61	Commercial Concrete Apron Project - Federal Share
10/28/2019	827845	Business Tax Section	Airport	\$ 1,116.51	Commercial Concrete Apron Project - Local Share
10/28/2019	827845	Business Tax Section	Airport	\$ 583.08	64'x20' Powerlift Hangar Door-Billings Clinic Medevac
10/28/2019	827845	Business Tax Section	Storm Sewer	\$ 626.76	WO 20-06 2019 Miscellaneous Drainage Improvements; Pmt 1
10/28/2019	827845	Business Tax Section	Water	\$ 12.62	TEMPORARY WATER FOR S. 38th ST - 1st-4th AVE S.
10/28/2019	827845	Business Tax Section	Wastewater	\$ 5,164.64	WO 19-01 Sch 2 Montana Ave Sewer Main Replacement; Pmt 4
10/28/2019	827845	Business Tax Section	Water	\$ 1,346.96	WO 17-16 Fox Pump Station Improvements; RetRel 1F
10/28/2019	827845	Business Tax Section	Solid Waste	\$ 7,640.15	WO 17-12 Landfill Reconfiguration; Pmt 7
10/28/2019	827847	Cascade Pump Company	Wastewater	\$ 15,925.00	52338; PUMP IMPELLER WITH ACCESSORIES
10/28/2019	827847	Cascade Pump Company	Wastewater	\$ 29,800.00	#20MF DUPLICATE BOWL ASSEMBLY, ETC; 52337
10/28/2019	827848	CDW Government Inc	Water	\$ 353.18	SERVER MEMORY UPGRADES-WTP CONTROL SYSTEM
10/28/2019	827848	CDW Government Inc	Water	\$ 2,322.02	WTP-SOFTWARE FOR SERVER BACKUPS-CONTROL SYSTEM
10/28/2019	827848	CDW Government Inc	Water	\$ 2,573.98	Virtualization software for WTP server migration
10/28/2019	827848	CDW Government Inc	Water	\$ 3,293.92	DISC DRIVES FOR WTP SERVER UPGRADES
10/28/2019	827857	Continuant Inc	Telephone System	\$ 5,715.02	AVST Xpress Care Software Warranty & License
10/28/2019	827858	Cop Construction Co	Water	\$ 133,348.59	WO 17-16 Fox Pump Station Improvements; RetRel 1F
10/28/2019	827858	Cop Construction Co	Wastewater	\$ 511,299.67	WO 19-01 Sch 2 Montana Ave Sewer Main Replacement; Pmt 4
10/28/2019	827866	Dale & Jax Door & Glass	Facilities Mngmt	\$ 3,700.00	Inv. 21501
10/28/2019	827871	Dell Computer L P	CDBG	\$ 5,412.68	4 dell i7 processors, 16GB RAM, 256GB SSD
10/28/2019	827872	Dell Marketing Lp	Wastewater	\$ 5,151.57	10345220849; TRP REPLACEMENT COMPUTERS WRF
10/28/2019	827872	Dell Marketing Lp	Water	\$ (184.42)	TRP purchase credit for deployment services not needed
10/28/2019	827873	Desert Mountain Corp	Street/Traffic	\$ 4,109.34	ice slicer
10/28/2019	827873	Desert Mountain Corp	Street/Traffic	\$ 5,058.59	ice slicer
10/28/2019	827874	DOWL	Storm Sewer	\$ 536.25	WO 17-26 62nd and Rimrock Stormwater; 4036.21518.01-24
10/28/2019	827874	DOWL	Storm Sewer	\$ 607.50	WO 17-26 4041.21526.01-12; Materials Testing
10/28/2019	827874	DOWL	Arterial Streets	\$ 1,902.50	Monad Rd and Daniel St Traffic Signal Improvements

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10/28/2019	827875	EBMS	City Health Ins Fund	\$ 1,410.00	November 2019
10/28/2019	827875	EBMS	City Health Ins Fund	\$ 53,573.04	November 2019
10/28/2019	827875	EBMS	City Health Ins Fund	\$ 1,746.00	November 2019
10/28/2019	827875	EBMS	City Health Ins Fund	\$ 27,155.45	November 2019
10/28/2019	827875	EBMS	City Health Ins Fund	\$ 4,639.81	November 2019
10/28/2019	827875	EBMS	City Health Ins Fund	\$ 1,047.18	November 2019
10/28/2019	827879	Energy Laboratories	Wastewater	\$ 50.00	270730; CHEMICAL TESTING
10/28/2019	827879	Energy Laboratories	Water	\$ 35.00	270185; METALS TESTING
10/28/2019	827879	Energy Laboratories	Wastewater	\$ (75.00)	BELONGS TO BORIS AND HAS ALREADY BEEN PAID
10/28/2019	827879	Energy Laboratories	Water	\$ 2,225.00	271762; METALS TESTING
10/28/2019	827879	Energy Laboratories	Wastewater	\$ 325.00	270813; CHEMICAL TESTING
10/28/2019	827887	Flathead County Sheriff	Police Programs	\$ 989.62	Supplies.
10/28/2019	827887	Flathead County Sheriff	Police Programs	\$ 1,579.53	Travel & Training.
10/28/2019	827887	Flathead County Sheriff	Police Programs	\$ 36,702.63	Wages.
10/28/2019	827893	Galles Filter Service	Wastewater	\$ 79.68	HEADWORKS FILTERS
10/28/2019	827893	Galles Filter Service	Transit	\$ 181.72	P-90935-01 PO NUM 309015
10/28/2019	827893	Galles Filter Service	Solid Waste	\$ 594.21	Filters for Landfill equipment P90994-01
10/28/2019	827893	Galles Filter Service	Solid Waste	\$ 38.64	Filters for Landfill Equipment P90184-02
10/28/2019	827893	Galles Filter Service	Transit	\$ 97.97	T-85027 PO NUM 308532
10/28/2019	827893	Galles Filter Service	General	\$ 8.52	T-85048
10/28/2019	827893	Galles Filter Service	Street/Traffic	\$ 16.78	T-85041
10/28/2019	827893	Galles Filter Service	Solid Waste	\$ 650.90	Filters for Landfill Equipment P90828-01
10/28/2019	827893	Galles Filter Service	Fleet	\$ 18.44	P-90938.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	General	\$ 34.88	P-91150.01
10/28/2019	827893	Galles Filter Service	Fleet	\$ 344.93	P-90995.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 92.83	P-91149.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 138.18	T-85473 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 9.99	T-85517 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 90.09	P-91074.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Solid Waste	\$ 261.61	Filters for Landfill Equipment P91148-01
10/28/2019	827893	Galles Filter Service	Fleet	\$ 236.82	P-90829.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 261.38	P-90642.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 102.72	T-85024 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 291.01	P-90937.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Fleet	\$ 191.95	P-90758.01 PO NUM 308532
10/28/2019	827893	Galles Filter Service	Solid Waste	\$ 260.65	Filters for Landfill Equipment P90641-01
10/28/2019	827893	Galles Filter Service	Water	\$ 242.72	Water parts and supplies PO Number 308297
10/28/2019	827893	Galles Filter Service	Fleet	\$ 7.00	P-91075.01 PO NUM 308532
10/28/2019	827894	Gaynor's Auto Body	Property Ins	\$ 9,460.80	Unit 1463 2019 Ford Explorer hail damage
10/28/2019	827898	Graybar Electric	Water	\$ 54.87	9312702369; FOX RESERVOIR RADIO PROJECT
10/28/2019	827898	Graybar Electric	Arterial Streets	\$ 30,766.00	Grand Ave & Virginia Ln Signal Reconstruction

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10/28/2019	827900	Guardian Security	Library	\$ 9,042.63	Invoice 456
10/28/2019	827901	Hach Company	Wastewater	\$ 1,178.00	Factory service agreement for UV transmittance instrument
10/28/2019	827901	Hach Company	Water	\$ 2,854.00	Factory service agreement for UV transmittance instruments
10/28/2019	827901	Hach Company	Water	\$ 540.77	REBUILD KITS FOR C/17 WINTER MAINTENANCE
10/28/2019	827903	Hawkins Inc.	Water	\$ 26,727.00	AQUA HAWK 457
10/28/2019	827905	HDR, Inc.	Water	\$ 13,659.52	WO 18-23 Water Master Plan Update; 1200221104 Pmt 9
10/28/2019	827911	Iaff	Payroll Clearing	\$ 4,936.23	Payroll Summary
10/28/2019	827914	InfoSend Inc	P.W. Admin	\$ 12,517.83	160214; MONTHLY STATEMENT PRINTING & MAILING FEES
10/28/2019	827914	InfoSend Inc	P.W. Admin	\$ 3,137.77	160214; MONTHLY STATEMENT PRINTING & MAILING FEES
10/28/2019	827915	Ingram Library Services	Library	\$ 1,126.38	42312220
10/28/2019	827915	Ingram Library Services	Library	\$ 15.90	42297684
10/28/2019	827915	Ingram Library Services	Library	\$ 463.50	42312220
10/28/2019	827915	Ingram Library Services	Library	\$ 37.71	42329355
10/28/2019	827915	Ingram Library Services	Library	\$ 43.01	42329355
10/28/2019	827915	Ingram Library Services	Library	\$ 22.98	42329358
10/28/2019	827915	Ingram Library Services	Library	\$ 16.49	42297682
10/28/2019	827915	Ingram Library Services	Library	\$ 17.67	42297685
10/28/2019	827915	Ingram Library Services	Library	\$ 12.83	42329351
10/28/2019	827915	Ingram Library Services	Library	\$ 20.23	42329354
10/28/2019	827915	Ingram Library Services	Library	\$ 21.99	42329354
10/28/2019	827915	Ingram Library Services	Library	\$ 44.92	42296769
10/28/2019	827915	Ingram Library Services	Library	\$ 54.28	42297683
10/28/2019	827915	Ingram Library Services	Library	\$ 27.58	42329353
10/28/2019	827915	Ingram Library Services	Library	\$ 6.60	42329356
10/28/2019	827915	Ingram Library Services	Library	\$ 77.84	42329356
10/28/2019	827915	Ingram Library Services	Library	\$ 13.66	42329355
10/28/2019	827915	Ingram Library Services	Library	\$ 19.38	42329355
10/28/2019	827915	Ingram Library Services	Library	\$ 13.62	42329357
10/28/2019	827915	Ingram Library Services	Library	\$ 17.70	42297679
10/28/2019	827915	Ingram Library Services	Library	\$ 15.34	42297680
10/28/2019	827915	Ingram Library Services	Library	\$ 21.99	42297681
10/28/2019	827915	Ingram Library Services	Library	\$ 28.31	42297682
10/28/2019	827915	Ingram Library Services	Library	\$ 29.95	42297686
10/28/2019	827915	Ingram Library Services	Library	\$ 13.57	42329356
10/28/2019	827915	Ingram Library Services	Library	\$ 10.11	42296770
10/28/2019	827915	Ingram Library Services	Library	\$ 21.99	42329352
10/28/2019	827915	Ingram Library Services	Library	\$ 15.90	42312221
10/28/2019	827915	Ingram Library Services	Library	\$ 114.88	42329355
10/28/2019	827915	Ingram Library Services	Library	\$ 154.53	42297680
10/28/2019	827915	Ingram Library Services	Library	\$ 13.17	42297681
10/28/2019	827915	Ingram Library Services	Library	\$ 20.65	42297678

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10/28/2019	827915	Ingram Library Services	Library	\$ 178.71	42312220
10/28/2019	827915	Ingram Library Services	Library	\$ 23.92	42329352
10/28/2019	827915	Ingram Library Services	Library	\$ 11.03	42296771
10/28/2019	827915	Ingram Library Services	Library	\$ 11.03	42296769
10/28/2019	827915	Ingram Library Services	Library	\$ 15.93	42297685
10/28/2019	827915	Ingram Library Services	Library	\$ 14.74	42312222
10/28/2019	827915	Ingram Library Services	Library	\$ 7.35	42329352
10/28/2019	827916	Integrated Info Solutions	Info Resources	\$ 9,960.00	sn/10-357GL,sn/10-358NV,sn/10-358Ny,sn/78-15692
10/28/2019	827919	Interstate Power Systems	Transit	\$ 2,897.81	C007050809:01 PO NUM 309174
10/28/2019	827921	J & J Concrete Inc.	Storm Sewer	\$ 62,049.24	WO 20-06 2019 Miscellaneous Drainage Improvements; Pmt 1
10/28/2019	827922	J & M Tire LLC	Wastewater	\$ 2,732.00	NONSTOCKING ITEMS-P.U.D.
10/28/2019	827922	J & M Tire LLC	Wastewater	\$ 37.50	NONSTOCKING ITEMS-P.U.D.
10/28/2019	827922	J & M Tire LLC	Wastewater	\$ 357.96	NONSTOCKING ITEMS-P.U.D.
10/28/2019	827933	Knife River	Street/Traffic	\$ 1,719.25	1 1/2" crushed base
10/28/2019	827933	Knife River	Street/Traffic	\$ 79.80	asphalt
10/28/2019	827933	Knife River	Street/Traffic	\$ 1,486.20	1 1/2" crushed base
10/28/2019	827933	Knife River	Water	\$ 2,461.99	649739; WASHED & BEDDING ROCK
10/28/2019	827933	Knife River	Airport	\$ 110,534.73	Commercial Concrete Apron Project - Local Share
10/28/2019	827933	Knife River	Airport	\$ 994,812.54	Commercial Concrete Apron Project - Federal Share
10/28/2019	827933	Knife River	Street/Traffic	\$ 478.80	asphalt
10/28/2019	827933	Knife River	Street/Traffic	\$ 8,395.20	asphalt
10/28/2019	827933	Knife River	Street/Traffic	\$ 60.00	asphalt
10/28/2019	827937	L N Curtis and Sons	Public Safety	\$ 10,475.00	HURST SP333E2 EDRAULIC SPREADER PACKAGE
10/28/2019	827940	Less, Inc	Police Programs	\$ 7,900.00	Licenses for 7/1/19 - 6/30/20.
10/28/2019	827945	Mailing Technical Services	Central Services	\$ 5,104.23	Postage Fund (weekly bills)
10/28/2019	827945	Mailing Technical Services	General	\$ 488.00	Planning - special inserts only
10/28/2019	827953	Missoula Police Dept	Police Programs	\$ 1,280.69	Travel & Training.
10/28/2019	827953	Missoula Police Dept	Police Programs	\$ 2,822.25	Overtime, Supplies & Equipment.
10/28/2019	827953	Missoula Police Dept	Police Programs	\$ 26,419.20	Wages.
10/28/2019	827956	Montana CSED	Payroll Clearing	\$ 3,238.18	Payroll Summary
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 2,432.13	293 780 1000 2
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 2,432.13	293 780 1000 2
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 4,864.27	293 780 1000 2
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 51.83	329 573 1000 9. Detail Bay 3 Enterprise. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 137.54	185 580 1000 7. TSA. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 83.81	283 116 0655 3. IP-12 Alpine. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 82.74	295 580 1000 4. Aero Interiors. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 65.93	160 723 3573 6. USDA. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 84.92	229 573 1000 0. Detail Bay 1 Hertz. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 383.05	129 573 1000 1. Mud Wash. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 867.55	889 373 1000 6. Car Wash. October 2019

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10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 76.77	629 573 1000 6. Detail Bay 2 National/Alamo. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 67.01	429 573 1000 8. Detail Bay 4 Avis/Budget. October 2019
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 22.52	529 573 1000 7. Detail Bay 4 Thrifty/Dollar. October 2019
10/28/2019	827957	Montana Dakota Utilities	Public Safety	\$ 911.18	169 233 1000 3
10/28/2019	827957	Montana Dakota Utilities	Public Safety	\$ 39.31	514 117 0478 9
10/28/2019	827957	Montana Dakota Utilities	Public Safety	\$ 32.27	062 907 9494 7
10/28/2019	827957	Montana Dakota Utilities	Parking	\$ 42.02	799 152 1209 0
10/28/2019	827957	Montana Dakota Utilities	Transit	\$ 1,025.70	962 880 1000 0
10/28/2019	827957	Montana Dakota Utilities	P.W. Admin	\$ 26.80	595 373 1000 1
10/28/2019	827957	Montana Dakota Utilities	Water	\$ 37.38	076 225 9180 3
10/28/2019	827957	Montana Dakota Utilities	Facilities Mngmt	\$ 1,427.32	929 780 1000 4
10/28/2019	827957	Montana Dakota Utilities	Engineering	\$ 107.17	595 373 1000 1
10/28/2019	827957	Montana Dakota Utilities	Parking	\$ 17.59	717 353 1000 6
10/28/2019	827957	Montana Dakota Utilities	Public Safety	\$ 347.28	885 880 1000 4
10/28/2019	827957	Montana Dakota Utilities	General	\$ 125.59	437 780 1000 9
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 36.82	735 453 1000 2
10/28/2019	827957	Montana Dakota Utilities	Library	\$ 1,402.36	219 924 4851 0
10/28/2019	827957	Montana Dakota Utilities	Parking	\$ 45.31	303 725 2591 2
10/28/2019	827957	Montana Dakota Utilities	Public Safety	\$ 173.05	533 653 1000 1
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 37.95	843 879 2205 1
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 504.04	706 580 1000 7
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 538.77	285 580 1000 6
10/28/2019	827957	Montana Dakota Utilities	Airport	\$ 4,737.51	595 580 1000 1
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 38.01	596 733 1000 5
10/28/2019	827957	Montana Dakota Utilities	General	\$ 57.79	501 473 1000 2
10/28/2019	827957	Montana Dakota Utilities	Water	\$ 10.46	373 580 1000 9
10/28/2019	827957	Montana Dakota Utilities	Water	\$ 41.25	921 580 1000 6
10/28/2019	827957	Montana Dakota Utilities	Water	\$ 10.46	373 580 1000 9
10/28/2019	827957	Montana Dakota Utilities	Wastewater	\$ 38.01	713 064 3190 0
10/28/2019	827957	Montana Dakota Utilities	Water	\$ 29.03	541 380 1000 1
10/28/2019	827959	Montana Peterbilt LLC	Solid Waste	\$ 369.69	87755
10/28/2019	827959	Montana Peterbilt LLC	Solid Waste	\$ 86.56	87389
10/28/2019	827959	Montana Peterbilt LLC	Solid Waste	\$ 109.36	88114
10/28/2019	827959	Montana Peterbilt LLC	Solid Waste	\$ 392.16	87752
10/28/2019	827959	Montana Peterbilt LLC	Solid Waste	\$ 2,676.48	86976
10/28/2019	827961	Montana State Fireman	Payroll Clearing	\$ 4,209.36	Payroll Summary
10/28/2019	827962	Morrison Maierle Inc	Transit	\$ 432.20	Amendment 16. On Call Services - Roof CA
10/28/2019	827962	Morrison Maierle Inc	Airport	\$ 329,153.88	Terminal Building Expansion -Final Design Phase-Federal Share
10/28/2019	827962	Morrison Maierle Inc	Airport	\$ 57,449.22	Terminal Building Expansion - Final Design Phase- Local Share
10/28/2019	827962	Morrison Maierle Inc	Wastewater	\$ 43,031.96	WO1901 2019 Water/Sewer Replacement Project; 195310 Pmt 11
10/28/2019	827962	Morrison Maierle Inc	Airport	\$ 1,369.02	Commercial Aircraft Concrete Ramps-Local Share

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10/28/2019	827962	Morrison Maierle Inc	Airport	\$ 5,677.67	Commercial Aircraft Concrete Ramps - CA - Local Share
10/28/2019	827962	Morrison Maierle Inc	Airport	\$ 51,098.99	Commercial Aircraft Concrete Ramps - CA - Federal Share
10/28/2019	827962	Morrison Maierle Inc	Airport	\$ 12,321.18	Commercial Aircraft Concrete Ramps - Design - Federal Share
10/28/2019	827963	Motor Power Equip	Street/Traffic	\$ 5,986.94	121677
10/28/2019	827964	MPPA	Payroll Clearing	\$ 3,480.55	Payroll Summary
10/28/2019	827966	MT Waterworks	Water	\$ 98.48	30507; COUPLING
10/28/2019	827966	MT Waterworks	Water	\$ 4,518.00	7' FIRE HYDRANT - PUSH ON
10/28/2019	827966	MT Waterworks	Water	\$ 184.56	POLY WRAP WATER MAIN TAPE 2" X 100' #900
10/28/2019	827966	MT Waterworks	Water	\$ 250.00	CURB BOX 3/4" - 1-1/2" TAP - 6-1/2' BURY(MINNESOTA)
10/28/2019	827966	MT Waterworks	Water	\$ 808.57	1" CURB VALVE - COMPRESSION - MINNEAPOLIS
10/28/2019	827966	MT Waterworks	Water	\$ 378.11	P/N: 111-065-00160
10/28/2019	827966	MT Waterworks	Water	\$ 151.50	1" X 3/4" COMPRESSION COUPLING - 74758Q341
10/28/2019	827966	MT Waterworks	Water	\$ 346.91	30460; 16"X12" FLANGES
10/28/2019	827966	MT Waterworks	Wastewater	\$ 231.28	30460; 16"X12" FLANGES
10/28/2019	827966	MT Waterworks	Water	\$ 296.59	30459; 2" CORP
10/28/2019	827966	MT Waterworks	Water	\$ 1,616.73	12" PUSH-ON VALVE P/N: 333-165-00040
10/28/2019	827966	MT Waterworks	Water	\$ 586.80	30477; 2 ROLLS OF 3/4 " COPPER
10/28/2019	827966	MT Waterworks	Water	\$ 569.20	14 X CC TAPPING SADDLE - (202B-1565 X CC7FORD)
10/28/2019	827967	Musol Limited	Wastewater	\$ 4,860.20	12984; CHEMICALS
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 4,568.85	R900 MIU W/6' WIRE 13442- - 200 ENHANCED PIT (2034600)
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 439.76	7205443; P.D. & #2 DIGESTER VALVE REPLACEMENTS
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 3.76	7205862; BOILER PARTS PIPING REPAIR
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 66.40	7209756; PVC PLAIN END PIP
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 164.60	1200254; PVC ELBOW, ADAPTER, PIPE
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 63.00	1200772; STAPLES FEED
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 55.95	1508880; GASKET FOR CHEMICAL FEES POT FOR BOILERS
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 292.30	1200350; 2" CORP
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 318.78	2" TD T-10 MEASURE CHAMBER COMPLETE - 9098-010
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 122.58	7212009; WWTP RAG LINES
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 231.51	7202645; LS SAMPLE PUMP #2
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 18,564.00	3/4" E-CODER WALL CU/FT METER W/RECPT ED2C11REF7
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 44.70	7208257; 2-8" INDIANA COUPLINGS
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 302.80	7202993; SAMPLE LINES IN TUNNEL
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 176.16	7202553-1; PIPE BLIND FLANGES #2 GAS COMPRESSOR
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 0.78	7208590; STAPLES C/2 SYSTEM
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 18.24	7207553; SEAL PIN
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 60.90	1200237; DRIP PANS OVER SWITCH GEAR
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 1,084.00	CURB BOX LID W/PLUG 1-1/4" P/N: 2175605
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 83.32	1" COMPRESSION X MIP ADAPTER CTS - (H15428)
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 99.84	1" PVC SCH 80 TXT BALL VALVE - CHEMTROL
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 937.31	7202553; PRI DIGESTER

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 878.56	1200253; TUNNEL SINK-SECONDARY SAMPLE LINES
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 312.78	7212834; H.S. CL2
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 129.58	7203882; BOILER & HEATING SYSTEM FOR LAB
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 132.43	7207553-1, SEAL PIN
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 99.03	7203766; PRI DIGESTER GAS COMPRESSOR
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 132.31	7206214; IRONWOOD SUMP PUMP REPLACEMENT
10/28/2019	827974	Northwest Pipe Fittings	Water	\$ 5.28	1200270; DRIP PANS OVER SWITCH GEAR
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 29.40	1201491; SECONDARY SAMPLE LINES
10/28/2019	827974	Northwest Pipe Fittings	Wastewater	\$ 32.30	7202482; FOR PRIMARY DIGESTER
10/28/2019	827975	NorthWestern Energy	Engineering	\$ 36.08	Electricity for parking lot #0698856-2
10/28/2019	827975	NorthWestern Energy	P.W. Admin	\$ 9.02	Electricity for parking lot #0698856-2
10/28/2019	827975	NorthWestern Energy	Facilities Mngmt	\$ 6,266.88	0100507-3
10/28/2019	827975	NorthWestern Energy	Public Safety	\$ 2,343.57	0100476-1: FIRE 1 MONTHLY ELECTRICAL SERVICE
10/28/2019	827975	NorthWestern Energy	Airport	\$ 341.71	0712792-1. IP-7. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 860.30	0712800-2. IP-9. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 280.03	0712809-3. IP-11 Alpine. October 2019
10/28/2019	827975	NorthWestern Energy	General	\$ 79.76	0723048-5
10/28/2019	827975	NorthWestern Energy	Street/Traffic	\$ 6.10	0723644-1
10/28/2019	827975	NorthWestern Energy	P.W. Admin	\$ 187.82	1741314-7
10/28/2019	827975	NorthWestern Energy	General	\$ 46.22	0722293-8
10/28/2019	827975	NorthWestern Energy	General	\$ 9.40	0723055-0
10/28/2019	827975	NorthWestern Energy	General	\$ 0.11	0722254-0
10/28/2019	827975	NorthWestern Energy	General	\$ 8.13	0723057-6
10/28/2019	827975	NorthWestern Energy	General	\$ 24.50	0789437-1
10/28/2019	827975	NorthWestern Energy	Engineering	\$ 751.25	1741314-7
10/28/2019	827975	NorthWestern Energy	General	\$ 16.88	0722905-7
10/28/2019	827975	NorthWestern Energy	General	\$ 114.50	0723035-2
10/28/2019	827975	NorthWestern Energy	Water	\$ 4,251.67	0100606-3
10/28/2019	827975	NorthWestern Energy	Radio	\$ 191.03	0721580-9
10/28/2019	827975	NorthWestern Energy	General	\$ 106.19	0722255-7
10/28/2019	827975	NorthWestern Energy	General	\$ 32.96	0722263-1
10/28/2019	827975	NorthWestern Energy	General	\$ 139.02	0722933-9
10/28/2019	827975	NorthWestern Energy	General	\$ 1,471.01	0100506-5
10/28/2019	827975	NorthWestern Energy	General	\$ 49.22	0722266-4
10/28/2019	827975	NorthWestern Energy	General	\$ 219.72	0722251-6
10/28/2019	827975	NorthWestern Energy	Water	\$ 107,709.00	0100606-3
10/28/2019	827975	NorthWestern Energy	General	\$ 16.88	0722269-8
10/28/2019	827975	NorthWestern Energy	Street/Traffic	\$ 6.10	0723645-8
10/28/2019	827975	NorthWestern Energy	General	\$ 36.68	0723058-4
10/28/2019	827975	NorthWestern Energy	General	\$ 214.67	0723037-8
10/28/2019	827975	NorthWestern Energy	General	\$ 6.22	0722247-4

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/28/2019	827975	NorthWestern Energy	Wastewater	\$ 1,417.22	0100606-3
10/28/2019	827975	NorthWestern Energy	General	\$ 157.02	0723050-1
10/28/2019	827975	NorthWestern Energy	Solid Waste	\$ 1,891.84	3252194-0
10/28/2019	827975	NorthWestern Energy	Water	\$ 5,063.76	0100540-4
10/28/2019	827975	NorthWestern Energy	General	\$ 6.10	0722237-5
10/28/2019	827975	NorthWestern Energy	General	\$ 13.61	0722292-0
10/28/2019	827975	NorthWestern Energy	General	\$ 7.75	0723036-0
10/28/2019	827975	NorthWestern Energy	General	\$ 47.32	0723042-8
10/28/2019	827975	NorthWestern Energy	General	\$ 42.11	0723056-8
10/28/2019	827975	NorthWestern Energy	General	\$ 6.10	0723162-4
10/28/2019	827975	NorthWestern Energy	General	\$ 300.40	0723054-3
10/28/2019	827975	NorthWestern Energy	Airport	\$ 346.72	2001855-2. Detail Bay 2 National/Alamo. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 92.47	2001867-7. Detail Bay 5 Thrifty/Dollar. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 305.74	2001846-1. Mud Wash. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 478.94	2001848-7. Detail Bay 1 Hertz. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 1,452.11	0100484-5. ARFF Facility. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 2,797.82	0100483-7. Runway Lights. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 301.88	2001862-8. Detail Bay 3 Enterprise. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 1,049.62	3477231-9. Parking Zones. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 1,462.52	1993430-6. Car Wash. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 245.15	2001865-1. Detail Bay 4 Avis/Budget. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 101.28	1138926-9. Aero Interiors. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 189.01	3446396-8. USDA. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 68.43	3085107-5. Employee Parking. October 2019
10/28/2019	827975	NorthWestern Energy	Airport	\$ 618.61	1669567-8. TSA Building. October 2019
10/28/2019	827975	NorthWestern Energy	Facilities Mngmt	\$ 928.39	1160802-3
10/28/2019	827975	NorthWestern Energy	Public Safety	\$ 231.43	1984155-0
10/28/2019	827975	NorthWestern Energy	Facilities Mngmt	\$ 946.63	3602454-5
10/28/2019	827975	NorthWestern Energy	Parks Maintenance	\$ 247.68	1059093-3
10/28/2019	827975	NorthWestern Energy	Facilities Mngmt	\$ 2,796.33	1269391-7
10/28/2019	827975	NorthWestern Energy	Parking	\$ 262.26	3279035-4
10/28/2019	827975	NorthWestern Energy	Parking	\$ 1,340.61	1569636-2
10/28/2019	827975	NorthWestern Energy	General	\$ 462.00	0723170-7
10/28/2019	827975	NorthWestern Energy	Facilities Mngmt	\$ 1,479.05	1160804-9
10/28/2019	827975	NorthWestern Energy	Parking	\$ 822.76	1594282-4
10/28/2019	827975	NorthWestern Energy	General	\$ -	0722262-3
10/28/2019	827975	NorthWestern Energy	Parking	\$ 1,861.84	0720834-1
10/28/2019	827975	NorthWestern Energy	Parking	\$ 115.16	3463478-2
10/28/2019	827975	NorthWestern Energy	Parking	\$ 394.30	0720829-1
10/28/2019	827975	NorthWestern Energy	Parking	\$ 1,921.10	3067416-2
10/28/2019	827975	NorthWestern Energy	Facilities Mngmt	\$ 73.23	3602453-7

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10/28/2019	827975	NorthWestern Energy	Transit	\$ 210.48	1784756-7
10/28/2019	827975	NorthWestern Energy	General	\$ 7.65	0723090-7
10/28/2019	827975	NorthWestern Energy	General	\$ -	0723051-9
10/28/2019	827975	NorthWestern Energy	Public Safety	\$ 277.70	1984150-1
10/28/2019	827975	NorthWestern Energy	General	\$ -	0723027-9
10/28/2019	827978	Performance Eng & Consult	Water	\$ 11,765.50	Irrigation Pump Package for Centennial Park
10/28/2019	827980	Polydyne Inc	Wastewater	\$ 2,975.74	1394737; CHEMICALS
10/28/2019	827980	Polydyne Inc	Wastewater	\$ 4,144.40	1391871; CHEMICALS
10/28/2019	827983	Pure Technologies U.S.	Water	\$ 307,818.92	Condition Assessment of Z2 Heights Water Transmission Main
10/28/2019	827986	Rimrock Foundation	Municipal Court Grants	\$ 2,447.50	19 Sept. No. Ins., Copays, deduct.
10/28/2019	827986	Rimrock Foundation	Municipal Court Grants	\$ 900.00	19 Sept. Ancillary CTC
10/28/2019	827986	Rimrock Foundation	Municipal Court Grants	\$ 400.00	19 Sept. Screenings Drug
10/28/2019	827986	Rimrock Foundation	Municipal Court Grants	\$ 1,890.00	19 Sept. Ancillary DUI
10/28/2019	827986	Rimrock Foundation	Municipal Court Grants	\$ 966.80	19 Sept. No. Ins., Copays, deduct.
10/28/2019	827986	Rimrock Foundation	Municipal Court Grants	\$ 200.00	19 Sept. Screenings DUI
10/28/2019	827991	Sanderson Stewart	City County Planning	\$ 8,663.55	Inner Belt Loop Corridor Study-SW01012019
10/28/2019	827991	Sanderson Stewart	Water	\$ 20,220.00	WO 19-01 Water/Sewer Replacement Project; 46940 Pmt 11
10/28/2019	827991	Sanderson Stewart	Tax Increment South	\$ 26,151.11	WO 19-22 King Ave. E (Orchard to Jackson); Pmt 6
10/28/2019	827994	School Outfitters	Fire Grants	\$ 6,863.76	WISHBONE LEG TABLES W/NESTING CHAIRS (BUNDLE)
10/28/2019	827994	School Outfitters	Fire Grants	\$ 618.50	SHIPPING
10/28/2019	827999	Solid Waste Systems	Fleet	\$ 2,383.85	117923 PO NUM 309194
10/28/2019	827999	Solid Waste Systems	Solid Waste	\$ 112.13	117923
10/28/2019	827999	Solid Waste Systems	Solid Waste	\$ 89.97	117359
10/28/2019	827999	Solid Waste Systems	Solid Waste	\$ 6,093.82	117849
10/28/2019	827999	Solid Waste Systems	Solid Waste	\$ 57.61	117568
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 147,520.24	99577-001955 LIFEPAK 15 V4 MONITOR/DEFIB
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 519.06	11140-000052 LP15 REDI-CHARGE ADAPTER TRAY
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 314.88	21300-008147 LIFEPAK 15 NIBP HOSE, 9-FT
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 1,275.10	11141-000115 REDI-CHARGE BASE
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 413.28	11260-000039 LIFEPAK 15 CARRY CASE BACK POUCH
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 123.00	11160-000013 NIBP CUFF-REUSABLE, CHILD
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 1,480.92	11171-000046 M-LNCS DCI, ADULT REUSABLE SENSOR
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 167.28	11160-000017 NIBP CUFF-REUSABLE, LARGE ADULT
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 290.28	11220-000028 CARRY CASE TOP POUCH FOR LIFEPAK
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 68.06	11140-000015 AC POWER CORD
10/28/2019	828006	Stryker Sales Corporation	Public Safety	\$ 8,534.78	99577-001955 LIFEPAK 15 V4 MONITOR/DEFIB
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 4,713.36	21330-001176 LP 15 LITHIUM-ION BATTERY 5.7 AMP HRS
10/28/2019	828006	Stryker Sales Corporation	Capital Replacement	\$ 1,608.84	11577-000002 LIFEPAK 15 BASIC CARRY CASE
10/28/2019	828009	Swank Enterprises	Solid Waste	\$ 756,374.85	WO 17-12 Landfill Reconfiguration; Pmt 7
10/28/2019	828014	Timemark Incorporated	City County Planning	\$ 9,117.42	INV 117206
10/28/2019	828016	Town & Country Supply	Public Safety	\$ 0.01	403586 DECIMAL PT CORRECTIONS/BLENDED DIESEL

Check Date	Check#	Name	Fund Name	Amount	Item Desc
10/28/2019	828016	Town & Country Supply	Public Safety	\$ 700.86	Blended diesel 160 gallons each #2 & #1
10/28/2019	828016	Town & Country Supply	Public Safety	\$ 659.63	403586: FIRE 1 UNLEADED DELIVERED 10/17/2019
10/28/2019	828016	Town & Country Supply	Fleet	\$ 9,056.80	403508 PO NUM 309176
10/28/2019	828016	Town & Country Supply	Fleet	\$ 10,673.20	403512 PO NUM 309185
10/28/2019	828016	Town & Country Supply	Fleet	\$ 8,203.15	403611 PO NUM 309193
10/28/2019	828016	Town & Country Supply	Public Safety	\$ 722.76	403584 FIRE 5: DIESEL, WINTER BLEND DELIVERED
10/28/2019	828016	Town & Country Supply	Public Safety	\$ 328.53	403585 FIRE 3: DIESEL, WINTER BLEND
10/28/2019	828016	Town & Country Supply	Airport	\$ 19,411.17	invoice 403525 QTA fuel
10/28/2019	828016	Town & Country Supply	Transit	\$ 4,504.00	403095 PO NUM 309188
10/28/2019	828017	TPG Pressure, Inc.	Water	\$ 28,638.00	2 WATER MAIN TAPS ON Z2 HEIGHTS WATER MAINS
10/28/2019	828018	Tractor & Equipment	Street/Traffic	\$ 396.88	BLCS0714514
10/28/2019	828018	Tractor & Equipment	Street/Traffic	\$ 396.88	BLCS0714513
10/28/2019	828018	Tractor & Equipment	Street/Traffic	\$ 333.27	BLCS0714847
10/28/2019	828018	Tractor & Equipment	Street/Traffic	\$ 2,257.66	BLCS0715928
10/28/2019	828018	Tractor & Equipment	Water	\$ 1,129.65	WATER PARTS AND SUPPLIES PO NUM 309137
10/28/2019	828021	Tru Directional	Light Maintenance	\$ 2,200.00	boring for streets lights at 4th W & broadwater
10/28/2019	828021	Tru Directional	Light Maintenance	\$ 4,000.00	Boring for street lights at Grandview and spruce
10/28/2019	828023	Unemployment Ins Bureau	Payroll Clearing	\$ 28,514.13	Unemployment Insurance through September 30, 2019
10/28/2019	828028	Verizon Wireless	Water	\$ 26.97	PW Belknap Meter Shop
10/28/2019	828028	Verizon Wireless	Parking	\$ 26.97	Parking 406-690-5822
10/28/2019	828028	Verizon Wireless	General	\$ 26.97	Code Enforcement 406.694.2069
10/28/2019	828028	Verizon Wireless	Street/Traffic	\$ 161.82	PW-Streets City Works
10/28/2019	828028	Verizon Wireless	Solid Waste	\$ 271.18	PW-SW-ON CALL Solid Waste On Call
10/28/2019	828028	Verizon Wireless	Solid Waste	\$ 107.88	PW-Solid Waste
10/28/2019	828028	Verizon Wireless	Library	\$ (25.13)	LBRY OTRCH Library Outreach
10/28/2019	828028	Verizon Wireless	Water	\$ 64.73	PW-DIS-COLL Cityworks 60/40
10/28/2019	828028	Verizon Wireless	Airport	\$ 54.31	Airport
10/28/2019	828028	Verizon Wireless	Public Safety	\$ 80.02	2 Police iPads
10/28/2019	828028	Verizon Wireless	Public Safety	\$ 40.01	Police MiFi 406-633-0820 406-598-6294
10/28/2019	828028	Verizon Wireless	Wastewater	\$ 43.15	PW-DIS-COLL Cityworks 60/40
10/28/2019	828028	Verizon Wireless	Wastewater	\$ 177.23	PW-Distribution Collection Tablets 60/40
10/28/2019	828028	Verizon Wireless	Solid Waste	\$ 429.30	Solid Waste Tablets -Routware
10/28/2019	828028	Verizon Wireless	General	\$ 252.57	City Administrator- Iffland -Germany Trip
10/28/2019	828028	Verizon Wireless	Police Programs	\$ 93.95	CCSIU MDT
10/28/2019	828028	Verizon Wireless	Street/Traffic	\$ 53.94	PW-Streets 406-647-1377 iPad, 406-633-1991 iPad
10/28/2019	828028	Verizon Wireless	Public Safety	\$ 40.26	Fire MDT
10/28/2019	828028	Verizon Wireless	Telephone System	\$ (0.02)	Credit
10/28/2019	828028	Verizon Wireless	Water	\$ 161.82	PWBLNP Comm-Meter CityWorks/Neptune
10/28/2019	828028	Verizon Wireless	Library	\$ (12.38)	Library
10/28/2019	828028	Verizon Wireless	Water	\$ 26.97	PWBLKNP Water Treatment Brian Risser 406-696-4245
10/28/2019	828028	Verizon Wireless	Police Programs	\$ 413.18	CCSIU Cell/PTT

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10/28/2019	828028	Verizon Wireless	Engineering	\$ 824.82	PW-Engineering
10/28/2019	828028	Verizon Wireless	Transit	\$ 308.27	MET AVL
10/28/2019	828028	Verizon Wireless	Public Safety	\$ 640.22	MDT Toughbooks
10/28/2019	828028	Verizon Wireless	Water	\$ 265.84	PW-Distribution Collection Tablets 60/40
10/28/2019	828028	Verizon Wireless	Solid Waste	\$ 26.97	PW Dozer Trimble Dozer
10/28/2019	828028	Verizon Wireless	Police Programs	\$ 80.02	CCSIU RAVEN
10/28/2019	828033	Weiss Electrical Service	Public Safety	\$ 3,270.00	FIRE 4: Removed/replaced forescent lamps w/LED lamps
10/28/2019	828039	Whiteley	Parks Maintenance	\$ 3,200.00	new planter rails; repair planter rail for downtown
10/28/2019	828040	Wilbur Ellis Co	General	\$ 676.00	pesticides for parks-13064999
10/28/2019	828040	Wilbur Ellis Co	General	\$ 1,320.00	pesticides for parks-13049913
10/28/2019	828040	Wilbur Ellis Co	General	\$ 676.00	pesticides for parks-13062206
10/28/2019	828040	Wilbur Ellis Co	General	\$ 1,320.00	pesticides for parks-13051946
10/28/2019	828040	Wilbur Ellis Co	General	\$ 1,650.00	pesticides for parks-13062268
10/28/2019	828046	ZetX, Inc	Police Programs	\$ 2,600.00	1 year access.
10/29/2019	828047	AT & T Corp	Wastewater	\$ 414.06	PWBELKNAP-DIST COLL 60/40
10/29/2019	828047	AT & T Corp	General	\$ 253.73	Municipal Court
10/29/2019	828047	AT & T Corp	General	\$ 235.37	PRPL -Parks Seasonal
10/29/2019	828047	AT & T Corp	Water	\$ 97.10	PWBLKNP STORES -75/25
10/29/2019	828047	AT & T Corp	Engineering	\$ 240.53	PW-Engineering
10/29/2019	828047	AT & T Corp	Library	\$ 132.23	Library Out Reach
10/29/2019	828047	AT & T Corp	General	\$ 94.66	City Attorney -Legal
10/29/2019	828047	AT & T Corp	General	\$ 315.94	Code Enforcement
10/29/2019	828047	AT & T Corp	Telephone System	\$ 17.10	TeleComm Manager Credit \$19.90
10/29/2019	828047	AT & T Corp	Water	\$ 288.17	PW-Distribution Collection Tablets 60/40
10/29/2019	828047	AT & T Corp	Wastewater	\$ 192.12	PW-Distribution Collection Tablets 60/40
10/29/2019	828047	AT & T Corp	General	\$ 34.84	PRPL-Parks MiFi 406.850.7416 -West End Shop
10/29/2019	828047	AT & T Corp	Wastewater	\$ 51.30	PWBLKNP OFFICE -60/40
10/29/2019	828047	AT & T Corp	Water	\$ 34.20	PWBLKNP OFFICE -60/40
10/29/2019	828047	AT & T Corp	Transit	\$ (401.73)	MET Tablet Credit -wrong rate entered by AT&T
10/29/2019	828047	AT & T Corp	General	\$ 211.86	PRPL Rec Seasonal , PRPL Rec PTT Only \$98.96
10/29/2019	828047	AT & T Corp	Telephone System	\$ (802.02)	iPads ordered wrong size, returned same day as delivered.
10/29/2019	828047	AT & T Corp	Water	\$ 621.08	PWBELKNAP-DIST COLL 60/40
10/29/2019	828047	AT & T Corp	General	\$ 588.21	Parks Dept. -Phone Credit
10/29/2019	828047	AT & T Corp	Telephone System	\$ (5,772.55)	iPads ordered wrong size, returned same day as delivered.
10/29/2019	828047	AT & T Corp	General	\$ (1,639.00)	Parks Dept. -Phone Credit
10/29/2019	828047	AT & T Corp	Wastewater	\$ 32.36	PWBLKNP STORES -75/25
10/29/2019	828047	AT & T Corp	General	\$ 98.96	PRPL Rec Seasonal /PRPL Rec PTT
10/29/2019	828047	AT & T Corp	General	\$ 165.95	PRPL Parks Tablets
10/29/2019	828047	AT & T Corp	Water	\$ 340.28	PWBLKNP MTRSHOP
10/29/2019	828047	AT & T Corp	Water	\$ 1,051.41	PWBELKNAP-WT Water Treatment
10/29/2019	828047	AT & T Corp	Transit	\$ 61.26	MET Tablet Credit -wrong rate entered by AT&T

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10/29/2019	828047	AT & T Corp	Water	\$ 570.23	Comm. Meter City works -Modems
10/29/2019	828047	AT & T Corp	Solid Waste	\$ 45.04	PW- Solid Waste (Card)
10/29/2019	828047	AT & T Corp	General	\$ 324.97	PRPL - Recreation Division
10/29/2019	828047	AT & T Corp	Wastewater	\$ 812.97	PWBLNP-WWTRMNT1 Wastewater Treatment Plant
10/29/2019	828047	AT & T Corp	Wastewater	\$ 472.90	PWBLKNP Electricians -Phones
10/29/2019	828047	AT & T Corp	Library	\$ 317.41	Library
10/29/2019	828047	AT & T Corp	Parking	\$ 34.20	Parking Phones
10/29/2019	828047	AT & T Corp	Water	\$ 118.49	PW-Distribution Collection Tablets 60/40
10/29/2019	828047	AT & T Corp	General	\$ 1,147.30	Parks Dept- New Phone
10/29/2019	828047	AT & T Corp	General	\$ 325.10	PRPL - Recreation Division
10/29/2019	828047	AT & T Corp	Water	\$ 340.75	PWBLKNP MTRSHOP
10/29/2019	828047	AT & T Corp	Water	\$ 97.19	PWBLKNP STORES -75/25
10/29/2019	828047	AT & T Corp	Wastewater	\$ 32.36	PWBLKNP STORES -75/25
10/29/2019	828047	AT & T Corp	Municipal Court Grants	\$ 210.92	Muni Court DC
10/29/2019	828047	AT & T Corp	Water	\$ 34.20	PWBLKNP OFFICE -60/40
10/29/2019	828047	AT & T Corp	Parking	\$ 40.31	Parking Phones
10/29/2019	828047	AT & T Corp	Engineering	\$ 359.97	Engineering Tablets -three tablets
10/29/2019	828047	AT & T Corp	Facilities Mngmt	\$ 185.76	Facilities BOC Plus 70% of 406-672-3027
10/29/2019	828047	AT & T Corp	Facilities Mngmt	\$ 44.21	Facilities City Hall Plus 30% of 406-672-3027
10/29/2019	828047	AT & T Corp	Wastewater	\$ 79.00	PW-Distribution Collection Tablets 60/40
10/29/2019	828047	AT & T Corp	General	\$ 174.20	PRPL Parks Tablets
10/29/2019	828047	AT & T Corp	Wastewater	\$ 414.59	PWBELKNAP-DIST COLL 60/40
10/29/2019	828047	AT & T Corp	Wastewater	\$ 473.10	PWBLKNP Electricians -Phones
10/29/2019	828047	AT & T Corp	Water	\$ 562.25	PWBLKNP COMM-METER CityWorks/Neptune
10/29/2019	828047	AT & T Corp	Water	\$ 303.77	PW-Dis/Coll. Cityworks iPads 60/40
10/29/2019	828047	AT & T Corp	Water	\$ 1,045.40	PWBELKNAP-WT Water Treatment
10/29/2019	828047	AT & T Corp	Wastewater	\$ 856.69	PWBLNP-WWTRMNT1 Wastewater Treatment Plant
10/29/2019	828047	AT & T Corp	Water	\$ 621.88	PWBELKNAP-DIST COLL 60/40
10/29/2019	828047	AT & T Corp	General	\$ 47.35	Municipal Court
10/29/2019	828047	AT & T Corp	Wastewater	\$ 202.51	PW-Dis/Coll. Cityworks iPads 60/40
10/29/2019	828047	AT & T Corp	Engineering	\$ 47.82	Engineering Tablets -three tablets
10/29/2019	828047	AT & T Corp	Telephone System	\$ 17.13	TeleComm Manager
10/29/2019	828047	AT & T Corp	General	\$ 316.06	Code Enforcement
10/29/2019	828047	AT & T Corp	General	\$ 224.43	PRPL -Parks Seasonal
10/29/2019	828047	AT & T Corp	Library	\$ 135.20	Library Out Reach
10/29/2019	828047	AT & T Corp	Library	\$ 274.27	Library
10/29/2019	828047	AT & T Corp	General	\$ 34.84	PRPL-Parks MiFi 406.850.7416 -West End Shop
10/29/2019	828047	AT & T Corp	Wastewater	\$ 51.38	PWBLKNP OFFICE -60/40
10/29/2019	828047	AT & T Corp	Engineering	\$ 227.33	PW-Engineering Cell Phones and MiFi
10/29/2019	828047	AT & T Corp	Solid Waste	\$ 12.09	PW- Solid Waste (Card)
10/29/2019	828047	AT & T Corp	Transit	\$ 1.72	Trans-On Call MET

<b>Check Date</b>	<b>Check#</b>	<b>Name</b>	<b>Fund Name</b>	<b>Amount</b>	<b>Item Desc</b>
10/29/2019	828047	AT & T Corp	General	\$ 30.68	PRPL Rec Seasonal
10/29/2019	828047	AT & T Corp	General	\$ 94.70	City Attorney -Legal

**Regular City Council Meeting**

**Meeting Date:** 11/25/2019  
**TITLE:** City Zone Change 974- 1004 Lewis Ave.  
**PRESENTED BY:** Karen Husman  
**Department:** Planning & Community Services  
**Presentation:** Yes

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**PROBLEM/ISSUE STATEMENT**

A zone change request from Residential-7000 (R-70) to Residential Professional (RP), on Lot 2B – 3B, Amended Lot 1, VFW Subdivision, a 17,899 square foot parcel of land. A pre-application neighborhood meeting was held on September 14, 2019, at 1004 Lewis Avenue. Tax ID: A21244A

Zone Change applications are reviewed using statutory criteria (MCA, 76-2-304 and BMCC, 27-1502.d) 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 type 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 (MCA, 76-2-302 and BMCC, 27-301).

**APPLICATION DATA**

OWNER: KPCS, LLC  
AGENT: Patti Stanfill  
LEGAL DESCRIPTION: VFW SUBD, S05, T01 S, R26 E, BLOCK 1, Lot 2B - 3B, AMND LOT 1 (09)  
ADDRESS: 1004 Lewis Ave.  
CURRENT ZONING: R-7000  
EXISTING LAND USE: Single Family Dwelling (vacant for many years)  
PROPOSED USE: Office building  
SIZE OF PARCEL: 17,899 square feet

**ALTERNATIVES ANALYZED**

City Council may:

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

Prior to making a decision on the proposed zone change, the City Council shall consider the 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:

- Essential Investments: Infill development and development near existing City infrastructure may be the most cost effective. Neighborhoods that are safe and attractive and provide essential services are much desired;

The property is an under-developed large single family lot in the central part of Billings. It is situated at the intersection of a collector street (Lewis Avenue) and a local street (10th St. W). The property is almost one-half acre in area and is missing a sidewalk along the east property. The single family dwelling, built in 1905, has lacked in updates and maintenance and is now more of a liability than an asset to the property. The proposed zoning requires any new development to install landscaping with a preference for it to be along the street frontage. New buildings, sidewalks, landscaping and fencing would make this area of Billings more visually appealing to residents and visitors, and will serve as a buffer from the neighboring residential properties to the west. Infill development is the most cost effective since there is already infrastructure in place. Providing basic services near residential development is much desired and convenient to the local residential community.

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

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

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

Public health and public safety will be promoted by the proposed zoning. The property has an existing structure, a single family dwelling built in 1905, that would be removed and the property can be utilized for commercial office space or other low impact commercial uses. Removing an uninhabited structure and developing the parcel will clean up the parcel and require landscaping and sidewalks that do not currently exist.

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 negative effect on the existing transportation system. Lewis Avenue is a collector street that can handle any additional traffic that may be generated.

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 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 setbacks to allow for adequate separation between structures and adequate light and air.

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

The new zoning will have no negative effect on the transportation systems. The single family residence, when occupied, would generate between 10 and 13 vehicle trips per day. A commercial office space would generate between 15 and 30 trips per day to this location depending on the type of services it provides. Lewis Avenue current handles over 5,000 vehicle trips per day at this location and this minor increase in traffic volume can be absorbed.

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 re-develop into a neighborhood service area with needed local services that are compatible with the existing neighborhood.

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 will allow the re-development of the land as a commercial use and improve the area with a new building.

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

Approval of the zone change will conserve and possibly increase the value of the property by allowing redevelopment of the property.

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

The proposed zoning will allow re-development of the land to a new commercial use.

The adjacent land uses to the east and south make the proposed use the most appropriate use of land at this intersection.

## **FINANCIAL IMPACT**

Approval of this application will have no direct financial impact on the Planning Division budget.

## **BACKGROUND**

This is an application to change from Residential 7000 (R-70) to Residential Professional (RP) to build a new office building. A pre-application neighborhood meeting was held September 14, 2019, at 2:00 p.m., on the property to discuss the proposed zone change. The applicants agent submitted meeting notes indicating the surrounding owners were supportive of the zone change to allow a new office space on the property. The Planning staff reviewed the application and recommended approval based on the findings of the 10 review criteria. The proposed zoning and use of the property is compatible with the adjacent and surrounding land uses. The 2016 Growth Policy supports the proposed zoning and use in this area of mixed uses and zoning.

The Zoning Commission held a public hearing and reviewed the application and is recommending approval based on the findings of the 10 review criteria. The proposed zoning and use of the property is compatible with the adjacent and surrounding land uses. The 2016 Growth Policy support the proposed zoning and use in this area of mixed uses and zoning. This is an example of a good infill project for this area.

A protest petition with 22 signatures was submitted at the Zoning Commission meeting by Linda Walters, a property owner at 1037 Lewis Avenue. While the petition is attached as part of the public record, staff has reviewed the petition and determined that it does not constitute a valid protest as per BMCC, Section 27-1502 (e) and MCA 76-2-305(2) since the petition did not include 25% or more of the property owners located within 150' of the proposed zone change.

## **STAKEHOLDERS**

The Zoning Commission held a public hearing on November 5, 2019, and received the Staff recommendation, as well as testimony from the agent. Karen Husman, Planner I, gave a brief presentation and explained the intent of the request was for a new office at that intersection. Patti Stanfill, agent, explained the reason for the application is to allow an office space for a growing accountant office. She said they have outgrown their current location at 1437 Wyoming Avenue, and the cost to purchase and renovate a building would be more than purchasing a property and building to suit their needs. She had spoken to 15 residents that were in favor of the zone change. Tony Newman, contractor for the applicant, said they were designing the building to fit into a partially residential neighborhood, including buffering, exterior design, height, location of the structure on the lot, and lighting.

There was one property owner in attendance, Linda Walters, 1037 Lewis Avenue, who was opposed to the zone change. She explained that she had a petition signed by 22 residents that were opposed to the application. They all would prefer it stays as a residential zoned lot. They felt that the office use would increase traffic on Lewis Avenue, and with the proposed 22 parking spaces on the site plan it indicates more than a few vehicle trips to and from the property.

Patti Stanfill provided rebuttal, stating that 14 of the parking spaced provided were for staff. She explained they are an appointment only office, and their hours of operation are from 8 am to 5 pm Monday through Friday, and during tax season they may have appointments that may go until 7 pm. She also explained that the neighbors would be allowed to utilize the off street parking when the office was closed evenings and weekends.

After taking public comment, the Zoning Commission briefly discussed the hours of operation and the appropriateness of the business for the location. Zoning Commissioner Mike Larson made a motion to forward a recommendation of approval to the City Council, it was seconded by Dennis Ulvestad, and passed by a 5-0 voice vote.

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

The Consistency with Adopted Policies or Plans is discussed in the Alternatives Analyzed section above

## **RECOMMENDATION**

The Zoning Commission voted 5-0 on a motion of approval and adoption of the findings of the 10 criteria of Zone Change 974.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

Zoning Map & Site Photos  
Application, Pre App Info  
Site Plan Options  
Ordinance  
Letter of opposition  
Petition of protest

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Site Photos



Subject Property





Looking West



South North



East



South side existing offices/commercial use

Application

APPLICATION FORM

CITY ZONE CHANGE Billings Zone Change # 974 - Project # P2-19-00185

The undersigned as owner(s) of the following described property hereby request a Zone Change as outlined in the City of Billings Zoning Regulations.

Present Zoning: Residential R2000

Proposed Zoning: Residential/Professional RP

TAX ID# A21244A CITY ELECTION WARD # 3

Legal Description of Property: VFW SUBD, S05, T01 S, R26 E, BLOCK 1, Lot 2B-3B, AMND LOT 1 (09)

Address or General Location (If unknown, contact City Engineering): 1004 Lewis Ave.

Size of Parcel (Area & Dimensions): 17,899 sq.ft

Present Land-Use: House

Proposed Land-Use: Professional Building

Covenants or Deed Restrictions on Property: Yes  No  casement

If yes, please attach to application

\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): KPCS LLC  
(Recorded Owner)  
1437 Wyoming Ave. Billings MT 59102  
(Address) 406-256-0600 (email) pstanhil@ortec.com  
(Phone Number)

Agent(s): Patti Stanhil  
(Name)  
500 Mirabel Court, Billings MT 59102  
(Address) 406-256-0600 (email) pstanhil@ortec.com  
(Phone Number)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Zone Change. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: 9/19/19  
(Recorded Owner)



Answers to the following questions

- A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy? **A house that contains both lead paint and asbestos and will be cleared relieving the property of squatters and vandalism that is currently occurring. A new professional building will be constructed increasing tax revenue and adding security to the property. The old wooden doors in the existing house will be taken out prior to demolition and used as décor in the new building. Also, a few bricks from the house will be kept and used as a decorative interior wall. This new building is bigger than the current business's location and will enable the business to expand and provide additional local jobs for the community.**
- B. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses of the immediate area. **The zone needs to be changed to residential/professional for the construction of the new professional office building. Our new office building will be designed to resemble a house fitting in with the characteristic of the neighborhood. Natural and attractive landscapes will be added, as well as, an improved entryway. We will pursue a tree or bush line along the west boundary of the property, which was asked of us by the current neighbors, to ensure privacy. A security system will be used, including cameras, and there will be routine upkeep on sidewalks creating a safe and clean environment for the neighborhood. Both properties directly south and east of the property are currently zoned commercial. Before purchasing the property, our realtor contacted Nicole Cromwell in the planning division who stated the zone change for this property made sense. (See attached email.)**

Neighborhood meeting information

**Pre-Application Statement of Owner(s) or Agent(s)**

The owner(s), contract purchasers (if any) and agents (if any) are required to submit this completed form and any attachments along with a completed zone change application packet, including any required fees, for a zone change to be processed by the Planning Division.

1. **Present Zoning:** Residential
2. **Written description of the Zone Change Plan** including square footage or acres of proposed new zoning: 17,899 sq. ft. of property / 3,500 sq. ft. building
3. **Subject Property Map:** please attach to this form
4. **Legal Description of Property:** VFW SUBD, 505, T01 S, R 26 E, Block 1, Lot 2B-3B, AMND LOT 1 (09)
5. **Neighborhood Task Force Area:**  Yes //  No . If Yes, Name of Task Force and mailing address of Chairperson: Central-Terry Lisa Sandau
6. **Roster of persons who attended the pre-application neighborhood meeting:** please attach to this form
7. **A copy of the meeting notice.** please attach to this form
8. **A brief synopsis of the meeting results.** please attach to this form
9. **The undersigned affirm the following:**
  - 1) The pre-application neighborhood meeting was held on the 14, day of Sept., 2019
  - 2) The zone change application is based on materials presented at the meeting.

**Owner (s):** KPCS, LLC Telephone: 406-256-0600  
**Address:** 1437 Wyoming Ave. Email: pstanfill@ortco.com  
Billings, MT 59102

**Agent (s):** Paith Stanfill Telephone: 406-256-0600  
**Address:** 500 Mirabel Court Email: pstanfill@ortco.com  
Billings MT 59102

Name	Signature	Date
Michael & Holly Ash	<i>Holly Ash</i>	9/14/19
Michael & Carol Bertolino		
Billings Lodge #394		
Andrew Boetticher & Michelle Spenny		
Eric & Brianna Brindle		
Ryan & Tereza Brownell		
Leotta Chiesa	<i>Leotta Chiesa</i>	9/14/19
Classic Design Homes Inc.		
Classic Design Homes Inc.		
Brian Cooper		
Susan Curry		
Betty Dubeau	<i>Betty Dubeau</i>	
Catherine Eastlick	<i>Catherine Eastlick</i>	9/14/19
Marlin & Rosemary Fischer		
Fred C & Vina E Nitzel Revocable Trust		
James Haefler	<i>James A Haefler</i>	9-14-2019
Donna Kibbe		
Sandra Mehus		
Thomas & Jeanne Meyer		
Jason Miller	<i>Jason Miller</i>	9/14/19
Susan Miller		
Karen Myers		
David Nienhuis		
Romine Real Estate LLC / Nielsen Family Trust		
Christopher Rubich		
Verna Jeanne & Jerry C Scott		
Second & Lewis LLC / Gregory & Mary Zimmerman		
Carmen Simonis		
Carol Strasheim		
Melinda Vaughn		
Linda Walters	<i>Linda Walters</i>	9/14/19
Tyson & Tasha Williams		
Jeremy & Mandy Zurbuchen		
<i>Robert + Janet Cole</i>	<i>Janet Cole</i>	9/14/19
<i>GREG &amp; MILLER</i>	<i>Dusty Miller</i>	9/14/19

not a property owner within 300 ft.  
 not a property owner within 300 ft.

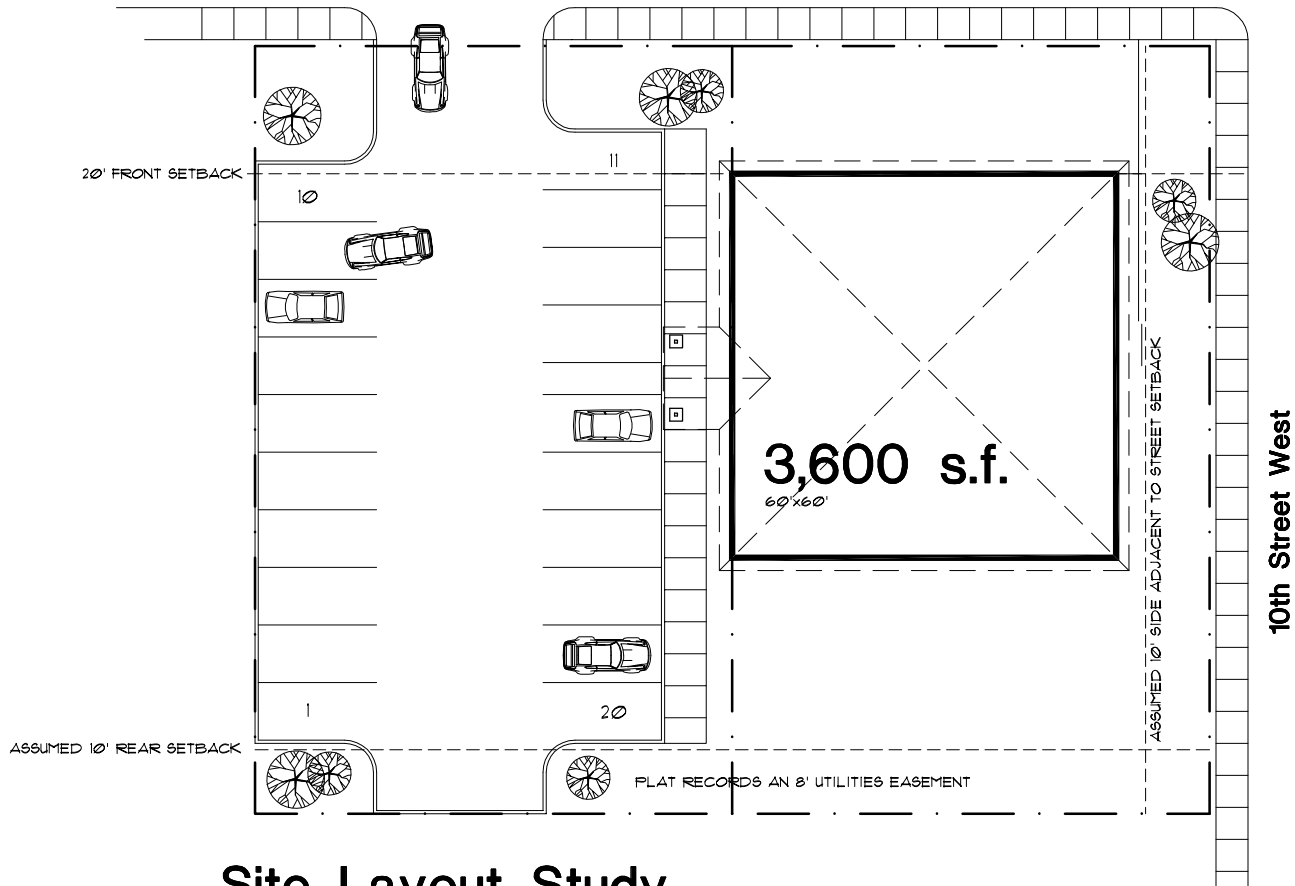
over →

### Synopsis of meeting results

The pre-application meeting was held on Saturday, September 14<sup>th</sup> 2019 at 2 pm. We met with neighbors outside on the lawn of 1004 Lewis Ave. A picnic table was provided for seating for those who needed it and cookies and bottled water were available for refreshments. Among the participants of the meeting were: Patti and her husband Jay, 3 employees from Ortt & Co., the contractor, and 14 neighbors. Patti started off by introducing herself and giving the neighbors an overview of the reason for the zone change and our plans for the site once rezoned. At first, the talk was relatively negative by a few of the neighbors suggesting the land be used to rent for townhomes. Other neighbors pointed out that they didn't want any more renters in the neighborhood, due to theft, vandalism, trespassing, etc. and that our building will be a great, safe, attractive addition to the neighborhood. There was a lot more back and forth discussion between the neighbors and lots of questions asked to both Patti and the contractor. By the end, the talk was very positive and good feelings were had by most.

On Thursday September 19<sup>th</sup> 2019 at 7 pm, Patti met with Lisa Sandau, the Central-Terry Neighborhood Task Force chairperson. Lisa was excited about the plan and thinks it will be a super neighborhood addition. She also said she'll be glad that the house will be gone.

**Lewis Avenue**  
PLAT RECORDED IN 884 EIGHT OF 1147  
IMPORTANT NOTE: ARTERIAL SETBACK ISSUES TO BE VERIFIED!

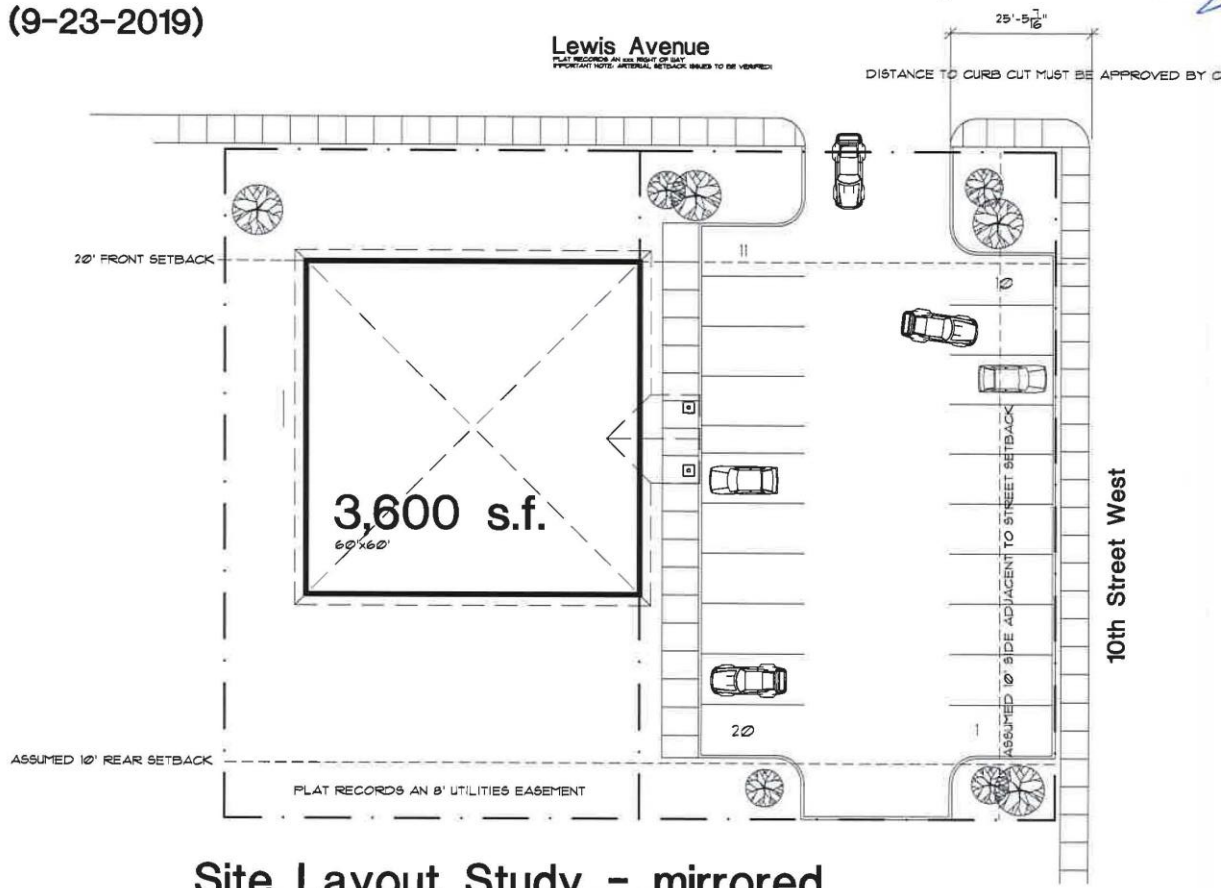


## Site Layout Study

# PRELIMINARY CONCEPT STUDIES FOR: COMMERCIAL PROPERTY DEVELOPMENT

10TH AND LEWIS AVENUE  
(9-23-2019)

BILLINGS, MONTANA



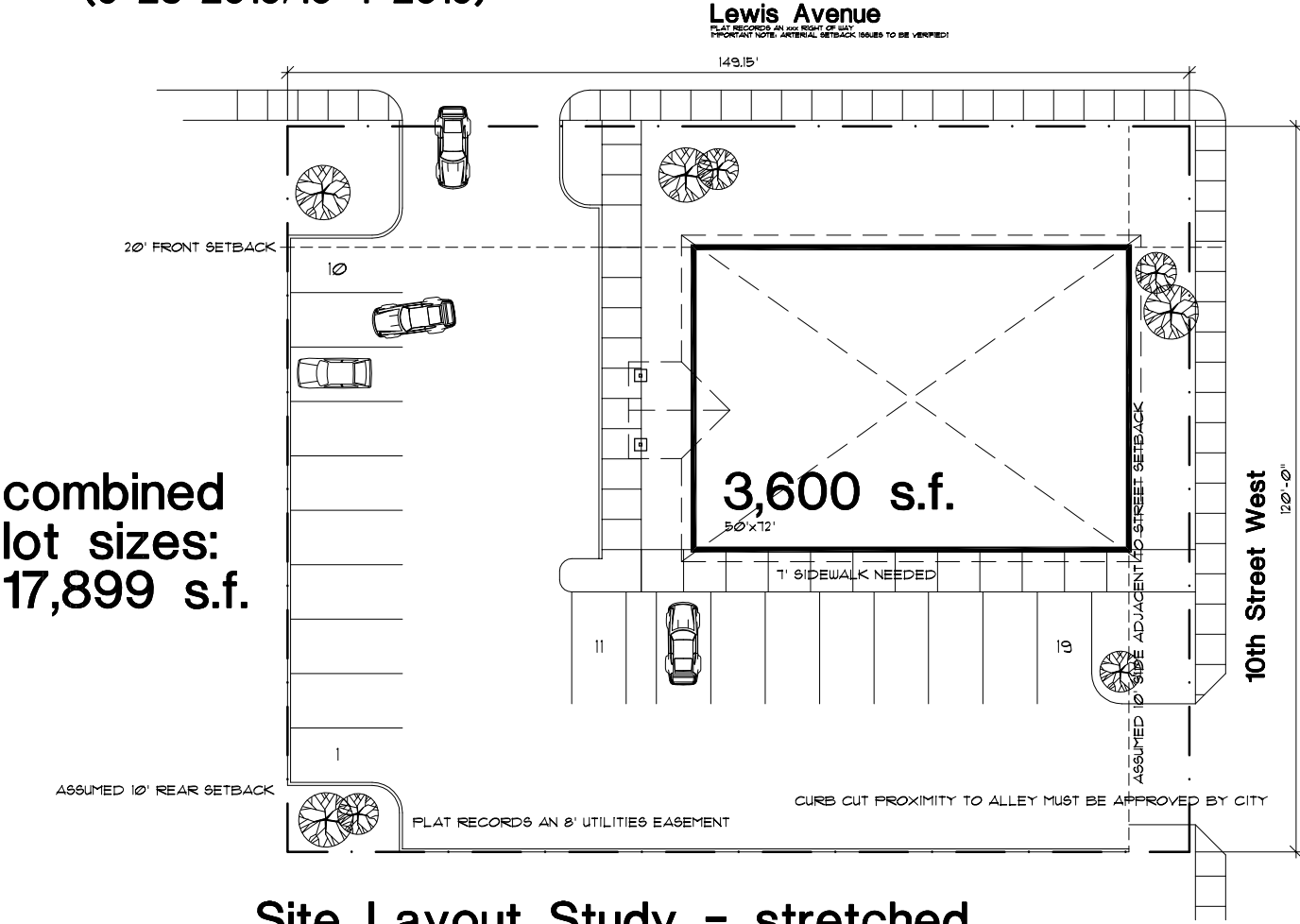
Site Layout Study - mirrored

# PRELIMINARY CONCEPT STUDIES FOR: COMMERCIAL PROPERTY DEVELOPMENT

10TH AND LEWIS AVENUE

BILLINGS, MONTANA

(9-23-2019/10-4-2019)



combined  
lot sizes:  
17,899 s.f.

Site Layout Study - stretched

**ORDINANCE NO. 19-**

**AN ORDINANCE AMENDING THE ZONE CLASSIFICATION ON  
LOT 2B – 3B AMENDED LOT1, VFW SUBDIVISION,  
GENERALLY LOCATED AT 1004 LEWIS AVENUE.**

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

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

2. DESCRIPTION. **Lot 2B – 3B Amended Lot1, VFW Subdivision, GENERALLY LOCATED AT 1004 Lewis Avenue** is presently zoned **Residential 7000** and is shown on the official zoning map within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **Lot 2B – 3B Amended Lot1, VFW Subdivision,** is hereby changed from **Residential 7000** to **Residential Professional** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **Residential Professional** 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 November 25, 2019.

PASSED, ADOPTED AND APPROVED on second reading December 9, 2019.

CITY OF BILLINGS:

BY: William A. Cole, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk

## Husman, Karen

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**From:** Linda Walters <ldwmt@aol.com>  
**Sent:** Thursday, September 19, 2019 7:39 PM  
**To:** Husman, Karen  
**Subject:** RE: [EXTERNAL] 1004 Lewis Avenue

Karen,

Although this address is 12 blocks away from my location, I do oppose it's rezoning to commercial/residential. This area is just down from Burlington School, and again Lewis Avenue is a residential street! There are tons of empty buildings sitting empty in areas already zoned commercial and just adjacent to this location. Why keep encroaching on residential areas when other commercial areas are available. The zoning commission needs to establish boundaries and stick to them, otherwise we will have vacant buildings everywhere and vagrants hanging about them! I was told that Grand Avenue is pretty much dead as everyone moves west. I don't suppose that has anything to do with the years and years of construction that blocked businesses from customers?? The city should be asking new businesses to occupy properties on Grand, not granting businesses to establish in our residential communities.

---

On Tuesday, September 17, 2019 Husman, Karen <husmank@billingsmt.gov> wrote:

Linda,

We currently do not have a zone change application for 1004 Lewis Avenue. We do have one pending for 2335 Lewis Avenue, are you opposed to this location for a zone change as well? The request is to go from Residential Professional to Neighborhood commercial.

Karen Husman  
Planner I  
City of Billings & Yellowstone County  
Planning Division  
2825 3rd Avenue North, 4th Floor  
Billings, MT 59101  
(406) 247-8684  
[husmank@billingsmt.gov](mailto:husmank@billingsmt.gov)

Follow Us on Facebook:

<https://www.facebook.com/Billings-City-County-Planning-Division-1738982159659260/>

-----Original Message-----

**From:** Linda walters [mailto:[ldwmt@aol.com](mailto:ldwmt@aol.com)]  
**Sent:** Saturday, September 14, 2019 3:39 PM  
**To:** Husman, Karen <[husmank@billingsmt.gov](mailto:husmank@billingsmt.gov)>  
**Subject:** [EXTERNAL] 1004 Lewis Avenue

ATTENTION: This email originated from outside of the City of Billings. Use caution when clicking links or

opening attachments unless you recognize the sender and are expecting the contents.

Patti Stanfill CPA and Newman Construction are seeking a change in zoning from residential to residential professional on the property of 1004 Lewis Avenue. As a resident, I strongly object to starting a trend of establishing businesses on Lewis Avenue. Already, the Elks are rumored to be leaving and I am concerned what that could turn into, as well as what other properties will be sold off for commercial uses. This is a neighborhood, not a new area to develop businesses!

Linda Walters, resident at 1037 Lewis Avenue  
(406)252-3794

We, the undersigned, PETITION the Billings City Council to deny the rezoning request City Zone Change 974-1004 Lewis Ave- from R-70 to RP-a zone change from Residential -7000(R-70) to Residential Professional (RP), on Lot 2B-3B Amended Lot 1, VFW Subdivision, a 17,899 square foot parcel of land. With so many lots nearby already zoned commercial, we object to further business infringement in our residential area and feel it will not promote the general welfare or encourage the most appropriate use of land in a residential neighborhood.

Name	Address	Phone	Email	Signature and date
Linda Walters	1037 Lewis Ave	252-3794	ldwmt@aol.com	Linda Walters 11/1
GREG MILLER	1039 Lewis Ave	756-8648	gabmiller406@gmail.com	Greg Miller 11/2/19
Betty Miller	1039 Lewis Ave	256-8648	"	Betty Miller 11/2/19
Tammy Erkebush	1116 Lewis Ave	245-6715		Tammy Erkebush
SHAWN GRANT	1135 LEWIS AVE	648 7842		Shawn Grant
Tammy Haefler	1026 Lewis	256-1381		Tammy Haefler
Carol Strassheim	1018 Lewis	861-9768		Carol Strassheim
Susan Miller	1029 Lewis	794 1618		Susan Miller
Dylan Crouse	933 Lewis	307 388-0127	dylincrouse@gmail.com	Dylan Crouse 11/21
Koss MARTIN	929 LEWIS	633-5020		Koss Martin
IVA B. MARTIN	924 LEWIS	633-5020		Iva B. Martin
Brett Wilder	915 Lewis	208 401 7673		Brett Wilder 11/2
Cipriana Mullenburg	903 AVE Lewis	406 208 4041		Cipriana Mullenburg
Roseysha	1000 Burlington	698-1886		Roseysha
Sandy Mehus	1010 Burlington			Sandy Mehus
Brianne Brundel	1020 Burlington	805-0045		Brianne Brundel





**Regular City Council Meeting**

**Meeting Date:** 11/25/2019  
**TITLE:** Noise Ordinance Amendments  
**PRESENTED BY:** Brent Brooks, City Attorney  
**Department:** Legal  
**Presentation:** Yes

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**PROBLEM/ISSUE STATEMENT**

During the past twenty four months the City Council has studied the City's current noise ordinances. This study included presentations from staff concerning various issues and proposed amendments on September 25, 2017, April 16, 2018, May 14, 2018 and September 17, 2018. These presentations included discussion on various noise issues and proposed amendments. During the April 16, 2018, work session staff recommended that a professional consultant be retained to study the City's noise ordinances, prepare a report and present recommendations to the Council at a work session. The Council concurred with this recommendation and directed staff to proceed.

During early summer of 2018 the City retained Dan Autenrieth, Ph.D, Assistant Professor and Industrial Hygiene Program Manager within the Montana Tech Safety, Health and Industrial Hygiene Department, to evaluate the City's noise ordinances and report his findings/recommendations to the Council. Dr. Autenrieth prepared his report which was also posted on the City's website and a public comment period on the report was provided. A copy of this report is attached to this memorandum as Attachment A. Dr Autenrieth presented his evaluation and recommendations to the Council during the September 17, 2018, Council works session, a pdf format of the PowerPoint (PPT) presented by Dr Autenrieth during this work session is attached to this memorandum as Attachment B. Dr. Autenrieth's report and PPT contain how and what he studied, including public comment, and his recommended changes to the City's current noise ordinances.

As a result of the September 17, 2018, presentation Council directed staff to prepare the recommended amendments to the noise ordinances. The goal was to bring those amendments back to the Council for consideration during the first half of calendar year 2019. During early 2019 staff consulted and collaborated with Dr. Autenrieth in drafting the proposed amendments to the noise ordinance. The proposed amendments included Dr. Autenrieth's recommended changes which were presented to the Council during a First reading and Public hearing on June 10, 2019.

During the June 10, 2019, First Reading and Public Hearing the Council decided to appoint a Council Committee to further study the noise ordinance, especially on the issue of stadium sound systems and exemptions from the established noise level limits allowed for certain specific activities. See new section 17-105, pages six and seven in the attached noise ordinance. Mayor Cole and Council Members Gibbs, Cromley, Yakawich and Neese were appointed by the Council as members of the Committee. The Committee met three times on July 15, August 7 and October 24, 2019, and discussed suggested changes which have been incorporated into the draft ordinance. Public comment from interested persons and stakeholders

was received on various portions of the noise ordinances during these meetings as well as committee discussions with Dr Autenrieth by conference call during the July 15 meeting. As a result of these meetings the Mayor and Committee is recommending the draft noise ordinances attached to this staff memorandum.

A brief summary of the major proposed amendments based upon previous Council discussions and directions along with the Committee's recommended changes will be discussed with the Council during the staff presentation on this item.

## **ALTERNATIVES ANALYZED**

City Council may:

- Approve the proposed amendments to the current noise ordinances, or,
- Make additional or different amendments, or,
- Disapprove the proposed amendments

## **FINANCIAL IMPACT**

There will be some training required of Billings Police officers however this training will be provided by Dr. Autenrieth and Montana Tech graduate students at a nominal cost.

## **RECOMMENDATION**

Staff recommends that the Council hold a public hearing on First Reading and approve the amendments proposed by the Council's Noise Committee which also include previous amendments presented during the June 10, 2019, Regular meeting.

## **APPROVED BY CITY ADMINISTRATOR**

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### **Attachments**

Noise ORD

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## ORDINANCE NO. 19-\_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 17-101, 17-103, 17-104, 17-105, 17-106, 17-107; REDEFINING RESIDENTIAL, COMMERCIAL AND INDUSTRIAL ZONES FOR NOISE AND WAIVER PURPOSES; ALLOWING FOUR NOISE WAIVERS PER TWELVE MONTH PERIOD; AND PROVIDING THAT ANY VIOLATION IS A MUNICIPAL INFRACTION AND RETAINING OTHER ADDITIONAL LEGAL REMEDIES SUCH AS ABATEMENT OR INJUNCTION.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY BILLINGS THAT:**

**Section 1.** That section 17-101 of the Billings, Montana City Code is amended so that such section shall read as follows:

**Sec. 17-101. - Definitions.**

As used in this chapter, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

*Ambient noise* is the noise which exists at a point of measurement in the absence of the sound emitted by the source being measured, being the total effect of all other sounds coming from near and far.

*Average permissible noise limits* means the highest average noise level measured using the average equivalent A-weighted sound pressure level (L<sub>ASeq</sub>) metric.

*dB(A)* means sound levels in decibels measured on an "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication S.4-1970.

*Decibel.* Sound pressure level in decibels is a logarithmic unit used to express the magnitude of sound pressure with respect to a reference sound pressure. It is defined as twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure to the reference sound pressure.

By international standards, the reference sound pressure is  $2 \times 10^{-5}$  newtons/meter squared. By example, a doubling of sound pressure, at any magnitude, will result in a six (6) decibel increase in sound pressure level; a ten-fold increase will result in a 20-decibel increase in sound pressure level.

*Emergency work* is unanticipated work, maintenance, or construction required to restore property to a safe condition following a public calamity, meteorological event, accident, or any other event which interrupts essential services or utilities, endangers persons or property, or adversely affects infrastructure.

Maximum permissible noise limit means the highest allowable noise level measured using the maximum A-weighted sound pressure level (LAS<sub>max</sub>) metric

Residential area includes all residential zones within the City:

- ~~Residential-rural;~~
- ~~Residential-suburban;~~
- ~~Residential-suburban-trailer;~~
- ~~Residential-one family;~~
- ~~Residential-one family, restricted;~~
- ~~Residential-two family;~~
- ~~Residential-multiple family;~~
- ~~Residential-professional.~~

"Light commercial" includes:

- ~~Commercial-limited.~~

"Heavy eCommercial" includes all commercial zones within the City:

- ~~Commercial-highway;~~
- ~~Commercial-general;~~
- ~~Commercial-central.~~

"Industrial" includes all industrial zones within the City:

- ~~Industrial-light;~~

Industrial heavy.

**Section 2:** That section 17-103 of the Billings, Montana City Code is amended so that such section shall read as follows:

**Sec. 17-103. - Noise limitations.**

- (a) ~~The maximum permissible decibel noise exposure limits on noise emitting from non-exempt noise sources in residential, commercial and industrial districts are as follows provided in Table 1 below.~~
- (b) ~~At boundaries between zones, the lower of the dB(A) level shall be applicable~~
- (c) ~~(b) Noise will be measured at a distance of twenty-five (25) feet from the source or at the boundary of the lot, whichever is the greater distance. Noise radiating from properties or buildings in excess of the dB(A) established for the districts and times in Table 1 herewith constitutes prima facie evidence that such noise is a public nuisance. This includes noise from such activities as production, processing, cleaning, servicing, testing and repair of vehicles, materials, goods or products. Noises caused by home or building repair, construction, or grounds maintenance are excluded as provided in section 17-104.~~

Table 1—Limitations

Districts	<del>7:00 a.m.—8:00 p.m.</del>	<del>8:00 p.m.—7:00 a.m.</del>
Residential	<del>65 dB(A)</del>	<del>55 dB(A)</del>
<del>Light c</del> Commercial	<del>80 dB(A)</del>	<del>60 dB(A)</del>
Heavy commercial	<del>85 dB(A)</del>	<del>70 dB(A)</del>
Industrial	<del>90 dB(A)</del>	<del>80 dB(A)</del>

<b><u>Maximum Permissible Noise Limits</u></b>		
<b><u>Zone</u></b>	<b><u>Day</u></b> <b><u>7 AM-8 PM</u></b>	<b><u>Night</u></b> <b><u>8 PM-7 AM</u></b>
<u>Residential</u>	<u>65 dB(A)</u>	<u>55 dB(A)</u>
<u>Commercial</u>	<u>80 dB(A)</u>	<u>60 dB(A)</u>
<u>Industrial</u>	<u>90 dB(A)</u>	<u>80 dB(A)</u>
<b><u>Average Permissible Noise Limits</u></b>		
<b><u>Zone</u></b>	<b><u>Day</u></b> <b><u>7 AM-8 PM</u></b>	<b><u>Night</u></b> <b><u>8PM-7AM</u></b>
<u>Residential</u>	<u>55 dB(A)</u>	<u>45 dB(A)</u>
<u>Commercial</u>	<u>70 dB(A)</u>	<u>50 dB(A)</u>
<u>Industrial</u>	<u>80 dB(A)</u>	<u>70 dB(A)</u>

- (d) Noise measured by trained and qualified city officials on a complainant's property in excess of the limits established for the districts zones and times in Table I above constitutes *prima facie* evidence that such noise is a public nuisance, except in

circumstances as provided in sections 17-104 and 17-105, or if a waiver has been granted under section 17-107.-

~~(c) At boundaries between zones, the lower of the dB(A) level shall be applicable.~~

**Section 3:** That Section 17-104 of the Billings, Montana City Code is amended with new language so that such section shall read as follows:

### **Sec. 17-104 Hours of Authorized Outdoor Events**

Unless granted a waiver from the times listed below pursuant to Section 17-107, non-emergency outdoor events exempted from noise level regulations pursuant to Section 17-105 shall conclude in accordance with the locations and times listed below:

#### **Central Business District (CBD) and East Billings Urban Renewal District (EBURD):**

Ten (10) O'clock p.m. Sunday Through Thursday

Eleven (11) O'clock p.m. Friday and Saturday

#### **Outside The Central Business District and East Urban Renewal District:**

Nine (9) O'clock p.m. Sunday through Thursday

Ten (10) O'clock p.m. Friday and Saturday

**Section 4:** That Section 17-104 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

### **Sec. 17-1054 Exemptions.**

The following uses and activities shall be exempt from noise level regulations:

- (1) Noise from safety signals and warning devices;
- (2) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (3) Noise resulting from emergency work;
- (4) Noise resulting from the operating of motorized lawnmowers fitted with equipment-type mufflers between the hours of 7:00 a.m. and 8:00 p.m.;
- (5) Noise caused by home or building repair, construction, or grounds maintenance between the hours of 7:00 a.m. and 8:00 p.m.;
- ~~(6) Permitted events held in stadiums or parks for which a waiver has been granted;~~
- (6) School Events: Reasonable activities conducted on school grounds and public parks places of public which are conducted in accordance with a Memorandum of Understanding in the manner in which such spaces are generally used including but not limited to school athletic and school entertainment events.

Provided however, the use of public address system loudspeakers, such as may be included in stadiums and similar venues, shall not be used other than for the official events those systems are designed for and for brief, occasional equipment checks as necessary. Athletic team practices and similar informal events that do not include a gathering of the public are specifically excluded from this exemption

- (7) Public Park Events: Athletic, musical and other events sponsored permitted in writing by the City Parks, Recreation and Public Lands Department and such permit provides a waiver.
- ~~(7)~~(8) Non-event Noise from public parks, schools, and recreational facilities between the hours of 7:00 a.m. and 8:00 p.m.
- (8)(9) Special events for which a waiver has been granted;
- (9)(10) Noise from construction or maintenance activities performed by the city, or at the direction of the city, including but not limited to solid waste retrieval, street sweeping, road maintenance, and snow removal;

- (10) (11) Noise from construction or maintenance activities performed in the public right-of-way for which a waiver has been granted;
- (11) (12) Noise from construction or maintenance activities for which a waiver has been granted;
- (12) (13) Other activities for which a waiver is granted pursuant to section 17-106.
- (14) City-sanctioned or permitted fireworks displays.

**Section 5:** That Section 17-105 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

**Sec. 17-1065. - Measurement of noise.**

For the purpose of determining and classifying any noise as excessive or unusually loud as prohibited by this chapter, the following test measurements and requirements shall be applied:

- (1) The noise shall be measured on a sound level meter meeting current American National Standards Institute (ANSI) standards, operated on the "A" weighted scale, or other noise measuring instrument proven sufficiently reliable by commonly accepted scientific standards and admissible in a court of law. The meter shall be capable of measuring and recording the average equivalent A-weighted sound pressure level (LAS<sub>eq</sub>) and maximum A-weighted sound pressure level (LAS<sub>max</sub>) metrics.
- (2) Noise measurements used to determine compliance must be made by trained and qualified city officials in accordance with the provisions of this ordinance and with the requirements stipulated in the training. This should not be interpreted as prohibiting individuals or organizations from hiring their own noise consultants to address environmental noise issues or respond to complaints, but third party results will not be used to issue violations.
- (3) The city will provide training to all officials responsible for noise monitoring under this ordinance. The training will address the content of this ordinance, the operation of noise monitoring equipment, the care and maintenance of noise monitoring equipment, proper noise monitoring techniques (including

assessment and correction for ambient noise), appropriate noise metrics, and documentation of noise monitoring results.

(4) Noise will be measured at complainant's property line closest to the noise source on a public boundary. In cases where this location would result in a measurement taken less than 25 feet from the source, the noise level will be measured at a distance of 25 feet or more from the source on the complainant's property on a public boundary. Noise will be measured continuously for 3-5 minutes at the specified location

~~(2) No noise source shall constitute a violation of this chapter unless the noise source is at least ten (10) dB(A) above the ambient noise at the time of measurement.~~

~~(3) In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time of the sound level measurement.~~

**Section 6:** That Section 17-105 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

**Sec. 17-1076. - Waiver.**

(a) Any person may apply to the city administrator or designee for a waiver from the provisions of this chapter. Such application shall be submitted to the office of city administrator along with a non-refundable application fee. The city administrator shall designate waiver application and review procedures and application fees by administrative order. The city administrator may designate representatives from police, parks, building, and engineering to review and grant waivers under this section by administrative order. Each day of an event shall require a separate approved waiver. Except for public construction projects, no more than four waivers may be granted involving the same location within twelve (12) months, from January 1 through December 31 of each calendar year. Events occurring in the Central Business District (CBD) and

East Billings Urban Renewal District (EBURD) shall be exempt from this limit. A waiver granted pursuant to this section does not modify or eliminate: (1) any noise restrictions imposed in a Special Review or (2) other conditions restricting or prohibiting noise generating activities which have been imposed upon a specific property. All such conditions must be followed. Any waiver erroneously granted under such circumstances shall be void and of no effect.

- (b) Waiver review procedures established by the city shall include but not be limited to consideration of the following criteria:
- (1) Whether the noise would endanger the public health, safety, or welfare;
  - (2) That compliance with the provisions of this chapter from which a waiver is sought would cause serious hardship without producing equal or greater benefit to the public;
  - (3) The time of day the noise will occur;
  - (4) The duration of the noise;
  - (5) The loudness of the noise relative to the maximum permissible sound levels as set forth in this chapter;
  - (6) Whether the noise is continuous or intermittent;
  - (7) The distance of proposed activity from residential housing or other noise-sensitive properties;
  - (8) Whether the proposed activity is within or outside of the Central Business District (CBD) or East Billings Urban Renewal District (EBURD), and whether the proposed activity encourages the promotion of entertainment and nightlife in an area where residential housing is sparse;
  - (9) Any other factor that is reasonably related to the impact of the noise on the health, safety and welfare of the community, the degree of hardship that may result from the enforcement of the provisions of this article, and the benefit to the public of granting such a waiver.
  - ~~(10) When practicable, waivers that are granted shall be posted on the City of Billings internet website.~~

- (c) Any waiver application may be granted, granted with conditions or denied by the city. Any applicant denied a waiver by the city may appeal the denial to the city council. An appeal must be presented to the City Administrator for inclusion on the next available City Council Regular agenda at least thirty (30) calendar days before the event is scheduled to occur.

**Section 7:** That Section 17-107 of the Billings, Montana City Code is renumbered so that such section shall read as follows:

**Sec. 17-1087. - Violations; remedies.**

- (a) Any violation of this article shall be punishable as a municipal infraction with civil penalties as provided in section 18-1304. Each day such violation is committed or permitted to continue constitutes a separate offense.
- (b) As an additional remedy, the operation or maintenance of any noise source in violation of any provision of this chapter and which causes discomfort and annoyance to any reasonable person of normal sensitivity or which endangers the comfort, repose, health or peace of residents in the area is a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

PASSED by the City Council on first reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED, ADOPTED and APPROVED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF BILLINGS**

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

ATTEST:

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Denise Bohlman, City Clerk